

AMENDED AND RESTATED TRUST AGREEMENT

BY AND BETWEEN

NORTH TEXAS TOLLWAY AUTHORITY

AND

WELLS FARGO BANK, N.A.,
Dallas, Texas

SECURING

SYSTEM REVENUE BONDS

Dated as of April 1, 2008

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AMENDED AND RESTATED TRUST AGREEMENT

THE STATE OF TEXAS)
NORTH TEXAS TOLLWAY AUTHORITY)

This Amended and Restated Trust Agreement, dated for convenience of reference as of April 1, 2008 (hereinafter sometimes called the "Amended and Restated Agreement" or the "Agreement"), by and between

NORTH TEXAS TOLLWAY AUTHORITY
(AS SUCCESSION TO TEXAS TURNPIKE AUTHORITY)

a political subdivision of the State of Texas and a body corporate and politic, (hereinafter sometimes called the "Authority"), and

WELLS FARGO BANK, N.A.

a national banking association duly organized and existing under the laws of the United States of America, and having its principal offices in the City of Dallas, Texas, which is authorized under such laws to exercise corporate trust powers, and is subject to examination by Federal authority, as trustee (said banking association and any bank or trust company appointed as successor trustee under this Agreement being hereinafter sometimes called the "Trustee"),

WITNESSETH:

WHEREAS, the Authority has been created and organized pursuant to and in accordance with Chapter 366 of the Texas Transportation Code, as amended (hereinafter sometimes called the "Turnpike Act"), and is authorized and empowered, among other things:

- (a) to construct, maintain, repair, and operate Turnpike Projects (as defined in the Turnpike Act) at such locations within Dallas, Collin, Denton and Tarrant Counties or an adjacent county as provided in the Turnpike Act, as may be determined by the Authority;
- (b) to issue turnpike revenue bonds of the Authority payable solely from revenues, including tolls, pledged to such bonds, for the purpose of paying all or any part of the cost of a Turnpike Project; and
- (c) to fix, revise, and adjust from time to time tolls for transit over each separate Turnpike Project; and

WHEREAS, pursuant to the Turnpike Act, the Authority owns and operates a Turnpike system known as the "North Texas Tollway Authority System" or the "NTTA System" and formerly known as the "Dallas North Tollway System" (the "Tollway" or "NTTA System"), currently composed of the Dallas North Tollway, the President George Bush Turnpike, the Addison Airport Toll Tunnel, the Mountain Creek Lake Bridge, the Lewisville Lake Toll Bridge, which is currently under construction and the SH 121 Turnpike, which is currently under construction; and

WHEREAS, the Authority (as successor to the Texas Turnpike Authority) and the Trustee are each a party to a Trust Agreement dated as of July 1, 1989, as supplemented by the First through Twelfth Supplemental Trust Agreements (collectively, the "Original Agreement"), pursuant to which the Authority issued the Existing Bonds (as defined below), and the Authority and the Trustee desire to amend and restate the Original Agreement in its entirety in the form of this Agreement; and

WHEREAS, the Authority is authorized to enter into this Agreement and to do or cause to be done all the acts and things herein provided or required to be done as hereinafter covenanted; and

WHEREAS, this Agreement is intended to govern all matters relating to the bonds, and also govern the operation of the Tollway and the improvement, extension, enlargements and additions to the Tollway, as herein defined, and other matters relating to the Authority and the Tollway as hereinafter provided; and

WHEREAS, the execution and delivery of this Agreement have been duly authorized by resolution of the Authority; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of Texas to happen, exist and be performed precedent to and in the execution and delivery of this Agreement, have happened, exist and have been performed as so required, in order to make this Agreement a valid, binding and legal trust agreement for the security of the bonds in accordance with its terms; and

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

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that to obtain the acceptance by the Trustee of the trusts hereby created, and for the purpose of fixing and declaring the terms and conditions upon which the bonds are to be issued, executed, delivered, secured and accepted by all persons who shall from time to time be or become owners thereof, and in order to secure the payment of all the bonds at any time issued and outstanding hereunder and the interest thereon according to their tenor, purport and effect, and in order to secure the performance and observance of all of the covenants, agreements and conditions therein and herein contained, the Authority has pledged and assigned and does hereby pledge and assign to the Trustee the tolls and other revenues of the Tollway and all moneys held by the Trustee in the various funds and accounts created hereunder, to the extent provided in this Agreement, as security,

FIRST: for the payment of the First Tier Bonds (defined below) and the interest thereon and as security for the satisfaction of any other obligation assumed by it in this Agreement in connection with the First Tier Bonds, and for the equal and proportionate benefit and security of all and singular the present and future owners of the First Tier Bonds issued and to be issued under this Agreement, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one First Tier Bonds over any other First Tier Bonds by reason of priority in the issuance, sale or negotiation thereof or otherwise; provided that the Trustee shall apply the security pledged hereunder to the payment of the principal of, and interest on, and other payments with respect to the First Tier Bonds and for the purposes and uses and in the order of

priority set forth herein prior to the payment of the principal of, and interest on, and other payments with respect to Second Tier Bonds; and

SECOND: subject to the security interest pledged for the security and payment of the First Tier Bonds, for the payment of the Second Tier Bonds (defined below) and the interest thereon and as security for the satisfaction of any other obligation assumed by it in this Agreement in connection with the Second Tier Bonds, and for the equal and proportionate benefit and security of all and singular the present and future owners of the Second Tier Bonds issued and to be issued under this Agreement, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one Second Tier Bonds over any other Second Tier Bonds by reason of priority in the issuance, sale or negotiation thereof or otherwise; provided that, the Trustee shall apply the security pledged hereunder to the payment of the principal of, and interest on, and other payments with respect to the Second Tier Bonds and for the purposes and uses and in the order of priority set forth herein subordinate to the payment of the First Tier Bonds, but prior to the payment of the Third Tier Bonds, and

THIRD: subject to the security interest pledged for the security and payment of the First Tier Bonds and Second Tier Bonds, for the payment of the Third Tier Bonds (defined below) and the interest thereon and as security for the satisfaction of any other obligation assumed by it in this Agreement in connection with the Third Tier Bonds, and for the benefit and security of all and singular the present and future owners of the Third Tier Bonds issued and to be issued under this Agreement, in accordance with the priorities and distinctions as to lien as set forth in a Supplemental Agreement executed and delivered in accordance herewith; provided that, the Trustee shall apply the security pledged hereunder to the payment of the principal of, and interest on, and other payments with respect to the Third Tier Bonds and for the purposes and uses and in the order of priority set forth herein subordinate to the payment of the First Tier Bonds and Second Tier Bonds, as follows:

ARTICLE I DEFINITIONS

Section 101. Meaning of Words and Terms. In addition to words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings:

"Additional Bond Security" – any credit enhancement for specified bonds and any funds received or obligations payable to the Authority, other than Net Revenues, which the Authority chooses to include as security for specified First Tier Bonds, Second Tier Bonds and/or Third Tier Bonds pursuant to a Supplemental Agreement as provided in Section 516;

"Additional Bonds" – Additional First Tier Bonds, Additional Second Tier Bonds and Additional Third Tier Bonds;

"Additional First Tier Bonds" – those obligations, including bonds and First Tier Credit Agreements, which the Authority reserves the right to issue, enter into, or incur under the provisions of Section 208 of this Agreement, which are on a parity with the First Tier Bonds insofar as the lien on Net Revenues is concerned;

"Additional Second Tier Bonds" – those obligations, including bonds and Second Tier Credit Agreements, which the Authority reserves the right to issue, enter into, or incur under the provisions of Section 209 of this Agreement, which are on a parity with the Second Tier Bonds insofar as the lien on Net Revenues is concerned;

"Additional Third Tier Bonds" - those obligations, including bonds and Third Tier Credit Agreements, which the Authority reserves the right to issue, enter into, or incur under the provisions of Section 210 of this Agreement, which are on a parity with the Third Tier Bonds insofar as the lien on Net Revenues is concerned;

"Agreement" or "Amended and Restated Agreement"– this Amended and Restated Trust Agreement, together with all Supplemental Agreements;

"Annual Budget" – the budget adopted or in effect for each Fiscal Year as provided in Section 505 of this Agreement;

"Assumed Variable Rate" – in the case of:

- (a) bonds bearing interest at a Variable Rate, the greater of
 - (1) the average interest rate on such bonds for the most recently completed sixty (60) month period or the period such bonds have been Outstanding if it is less than sixty (60) months, or
 - (2) the rate to be determined pursuant to clause (b) below assuming the Outstanding bonds bearing interest at a Variable Rate were being issued on the date of calculation; and
- (b) proposed Additional Bonds to be issued at a Variable Rate
 - (1) on the basis that, in the opinion of Bond Counsel to be delivered at the time of the issuance thereof, interest on such Additional Bonds would be excluded from gross income for federal income tax purposes, the greater of (i) the average of the Security Industry and Financial Markets Association Municipal Swap Index ("SIFMA Index") for the twelve (12) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or (ii) the average of the SIFMA Index for the sixty (60) month period ending seven (7) days preceding the date of calculation plus 100 basis points; and
 - (2) on a basis other than as described in clause (1), the greater of (i) the average of the London Interbank Offered Rate ("LIBOR") for the time period most closely resembling the reset period for the Additional Bonds for the twelve (12) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or (ii) the average of LIBOR for the time period most closely resembling the reset period for the Additional Bonds for the sixty (60) month period ending seven (7) days preceding the date of calculation plus 100 basis points; and

provided that if the SIFMA Index or LIBOR shall cease to be published, the index to be used in its place shall be that index which the Authority, in consultation with the Financial Consultant, determines most closely replicates such index, as set forth

in a certificate of the Chief Financial Officer filed with the Trustee. Notwithstanding the foregoing, in no event shall the Assumed Variable Rate be in excess of the maximum interest rate allowed by law on obligations of the Authority;

"Authority" – the North Texas Tollway Authority created by and operating pursuant to Chapter 366 of the Texas Transportation Code, as amended, or, if said Authority shall be abolished, the board, body or authority succeeding to the principal functions thereof, or to whom the powers given by the Turnpike Act to the Authority shall be given by law;

"Authorized Investments" – (i) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including Treasury Receipts evidencing ownership of future interest and principal payments due on direct obligations of the United States of America;

(ii) bonds, participation certificates, or other obligations of any agency or instrumentality of the United States of America, including obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Banks, Federal Farm Credit System, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Farmers Home Administration, and Federal Housing Administration;

(iii) new housing authority bonds issued by public agencies of a state or of municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America;

(iv) direct and general obligations of any state of the United States of America, any municipality or school district of the State of Texas, or any other political subdivision or agency of the State of Texas to the payment of the principal of and interest on which the full faith and credit of such entity, as the case may be, is pledged, provided that such obligations are rated, at the time of purchase, in either of the two highest rating categories, without regard to rating sub-categories, by a nationally recognized municipal or corporate rating agency;

(v) certificates of deposit, whether negotiable or non-negotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association, provided that such certificates of deposit shall be purchased directly from such bank, trust company, or national banking association and shall be either (A) continuously and fully insured by the Federal Deposit Insurance Corporation, or (B) continuously and fully secured by such securities as are described above in clauses (i) through (iv), inclusive, which shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such certificates of deposit and shall be lodged with or as directed by the Board, by the bank, trust company, or national banking association issuing such certificates of deposit;

(vi) uncollateralized certificates of deposit of financial institutions which certificates of deposit are rated, at the time of purchase, in one of the two highest rating categories, without regard to rating sub-categories, by any nationally recognized municipal or corporate rating agency;

(vii) repurchase agreements collateralized by obligations described above in clauses (i) or (ii) with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction, which has an uninsured, unsecured and unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's and "A-1" or "A" or better by Standard & Poor's, or any commercial bank with the above ratings, provided:

(a) a master repurchase agreement or specific written repurchase agreement governs the transaction,

(b) the securities are held free and clear of any lien by the bond trustee or an independent third party acting solely as agent for the bond trustee, and such third party is (1) a Federal Reserve Bank, (2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus, and undivided profits of not less than \$25 million, or (3) a bank approved in writing for such purpose by each Bond Insurer, and the Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee,

(c) a perfected first security interest under the Uniform Commerce Code, or book entry procedures prescribed at 31 CFR 306.1 et seq. in such securities is created for the benefit of the Trustee,

(d) the repurchase agreement has a term of six months or less, or the Authority will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business days of such valuation,

(e) the repurchase agreement matures on or before a debt service payment date (or other appropriate liquidation period), and

(f) the fair market value of the securities in relation to the amount of the repurchase obligation is equal to at least 100%;

(viii) banker's acceptances, Eurodollar deposits and certificates of deposit (in addition to the certificates of deposit provided for by clauses (v) and (vi) above) of the domestic branches of foreign banks having a capital and surplus of \$1,000,000 or more, or any bank or trust company organized under the laws of the United States of America or Canada, or any state or province thereof, having capital and surplus, if located in the State of Texas, in the amount of \$200,000,000, and, if located outside of the State of Texas, in the amount of \$1,000,000,000; provided that the aggregate maturity value of all such banker's acceptances and certificates of deposit held at any time as investments of funds under this Agreement with respect to any particular bank, trust company, or national association located in the State of Texas shall not exceed 10% of the amount of its capital and surplus and with respect to any particular bank, trust company, or national association located outside of the State of Texas shall not exceed 5% of its capital and surplus; and provided further that any such bank, trust company, or national association shall be rated in one of the two highest rating categories, without regard to rating sub-categories, by any nationally recognized municipal or corporate rating agency;

(ix) municipal or corporate commercial paper rated, at the time of purchase, either "A-1" or "P-1" or higher, or municipal or corporate bonds or notes rated, at the time of purchase, in one of the two highest rating categories, without regard to rating sub-categories, by any nationally recognized municipal or corporate rating agency;

(x) other unsubordinated securities or obligations issued or guaranteed (including a guarantee in the form of a bank standby letter of credit) by any domestic corporation (including a bank, national banking association, or trust company) which has outstanding, at the time of investment, debt securities rated in one of the two highest rating categories, without regard to rating sub-categories, by any nationally recognized municipal or corporate rating agency;

(xi) investments of any type described and permitted by any law of the State of Texas applicable to the Authority; and

(xii) money market funds which invest solely in any of the above listed obligations;

"Balloon Indebtedness" – a series of bonds of which 25% or more of the original principal matures in the same annual period and is not required by the documents pursuant to which such bonds were issued to be amortized by payment or redemption prior to that annual period (excluding any contingent mandatory redemptions), provided that such bonds will not constitute Balloon Indebtedness and will be assumed to amortize in accordance with its stated terms if the Trustee is provided a certificate of the Chief Financial Officer certifying that such bonds are not to be treated as Balloon Indebtedness;

"bank" – any bank, trust company, or national banking association organized or operating under the laws of any state of the United States of America or of the United States of America;

"Board" – the Board of Directors of the Authority;

"Board Representative" – the Executive Director, the Deputy Executive Director, the Chief Financial Officer, the Treasurer and the Director of Finance or such other individuals so designated by the Authority to perform the duties of the Board Representative under this Agreement;

"bond," "bonds" or "Turnpike Revenue Bond" – unless otherwise specifically stated, the Existing Bonds and the Additional Bonds;

"Bondholder," or "holder," or "owner," or "registered owner" – the registered owner of any bond as shown on the Trustee's Bond Registration records and books;

"Bond Counsel for the Authority" – an attorney or firm of attorneys of recognized standing and ability, specializing in the law pertaining to municipal bonds, selected by the Authority and satisfactory to the Trustee;

"Bond Insurance Policy" – an insurance policy issued by a Bond Insurer insuring or guaranteeing the payment of principal of and interest on any bonds;

"Bond Insurer" – an entity that insures or guarantees the payment of principal of and/or interest on any of the bonds;

"Bond Interest Accounts" – the First Tier Bond Interest Account, the Second Tier Bond Interest Account and the Third Tier Bond Interest Account;

"Capital Improvement Fund" – the Tollway Capital Improvement Fund created by Section 507 of this Agreement;

"Chief Financial Officer" – the Chief Financial Officer, the Treasurer or such other individuals designated by the Board to perform the duties of the Chief Financial Officer under this Agreement;

"Completion Bonds" — First Tier Bonds issued pursuant to Section 208(6) hereof;

"Construction Fund" – the Tollway Construction Fund created and established by Section 401 of this Agreement;

"Consulting Engineers" – the consulting civil engineer or engineering firm or corporation at the time employed by the Authority pursuant to the provisions of Section 704(a) of this Agreement to carry out the duties imposed by this Agreement on the Consulting Engineers;

"Cost" – all obligations and expenses and all items of cost which are set forth in Section 404 of this Agreement or are otherwise authorized to be incurred or paid under the Turnpike Act;

"Counsel for the Authority" – the General Counsel of the Authority, if there be such, or such counsel as the Authority may from time to time by resolution designate to exercise any of the duties or functions required by this Agreement to be exercised by Counsel for the Authority;

"Credit Agreement" – a First Tier Credit Agreement, a Second Tier Credit Agreement, or a Third Tier Credit Agreement, as applicable;

"Credit Provider" – any bank, financial institution, insurance company, surety bond provider, or other entity which provides, executes, issues, or otherwise is a party to or provider of a Credit Agreement;

"Current Expenses" – the Authority's reasonable and necessary accrued current expenses of maintaining, repairing and operating the Tollway including, without limiting the generality of the foregoing, all ordinary and usual expenses of maintenance and repair, insurance, bridge painting, all operating, policing, administrative and engineering expenses, all payments and deductions as provided in the laws pertaining to the State Retirement System, fees and expenses of the Trustee, legal and accounting expenses, and any other expenses or obligations required to be paid by the Authority under the provisions of this Agreement or by law, but not including any deposits or transfers to the credit of the Sinking Funds, the Reserve Maintenance Fund and the Capital Improvement Fund;

"Debt Service Requirements" – for any annual period (any Fiscal Year, or any other consecutive twelve calendar month period), the aggregate amount of interest on and principal of Outstanding bonds specified for the purposes for which Debt Service Requirements is to be calculated, other than any Credit Agreement, and, with respect to any Credit Agreement, the Payment Obligations relating thereto due in such period, as limited and calculated in the following manner:

(a) Except as modified below, (i) for any Fiscal Year while the Authority's Fiscal Year is the same as the calendar year, the aggregate amount of interest on and principal of the bonds, including Payment Obligations, which was paid or redeemed or is scheduled to accrue and be paid or redeemed after January 1 of such Fiscal Year and on the next following January 1; it being understood and intended that for the Authority's currently established Fiscal Year each such January 1 will be in the next following Fiscal Year; and (ii) for any consecutive twelve calendar month period other than the calendar year, whether or not such period constitutes any future Authority Fiscal Year, the aggregate amount of interest on and principal of the bonds, including Payment Obligations, which was paid or redeemed or is scheduled to accrue and be paid or redeemed during such consecutive twelve month period;

(b) As to any annual period prior to the date of any calculation, such requirements shall be calculated solely on the basis of bonds which were Outstanding as of the first day of such period; and as to any future year such requirements shall be calculated solely on the basis of bonds Outstanding as of the date of calculation plus any bonds then proposed to be issued as Additional Bonds;

(c) Notwithstanding the foregoing, all amounts which are deposited to the credit of the Bond Interest Accounts from original proceeds from the sale of any First Tier Bonds, Second Tier Bonds or Third Tier Bonds, as applicable, or from any other lawfully available source (other than the Revenue Fund and the investment income from the Operation and Maintenance Fund, the Sinking Funds, and the Reserve Maintenance Fund), and which are used or scheduled to be used to pay interest on such bonds during any annual period, shall be deemed to reduce the Debt Service Requirements for any such annual period to the extent of such deposits; and the amount of such deposits shall be excluded from and shall not constitute Debt Service Requirements for any such annual period;

(d) If any of the bonds or proposed Additional Bonds bear interest at a Variable Rate the interest rate on such bonds or Additional Bonds for all periods for which the interest rate is not known, shall be assumed and deemed to be the Assumed Variable Rate;

(e) If any of the bonds or proposed Additional Bonds constitute Balloon Indebtedness or Short-Term Indebtedness, then such amounts thereof as constitute Balloon Indebtedness or Short-Term Indebtedness shall be treated as if such bonds are to be amortized in substantially equal annual installments of principal and interest over the useful life of the improvements financed with the proceeds of such Balloon Indebtedness or Short-Term Indebtedness as calculated by, and set forth in, a certificate of the Chief Financial Officer. Anything to the contrary herein notwithstanding, during the annual period preceding the final maturity date of such Balloon Indebtedness or, in the case of Short-Term Indebtedness, in each annual period, all of the principal thereof shall be considered to be due on the Stated Maturity or due date of such Balloon Indebtedness or Short-Term Indebtedness unless the Authority provides to the Trustee, prior to the beginning of such annual period, a certificate of a Financial Consultant certifying that, in its judgment, the Authority will be able to refund such Balloon Indebtedness or Short-Term Indebtedness through the issuance of Additional Bonds, in which event the Balloon Indebtedness or Short-Term Indebtedness shall be amortized over the term of such proposed refunding Additional Bonds and shall be deemed to bear the interest rate specified in the certificate of the Financial Consultant;

(f) Notwithstanding anything to the contrary in clause (e) above, with respect to Short-Term Indebtedness that is part of a commercial paper or similar program of the Authority, the amount of debt service of such Short-Term Indebtedness taken into account during any annual period shall be equal to the principal component of debt service calculated using the outstanding principal amount of such Short-Term Indebtedness on the date of calculation amortized over the period ending on the date of the maximum maturity date under such program on a level debt service basis at an interest rate deemed to be the Assumed Variable Rate determined as if such Short-Term Indebtedness were Variable Rate Indebtedness; and

(g) Notwithstanding anything to the contrary contained in (a) through (e) above, the Debt Service Requirements for each annual period for a series of Additional Bonds issued (i) in conjunction with one or more Qualified Credit Agreements shall be deemed to be the total net

payments which the Board Representative certifies the Authority expects to pay in such annual period with respect to such series of Additional Bonds after taking into account the principal and interest payments and the Payment Obligations under such Qualified Credit Agreements made or to be made in such annual period and the amounts received or to be received from the Qualified Credit Provider under such Qualified Credit Agreement in such annual period or (ii) as a series of Variable Rate bonds, or one or more maturities within a series, of equal par amounts, issued simultaneously with inverse floating interest rates providing a composite fixed interest rate for such bonds taken as a whole, such composite fixed rate shall be used in determining the Debt Service Requirement with respect to such bonds;

"Defeased Debt" – as defined in Section 1201(b) of this Agreement;

"Depository" – any bank selected by the Authority as a depository of moneys under the provisions of this Agreement, which may include the Trustee;

"Designated Year" – as defined in Section 208(4)(d), Section 209(4)(d) or Section 210(4)(d) of this Agreement, as applicable;

"Estimated Date of Completion" – for any project, the estimated date on which said project will be placed in operation;

"Existing Bonds" – the Texas Turnpike Authority Dallas North Tollway System Revenue Refunding Bonds, Series 1997 (the "Series 1997 Bonds"), the North Texas Tollway Authority Dallas North Tollway System Revenue Refunding Bonds, Series 1997A (the "Series 1997A Bonds"), the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 1998 (the "Series 1998 Bonds"), the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 2003A (the "Series 2003A Bonds"), the North Texas Tollway Authority Dallas North Tollway System Revenue Refunding Bonds, Series 2003B (the "Series 2003B Bonds"), the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 2003C (the "Series 2003C Bonds"), the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 2005A (the "Series 2005A Bonds"), the North Texas Tollway Authority Dallas North Tollway System Variable Rate Revenue Bonds, Series 2005B (the "Series 2005B Bonds"), the North Texas Tollway Authority Dallas North Tollway System Variable Rate Revenue Bonds, Series 2005C (the "Series 2005C Bonds"), the Payment Obligations of the Authority under the Standby Bond Purchase Agreement entered into between the Authority and Lloyds TSB Bank plc relating to the Series 2005B Bonds, the Payment Obligations of the Authority under the Standby Bond Purchase Agreement entered into between the Authority and DEPFA BANK plc relating to the Series 2005C Bonds, and the Payment Obligations of the Authority under the ISDA Master Agreements entered into between the Authority and each of Bear Stearns Financial Products Inc., Citibank N.A., New York, and Lehman Brothers Derivative Products Inc., under the 2004 Swap Transactions in the respective notional amounts of \$50,680,000, \$101,360,000, and \$50,680,000 and under the 2005 Swap Transactions in the respective notional amounts of \$69,475,000, \$34,737,500, and \$34,737,500;

"Event of Default" – as defined in Section 802 of this Agreement;

"Financial Consultant" – a nationally recognized firm of independent professional financial consultants knowledgeable in the financial operation of toll roads and having a favorable reputation for skill and experience in the field of financial consultation relating to toll roads;

"First Tier Bond Interest Account" – an account in the First Tier Sinking Fund created by Section 507 of this Agreement;

"First Tier Bonds" – unless otherwise specifically stated, all Existing Bonds, including the related Credit Agreements, and any bond, bonds, note, notes, other obligation or obligations, including any First Tier Credit Agreement, issued, incurred or entered into pursuant to Section 208 of this Agreement as Additional First Tier Bonds, or all of the foregoing, as the case may be, authorized by law and issued under and secured by the provisions of this Agreement and any supplement hereto;

"First Tier Credit Agreement" – collectively, an obligation entered into on a parity with the Outstanding First Tier Bonds in the form of a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase bonds, purchase or sale agreement, interest rate swap, cap and floor agreement, or commitment or other contract or agreement authorized, recognized and approved by the Authority as a First Tier Credit Agreement, whether authorized or approved in anticipation of, simultaneously with, or subsequent to, the authorization of the First Tier Bonds in connection with which it is executed;

"First Tier Payment Obligations" – unless otherwise specifically stated, all amounts payable by the Authority under a First Tier Credit Agreement less any amounts of principal or interest payable with respect to any Additional First Tier Bonds pledged under a First Tier Credit Agreement as collateral for the amounts due thereunder; and all such First Tier Payment Obligation payments shall be deemed to constitute principal payments of First Tier Bonds, and shall be paid from the First Tier Redemption Account as provided in Section 511(a); provided, however, that, if so provided in a First Tier Credit Agreement or in the proceedings approved by the Authority in connection therewith, some or all of the amounts payable under a First Tier Credit Agreement may be designated to be Second Tier Payment Obligations or Third Tier Payment Obligations;

"First Tier Redemption Account" – an account in the First Tier Sinking Fund created by Section 507 of this Agreement;

"First Tier Required Reserve" – as of any date an amount equal to the average annual Debt Service Requirements of all First Tier Bonds Outstanding or to be Outstanding as of such date;

"First Tier Reserve Account" – an account in the First Tier Sinking Fund created by Section 507 of this Agreement;

"First Tier Reserve Surety Agreement" – any substitute for cash and Authorized Investments in the First Tier Reserve Account as provided for in Section 508(a) hereof;

"First Tier Sinking Fund" – the First Tier Tollway Interest and Sinking Fund created by Section 507 of this Agreement;

"Fiscal Year" – presently, the same as the calendar year; or any other period hereafter designated by the Authority as its Fiscal Year in accordance with law;

"Fitch" – Fitch Ratings, or, if such corporation is dissolved or liquidated or otherwise ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board;

"Government Obligations" – as defined in Section 1201(e) of this Agreement;

"Moody's" – Moody's Investors Service, Inc., or, if such corporation is dissolved or liquidated or otherwise ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board;

"Net Revenues" – with respect to any consecutive 12-month period or Fiscal Year, the aggregate revenues or estimated aggregate revenues derived or estimated to be derived from the ownership and operation of the Tollway in any such period or year, including all investment income from the Revenue Fund, the Operation and Maintenance Fund, the Bond Interest Accounts, the Redemption Accounts, the Reserve Accounts, the Reserve Maintenance Fund, and the Capital Improvement Fund, and the investment income from the Construction Fund which is deposited or estimated to be deposited to the credit of the Bond Interest Accounts, less the Current Expenses for any such period or year; provided, however, any toll revenues collected by the Authority that must be paid to TxDOT as revenue sharing payments pursuant to a project agreement between the Authority and TxDOT shall not constitute revenues of the Tollway for purposes of this Trust Agreement;

"Operation and Maintenance Fund" – the Tollway Operation and Maintenance Fund created by Section 506 of this Agreement;

"Original Agreement"– the Trust Agreement, dated for convenience of reference as of July 1, 1989, between the Authority and the Trustee as supplemented and expanded by the First through Twelfth Supplemental Trust Agreements;

"Outstanding" – when used with reference to the bonds, at any date of which the amount of the Outstanding bonds is to be determined, the aggregate of all bonds secured by this Agreement, except:

(a) bonds cancelled or delivered to the Paying Agent for cancellation at or prior to such date;

(b) bonds for the full payment of the principal of, premium, if any, and interest on which cash shall have been theretofore deposited with the Paying Agent and which (i) shall have matured by their terms, or otherwise shall have become payable, but shall not have been surrendered for payment or (ii) shall have been purchased by the Trustee but shall not have been presented for payment;

(c) bonds which are deemed paid pursuant to Section 1201(b) of this Agreement; and

(d) bonds in exchange or in lieu of which other bonds have been delivered under this Agreement;

"Paying Agent" – the Trustee;

"Payment Obligations" – First Tier Payment Obligations, Second Tier Payment Obligations and Third Tier Payment Obligations;

"Preliminary Budget" – the preliminary budget prepared pursuant to the provisions of Section 505 of this Agreement;

"Qualified Credit Agreement" – A First Tier Credit Agreement, a Second Tier Credit Agreement, or a Third Tier Credit Agreement, as applicable, entered into with a Qualified Credit Provider;

"Qualified Credit Provider" – A Credit Provider (or its corporate parent as guarantor of its obligations under a Credit Agreement) whose long term debt is rated or whose credit rating is, at the time the Qualified Credit Agreement is entered into, in one of the three highest rating categories by Moody's or S&P or Fitch, without regard to rating sub-categories;

"Real Property" – any land, rights therein (including options), rights of way, franchises, easements, rights of entry, leasehold interests, mineral interests, structures and property presently attached to the realty or other interests in or appertaining to any land, and any estate therein, either temporary or for a fixed period or permanent; and the term real property shall also include all other property, if any, considered as real property under the laws of the State of Texas;

"Redemption Accounts" – the First Tier Redemption Account, the Second Tier Redemption Account and the Third Tier Redemption Account;

"Redemption Premium" – the premium payable upon the call of any bond for redemption, determined in accordance with the provisions of this Agreement;

"Redemption Price" – the principal amount of any bond and the premium payable upon the redemption thereof determined in accordance with the provisions of this Agreement together with interest accrued to the date fixed for redemption;

"Registered Bonds" – bonds registered in the name of the owner;

"Registrar" – the Trustee;

"Required Reserve" –the First Tier Required Reserve, the Second Tier Required Reserve, or the Third Tier Required Reserve, as applicable;

"Reserve Accounts" – the First Tier Reserve Account, the Second Tier Reserve Account and the Third Tier Reserve Account;

"Reserve Maintenance Fund" – the Tollway Reserve Maintenance Fund created by Section 507 of this Agreement;

"Reserve Surety Agreement" –a First Tier Reserve Surety Agreement, a Second Tier Reserve Surety Agreement or a Third Tier Surety Agreement, as applicable;

"Revenue Fund" – the Tollway Revenue Fund created by Section 503 of this Agreement;

"Second Tier Bond Interest Account" – an account in the Second Tier Sinking Fund created by Section 507 of this Agreement;

"Second Tier Bonds" – unless otherwise specifically stated, any bond, bonds, note, notes, other obligation or obligations, including any Second Tier Credit Agreement, issued, incurred or entered into pursuant to Section 209 of this Agreement as Additional Second Tier Bonds, or all of the foregoing, as the case may be, authorized by law and issued under and secured by the provisions of this Agreement and any supplement hereto;

"Second Tier Credit Agreement" – collectively, an obligation entered into on a parity with the Outstanding Second Tier Bonds in the form of a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase bonds, purchase or sale agreement, interest rate swap, cap and floor agreement, or commitment or other contract or agreement authorized, recognized and approved by the Authority as a Second Tier Credit Agreement, whether

authorized or approved in anticipation of, simultaneously with, or subsequent to, the authorization of the bonds in connection with which it is executed;

"Second Tier Payment Obligations" – unless otherwise specifically stated, all amounts payable by the Authority under a Second Tier Credit Agreement less any amounts of principal or interest payable with respect to any Additional Second Tier Bonds pledged under a Second Tier Credit Agreement as collateral for the amounts due thereunder; and all such Second Tier Payment Obligation payments shall be deemed to constitute principal payments of Second Tier Bonds, and shall be paid from the Second Tier Redemption Account as provided in Section 511(b); provided, however, that, if so provided in a Second Tier Credit Agreement or in the proceedings approved by the Authority in connection therewith, some or all of the amounts payable under a Second Tier Credit Agreement may be designated to be Third Tier Payment Obligations; and provided further, that, all payment obligations under a First Tier Credit Agreement which are designated to be Second Tier Payment Obligations shall be treated as and constitute Second Tier Payment Obligations for all purposes under this Agreement;

"Second Tier Redemption Account" – an account in the Second Tier Sinking Fund created by Section 507 of this Agreement;

"Second Tier Required Reserve" – as of any date the amount set forth in the Supplemental Agreements authorizing Second Tier Bonds Outstanding or to be Outstanding as of such date;

"Second Tier Reserve Account" – an account in the Second Tier Sinking Fund created by Section 507 of this Agreement;

"Second Tier Reserve Surety Agreement" – any substitute for cash and Authorized Investments in the Second Tier Reserve Account as provided for in a Supplemental Agreement;

"Second Tier Sinking Fund" – the Second Tier Tollway Interest and Sinking Fund created by Section 507 of this Agreement;

"SH 121 Turnpike" – the portion of State Highway 121 extending from Business SH 121 in Denton County to US 75 in Collin County, a total length of approximately twenty-six (26) miles;

"Short-Term Indebtedness" – all bonds that mature in less than 365 days and are issued as Short-Term Indebtedness pursuant to Sections 209(6) or 210(6). In the event a Credit Provider has extended a line of credit or the Authority has undertaken a commercial paper or similar program, only amounts actually borrowed under such line of credit or program and repayable in less than 365 days shall be considered Short-Term Indebtedness and the full amount of such commitment or program shall not be treated as Short-Term Indebtedness to the extent that such facility remains available but undrawn;

"Sinking Funds" – the First Tier Sinking Fund, the Second Tier Sinking Fund and the Third Tier Sinking Fund. The term "Sinking Fund" when used in any bond resolution authorizing the issuance of bonds prior to the date of this Amended and Restated Trust Agreement, in any bonds issued thereunder, and in any related Credit Agreements shall be deemed to refer to the First Tier Sinking Fund;

"Standard & Poor's" or "S&P" – Standard & Poor's Corporation or, if such corporation is dissolved or liquidated or otherwise ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board;

"Stated Maturity" – for any bond, the scheduled maturity date or final mandatory sinking fund redemption date of such bond;

"Supplemental Agreement" or "Supplement" – any supplemental agreement to this Agreement, now or hereafter duly authorized and entered into in accordance with the provisions of Article XI hereof;

"Swap Termination Payment Sub-Account" – the sub-account in the Third Tier Redemption Account created by Section 517 of this Agreement;

"Third Tier Bond Interest Account" – an account in the Third Tier Sinking Fund created by Section 507 of this Agreement;

"Third Tier Bonds" – unless otherwise specifically stated, any bond, bonds, note, notes, other obligation or obligations, including any Third Tier Credit Agreement, issued, incurred or entered into pursuant to Section 210 of this Agreement as Third Tier Bonds, or all of the foregoing, as the case may be, authorized by law and issued under and secured by the provisions of this Agreement and any supplement hereto;

"Third Tier Credit Agreement" – collectively, an obligation entered into on a parity with the Outstanding Third Tier Bonds in the form of a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase bonds, purchase or sale agreement, interest rate swap, cap and floor agreement, or commitment or other contract or agreement authorized, recognized and approved by the Authority as a Third Tier Credit Agreement, whether authorized or approved in anticipation of, simultaneously with, or subsequent to, the authorization of the bonds in connection with which it is executed;

"Third Tier Payment Obligations" – unless otherwise specifically stated, all amounts payable by the Authority under a Third Tier Credit Agreement less any amounts of principal or interest payable with respect to any Additional Third Tier Bonds pledged under a Third Tier Credit Agreement as collateral for the amounts due thereunder; and all such Third Tier Payment Obligation payments shall be deemed to constitute principal payments of Third Tier Bonds, and shall be paid from the Third Tier Redemption Account or sub-account therein as provided in Section 511(c) and specified in a Supplemental Agreement; and all payment obligations under a First Tier Credit Agreement or a Second Tier Credit Agreement which are designated to be Third Tier Payment Obligations shall be treated as and constitute Third Tier Payment Obligations for all purposes under this Agreement;

"Third Tier Redemption Account" – an account in the Third Tier Sinking Fund created by Section 507 of this Agreement;

"Third Tier Required Reserve" – as of any date the amount set forth in the Supplemental Agreements authorizing Third Tier Bonds Outstanding or to be Outstanding as of such date;

"Third Tier Reserve Account" – an account in the Third Tier Sinking Fund created by Section 507 of this Agreement;

"Third Tier Reserve Surety Agreement" – any substitute for cash and Authorized Investments in the Third Tier Reserve Account as provided for in a Supplemental Agreement;

"Third Tier Sinking Fund" – the Third Tier Tollway Interest and Sinking Fund created by Section 507 of this Agreement;

"Toll Rate Schedule" – the schedule of tolls to be collected by the Authority established by the Board pursuant to Section 501, including future increases or decreases that are approved by the Board;

"Tollway" or "NTTA System" – the presently existing turnpike system, as defined in the recitals to the Agreement (including all bridges, tunnels, overpasses, underpasses, interchanges, toll plazas, and administration, storage, and other buildings, facilities, and improvements which the Authority has deemed necessary for the operation of the presently existing Tollway), together with all property rights, easements and interests acquired by the Authority for the construction or the operation of the presently existing Tollway, and together with all future improvements, extensions, and enlargements or additions of the presently existing Tollway, and together with any other turnpike project or facilities added to, grouped with, or otherwise constituted and declared to be a part of the Tollway by the Authority in accordance with law and pursuant to resolutions adopted by the Board;

"Traffic Engineers" – the traffic engineer or engineering firm or corporation at the time employed by the Authority pursuant to the provisions of Section 704(b) of this Agreement to carry out the duties imposed by this Agreement on the Traffic Engineers;

"Trustee" – Wells Fargo Bank, N.A. (as successor trustee to NCNB Texas National Bank, Dallas, Texas), or its successor as Trustee under the provisions of this Agreement;

"Turnpike Act" – Chapter 366 of the Texas Transportation Code, as amended;

"TxDOT" – the Texas Department of Transportation, or any successor thereto;

"Value of Authorized Investments" – the amortized value of any Authorized Investments, provided, however, that all United States of America, United States Treasury Obligations – State and Local Government Series shall be valued at par and those obligations which are redeemable at the option of the holder shall be valued at the price at which such obligations are then redeemable. The computations made under this paragraph shall include accrued interest on the investment securities paid as a part of the purchase price thereof and not collected. For the purposes of this definition "amortized value", when used with respect to a security purchased at par means the purchase price of such security and when used with respect to a security purchased at a premium above or discount below par, means as of any subsequent date of valuation, the value obtained by dividing the total premium or discount by the number of interest payment dates remaining to maturity on any such security after such purchase and by multiplying the amount as calculated by the number of interest payment dates having passed since the date of purchase and (i) in the case of a security purchased at a premium, by deducting the product thus obtained from the purchase price, and (ii) in the case of a security purchased at a discount, by adding the product thus obtained to the purchase price; and

"Variable Rate" – interest on a bond which does not have a predetermined fixed rate or rates to maturity.

Section 102. Miscellaneous Definitions. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "bond," "owner," "holder," and "person" shall include the plural as well as the singular number and the word "person" shall include corporations and associations, including public bodies, as well as natural persons.

Section 103. Signing of Certificates. Certificates to be signed by the Consulting Engineers, Traffic Engineers, Bond Counsel, General Counsel or other partnerships, firms or corporations, may be signed by any partner or officer of, or any representative designated by, the organization making the certificate.

ARTICLE II AUTHORIZATION AND ISSUANCE OF ADDITIONAL BONDS

Section 201. Additional Bonds. The bond or bonds of the Authority are hereby authorized to be issued and delivered for the purposes authorized by law pursuant to the provisions of this Agreement.

Section 202. Designation of Bonds. Each bond shall be designated as provided in the respective Supplement authorizing such bond.

Section 203. Details of Additional Bonds. The Supplements authorizing Additional Bonds or the proceedings approved by the Authority in connection therewith shall provide the terms of the Additional Bonds, including the dated dates, interest rates, interest payment dates, principal amounts, principal payment dates, and prepayment and redemption terms.

Section 204. Interest on Additional Bonds. The unpaid principal balance of the Additional Bonds shall bear interest, and said interest shall be payable, all in the manner provided and at the rates and on the dates stated in the Supplement authorizing the Additional Bonds or the proceedings approved by the Authority in connection therewith.

Section 205. Form of Additional Bond. The form of the Additional Bond, including the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be endorsed on the Additional Bond, shall be established as provided in the respective Supplements authorizing its issuance or the proceedings approved by the Authority in connection therewith.

Section 206. Registration, Transfer, Substitution, and Description of Additional Bonds. The Supplemental Agreement pursuant to which Additional Bonds are issued or the proceedings approved by the Authority in connection therewith shall set forth requirements with respect to the registration and transfer, ownership, payment of principal and interest payments, conversion, exchange, replacement, authentication and all other terms of each series of Additional Bonds.

Section 207. [RESERVED]

Section 208. Issuance of Additional First Tier Bonds. (1) To the extent and in the manner provided in this Section, the Authority reserves and shall have the right and power to issue or incur, at one time or from time to time, additional parity obligations, including First Tier Credit Agreements, which Additional First Tier Bonds, when issued, shall be secured by and payable from a lien on and pledge of the Net Revenues equally and ratably with, and in the same

manner and to the same extent as the Outstanding First Tier Bonds, and shall be payable from and secured by the First Tier Sinking Fund and shall be in all respects of equal dignity and on a parity with any then Outstanding First Tier Bonds.

(2) Additional First Tier Bonds may be issued for any purpose then authorized by law, including the refunding of obligations at any time authorized and issued by the Authority, and/or the interest thereon. Such Additional First Tier Bonds shall be dated, bear interest (either fixed, variable, or a combination thereof), mature, and shall or may be subject to mandatory or optional redemption prior to maturity with moneys from the First Tier Sinking Fund, shall be payable from such source or sources, and shall be executed, sold, and delivered, all as is provided in the resolution authorizing the issuance of such Additional First Tier Bonds, provided that the provisions of said bonds shall not be in conflict with the provisions of this Agreement. Such Additional First Tier Bonds shall be issued, executed, and delivered in the form and manner as prescribed in the resolution authorizing same, and said Additional First Tier Bonds shall be secured and payable as in this Agreement and said bond resolution provided, and shall be considered to be on a parity with the other First Tier Bonds with respect to the Net Revenues.

(3) Additional First Tier Bonds shall be issued and delivered only after adoption by the Authority of a resolution of the Authority which shall (i) authorize said bonds and direct their delivery, (ii) describe in brief and general terms the purpose or purposes for which such bonds are to be issued, (iii) specify and determine the title and other provisions of such bonds in accordance with paragraph (2) of this Section, (iv) set forth or provide for the approval of the form of bond, and (v) provide for the retirement of such bonds from the First Tier Redemption Account or otherwise, provided that the provisions with respect to such bonds shall not be in conflict with the provisions of this Agreement.

(4) Upon their authorization by resolution of the Authority as aforesaid, the First Tier Bonds of a series issued under this Section 208 shall be issued in the manner hereinabove set forth or referred to, and shall be delivered to the purchasers thereof, but before, or concurrently with, the delivery of said bonds to such purchasers there shall have been filed with the Trustee the following:

- (a) a copy, certified by the Secretary of the Board, of the said resolution of the Authority authorizing said bonds and directing their delivery to the purchasers;
- (b) a certificate by the Consulting Engineers setting forth their opinions as to: (1) the aggregate estimated amount of the cost of the acquisition or construction of the project or projects for which the First Tier Bonds are to be issued, (2) the Estimated Date of Completion for such project or projects, and (3) the estimated amount of Current Expenses for each of the Fiscal Years through the repayment of all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds, and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded), including the First Tier Bonds proposed to be issued (provided that items (1) and (2) shall be eliminated with respect to First Tier Bonds issued solely for refunding purposes, and item (3) shall be eliminated if the certificate described in Section 208(5)(a) is to be used with reference to a Designated Year and in the case of First Tier Bonds issued to refund Outstanding First Tier Bonds which do not cause an increase in then existing average annual Debt Service Requirements of the First Tier Bonds;

(c) a certificate by the Traffic Engineers setting forth their opinion as to the aggregate estimated amount of revenues which the Authority should derive from the operation and ownership of the Tollway (which revenues shall be deemed to include all investment income from the Revenue Fund, the Operation and Maintenance Fund, the Bond Interest Accounts, the Redemption Accounts, the Reserve Accounts, the Reserve Maintenance Fund, the Construction Fund, and the Capital Improvement Fund, as estimated by the Chief Financial Officer) under the Toll Rate Schedule referred to, set forth in, or attached to, said certificate, for each of the Fiscal Years through the repayment of all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds, and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded), including the First Tier Bonds proposed to be issued; provided that this certificate shall not be required if the certificate described in Section 208(5)(a) is to be used with reference to a Designated Year; and

(d) a certificate (dated not earlier than ninety days prior to the date upon which the resolution authorizing such Additional First Tier Bonds is adopted) by a certified public accountant of recognized standing and ability, stating (1) the Net Revenues either for the period of the preceding Fiscal Year or for any consecutive twelve calendar month period ending not more than ninety days prior to the date of said certificate (with either of said annual periods being hereinafter referred to as the "Designated Year"); (2) the Debt Service Requirements for the Designated Year, (3) the annual Debt Service Requirements for all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds and all other outstanding obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) and the First Tier Bonds then proposed to be delivered; and (4) in the case of First Tier Bonds proposed to be issued to refund Outstanding First Tier Bonds, (i) the average annual Debt Service Requirements for all Outstanding First Tier Bonds (including any First Tier Bonds being refunded but excluding the First Tier Bonds then proposed to be delivered) and (ii) the average annual Debt Service Requirements for all Outstanding First Tier Bonds (excluding any First Tier Bonds being refunded) and the First Tier Bonds then proposed to be delivered; provided that items (1) and (2) above shall be stated only if the certificate described in Section 208(5)(a) is to be used with reference to a Designated Year.

(e) a certificate signed by a Board Representative to the effect that no default has occurred and is continuing under this Agreement.

(f) the certificate of the Chief Financial Officer regarding transfers from the Revenue Fund required under Section 507(b) of this Agreement.

(5) When the documents mentioned above shall have been filed with the Trustee and when the First Tier Bonds authorized by the resolution mentioned in Section 208(4)(a) shall have been executed in accordance with this Agreement and said bond resolution, the Authority may deliver said bonds at one time to or upon the order of the purchasers named in said resolution, upon receipt by the purchasers and the Trustee of an opinion of Bond Counsel for the Authority stating that the signer is of the opinion that the issuance of such bonds has been duly authorized and that all conditions precedent to the delivery of such bonds have been fulfilled; provided that, except in the case of refunding bonds being issued to refund Outstanding First Tier Bonds which do not cause an increase in then existing average annual Debt Service Requirements of the First Tier Bonds, such bonds shall not be delivered unless there shall have been filed with the Trustee

an additional certificate by the Chief Financial Officer (based on the aforesaid certificates of the Consulting Engineers, the Traffic Engineers, and the certified public accountant, as applicable) certifying either:

(a) that the Net Revenues during the Designated Year (based on actual, and not estimated, aggregate gross revenues and Current Expenses) were at least 1.35 times the average annual Debt Service Requirements for all then Outstanding First Tier Bonds and Second Tier Bonds (excluding any bonds being refunded) and the First Tier Bonds proposed to be delivered; or, in the alternative,

(b) that the estimated Net Revenues for the current and each Fiscal Year after the date of said certificate are at least:

(1) 1.35 times the Debt Service Requirements for each such Fiscal Year for all then Outstanding First Tier Bonds (excluding any bonds being refunded) and the First Tier Bonds then proposed to be delivered;

(2) 1.20 times the Debt Service Requirements for each such Fiscal Year for all then Outstanding First Tier Bonds and Second Tier Bonds (excluding any bonds being refunded) and the First Tier Bonds then proposed to be delivered; and

(3) 1.00 times the Debt Service Requirements for each such Fiscal Year for all then Outstanding First Tier Bonds, Second Tier Bonds, Third Tier Bonds, and all other outstanding obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) and the First Tier Bonds then proposed to be delivered.

(6) To finance the costs of completion of (a) the SH 121 Turnpike or (b) any improvements, extensions or enlargements to the NTTA System financed with the proceeds of Additional First Tier Bonds, the Authority may, without complying with the provisions of Section 208(5)(a) or (b), issue Additional First Tier Bonds in a principal amount not in excess of 10% of the principal amount of the original First Tier Bonds issued to finance such facilities, if prior to the issuance thereof there is delivered to the Trustee a certificate of the Consulting Engineers stating: (i) that at the time the original First Tier Bonds for the facilities to be completed were issued, the Authority had reason to believe that the proceeds of such First Tier Bonds together with other moneys then expected to be available would provide sufficient moneys for the completion of such facilities; (ii) the amount estimated to be needed to so complete the facilities; and (iii) that the proceeds of such First Tier Bonds to be applied to the completion of the facilities, together with a reasonable estimate by the Chief Financial Officer of (A) investment income to be earned on such proceeds and available to pay such costs, (B) the amount of moneys, if any, committed to such completion from available cash or marketable securities and reasonably estimated earnings thereon, (C) enumerated bank loans (including letters or lines of credit), and (D) any other moneys reasonably expected to be available, will be in an amount not less than the estimated amount needed to complete the facilities set forth in such certificate of the Consulting Engineers. The principal amount of the Completion Bonds to be used in assessing whether the test set forth in this Section 208(6) has been met shall include the amount required to (a) provide completed and equipped facilities of substantially the same type and scope contemplated at the time such prior First Tier Bonds were originally issued, (b) provide for capitalized interest during the period of construction, (c) provide the required

deposit, if any, to cause the balance in the First Tier Reserve Account to equal the First Tier Required Reserve, and (d) pay the costs and expenses of issuing such First Tier Bonds.

(7) Immediately after the delivery of any Additional First Tier Bonds issued under this Section 208, the Authority shall deposit the proceeds thereof, if any, (including accrued interest, if any, collected at the time of the delivery of such bonds) with the Trustee, which shall in turn deposit said proceeds as follows:

(a) Into the First Tier Bond Interest Account, such amount (if any) as may be directed by the resolution authorizing said bonds;

(b) Into the First Tier Reserve Account, such amount, if and to the extent necessary, as will cause the First Tier Reserve Account to contain an aggregate amount at least equal to the First Tier Required Reserve; provided that either nothing or a lesser amount may be so deposited if an appropriate and equivalent First Tier Reserve Surety Agreement is substituted for all or any part of the cash that otherwise would have been required to be so deposited.

(c) The balance of such proceeds remaining after the foregoing payments shall be disposed of as provided in the resolution authorizing the issuance of said First Tier Bonds.

(8) Notwithstanding anything to the contrary contained in this Section 208, the Authority may enter into First Tier Credit Agreements constituting Qualified Credit Agreements in connection with First Tier Bonds and the First Tier Payment Obligations as specified thereunder may be secured by and made payable from a lien on and pledge of the pledged Net Revenues on a parity with the Outstanding First Tier Bonds. In addition, the Trustee shall withdraw from the Revenue Fund for deposit into the First Tier Redemption Account such amounts as are necessary for the Authority to pay such First Tier Payment Obligations in accordance with Section 507 of the Agreement.

Section 209. Issuance of Additional Second Tier Bonds. (1) To the extent and in the manner provided in this Section, the Authority reserves and shall have the right and power to issue or incur, at one time or from time to time, additional subordinate obligations, including Second Tier Credit Agreements, which Additional Second Tier Bonds, when issued, shall be secured by and payable from a lien on and pledge of the Net Revenues subordinate to the First Tier Bonds (including any Additional First Tier Bonds), but equally and ratably with, and in the same manner and to the same extent as any other Outstanding Additional Second Tier Bonds, and shall be payable from and secured by the Second Tier Sinking Fund and shall be in all respects of equal dignity and on a parity with any then Outstanding Second Tier Bonds.

(2) Additional Second Tier Bonds may be issued for any purpose then authorized by law, including the refunding of obligations at any time authorized and issued by the Authority, and/or the interest thereon. Such Additional Second Tier Bonds shall be dated, bear interest (either fixed, variable, or a combination thereof), mature, and shall or may be subject to mandatory or optional redemption prior to maturity with moneys from the Second Tier Sinking Fund, shall be payable from such source or sources, and shall be executed, sold, and delivered, all as is provided in the resolution authorizing the issuance of such Additional Second Tier Bonds, provided that the provisions of said bonds shall not be in conflict with the provisions of this Agreement. Such Additional Second Tier Bonds shall be issued, executed, and delivered in

the form and manner as prescribed in the resolution authorizing same, and said Additional Second Tier Bonds shall be secured and payable as in this Agreement and said bond resolution provided, and shall be considered to be on a parity with the other Additional Second Tier Bonds issued under this Section with respect to the Net Revenues.

(3) Additional Second Tier Bonds shall be issued and delivered only after adoption by the Authority of a resolution of the Authority which shall (i) authorize said bonds and direct their delivery, (ii) describe in brief and general terms the purpose or purposes for which such bonds are to be issued, (iii) specify and determine the title and other provisions of such bonds in accordance with paragraph (2) of this Section, (iv) set forth or provide for the approval of the form of bond, and (v) provide for the retirement of such bonds from the Second Tier Redemption Account or otherwise, provided that the provisions with respect to such bonds shall not be in conflict with the provisions of this Agreement.

(4) Upon their authorization by resolution of the Authority as aforesaid, the Second Tier Bonds of a series issued under this Section 209 which do not constitute Short-Term Indebtedness shall be issued in the manner hereinabove set forth or referred to, and shall be delivered to the purchasers thereof, but before, or concurrently with, the delivery of said bonds to such purchasers there shall have been filed with the Trustee the following:

(a) a copy, certified by the Secretary of the Board, of the said resolution of the Authority authorizing said bonds and directing their delivery to the purchasers;

(b) a certificate by the Consulting Engineers setting forth their opinions as to: (1) the aggregate estimated amount of the cost of the acquisition or construction of the project or projects, if any, for which the bonds are to be issued, (2) the Estimated Date of Completion for said project or projects, and (3) the estimated amount of Current Expenses for each of the Fiscal Years through the repayment of all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds, and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded), including the Second Tier Bonds proposed to be issued (provided that items (1) and (2) shall be eliminated with respect to Second Tier Bonds issued solely for refunding purposes, and item (3) shall be eliminated if the certificate described in Section 209(5)(a) is to be used with reference to a Designated Year and in the case of refunding bonds issued to refund First Tier Bonds or Second Tier Bonds which do not cause an increase in then existing average annual Debt Service Requirements of the First Tier Bonds and the Second Tier Bonds;

(c) a certificate by the Traffic Engineers setting forth their opinion as to the aggregate estimated amount of revenues which the Authority should derive from the operation and ownership of the Tollway (which revenues shall be deemed to include all investment income from the Revenue Fund, the Operation and Maintenance Fund, the Bond Interest Accounts, the Redemption Accounts, the Reserve Accounts, the Reserve Maintenance Fund, the Construction Fund, and the Capital Improvement Fund, as estimated by the Chief Financial Officer) under the Toll Rate Schedule referred to, set forth in, or attached to, said certificate, for each of the Fiscal Years through the repayment of all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds, and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) including the Second Tier Bonds proposed to be issued; provided that this

certificate shall not be required if the certificate described in Section 209(5)(a) is to be used with reference to a Designated Year; and

(d) a certificate (dated not earlier than ninety days prior to the date upon which the resolution authorizing such Additional Second Tier Bonds is adopted) by a certified public accountant of recognized standing and ability, stating (1) the Net Revenues either for the period of the preceding Fiscal Year or for any consecutive twelve calendar month period ending not more than ninety days prior to the date of said certificate (with either of said annual periods being hereinafter referred to as the "Designated Year"); (2) the Debt Service Requirements for the Designated Year; (3) the annual Debt Service Requirements for all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds and all other outstanding obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) and the Second Tier Bonds then proposed to be delivered; and (4) in the case of Second Tier Bonds proposed to be issued to refund First Tier Bonds or Second Tier Bonds, (i) the average annual Debt Service Requirements for all Outstanding First Tier Bonds and Second Tier Bonds (including any First Tier Bonds or Second Tier Bonds being refunded but excluding the Second Tier Bonds then proposed to be delivered) and (ii) the average annual Debt Service Requirements for all Outstanding First Tier Bonds and Second Tier Bonds (excluding any First Tier Bonds or Second Tier Bonds being refunded) and the Second Tier Bonds then proposed to be delivered; provided that items (1) and (2) above shall be stated only if the certificate described in Section 209(5)(a) is to be used with reference to a Designated Year.

(e) a certificate signed by a Board Representative to the effect that no default has occurred and is continuing under this Agreement.

(f) the certificate of the Chief Financial Officer regarding transfers from the Revenue Fund required under Section 507(b) of this Agreement.

(5) When the documents mentioned above shall have been filed with the Trustee and when the Second Tier Bonds not constituting Short-Term Indebtedness authorized by the resolution mentioned in Section 209(4)(a) shall have been executed in accordance with this Agreement and said bond resolution, the Authority may deliver said bonds at one time to or upon the order of the purchasers named in said resolution, upon receipt by the purchasers and the Trustee of an opinion of Bond Counsel for the Authority stating that the signer is of the opinion that the issuance of such bonds has been duly authorized and that all conditions precedent to the delivery of such bonds have been fulfilled; provided that, except in the case of refunding bonds being issued to refund Outstanding First Tier Bonds or Second Tier Bonds which do not cause an increase in then existing average annual Debt Service Requirements of the First Tier Bonds and Second Tier Bonds, such bonds shall not be delivered unless there shall have been filed with the Trustee an additional certificate by the Chief Financial Officer (based on the aforesaid certificates of the Consulting Engineers, the Traffic Engineers, and the certified public accountant, as applicable) certifying either:

(a) that the Net Revenues during the Designated Year (based on actual, and not estimated, aggregate gross revenues and Current Expenses) were at least 1.20 times the average annual Debt Service Requirements for all then Outstanding First Tier Bonds and Second Tier Bonds (excluding any bonds being refunded) and the Second Tier Bonds proposed to be delivered; or, in the alternative,

(b) that the estimated Net Revenues for the current and each Fiscal Year after the date of said certificate are at least:

(1) 1.20 times the Debt Service Requirements for each such Fiscal Year for all then Outstanding First Tier Bonds and Second Tier Bonds (excluding any bonds being refunded) and the Second Tier Bonds then proposed to be delivered; and

(2) 1.00 times the Debt Service Requirements for each such Fiscal Year for all then Outstanding First Tier Bonds, Second Tier Bonds, Third Tier Bonds, and all other outstanding obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) and the Second Tier Bonds then proposed to be delivered.

(6) The Authority agrees that it will not issue any Additional Second Tier Bonds constituting Short-Term Indebtedness unless immediately after the incurrence of such Short-Term Indebtedness, the outstanding principal amount of all bonds Outstanding in the form of Short-Term Indebtedness will not exceed thirty-five percent (35%) of the aggregate principal amount of all Outstanding bonds. Short-Term Indebtedness issued pursuant to this subsection will be on a parity with other Second Tier Bonds.

(7) Immediately after the delivery of any Additional Second Tier Bonds issued under Section 209(4) and (5), the Authority shall deposit the proceeds thereof, if any, (including accrued interest, if any, collected at the time of the delivery of such bonds) with the Trustee, which shall in turn deposit said proceeds as follows:

(a) Into the Second Tier Bond Interest Account, such amount (if any) as may be directed by the resolution authorizing said bonds;

(b) Into the Second Tier Reserve Account, such amount, if any, as set forth in the Supplemental Agreement establishing the Second Tier Reserve Account or sub-account therein or authorizing the Additional Second Tier Bonds. Each Supplement authorizing or providing for Second Tier Bonds shall specify if that series of Second Tier Bonds is to be secured by the Second Tier Reserve Account and, if so, the Second Tier Required Reserve for such Second Tier Bonds.

(c) The balance of such proceeds remaining after the foregoing payments shall be disposed of as provided in the resolution authorizing the issuance of said Second Tier Bonds.

(8) Notwithstanding anything to the contrary contained in this Section 209, the Authority may enter into Second Tier Credit Agreements constituting Qualified Credit Agreements in connection with Second Tier Bonds and the Second Tier Payment Obligations as specified thereunder may be secured by and made payable from a lien on and pledge of the pledged Net Revenues on a parity with the Outstanding Second Tier Bonds. In addition, the Trustee shall withdraw from the Revenue Fund for deposit into the Second Tier Redemption Account such amounts as are necessary for the Authority to pay such Second Tier Payment Obligations in accordance with Section 507 of this Agreement.

Section 210. Issuance of Third Tier Bonds. (1) The Authority reserves and shall have the right and power to issue or incur, at one time or from time to time, additional subordinate obligations, including Third Tier Credit Agreements, which Additional Third Tier Bonds, when

issued, shall be secured by and payable from a lien on and pledge of the Net Revenues subordinate to all First Tier Bonds and Second Tier Bonds (including any Additional First Tier Bonds and Additional Second Tier Bonds). Each series of Additional Third Tier Bonds shall be created pursuant to a supplemental agreement and shall identify the level of subordination and the priority of payment to which such series is entitled, provided, however, that in no event shall the priority of payment be above that of any First Tier Bond or Second Tier Bond (including any Additional First Tier Bonds or Additional Second Tier Bonds). Additional Third Tier Bonds may be issued on different levels of priority within the Third Tier Bonds, and shall be identified by class, with class A ranking as the highest level of priority and all other classes in descending order of priority in accordance with their alphabetical ranking.

(2) Additional Third Tier Bonds may be issued for any purpose then authorized by law, including the refunding of obligations at any time authorized and issued by the Authority, and/or the interest thereon. Such Additional Third Tier Bonds shall be dated, bear interest (either fixed, variable, or a combination thereof), mature, and shall or may be subject to mandatory or optional redemption prior to maturity with moneys from the Third Tier Sinking Fund, shall be payable from such source or sources, and shall be executed, sold, and delivered, all as is provided in the supplemental agreement authorizing the issuance of such Additional Third Tier Bonds, provided that the provisions of said bonds shall not be in conflict with the provisions of this Agreement and the priority of payment of such bonds shall be established as set forth above. Such Additional Third Tier Bonds shall be issued, executed, and delivered in the form and manner as prescribed in the resolution authorizing same, and said Additional Third Tier Bonds shall be secured and payable as in this Agreement and said resolution provided.

(3) Additional Third Tier Bonds shall be issued and delivered only after adoption by the Authority of a resolution of the Authority which shall (i) authorize said bonds and direct their delivery, (ii) describe in brief and general terms the purpose or purposes for which such bonds are to be issued, (iii) specify and determine the title and other provisions of such bonds in accordance with paragraph (2) of this Section, (iv) authorize a supplemental agreement hereto setting forth the terms of such Third Tier Bonds, including the level of subordination and priority of payment therefor, and establishing funds for the payment of such Additional Third Tier Bonds and (v) provide for the retirement of such bonds from the Third Tier Redemption Account or a sub-account therein or otherwise, provided that the provisions with respect to such bonds shall not be in conflict with the provisions of this Agreement.

(4) Upon their authorization by resolution of the Authority as aforesaid, the Third Tier Bonds of a series issued under this Section 210 which do not constitute Short-Term Indebtedness shall be issued in the manner hereinabove set forth or referred to, and shall be delivered to the purchasers thereof, but before, or concurrently with, the delivery of said bonds to such purchasers there shall have been filed with the Trustee the following:

- (a) a copy, certified by the Secretary of the Board, of the said resolution of the Authority authorizing said bonds and directing their delivery to the purchasers;
- (b) a certificate by the Consulting Engineers setting forth their opinions as to: (1) the aggregate estimated amount of the cost of the acquisition or construction of the project for which the bonds are to be issued, if any, (2) the Estimated Date of Completion for any such project, and (3) the estimated amount of Current Expenses for each of the Fiscal Years through the repayment of all Outstanding First Tier Bonds, Second Tier Bonds and

Third Tier Bonds, and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded), including the Third Tier Bonds proposed to be issued (provided that items (1) and (2) shall be eliminated with respect to Third Tier Bonds issued solely for refunding purposes, and item (3) shall be eliminated if the certificate described in Section 210(5)(a) is to be used with reference to a Designated Year and in the case of refunding bonds issued to refund First Tier Bonds, Second Tier Bonds or Third Tier Bonds which do not cause an increase in then existing average annual Debt Service Requirements of the First Tier Bonds, the Second Tier Bonds and the Third Tier Bonds;

(c) a certificate by the Traffic Engineers setting forth their opinion as to the aggregate estimated amount of revenues which the Authority should derive from the operation and ownership of the Tollway (which revenues shall be deemed to include all investment income from the Revenue Fund, the Operation and Maintenance Fund, the Bond Interest Accounts, the Redemption Accounts, the Reserve Accounts, the Reserve Maintenance Fund, the Construction Fund, and the Capital Improvement Fund, as estimated by the Chief Financial Officer) under the Toll Rate Schedule referred to, set forth in, or attached to, said certificate, for each of the Fiscal Years through the repayment of all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds, and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) including the Third Tier Bonds proposed to be issued; provided that this certificate shall not be required if the certificate described in Section 210(5)(a) is to be used with reference to a Designated Year; and

(d) a certificate (dated not earlier than ninety days prior to the date upon which the resolution authorizing such Additional Third Tier Bonds is adopted) by a certified public accountant of recognized standing and ability, stating (1) the Net Revenues either for the period of the preceding Fiscal Year or for any consecutive twelve calendar month period ending not more than ninety days prior to the date of said certificate (with either of said annual periods being hereinafter referred to as the "Designated Year"); (2) the Debt Service Requirements for the Designated Year; (3) the annual Debt Service Requirements for all Outstanding First Tier Bonds, Second Tier Bonds, Third Tier Bonds and all other obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) and the Third Tier Bonds then proposed to be delivered; and (4) in the case of Third Tier Bonds proposed to be issued as refunding bonds, (i) the average annual Debt Service Requirements for all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds (including any bonds being refunded but excluding the Third Tier Bonds then proposed to be delivered) and (ii) the average annual Debt Service Requirements for all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds (excluding any bonds being refunded) and the Third Tier Bonds then proposed to be delivered; provided that items (1) and (2) above shall be stated only if the certificate described in Section 210(5)(a) is to be used with reference to a Designated Year.

(e) a certificate signed by a Board Representative to the effect that no default has occurred and is continuing under this Agreement.

(f) the certificate of the Chief Financial Officer regarding transfers from the Revenue Fund required under Section 507(b) of this Agreement.

(5) When the documents mentioned above shall have been filed with the Trustee and when the Third Tier Bonds not constituting Short-Term Indebtedness authorized by the resolution mentioned in Section 210(4)(a) shall have been executed in accordance with this Agreement and said bond resolution, the Authority may deliver said bonds at one time to or upon the order of the purchasers named in said resolution, upon receipt by the purchasers and the Trustee of an opinion of Bond Counsel for the Authority stating that the signer is of the opinion that the issuance of such bonds has been duly authorized and that all conditions precedent to the delivery of such bonds have been fulfilled; provided that, except in the case of refunding bonds being issued to refund Outstanding First Tier Bonds, Second Tier Bonds or Third Tier Bonds which do not cause an increase in then existing average annual Debt Service Requirements of the First Tier Bonds, Second Tier Bonds and Third Tier Bonds, such bonds shall not be delivered unless there shall have been filed with the Trustee an additional certificate by the Chief Financial Officer (based on the aforesaid certificates of the Consulting Engineers, the Traffic Engineers, and the certified public accountant, as applicable) certifying either:

(a) that the Net Revenues during the Designated Year (based on actual, and not estimated, aggregate gross revenues and Current Expenses) were at least 1.00 times the average annual Debt Service Requirements for all then Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds (excluding any bonds being refunded) and the Third Tier Bonds proposed to be delivered; or, in the alternative,

(b) that the estimated Net Revenues for the current and each Fiscal Year after the date of said certificate are at least 1.00 times the Debt Service Requirements for each such Fiscal Year for all then Outstanding First Tier Bonds, Second Tier Bonds, Third Tier Bonds, and all other outstanding obligations of the Authority secured by Net Revenues (excluding any bonds or obligations being refunded) and the Third Tier Bonds then proposed to be delivered.

(6) The Authority agrees that it will not issue any Additional Third Tier Bonds constituting Short-Term Indebtedness unless immediately after the incurrence of such Short-Term Indebtedness, the outstanding principal amount of all bonds Outstanding in the form of Short-Term Indebtedness will not exceed thirty-five percent (35%) of the aggregate principal amount of all Outstanding bonds. Short-Term Indebtedness issued pursuant to this subsection will be on a parity with other Third Tier Bonds as designated in the proceedings authorizing such Short-Term Indebtedness.

(7) Immediately after the delivery of any Additional Third Tier Bonds issued under Section 210(4) and (5), the Authority shall deposit the proceeds thereof, if any, (including accrued interest, if any, collected at the time of the delivery of such bonds) with the Trustee, which shall in turn deposit said proceeds as follows:

(a) Into the Third Tier Bond Interest Account, such amount (if any) as may be directed by the resolution authorizing said bonds;

(b) Into the Third Tier Reserve Account, such amount, if any, as set forth in the Supplemental Agreement establishing the Third Tier Reserve Account or sub-account therein or authorizing the Additional Third Tier Bonds. Each Supplement authorizing or providing for Third Tier Bonds shall specify if that series of Third Tier Bonds is to be secured by the Third Tier Reserve Account and, if so, the Third Tier Required Reserve for such Third Tier Bonds.

(c) The balance of such proceeds remaining after the foregoing payments shall be disposed of as provided in the resolution authorizing the issuance of said Third Tier Bonds.

(8) Notwithstanding anything to the contrary contained in this Section 210, the Authority may enter into Third Tier Credit Agreements constituting Qualified Credit Agreements in connection with Third Tier Bonds and the Third Tier Payment Obligations as specified thereunder may be secured by and made payable from a lien on and pledge of the pledged Net Revenues on a parity with the Outstanding Third Tier Bonds. In addition, the Trustee shall withdraw from the Revenue Fund for deposit into the Third Tier Redemption Account such amounts as are necessary for the Authority to pay such Third Tier Payment Obligations in accordance with Section 507 of the Agreement.

Section 211. Exemption from Taxation; Bonds as Legal Investment and Security. As provided by the Turnpike Act, the Authority will not be required to pay any taxes or assessments upon the Tollway or any property acquired or used by the Authority under the provisions of such Turnpike Act or upon the income therefrom, and the bonds issued under the provisions of this Agreement, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State of Texas. Also, as provided in the Turnpike Act, all bonds issued pursuant to this Agreement shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, of any and all public funds of cities, towns, villages, counties, school districts and other political subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto, if any.

ARTICLE III REDEMPTION OF BONDS

Section 301. Redemption of Bonds. The bonds issued under the provisions of this Agreement at any time Outstanding shall or may be redeemed prior to their maturity or maturities as provided and set forth in the forms of bonds set forth in the Supplement providing for their issuance or in other proceedings approved by the Board. It is further provided that redemption of bonds prior to maturity, other than from the respective Redemption Account securing such bonds to be redeemed and the proceeds of refunding bonds, shall be made only from and to the extent of funds on deposit with the Trustee and available for such purpose on the date the required notice of redemption is given.

ARTICLE IV CUSTODY AND APPLICATION OF PROCEEDS OF BONDS

Section 401. Construction Fund. The special fund created and designated "Tollway Construction Fund," and established initially with the Trustee under the Original Agreement is hereby reaffirmed, and into which (i) any amounts as determined by the Authority, and (ii) any

designated portion of the purchase price of bonds issued under Section 208, Section 209 or Section 210 of this Agreement, shall be deposited. There also may be deposited to the credit of the Construction Fund any moneys received from any other source for paying costs of improving, extending, or enlarging the Tollway or for any other purpose or project authorized by law.

Subject to the other provisions of this Agreement, the moneys credited to the Construction Fund (including all obligations held as investments thereof and the proceeds of such investments) shall be applied to the payment of the cost of acquiring or constructing improvements, extensions, enlargements, or additions to the NTTA System, or for other projects and purposes then authorized by law; and, pending such application, shall be subject to a lien and charge in favor of the owners of the bonds and for the further security of such owners until paid out or transferred as herein provided.

Section 402. [RESERVED]

Section 403. Payments from Construction Fund. Payment of the Cost of the Tollway shall be made from the Construction Fund. All payments from the Construction Fund shall be subject to the provisions and restrictions set forth in this Article, and the Authority covenants that it will not cause or permit to be paid from the Construction Fund any sums except in accordance with such provisions and restrictions. Also, payments and deposits shall be made from the Construction Fund as provided in Section 603.

Section 404. Items of Cost. For the purpose of this Agreement the term "cost" when used with respect to any facility shall mean and include all costs related to such facility, and, without intending thereby to limit or restrict any such definition, shall include the following:

(a) obligations incurred for labor and to contractors, builders and materialmen in connection with the construction of a facility or any part thereof, and obligations incurred for machinery and equipment;

(b) payments to owners and others, for real property, or interests therein, or for options or other property or contractual rights;

(c) all expenses of every kind or character incurred in the acquisition of real property, including all costs and expenses of whatever kind in connection with the exercise of the power of condemnation, and including the cost of title searches and reports, abstracts of title, title certificates and opinions, title guarantees, title insurance policies, appraisals, negotiations and surveys;

(d) the amount of any damages or claimed damages incident to or consequent upon the construction of a facility; also the cost of any litigation and amounts paid by court order or upon settlement of any litigation or of any claim (although not litigated) of any kind during construction or of any claim arising during or out of or related to construction of a facility;

(e) as to toll collection equipment, it is recognized that some manufacturers of such equipment will not sell such equipment outright, and that some manufacturers will sell it; but that it will not be known, until bids are received by the Authority for the acquisition of such equipment, which manufacturer will offer the most advantageous terms to the Authority. The acquisition of toll collection equipment is hereby determined and declared to be a capital expenditure, and a proper "cost". It is specially provided, however, that if, in the discretion of the Authority, it will be to the advantage of the Authority to do so, and upon the written

recommendation of the Consulting Engineers, the Authority may enter into lease-purchase or lease-rental agreements for the acquisition of such equipment with a term not to exceed three years from the date of acceptance of such equipment by the Authority. In such event the Authority shall so advise the Trustee, and the Trustee shall set aside and retain the amounts required for the payments under such agreements in the Construction Fund, and shall make such payments as so required, upon requisitions as provided for in Section 407 hereof. Any such payments shall constitute proper items of "cost" for all purposes;

(f) the cost of any necessary indemnity and surety bonds, the cost of all fidelity bonds, the fees and expenses of the Trustee and the Paying Agent, and premiums on all insurance deemed necessary and advisable by the Authority, until one year after the completion of construction thereof;

(g) the cost of borings and other preliminary investigations to determine foundation or other conditions, all fees, costs, and expenses necessary or incident to determining the feasibility and practicability of constructing a facility, and all fees, costs, and expenses of engineers and others for making traffic studies, surveys, and estimates, and all fees, costs, and expenses of engineering services, plans, specifications, surveys, and estimates of cost and revenues, and all costs of supervising construction, as well as for the performance of all other duties of engineers in relation to the construction of a facility or the issuance of bonds therefor;

(h) the cost of preparing and issuing bonds, including refunding bonds, and all legal, accounting and other professional expenses and fees and financing charges in connection with any bonds and/or any facility, and expenses of administration properly chargeable to the construction of a facility, including salaries and all payments and deductions as provided by law pertaining to the State Retirement System;

(i) the cost of restoring, repairing and placing in its original condition, as nearly as practicable, all public or private property damaged or destroyed in the construction of a facility, or the amount paid by the Authority as compensation for such damage or destruction, and all costs lawfully incurred or damages lawfully payable, with respect to the restoration, relocation, removal, reconstruction or duplication of property or facilities in connection with or made necessary or caused by the construction of a facility, and the cost of building facilities to connect land severed by a facility or severance damages paid in lieu of such facilities;

(j) any obligation or expense heretofore or hereafter incurred by the Authority in connection with any of the foregoing items of cost, and the reimbursement of any obligations or expenses incurred in connection with any of the foregoing items of cost;

(k) utility relocations, buildings and other structures, fencing, landscaping, illumination, communication systems, and safety devices; and

(l) all other items of cost and expense not elsewhere in this Section specified, incident to the construction and equipment of a facility, the financing thereof and the costs of placing a facility in operation, including all costs as defined under the term "Cost" in the Turnpike Act.

Section 405. Payment of Interest. The Trustee shall, so long as the bonds remain Outstanding, without requisition from the Authority or other or further authority than is contained herein, pay from any moneys on hand in the respective Sinking Fund created by

Section 507 of this Agreement the premium, if any, principal of, and the interest on the First Tier Bonds, the Second Tier Bonds or the Third Tier Bonds, as applicable, when due.

Section 406. Payments from Construction Fund for Condemnation of Property.

Whenever it shall be necessary to acquire by condemnation any real property or other property, as provided in the Turnpike Act, payment of compensation for such property or deposit of moneys to secure such payment shall be made by the Trustee under the provisions of this Section in order that the Authority may either (a) take possession thereof prior to the completion of condemnation proceedings or (b) take title thereto upon completion of condemnation proceedings. The Trustee shall withdraw from the Construction Fund and deposit with the court in which the proceedings for condemnation shall be pending, or pay to an owner or owners if so required by the court's order, an amount equal to the amount necessary so to be paid or deposited, upon receipt by the Trustee of the following documents:

(a) a requisition, signed by at least two officers and/or employees of the Authority designated by resolution of the Authority for such purpose, requesting withdrawal and stating the amount thereof;

(b) a statement signed by the Consulting Engineers, certifying that in their opinion the acquisition of such property is necessary in connection with the construction, operation or maintenance of the Tollway; and

(c) a statement signed by Counsel for the Authority stating the amount of compensation necessary to be paid or stating the amount necessary to be deposited with the court.

Similar withdrawals and deposits shall be made by the Trustee with respect to any such condemnation case pending before such court in the event additional amounts shall be necessary to be paid or to be deposited, upon receipt by the Trustee of a requisition of the Authority, signed as required by clause (a) of this Section, requesting such withdrawal, stating the amount thereof and having attached thereto a statement signed by Counsel for the Authority stating the amount of compensation necessary to be paid or stating an amount necessary to be deposited with the court.

Section 407. Payments from Construction Fund; Requisitions for Payment and Certificates Supporting Requisitions. Payments from the Construction Fund, except the payments and withdrawals which the Trustee is authorized to make under the provisions of Sections 406, 408 and 412 of this Article, shall be made in accordance with the provisions of this Section. Before any such payment shall be made the Authority shall file with the Trustee:

(a) a requisition, signed by at least two officers and/or employees of the Authority designated by resolution of the Authority for such purpose, stating in respect of each payment to be made:

- (1) the item number of the payment;
- (2) the name of the person to whom payment is to be made;
- (3) the amount to be paid;
- (4) the purpose for which the payment is to be made;

(5) that obligations in the stated amounts have been incurred by the Authority and that each item thereof is a proper charge against the Construction Fund and has not been paid, provided, however, that certification to this effect shall not be required with respect to any item for the payment for any real property;

(6) that there has not been filed with or served upon the Authority legal notice of any lien, right to lien, attachment or other claim, which is valid in the opinion of Counsel for the Authority, and affects the right to receive payment of any of the moneys payable to any of the persons, firms or corporations named in such requisition, which has not been released or will not be released simultaneously with such payment;

(7) that such requisition contains no item representing payment on account of any retained percentages which the Authority is at the date of such certificate entitled to retain; provided, however, that certification to this effect shall not be required with respect to any item for the payment for any real property; and

(8) that no default exists under the Trust Agreement which has not been disclosed to the Trustee, and the Authority will use its best efforts to cure any default if it exists;

(b) with respect to any item for payment for real property, the additional statements set forth in Section 409; and

(c) with respect to all items payable on account of all obligations incurred for construction or engineering work (other than that performed by the Consulting Engineers) and for acquisition of materials, equipment or supplies (other than for administrative office purposes) and for labor hired by the Authority to do construction work, and with respect to all items of payment to be made in reimbursing utility or railroad companies or others for obligations incurred by them pursuant to agreement with the Authority, a statement signed by the Consulting Engineers and attached to or made a part of such requisition, certifying that each such obligation has been properly incurred and is then due and unpaid, that such obligation is a proper charge against the Construction Fund, and that, insofar as such obligation was incurred for work, materials, equipment or supplies, such work was actually performed, or such materials, equipment or supplies were actually installed, or delivered at the site of the work for that purpose, or delivered for storage or fabrication at a place or places approved by the Consulting Engineers.

Upon receipt of each such requisition and accompanying certificates the Trustee shall pay each such item from the Construction Fund or shall deliver to the Authority a check for the payment thereof.

In the event the proceeds of any check is in excess of the amount required for the purpose for which any requisition was made, such excess shall be returned to the Trustee for the credit of the Construction Fund.

Section 408. Reimbursements for Payment from Revolving Fund. The Trustee shall, from time to time, make payments to the Authority from the Construction Fund as reimbursements for payments theretofore made by the Authority from a revolving fund created by the Authority for the purpose of paying such items of Cost of the Tollway as in the opinion of the Authority cannot be conveniently paid as otherwise provided in this Agreement. Before any such payment shall be made, the Authority shall file with the Trustee a requisition, signed as

provided in Section 407 of this Article, specifying the payee, the amount and the purpose of each payment from the revolving fund for which such reimbursement is requested, accompanied by a certificate similarly signed, certifying that each such payment was a necessary item of the Cost of the Tollway, and that such item of Cost could not be conveniently paid except from such revolving fund; provided, however, that if any item in such requisition is for reimbursement on account of the payment for any real property, such requisition shall also have attached thereto the documents required by Section 409 of this Article, and if any such payment is for reimbursement on account of payment, or securing payment by deposit, of compensation in any condemnation case, the requisition shall also be accompanied by the documents referred to in Section 406 of this Article. In making such reimbursements the Trustee may rely conclusively upon such requisitions and accompanying certificates.

Section 409. Requisitions for Payment for Real Property. If any requisition under Section 407 contains any item for payment for real property for temporary or permanent use of the Authority, there shall be attached to or made a part of such requisition, in addition to the applicable certificates mentioned in Section 407 of this Article:

(a) a statement signed by the Consulting Engineers certifying that in their opinion the acquisition of such property is necessary or advisable in connection with the construction or operation of the project; and

(b) either (i) an opinion signed by Counsel for the Authority that at the time of making such payment the Authority has or will have good title to, or an easement in or over, said real property sufficient for the purposes of the Authority, and free from all liens and encumbrances except liens or encumbrances which, in the opinion of said counsel, do not have a materially adverse effect upon the Authority's right to use said real property for the purposes intended or which have been or will be adequately guarded against by a bond or contract of indemnity, guaranty, or insurance; or (ii) a statement by Counsel for the Authority that such title has been or will be insured by a title insurance company satisfactory to such Counsel, guaranteeing good title in the authority free and clear of all liens and encumbrances other than those which in the opinion of said Counsel do not have a materially adverse effect upon the Authority's right to use said real property for the purpose intended; or (iii) if any payment requested by a requisition be a payment for an option to purchase, a quitclaim deed, a lease, or release, or on a contract to purchase, or is otherwise for the acquisition of a right or interest in lands which is less than a fee simple or perpetual easement, or if such payment be part payment for any such purpose, the written approval of Counsel for the Authority of the acquisition of such lesser right or interest.

Whenever in connection with the purchase of any real property it shall be necessary or desirable either (1) to withhold from the purchase price a portion thereof to be applied to pay any tax, assessment, or other claim which is or may be a lien on said real property or (2) later to pay any such tax, assessment, or other claim which is or may be, or but for any law exempting real property from taxation would be, a lien on any real property, a payment or payments for which shall previously have been requisitioned and made pursuant to the prior provisions of this Section, such tax, assessment, or claim shall be paid by check of the Trustee, drawn to the order of such person as shall be designated in a further requisition (meeting the specifications of Section 407), accompanied by the approval of such payment by Counsel for the Authority. Each such requisition shall identify the real property with respect to which such payment is to be made. If the amount of any such tax, assessment, or other lien shall have been withheld from the

purchase price of any real property, and if after payment thereof there shall remain any balance due on the purchase price (including damages), requisition for the payment of such balance, and payment thereof, shall be made in the same manner as provided in the preceding sentences of this paragraph.

Section 410. Trustee to Retain Requisitions. All requisitions, certificates and opinions received by the Trustee, as required in this Article as conditions of payment from the Construction Fund, may be relied upon conclusively by and shall be retained in the possession of the Trustee for a period of seven (7) years after the date of the final payment from the Construction Fund, subject at all reasonable times to the inspection of the Authority and the Consulting Engineers, and their agents and representatives.

Section 411. Progress Reports; Audits during Construction; Certificate as to Date of Opening for Traffic. The Authority covenants that, at least once in every six-month period during the construction of any portion of the Tollway which it finances in whole or in part with bonds, it will cause the Consulting Engineers to prepare a progress report in connection with the acquisition of real property for any project, and a progress report in connection with such construction, including their then current estimates of:

- (i) the date on which such project will be opened for traffic, unless such project shall have been opened for traffic prior to the date of such report,
- (ii) the date on which the construction of such project will be completed,
- (iii) the cost of the project but excluding any bond discount and the interest during construction and for one year after completion of construction, and
- (iv) the amount of funds required each six (6) months during the remaining estimated period of construction to meet the aforesaid cost of such project exclusive of funds provided for construction contingencies, and accompanied by a progress schedule for such construction, and further including, as to construction, comparisons between the actual times elapsed and the actual costs, and the original estimates of such times and costs. Copies of such progress reports shall be filed with the Trustee and with the Authority and mailed by the Authority to each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

At least once in every twelve-month period during the construction of such project the Authority shall cause an audit to be made by an independent certified public accountant of recognized ability and standing covering all receipts and moneys of the Authority then on deposit with or in the name of the Trustee, all Depositories, and the Authority, and any security specifically pledged therefor, any investments thereof, and all disbursements made pursuant to the provisions of this Article. Reports of each such audit shall be filed with the Trustee and mailed by the Authority to the Consulting Engineers and each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

Section 412. Certificates and Opinions after Completion of Construction; Disposition of Balance in Construction Fund. When the construction of a project shall have been completed, which fact shall be evidenced to the Trustee by a certificate stating the date of such completion, signed by a Board Representative and approved by the Consulting Engineers,

accompanied by an opinion of Counsel for the Authority stating that the Authority has acquired title or easements, or has acquired the right of possession by condemnation proceedings which may still be pending, in the name of the Authority to the right-of way for the project free from all liens or encumbrances except liens, encumbrances or other defects of title which, in the opinion of such Counsel, do not have a materially adverse effect upon the Authority's right to use such right-of-way for the purposes intended or which have been adequately guarded against by a bond or other form of indemnity, guaranty or insurance, in which opinion such Counsel may rely on title insurance policies of companies satisfactory to such Counsel as evidence of title when such policies are obtained, and accompanied by a certificate of the Consulting Engineers stating the amount, if any, required in their opinion for the payment of any remaining part of the Cost of the Tollway, the balance in the Construction Fund in excess of the amount, if any, stated in such certificate, shall, at the option and direction of the Authority but subject to any federal tax law limitations, either (1) be utilized for other improvements, extensions, enlargements, or additions to the NTTA System, or (2) be used by the Trustee to pay debt service on, to redeem or to purchase and cancel Outstanding bonds as directed by the Authority.

If at any time there shall be filed with the Trustee a certificate signed by a Board Representative and approved by the Consulting Engineers stating that the cost of the Tollway has been fully paid, (1) the balance in the Construction Fund shall be disposed of as provided above, and (2) the balance, if any, in the revolving fund provided for in Section 408 shall be paid by the Authority to the Trustee to be disposed of in the same manner as the balance in the Construction Fund.

Section 413. Alternate Provisions for Construction Fund. (a) Notwithstanding any other provisions of this Agreement, if Additional Bonds hereafter are issued, the Authority may, by resolution of the Board, provide that the Construction Fund shall be held, used, and drawn on for such purposes, in such manner, and under such circumstances as shall be directed and prescribed in such resolution or resolutions, and all provisions of this Agreement with respect to the Construction Fund shall be altered, modified, or abrogated accordingly.

(b) Furthermore, with respect to the Existing Bonds, the Construction Fund shall be held, used and drawn on, as directed and prescribed in such resolutions of the Board relating to the Existing Bonds.

ARTICLE V TOLLS, REVENUES AND FUNDS

Section 501. Covenants as to Tolls and Revisions Thereof. (a) The Authority covenants that it currently has in effect a Toll Rate Schedule for the Tollway in substantial conformity with the recommendation of the Traffic Engineers. It is provided, however, that at any time any other Toll Rate Schedule may be adopted and placed into effect by the Authority, at its option, but only if prior to such adoption the Authority shall have obtained and filed with the Trustee a certificate by the Traffic Engineers either:

- (1) stating, in their opinion, that if such proposed Toll Rate Schedule had been in effect during the preceding Fiscal Year, it would not have caused a decrease in the Net Revenues for said preceding Fiscal Year, or

(2) stating, in their opinion, that the adoption of such proposed Toll Rate Schedule will not adversely affect the ability of the Authority to comply with its covenants in Section 501(d).

Any such certificate by the Traffic Engineers shall be based on their own opinion as to gross revenues to be derived by the Authority from the ownership and operation of the Tollway (which revenues shall be deemed to include all investment income previously described herein as constituting revenues of the Tollway, as estimated by the Chief Financial Officer), and upon a certificate by the Consulting Engineers, to be obtained by the Authority and filed with the Trustee, stating the opinion of the Consulting Engineers as to the amount of Current Expenses during any pertinent Fiscal Year or period, assuming that the proposed Toll Rate Schedule had been in effect during such pertinent Fiscal Year or period.

(b) [RESERVED]

(c) [RESERVED]

(d) The Authority covenants to keep in effect a Toll Rate Schedule which will raise and produce Net Revenues during each Fiscal Year sufficient to satisfy the greatest of (1), (2) or (3) below:

(1) 1.35 times the scheduled Debt Service Requirements on all Outstanding First Tier Bonds for the Fiscal Year; or

(2) 1.20 times the scheduled Debt Service Requirements on all Outstanding First Tier Bonds and all Outstanding Second Tier Bonds for the Fiscal Year; or

(3) 1.00 times the scheduled Debt Service Requirements on all Outstanding First Tier Bonds, all Outstanding Second Tier Bonds, all Outstanding Third Tier Bonds and all other outstanding obligations of the Authority secured by Net Revenues for the Fiscal Year.

In the event that during any such Fiscal Year such Net Revenues shall be less than the amounts contemplated above for such Fiscal Year, the Authority will, before the 15th day of March of the following Fiscal Year, request the Traffic Engineers to make and file their recommendations with the Authority and the Trustee as to a revision in the Toll Rate Schedule then in effect, in order to cause the raising and production of Net Revenues in a manner which will enable the Authority to produce at the earliest feasible time Net Revenues in at least the amounts contemplated above for each such Fiscal Year. The Authority covenants that it will promptly and carefully consider such recommendations, and that it will, within sixty days after receipt of such recommendations, either (1) place into effect any Toll Rate Schedule as so recommended by the Traffic Engineers, or (2) place into effect any alternative Toll Rate Schedule which, in the opinion of the Board, will enable it to comply with its covenants in this Section 501(d).

(e) Anything in this Agreement to the contrary notwithstanding, if the Authority shall comply with all recommendations of the Traffic Engineers (or such independent engineer or engineering firm or corporation as hereinafter provided for in this Section) with respect to Toll Rate Schedules, it shall not constitute an Event of Default under the provisions of Section 802 of this Agreement, if there shall be a deficiency in any Fiscal Year or years between the Net Revenues for such Fiscal Year or years and the amount required to be produced for such Fiscal Year or years. It is provided, however, that in the event of any such deficiency, and regardless of any recommendations of the Traffic Engineers or others, or compliance therewith by the

Authority, the Trustee, or the holder of not less than fifteen per cent (15%) in aggregate principal amount of the bonds then Outstanding, may, and the Trustee shall, upon the written request of the holders of not less than ten percent (10%) in aggregate principal amount of the bonds then Outstanding and upon being indemnified to its satisfaction, institute and prosecute in a court of competent jurisdiction an appropriate action to compel the Authority to comply with its covenant herein to adopt and keep in effect a Toll Rate Schedule which will raise and produce during each Fiscal Year an amount of Net Revenues as required above for such Fiscal Year, or to comply with any other covenant in this Section 501. The Authority covenants that it will comply with any final order, decree, or judgment entered in any such proceeding, or any modification thereof.

(f) In the event that the Authority shall request the Traffic Engineers for their recommendations as required herein, and the Traffic Engineers, after such request by the Authority, shall fail to file with the Authority and with the Trustee such recommendations in writing within 120 days after such request, the Trustee shall forthwith designate and appoint an independent engineer or engineering firm or corporation having a nationwide and favorable reputation for skill and experience in such work, in lieu of the Traffic Engineers, to make the necessary survey and study and to make the required recommendations as to the aforesaid revision, which recommendations shall be reported in writing to the Authority and to the Trustee on or before the 1st day of October of said year. Such recommendations shall for all purposes be considered to be the equivalent of and a substitute for the recommendations of the Traffic Engineers hereinabove mentioned.

The Authority further covenants that upon its making any request of the Traffic Engineers for their aforesaid recommendations, or the receipt of any such recommendation from the Traffic Engineers or others, or the adoption by the Authority of any revised Toll Rate Schedule, certified copies of any such request, recommendations or revisions so adopted will forthwith be filed with the Trustee and mailed by the Authority to all bondholders who shall have filed their names and addresses with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

Section 502. Uniformity of Tolls; Free Passage Over Tollway. (a) The Authority covenants that tolls will be classified in a reasonable way to cover all traffic, so that the tolls will be uniform in application to all traffic falling within any reasonable class as determined by the Authority; provided that the foregoing shall not be interpreted to restrict the Authority's right, in its discretion in connection with its management of the NTTA System, to establish and maintain flexible toll schedules including, but not limited to, provisions for utilizing or otherwise taking into account, peak and nonpeak pricing, introductory pricing, vehicle weight, number of axles, method of payment, frequency, car pooling, electronic and other toll collection technologies, traffic management systems and similar classifications.

Any change in classification that results in a reduced toll or any new classification shall be subject to the Traffic Engineers approving the same before it is implemented unless the same is temporary (i.e., having a duration of less than one year from the effective date). In all events, the Authority shall not make a change in classification or any new classification unless the Authority determines that such change is not expected to result in the receipt of Net Revenues in amounts less than that required in Section 501(d) hereof.

(b) Notwithstanding the provisions of (a) above, no free vehicular passage or reduced tolls will be permitted over the Tollway within a class, other than its approaches and service

roads, or any portion of the Tollway designated toll-free, except that, in its discretion, the Authority may:

- (1) reduce tolls through the use of commutation or other tickets or privileges based upon frequency or volume if the reduction is expected to result in an increase in Net Revenues;
- (2) grant free passage to members, officers, employees, agents, and representatives of the Authority;
- (3) grant free passage to police and other public safety officers of the United States, of the State of Texas, and of its political subdivisions when any of them (i) is acting in the discharge of his or her official duties, (ii) can provide proper identification, and (iii) are using marked public safety vehicles; provided, however, a public safety vehicle traveling under flashing lights and sirens shall be assumed to be carrying out official business and will not be required to meet the other requirements of this subparagraph (3);
- (4) grant free passage or reduce tolls for operational, emergency or safety reasons;
- (5) grant free passage for use by the Army, Air Force, Navy, Coast Guard, Marine Corps or militia or any branch thereof in time of war or other emergency;
- (6) grant temporary free access for agents and contractors of the Authority acting on behalf of the Authority in connection with the construction, improvement, maintenance or operation of the System.

Any reduced toll pursuant to Section 502(b)(1) shall be reviewed by the Authority with the Traffic Engineers before implementing the same unless the same is temporary (i.e., having a duration of less than two months). In addition, in the event the Authority did not meet the rate covenant in Section 501(d) for the preceding Fiscal Year, any such reduced toll shall be subject to the Traffic Engineers approving the same before it is implemented by the Authority unless the Authority reasonably determines that the circumstances require immediate implementation, in which event the Authority shall obtain such approval promptly following implementation. In all events, the Authority shall not reduce tolls unless the Authority determines, based upon an analysis of the Traffic Engineers, that such reduction is not expected to result in the receipt of Net Revenues in amounts less than that required by the rate covenant in Section 501(d).

(c) The Authority's covenant as to uniformity of tolls shall not be construed as requiring that tolls for any given class of traffic shall be identical in amount throughout the entire NTTA System for trips of approximately identical lengths. The Authority may fix and place in effect a Toll Rate Schedule for any given class of traffic wherein the tolls charged for travel on a given section of the NTTA System shall be different from the tolls charged on another section of the NTTA System notwithstanding the fact that both of said Sections shall be of identical or approximately identical length.

(d) As used in this Section, approval by the Traffic Engineers means that the Traffic Engineers have undertaken an analysis of the impact of the contemplated action of the Authority and determined that it would not adversely affect the ability of the Authority to meet the rate covenant in Section 501(d). The Authority shall file a copy of each approval by the Traffic Engineers with the Trustee promptly after receipt.

(e) The Board shall set policies with respect to implementation of this Section.

Section 503. Revenue Fund. The special fund held by the Trustee and created and designated "Tollway Revenue Fund" (hereinafter sometimes called the "Revenue Fund") under the Original Agreement is hereby reaffirmed. The Authority covenants that all gross revenues (all tolls, other revenues, and income) arising or derived by the Authority from the operation and ownership of the Tollway (excepting investment income from all Funds and Accounts other than the Revenue Fund) will be collected by the Authority and deposited daily, as far as practicable, with the Trustee for the credit of the Revenue Fund. It shall be the duty of the Trustee to verify the amount of each such daily deposit separately, and to make a report to the Authority of the amount of each such daily deposit as soon as practicable. Tolls collected on behalf of TxDOT pursuant to a project agreement that provides for revenue sharing with TxDOT shall be collected by the Authority and shall be held and transferred to or upon the order of TxDOT as set forth in the project agreement.

Section 504. Duties of Consulting Engineers. The Authority covenants that it will cause the Consulting Engineers employed by it under the provisions of Section 704 of this Agreement, to make an inspection of the Tollway on or before the 90th day prior to the end of each Fiscal Year and to submit to the Authority a report setting forth (a) their findings whether the Tollway has been maintained in good repair, working order and condition, (b) their advice and recommendations as to the proper maintenance, repair, and operation of the Tollway during the ensuing Fiscal Year and an estimate of the amount of money necessary for such purposes, including their recommendations as to the total amounts and classifications of items and amounts that should be provided for Current Expenses and the Reserve Maintenance Fund in the Annual Budget for the next ensuing Fiscal Year, and (c) their advice and recommendations as to the amounts and types of insurance which should be carried during the ensuing Fiscal Year with respect to the Tollway under the provisions of Article VII of this Agreement. Copies of such reports shall be filed with the Trustee and mailed by the Authority to each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

Section 505. Preliminary Budget of Current Expenses, and Payments into Reserve Maintenance Fund; Hearing on Budget; Annual Budget; Failure to Adopt Annual Budget; Amended or Supplemental Annual Budget; Payments for Maintenance, Repair, and Operations. The Authority covenants that on or before the 60th day prior to the end of each Fiscal Year it will adopt a preliminary budget of Current Expenses and payments into the Reserve Maintenance Fund for the ensuing Fiscal Year. Copies of each such preliminary budget shall be filed with the Trustee and mailed to the Consulting Engineers and each bondholder who shall have filed his name and address with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

If the holders of at least five percent (5%) in aggregate principal amount of the bonds then Outstanding shall so request in writing on or before the 60th day prior to the end of any Fiscal Year, the Authority shall hold a public hearing on or before the 30th day prior to the end of such Fiscal Year at which any bondholder may appear in person or by agent or attorney and present any objections he may have to the final adoption of such budget. Notice of the time and place of such hearing shall be mailed, at least ten (10) days before the date fixed by the Authority for the hearing, to the Trustee, the Consulting Engineers, and each bondholder who shall have filed his name and address with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority. The Authority further covenants

that on or before the first day of each Fiscal Year it will finally adopt the budget of Current Expenses and payments into the Reserve Maintenance Fund for such Fiscal Year (hereinafter sometimes called the "Annual Budget"). Copies of the Annual Budget shall be filed with the Trustee and mailed to the Consulting Engineers and each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

If for any reason the Authority shall not have adopted the Annual Budget before the first day of any Fiscal Year, the preliminary budget for such Fiscal Year or, if there is none prepared, the budget for the preceding Fiscal Year, shall, until the adoption of the Annual Budget, be deemed to be in force and shall be treated as the Annual Budget under the provisions of this Article.

The Authority may at any time adopt an amended or supplemental Annual Budget for the remainder of the then current Fiscal Year, and when so adopted the Annual Budget as so amended or supplemented shall be treated as the Annual Budget under the provisions of this Agreement; provided, however, that before the adoption of any such amended or supplemental Annual Budget, the Authority shall have obtained and filed with the Trustee the recommendations of the Consulting Engineers in connection therewith. Copies of any such amended or supplemental Annual Budget shall be filed with the Trustee and mailed to the Consulting Engineers and each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority.

The Authority covenants that all payments for maintenance, repair and operation in any Fiscal Year will not exceed the reasonable and necessary amount required therefor, and that it will not expend any amount or incur any obligations for maintenance, repair, and operation in excess of the amounts provided for Current Expenses in the Annual Budget, or amended or supplemental Annual Budget, except as provided in Section 506 of this Article and except amounts payable from the Reserve Maintenance Fund and Capital Improvement Fund. Nothing in this Section contained shall limit the amount which the Authority may expend for Current Expenses in any Fiscal Year provided any amounts expended therefor in excess of the Annual Budget shall be received by the Authority from some source other than the Net Revenues of the Tollway for such Fiscal Year.

Section 506. Payment of Current Expenses from Operation and Maintenance Fund. The special fund held by the Authority and created and designated "Tollway Operation and Maintenance Fund" (hereinafter sometimes called the "Operation and Maintenance Fund") under the Original Agreement is hereby reaffirmed. On or before the first day of each month the Trustee shall withdraw from the Revenue Fund and deposit to the credit of the Authority in the Operation and Maintenance Fund, on written request of the Authority, an amount which the Chairman or Vice Chairman and the Chief Financial Officer shall certify to be required to make the total amount in the Operations and Maintenance Fund equal to one-sixth (1/6) of the amount of the total Current Expenses scheduled for the then current Fiscal Year in the then current Annual Budget, plus all prior accruals for insurance and other periodic or regularly recurring expenses. All Current Expenses shall be paid directly by the Authority by drawing checks or drafts on the Operation and Maintenance Fund in such manner as may be determined by the Authority, and such Fund shall be used for no other purpose.

Section 507. Sinking Funds; Bond Interest Accounts, Reserve Accounts, and Redemption Accounts; Reserve Maintenance Fund; Capital Improvement Fund. (a) The special fund held by the Trustee and created and designated as the "Tollway Interest and Sinking Fund" under the Original Agreement is hereby reaffirmed and re-designated the "First Tier Tollway Interest and Sinking Fund" (herein sometimes called the "First Tier Sinking Fund"), and the three separate accounts in the First Tier Sinking Fund designated the "Bond Interest Account," "Reserve Account," and "Redemption Account" are hereby re-designated the "First Tier Bond Interest Account," "First Tier Reserve Account," and "First Tier Redemption Account," respectively. A special fund to be held by the Trustee is hereby created and designated "Second Tier Tollway Interest and Sinking Fund" (herein sometimes called the "Second Tier Sinking Fund"). There are hereby created three separate accounts in the Second Tier Sinking Fund, designated "Second Tier Bond Interest Account," "Second Tier Reserve Account," and "Second Tier Redemption Account," respectively. There may be created pursuant to a Supplemental Agreement sub-accounts within the Second Tier Reserve Account necessary or convenient to the creation and method of funding a reserve fund for a series of Second Tier Bonds. A special fund to be held by the Trustee is hereby created and designated "Third Tier Tollway Interest and Sinking Fund" (herein sometimes called the "Third Tier Sinking Fund"). There are hereby created three separate accounts in the Third Tier Sinking Fund, designated "Third Tier Bond Interest Account," "Third Tier Reserve Account," and "Third Tier Redemption Account," respectively. There may be created pursuant to a Supplemental Agreement sub-accounts within the Third Tier Bond Interest Account, the Third Tier Reserve Account and the Third Tier Redemption Account necessary or convenient to the payment of principal of or interest on a series of Third Tier Bonds and the creation and method of funding a reserve fund for a series of Third Tier Bonds. The special fund held by the Authority created and designated "Tollway Reserve Maintenance Fund" (herein sometimes called the "Reserve Maintenance Fund") under the Original Agreement is hereby reaffirmed. The special fund held by the Authority and created and designated "Tollway Capital Improvement Fund" (herein sometimes called the "Capital Improvement Fund") under the Original Agreement is hereby reaffirmed.

(b) Except as otherwise provided in this Section, transfers from the Revenue Fund shall be made to the below-listed funds and accounts and in the order of priority in which the funds and accounts are listed:

- (1) Operation and Maintenance Fund;
- (2) First Tier Bond Interest Account;
- (3) First Tier Redemption Account;
- (4) First Tier Reserve Account;
- (5) Second Tier Bond Interest Account;
- (6) Second Tier Redemption Account;
- (7) Second Tier Reserve Account;
- (8) Third Tier Bond Interest Account;

- (9) Third Tier Redemption Account;
- (10) Third Tier Reserve Account;
- (11) Reserve Maintenance Fund; and
- (12) Capital Improvement Fund (after retaining such funds in the Revenue Fund as are identified in the certificate described in Section 507(k)).

In recognition that (i) bonds and the interest thereon, including Payment Obligations, may come due on various dates, (ii) First Tier Bonds have a security interest in the Net Revenues senior to that securing the Second Tier Bonds and the Third Tier Bonds, (iii) Second Tier Bonds have a security interest in the Net Revenues senior to that securing the Third Tier Bonds, (iv) Second Tier Bonds or interest thereon, may become due and payable on a date or dates in a Fiscal Year prior to the date a First Tier Bond or the interest thereon is due, and (v) Third Tier Bonds, or interest thereon, may become due and payable on a date or dates in a Fiscal Year prior to the date a First Tier Bond or a Second Tier Bond, or the interest thereon, is due, the Authority covenants that no transfer from the Revenue Fund to any fund or account, other than the Operation and Maintenance Fund or the First Tier Sinking Fund, will be made in any Fiscal Year unless, in the opinion of the Chief Financial Officer (based on the Annual Budget for such Fiscal Year) set forth in a certificate delivered to the Trustee on or before the first business day of such Fiscal Year and updated on the date of delivery of any Additional Bonds issued during the year, such transfers during such Fiscal Year are not anticipated to result in the inability of the Authority to make a later transfer, as required by this Agreement, to a fund or account securing bonds that have a security interest in the Net Revenues senior to that securing the bonds that are secured by the fund or account into which the transfer is scheduled to be made. If (A) the Chief Financial Officer fails to deliver the certificate described in the prior sentence for a Fiscal Year, or (B) at any time during a Fiscal Year the Authority determines that transfers from the Revenue Fund to any fund or account may result in the inability of the Authority to make a later transfer within the six (6) month period from the date of such determination, as required by this Agreement, to a fund or account securing bonds that have a security interest in the Net Revenues senior to that securing the bonds that are secured by the fund or account into which the transfer is scheduled to be made, the Chief Financial Officer shall deliver to the Trustee a certificate to that effect, then, in either case, for such Fiscal Year (i) transfers from the Revenue Fund to any fund or account shall be made strictly in the priority set forth in the first paragraph of this Section 507(b), (ii) such transfers from the Revenue Fund shall be made once each month, and (iii) after each monthly deposit to the Operation and Maintenance Fund, no transfer to a fund or account shall be made until all funds and accounts with a higher priority have on deposit therein all amounts to be deposited in such fund or account for such Fiscal Year.

(c) On or before the first day of each month, the Trustee shall withdraw from the Revenue Fund and deposit to the credit of the Authority in the Operation and Maintenance Fund, the amount to be deposited into the Operations and Maintenance Fund as determined pursuant to Section 506 hereof.

(d) After first having made the deposits required by Section 507(c) hereof to be made on the date of a transfer under this clause (d), if any, on or before the last business day preceding

each interest payment date or principal (or sinking fund redemption) payment date for the First Tier Bonds or such other day as set forth in a Supplemental Agreement, the Trustee shall withdraw from the Revenue Fund and deposit to the applicable account in the First Tier Sinking Fund (or to a fund or account created to pay or repay amounts owed under a Credit Agreement entered into in connection with a series of First Tier Bonds in lieu of either of the foregoing) the amounts due on any First Tier Bond.

(e) In each Fiscal Year, after first having made the deposits required by Section 507(c) and (d) hereof to be made on the date of a transfer under this clause (e), if any, the Trustee shall transfer from the Revenue Fund on or before the first day of each month to the credit of the First Tier Reserve Account (1) the amount, if any, required to restore any deficiency in the First Tier Reserve Account due to a withdrawal or change in value of Authorized Investments in order to make the amount on deposit in the First Tier Reserve Account equal to the First Tier Required Reserve, which restoration is intended to occur within twelve (12) months of the occurrence of any such deficiency in twelve (12) substantially equal monthly installments; and (2) the amount set forth in a Supplemental Agreement if an amount different from the First Tier Required Reserve is required.

(f) After first having made the deposits required by Section 507(c) through (e) hereof to be made on the date of transfer under this clause (f), if any, on or before the last business day preceding each interest payment date or principal (or sinking fund redemption) payment date for any Second Tier Bonds or such other day as set forth in a Supplemental Agreement, the Trustee shall, subject to Section 507(b) hereof, withdraw from the Revenue Fund and deposit to the applicable account in the Second Tier Sinking Fund (or to a fund or account created to pay or repay amounts owed under a Credit Agreement entered into in connection with a series of Second Tier Bonds in lieu of either of the foregoing) the amounts due on any Second Tier Bond.

(g) In each Fiscal Year, after first having made the deposits required by Section 507(c) through (f) hereof to be made on the date of a transfer under this clause (g), if any, the Trustee shall, subject to Section 507(b) hereof, transfer from the Revenue Fund on or before the first day of each month to the credit of the Second Tier Reserve Account or sub-account therein, if one is provided for in a Supplemental Agreement, the amounts set forth in the Supplemental Agreement establishing the Second Tier Required Reserve or authorizing Additional Second Tier Bonds.

(h) After first having made the deposits required by Section 507(c) through (g) hereof to be made on the date of transfer under this clause (h), if any, on or before the last business day preceding each interest payment date or principal (or sinking fund redemption) payment date for any Third Tier Bonds or such other day as set forth in a Supplemental Agreement, the Trustee shall, subject to Section 507(b) hereof, withdraw from the Revenue Fund and deposit to the applicable account in the Third Tier Sinking Fund (or to a fund or account created to pay or repay amounts owed under a Credit Agreement entered into in connection with a series of Third Tier Bonds in lieu of either of the foregoing) the amounts due on any Third Tier Bond.

(i) In each Fiscal Year, after first having made the deposits required by Section 507(c) through (h) hereof to be made on the date of a transfer under this clause (i), if any, the Trustee shall, subject to Section 507(b) hereof, transfer from the Revenue Fund on or before the first day of each month to the credit of the Third Tier Reserve Account or sub-account therein, if one is provided for in a Supplemental Agreement, the amounts set forth in the

Supplemental Agreement establishing the Third Tier Required Reserve or authorizing Additional Third Tier Bonds.

(j) In each Fiscal Year, after first having made the deposits required by Section 507(c) through (i) hereof to be made on the date of a transfer under this clause (j), if any, the Trustee shall, subject to Section 507(b) hereof, transfer from the Revenue Fund on or before the first day of each month to the credit of the Reserve Maintenance Fund one-twelfth (1/12) of the amount necessary in such Fiscal Year to accumulate in the Reserve Maintenance Fund an amount equal to the greater of (1) \$5,000,000, and (2) the amount as may be required in the then current Annual Budget to be deposited to the credit of the Reserve Maintenance Fund during the then current Fiscal Year; provided, however, that if the amount so deposited to the credit of the Reserve Maintenance Fund in any Fiscal Year shall be less than the budgeted amount, the requirement therefor shall nevertheless be cumulative and the amount of any deficiency in any Fiscal Year shall be added to the amount otherwise required to be deposited in each Fiscal Year thereafter until such time as such deficiency shall have been made up, unless such budget requirement shall have been modified by the Authority.

(k) After first having made the deposits provided by Section 507(c) through (j) hereof and paid any other contractual obligations the Authority may have which are payable from Net Revenues, subject to the following conditions, on or before the last business day of each Fiscal Year (or more frequently if every condition set forth below has been satisfied) the Trustee shall transfer from the Revenue Fund to the credit of the Capital Improvement Fund any Net Revenues that the Chief Financial Officer determines, in a certificate delivered to the Trustee, to be in excess of the amount required to be reserved therein for transfers expected to be made in the first two months of the following Fiscal Year to the First Tier Interest Account, the First Tier Redemption Account, the Second Tier Interest Account, the Second Tier Redemption Account, the Third Tier Interest Account, the Third Tier Redemption Account or any fund or account established for the payment or security of any bonds. The certificate of the Chief Financial Officer must also state that, as of the date of the transfer:

- (1) no Event of Default under Section 802 currently exists, and
- (2) every fund and account established by or required to be established by the Agreement contains at least the amount required to be deposited therein in such Fiscal Year.

Section 508. Application of Moneys in Reserve Accounts; Reserve Surety Agreements: (a) Moneys and investments held for the credit of the First Tier Reserve Account shall be used finally to retire the last of the Outstanding First Tier Bonds, and/or for the purpose of paying interest on and principal of the First Tier Bonds whenever and to the extent that the moneys held for the credit of the First Tier Bond Interest Account and the First Tier Redemption Account shall be insufficient for such purpose. If at any time the moneys and investments held for the credit of the First Tier Reserve Account shall exceed the First Tier Required Reserve, the Authority, at its option, may direct the Trustee to deposit such excess to the credit of the Construction Fund through the period of completing the construction of any project; otherwise any such excess shall be deposited to the credit of the First Tier Bond Interest Account in the First Tier Sinking Fund. Notwithstanding any other provisions of this Agreement an equivalent First Tier Reserve Surety Agreement may be substituted by the Authority at any time and from time to time for all or any part of the money and/or investments held for the credit of the First

Tier Reserve Account, and such money and/or investments may be withdrawn and used for any lawful purpose. If a First Tier Reserve Surety Agreement is used as provided above, any reimbursements required thereunder to be paid to an obligor as a result of a draw or demand thereunder and any expenses payable thereunder shall be made, as provided in the First Tier Reserve Surety Agreement, from moneys deposited into the First Tier Reserve Account until fully paid.

(b) Moneys and investments held for the credit of the Second Tier Reserve Account or any sub-account therein shall be used as provided in the Supplemental Agreement establishing the Second Tier Reserve Account or the respective sub-account. If a Second Tier Reserve Surety Agreement is deposited into the Second Tier Reserve Account, any reimbursements required thereunder to be paid to an obligor as a result of a draw or demand thereunder shall be made from the Capital Improvement Fund, or, if so provided in the Second Tier Reserve Surety Agreement, from the first moneys deposited into the Second Tier Reserve Account until such reimbursement has been fully paid. A Second Tier Reserve Surety Agreement may be substituted by the Authority for all or any part of the money and/or investments held for the credit of the Second Tier Reserve Account or any sub-account therein as provided in the Supplemental Agreement establishing the Second Tier Reserve Account or the respective sub-account.

(c) Moneys and investments held for the credit of the Third Tier Reserve Account or any sub-account therein shall be used as provided in the Supplemental Agreement establishing the Third Tier Reserve Account or the respective sub-account. If a Third Tier Reserve Surety Agreement is deposited into the Third Tier Reserve Account, any reimbursements required thereunder to be paid to an obligor as a result of a draw or demand thereunder shall be made from the Capital Improvement Fund, or, if so provided in the Third Tier Reserve Surety Agreement, from the first moneys deposited into the Third Tier Reserve Account until such reimbursement has been fully paid. A Third Tier Reserve Surety Agreement may be substituted by the Authority for all or any part of the money and/or investments held for the credit of the Third Tier Reserve Account or any sub-account therein as provided in the Supplemental Agreement establishing the Third Tier Reserve Account or the respective sub-account.

(d) A First Tier Reserve Surety Agreement permitted under (a) above must be a surety bond, insurance policy, or letter of credit described below, and the use of a First Tier Reserve Surety Agreement is subject to the following conditions and requirements:

(1) A surety bond or insurance policy issued to the Trustee, as agent of the holders of the First Tier Bonds, by a company licensed to issue an insurance policy guaranteeing the timely payment of debt service on such bonds (a "municipal bond insurer") if the claims paying ability of the issuer thereof, at the time of issuance of the surety bond or insurance policies, shall be rated "AAA," "AAA," and "Aaa," respectively, by Standard and Poor's, Fitch and Moody's, without regard to rating subcategories.

(2) A surety bond or insurance policy issued to the Trustee, as agent of the holders of the First Tier Bonds by an entity other than a municipal bond insurer, if the form and substance of such instrument and the issuer thereof shall be approved in writing by each Bond Insurer then insuring First Tier Bonds.

(3) An unconditional irrevocable letter of credit issued to the Trustee, as agent of the holders of the First Tier Bonds, by a bank rated at least "AA" by S&P and Fitch

and "Aa" by Moody's, without regard to rating subcategories. The letter of credit shall be payable in one or more draws upon presentation by the Trustee of a sight draft accompanied by its certificate (which must be satisfactory in form and substance to the Trustee and the issuer of the letter of credit) that the Trustee then holds insufficient funds to make a required payment of principal of or interest on the First Tier Bonds. The draws shall be payable within two days of presentation of the sight draft. The letter of credit shall be for a term of not less than three years and shall be subject to an "evergreening" feature so as to provide the Authority with at least 30 months notice of termination. The issuer of the letter of credit shall be required to notify the Authority and the Trustee, not later than 30 months prior to the stated expiration date of the letter of credit, as to whether such expiration date shall be extended, and if so, shall indicate the new expiration date. If such notice indicates that the expiration date shall not be extended, the Authority shall deposit in the First Tier Reserve Account, in accordance with Section 507 hereof, amounts sufficient to cause the cash or Authorized Investments on deposit in the First Tier Reserve Account, together with any other qualifying First Tier Reserve Surety Agreements, to accumulate to the First Tier Required Reserve unless the expired First Tier Reserve Surety Agreement is replaced by a First Tier Reserve Surety Agreement meeting the requirements in any of 1 through 3, above. The letter of credit shall permit a draw in full prior to the expiration or termination of such letter of credit if the letter of credit has not been replaced or renewed. The Trustee shall draw upon the letter of credit prior to its expiration or termination unless an acceptable replacement is in place or the First Tier Reserve Account is fully funded to the First Tier Required Reserve.

(4) The use of any First Tier Reserve Surety Agreement shall be subject to receipt of an opinion of counsel acceptable to each Bond Insurer then insuring First Tier Bonds, in form and substance satisfactory to each such Bond Insurer, as to the due authorization, execution, delivery, and enforceability of such instrument in accordance with its terms, subject to applicable laws affecting creditors' rights generally, and, in the event the issuer of such instrument is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to each such Bond Insurer. In addition, the use of an irrevocable letter of credit shall be subject to receipt of an opinion of counsel acceptable to each such Bond Insurer in form and substance satisfactory to each such Bond Insurer to the effect that payments under such letter of credit would not constitute avoidable preferences under Section 547 of the U.S. Bankruptcy Code or similar state laws with avoidable preference provisions in the event of the filing of a petition for relief under the U.S. Bankruptcy Code or similar state laws by or against the Authority (or any other account party under the letter of credit).

(5) The obligation to reimburse the issuer of a First Tier Reserve Surety Agreement for any fees or expenses or claims or draws upon such First Tier Reserve Surety Agreement shall be subordinate to the payment of debt service on the First Tier Bonds. The right of the issuer of a First Tier Reserve Surety Agreement to payment or reimbursement of its fees and expenses shall be subordinated to cash replenishment of the First Tier Reserve Account, and, subject to the second succeeding sentence, its right to reimbursement for claims or draws shall be on a parity with the cash replenishment of the First Tier Reserve Account. The First Tier Reserve Surety Agreement shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is

suspended or terminated for any reason, the right of the issuer of the First Tier Reserve Surety Agreement to reimbursement will be further subordinated to cash replenishment of the First Tier Reserve Account to an amount equal to the difference between the full original amount available under the First Tier Reserve Surety Agreement and the amount then available for further draws or claims. In the event (a) the issuer of a First Tier Reserve Surety Agreement becomes insolvent, or (b) the issuer of a First Tier Reserve Surety Agreement defaults in its payment obligations thereunder, or (c) the claims paying ability the issuer of the insurance policy or surety bond falls below "AAA," "AAA" or "Aaa", by S&P, Fitch and Moody's, respectively, or (d) the rating of the issuer of the letter of credit falls below "AA" by S&P or Fitch or "Aa" by Moody's, the obligation to reimburse the issuer of the First Tier Reserve Surety Agreement shall be subordinate to the cash replenishment of the First Tier Reserve Account.

(6) In the event (a) the revolving reinstatement feature described in the preceding paragraph is suspended or terminated, or (b) the rating of the claims paying ability of the issuer of the surety bond or insurance policy falls below "AAA," "AAA" or "Aaa", by S&P, Fitch and Moody's, respectively, or (c) the rating of the issuer of the letter of credit falls below "AA" by S&P and Fitch and "Aa" by Moody's, or (d) the issuer of the First Tier Reserve Surety Agreement defaults in its payment obligations thereunder, or (e) the issuer of the First Tier Reserve Surety Agreement becomes insolvent, the Authority shall either (i) deposit into the First Tier Reserve Account, in accordance with Section 507 hereof, an amount sufficient to cause the cash or Authorized Investments on deposit in the First Tier Reserve Account to accumulate to the First Tier Required Reserve, or (ii) replace such instrument with a surety bond, insurance policy, or letter of credit meeting the requirements in any of 1 through 3, above, within six months of such occurrence.

(7) Where applicable, the amount available for draws or claims under a First Tier Reserve Surety Agreement may be reduced by the amount of cash or Authorized Investments deposited in the First Tier Reserve Account pursuant to clause (i) of the preceding subparagraph 6.

(8) If the Authority chooses the above described alternative to a cash-funded First Tier Reserve Account, any amounts owed by the Authority to the issuer of such credit instrument as a result of a draw thereon or a claim thereunder, as appropriate shall be included in any calculation of "Debt Service Requirements".

(9) The Trustee shall ascertain the necessity for a claim or draw upon any First Tier Reserve Surety Agreement and provide notice to the issuer of the First Tier Reserve Surety Agreement in accordance with its terms not later than three days (or such appropriate time period as will, when combined with the timing of required payment under the First Tier Reserve Surety Agreement, ensure payment under the First Tier Reserve Surety Agreement on or before the interest payment date) prior to each interest payment date.

(10) Cash on deposit in the First Tier Reserve Account shall be used (or investments purchased with such cash shall be liquidated and the proceeds applied as required) prior to any drawing on any First Tier Reserve Surety Agreement deposited in the First Tier Reserve Account. If and to the extent that more than one First Tier Reserve

Surety Agreement is deposited in the First Tier Reserve Account, drawings thereunder and repayments of costs associated therewith shall be made on a pro rata basis, calculated by reference to the maximum amounts available thereunder.

Section 509. Use of Reserve Maintenance Fund. Moneys held by the Authority in the Reserve Maintenance Fund shall be used for the purpose of paying the cost of repairs, painting, renewals, replacements, improvements, and other costs and expenses necessary for safe or efficient operation of the Tollway or to prevent loss of revenues, for engineering expenses relating to the functions of the Authority, for equipment, expenses of maintenance, and operating expenses not occurring at annual or shorter periods.

The Authority shall make payments directly from the Reserve Maintenance Fund by drawing checks thereon in such manner as the Authority may determine by resolution duly adopted, and such Fund shall be used only for the purposes and in the manner provided in this Section.

If at any time the amount in the Sinking Funds to the credit of the Bond Interest Accounts, the Redemption Accounts, and the Reserve Accounts shall be insufficient for the purpose of paying the interest on or principal of the bonds and Payment Obligations when due, then the Authority shall transfer from the Reserve Maintenance Fund to the Trustee for deposit in the Sinking Funds for credit to the Bond Interest Accounts and Redemption Accounts an amount sufficient to make up any such deficiency, provided that no such transfer shall be made of moneys in the Reserve Maintenance Fund which are, determined by the Board, to be needed then for repairs or replacements necessary to maintain safe operation of the Tollway or to prevent loss of revenue of the Tollway. Any moneys so required to be transferred from the Reserve Maintenance Fund to the Bond Interest Accounts or the Redemption Accounts shall be restored by the Trustee from the first available moneys in the Revenue Fund, subject to the same conditions as are prescribed for deposits to the credit of the Reserve Maintenance Fund under the provisions of Section 507 of this Article.

Section 510. Use of Capital Improvement Fund. Moneys held by the Authority in the Capital Improvement Fund may be used by the Authority for the purpose of paying the cost of repairs, enlargements, extensions, resurfacing, additions, renewals, improvements, acquisition of rights of way, reconstruction and replacements, capital expenditures, engineering, studies, and other expenses relating to the powers or functions of the Authority in connection with the Tollway, or for any other purpose now or hereafter authorized by law

The Authority shall make payments directly from the Capital Improvement Fund by drawing checks thereon in such manner as the Authority may determine by resolution duly adopted.

Section 511. Application of Moneys in Redemption Accounts; Payment of Bonds and Payment Obligations; Redemption of Bonds. (a) To the extent of any moneys at any time in the First Tier Redemption Account, the Trustee shall retire or provide for the retirement of principal of First Tier Bonds, including First Tier Payment Obligations, on a parity and pro rata basis, with money from the First Tier Redemption Account, and the Trustee shall pay, when due, the amount of principal of all First Tier Bonds scheduled to mature and all First Tier Payment Obligations, and the Trustee shall redeem or purchase First Tier Bonds prior to maturity during each year specified in, and pursuant to, any optional or mandatory redemption provisions required for First Tier Bonds, and shall pay the principal, any redemption premium required

therefor, and all necessary and proper expenses in connection therewith, from the First Tier Redemption Account, but shall pay all accrued interest on First Tier Bonds from the First Tier Bond Interest Account.

(b) To the extent of any moneys at any time in the Second Tier Redemption Account, the Trustee shall retire or provide for the retirement of principal of Second Tier Bonds, including Second Tier Payment Obligations, on a parity and pro rata basis, with money from the Second Tier Redemption Account, and the Trustee shall pay, when due, the amount of principal of all Second Tier Bonds scheduled to mature and all Second Tier Payment Obligations, and the Trustee shall redeem or purchase Second Tier Bonds prior to maturity during each year specified in, and pursuant to, any optional or mandatory redemption provisions required for Second Tier Bonds, and shall pay the principal, any redemption premium required therefor, and all necessary and proper expenses in connection therewith, from the Second Tier Redemption Account, but shall pay all accrued interest on Second Tier Bonds from the Second Tier Bond Interest Account.

(c) To the extent of any moneys at any time in the Third Tier Redemption Account or any sub-account therein, the Trustee shall retire or provide for the retirement of principal of Third Tier Bonds, including Third Tier Payment Obligations, on a parity and pro rata basis or such other basis as is set forth in the Supplemental Agreement pursuant to which a series of Third Tier Bonds is issued, with money from the Third Tier Redemption Account or the applicable sub-account therein, and the Trustee shall pay, when due, the amount of principal of all Third Tier Bonds scheduled to mature and all Third Tier Payment Obligations, and the Trustee shall redeem or purchase Third Tier Bonds prior to maturity during each year specified in, and pursuant to, any optional or mandatory redemption provisions required for Third Tier Bonds, and shall pay the principal, any redemption premium required therefor, and all necessary and proper expenses in connection therewith, from the Third Tier Redemption Account or the applicable sub-account therein, but shall pay all accrued interest on Third Tier Bonds from the Third Tier Bond Interest Account or the applicable sub-account therein.

Section 512. Application and Pledge of Moneys in Sinking Funds. (a) Subject to the terms and conditions set forth in this Agreement, the First Tier Sinking Fund shall be held in trust and disbursed by the Trustee for (1) the payment of interest upon the First Tier Bonds issued hereunder as such interest falls due, or (2) the payment of the principal of such First Tier Bonds at maturity, or (3) the payment of First Tier Payment Obligations, or (4) the payment of the purchase price or redemption price of such First Tier Bonds before maturity, as provided in this Agreement or any Supplemental Agreement, and such moneys are hereby pledged to and charged with the payment mentioned in this Section 512(a).

(b) Subject to the terms and conditions set forth in this Agreement, the Second Tier Sinking Fund shall be held in trust and disbursed by the Trustee for (1) the payment of interest upon the Second Tier Bonds issued hereunder as such interest falls due, or (2) the payment of the principal of such Second Tier Bonds at maturity, or (3) the payment of Second Tier Payment Obligations, or (4) the payment of the purchase price or redemption price of such Second Tier Bonds before maturity, as provided in this Agreement or any Supplemental Agreement, and such moneys are hereby pledged to and charged with the payment mentioned in this Section 512(b).

(c) Subject to the terms and conditions set forth in this Agreement, the Third Tier Sinking Fund shall be held in trust and disbursed by the Trustee for (1) the payment of interest upon the Third Tier Bonds issued hereunder as such interest falls due, or (2) the payment of the

principal of such Third Tier Bonds at maturity, or (3) the payment of Third Tier Payment Obligations, or (4) the payment of the purchase price or redemption price of such Third Tier Bonds before maturity, as provided in this Agreement or any Supplemental Agreement, and such moneys are hereby pledged to and charged with the payment mentioned in this Section 512(c).

Section 513. Withdrawals from Bond Interest Accounts. (a) The Trustee shall, from time to time, withdraw from the First Tier Bond Interest Account and remit to the respective owners of First Tier Bonds the amounts required for paying interest upon the First Tier Bonds as such interest comes due on the dates and in the manner provided in this Agreement or any Supplemental Agreement or other proceedings approved by the Board.

(b) The Trustee shall, from time to time, withdraw from the Second Tier Bond Interest Account and remit to the respective owners of Second Tier Bonds the amounts required for paying interest upon the Second Tier Bonds as such interest comes due on the dates and in the manner provided in this Agreement or any Supplemental Agreement or other proceedings approved by the Board.

(c) The Trustee shall, from time to time, withdraw from the Third Tier Bond Interest Account or any applicable sub-account therein and remit to the respective owners of Third Tier Bonds the amounts required for paying interest upon the Third Tier Bonds as such interest comes due on the dates and in the manner provided in this Agreement or any Supplemental Agreement or other proceedings approved by the Board.

Section 514. Moneys Set Aside for Principal and Interest Held in Trust; Moneys Unclaimed for Three Years after Maturity of Bonds. All moneys which the Trustee shall have withdrawn from the Sinking Funds or shall have received from any other source and shall have set aside in separate accounts or deposits with the Trustee for the purpose of paying any of the bonds hereby secured, either at maturity thereof or upon call for redemption, shall be held in trust for the respective holders of such bonds, without interest. But any moneys which shall be so set aside or deposited by the Trustee and which remain unclaimed by the holders of such bonds for a period of three years after the date on which such bonds shall have become payable shall upon request in writing be turned over to the Authority, and the Trustee shall have no responsibility with respect to such moneys; provided, however, that the Trustee shall comply with Title 6, Texas Property Code, where applicable.

Section 515. Cancellation of Bonds upon Payment. All bonds paid, redeemed or purchased, either at or before maturity, shall be cancelled and delivered to the Trustee when such payment, redemption or purchase is made. All cancelled bonds shall be held by the Trustee until this Agreement shall be released; provided, however, that bonds so cancelled may at any time be destroyed by the Trustee in the presence of one of its authorized officers, who shall execute a certificate of destruction in duplicate describing the bonds so destroyed, and one executed certificate shall be filed with the Chief Financial Officer of the Authority and the other executed certificate shall be retained by the Trustee.

Section 516. Additional Security. Except as otherwise provided or permitted herein, the Net Revenues securing all (a) First Tier Bonds, shall be shared on a parity with other First Tier Bonds on an equal and ratable basis, (b) Second Tier Bonds, shall be shared on a parity with other Second Tier Bonds on an equal and ratable basis, but subordinate and junior to the lien on, pledge of and security in the Net Revenues for the benefit of the holders of the First Tier Bonds, and (c) Third Tier Bonds, shall be shared with other Third Tier Bonds on the basis established in

a Supplemental Agreement or Agreements, but subordinate and junior to the lien on, pledge of and security in the Net Revenues for the benefit of the holders of the First Tier Bonds and Second Tier Bonds. The Authority may, however, in its discretion, provide Additional Bond Security, but shall have no obligation to provide such additional security or credit enhancement to other bonds, except that no Additional Bond Security shall be provided unless there shall have been first delivered to the Trustee an opinion of Bond Counsel that the exclusion from gross income of interest on any bonds for federal income tax purposes will not be adversely affected thereby.

Section 517. Swap Termination Payment Sub-Account. (a) A special sub-account to be held by the Trustee within the Third Tier Redemption Account is hereby created and designated "Swap Termination Payment Sub-Account."

(b) If specifically so provided in a Qualified Credit Agreement or in the proceedings approved by the Authority in connection therewith, Third Tier Payment Obligations constituting payments required to be made under a Qualified Credit Agreement upon the early termination of the Qualified Credit Agreement or a transaction entered into pursuant thereto shall be secured by and payable from the Net Revenues required to be deposited into the Swap Termination Payment Sub-Account. The Trustee shall withdraw from the Revenue Fund for deposit into the Swap Termination Payment Sub-Account such amounts as are necessary for the Authority to pay such Third Tier Payment Obligations in accordance with Section 507 of this Agreement and this Section 517. All Third Tier Payment Obligations payable out of the Swap Termination Payment Sub-Account are secured on an equal and ratable basis by moneys on deposit in the Swap Termination Payment Sub-Account.

(c) Third Tier Payment Obligations payable out of the Swap Termination Payment Sub-Account are secured by and payable from a lien on and pledge of the pledged Net Revenues on a subordinate basis to all other Outstanding Third Tier Bonds. Deposits into the Swap Termination Payment Sub-Account shall be subordinate to all other deposits into the Third Tier Redemption Account or other sub-accounts therein.

(d) To the extent of any moneys at any time in the Swap Termination Payment Sub-Account, the Trustee shall pay, when due, all Third Tier Payment Obligations payable from the Swap Termination Payment Sub-Account, on a parity and pro rata basis, with money from the Swap Termination Payment Sub-Account.

ARTICLE VI DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 601. Depositaries; Deposits Constitute Trust Funds; Qualifications of Depositaries; Security for Deposits. All moneys paid to or deposited with the Trustee and any Depositary or Depositaries under the provision of this Agreement, or deposited with any Depositary to the credit of the Trustee, shall be held and applied only in accordance with the provisions of this Agreement, and shall not be subject to lien or attachment by any creditor of the Authority.

All moneys received by the Authority pursuant to this Agreement, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this Agreement. Any officer to whom, or any bank or trust company to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply same for the purposes thereof, subject to such regulation as the Turnpike Act and this Agreement provide.

No moneys shall be deposited with any Depository, except the Trustee, in an amount exceeding seventy-five percent (75%) of the amount which an officer of such Depository shall certify to the Authority and to the Trustee as the combined capital and surplus of such Depository.

All moneys held by and deposited with the Trustee and any other depositaries (including all moneys held on time deposit, under certificates of deposit, or under any other similar arrangements), and not invested as provided in this Agreement, shall be continuously secured, for the benefit of the Authority and the holders of the bonds, by each of such institutions lodging with its own trust department, or, if any such institution has no trust department, then by lodging with the Trustee, as collateral security, direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States Government, or indirect obligations of the United States of America such as bonds or other obligations issued by any Federal Agency, including the following Federal Agencies: Export-Import Bank of the United States, United States Postal Service, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Banks (with all of the foregoing obligations together with repurchase agreements secured by the foregoing obligations, being collectively herein called and defined as "Federal Securities" having a market value (exclusive of accrued interest) not less than the amount of such deposit.

Section 602. Investment of Moneys in Construction Fund, Reserve Accounts, Reserve Maintenance Fund, Capital Improvement Fund, Operation and Maintenance Fund, Bond Interest Accounts and Redemption Accounts; Time Deposits or other Arrangements in Lieu of Investments. All moneys held for the credit of the Construction Fund shall, as nearly as may be practicable, be invested and reinvested by the Trustee, as directed by the Authority, in Authorized Investments which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, in such amounts and at such times as will be required to provide moneys when needed to pay the Costs payable from the Construction Fund.

Moneys held for the credit of the Reserve Accounts shall, as nearly as may be practicable, be invested and reinvested by the Trustee, as directed by the Authority, in Authorized Investments which shall mature, or shall be subject to redemption by the holder thereof at the option of such holder, not later than five years after the date of such investment.

Moneys held for the credit of the Reserve Maintenance Fund may be invested and reinvested by the Authority in Authorized Investments which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than five years after the date of such investment.

Moneys held for the credit of the Capital Improvement Fund may be invested in any of the Authorized Investments or in any other manner authorized by the Board.

Moneys held for the credit of the Operation and Maintenance Fund shall be invested and reinvested by the Authority, and the Revenue Fund, the Bond Interest Accounts, and the Redemption Accounts shall be invested and reinvested by the Trustee, as directed by the Authority, in Authorized Investments which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the respective dates which will allow moneys to be available in each of said Funds and Accounts for use at the appropriate times and for the purposes for which they were created.

In lieu of the investments as provided above, and at the option of the Authority, and in any other case where the Authority deems it advisable, the Authority may make interest bearing time deposits, invest in certificates of deposit, or make other similar arrangements with the Trustee or any other depository in connection with moneys in any Fund or Account created by this Agreement, as may be permitted by law, and which will allow moneys to be available in each of the Funds and Accounts created by this Agreement for use at the appropriate times and for the purposes for which they were created, provided that all such time deposits, certificates of deposit, and other similar agreements shall be secured in the manner provided in Section 601 hereof for uninvested moneys.

Section 603. Investments and Deposits Deemed to be Part of Funds and Accounts for which Purchased; Interest, Profit, and Loss from Investments; Disposition of Investment Earnings, Sale, Collection, and Redemption of Investments; Deposit and Investment of Moneys Subject to Applicable Laws of the State of Texas; Valuation of Funds or Accounts; Rebates to United States of America. Obligations purchased as an investment of moneys in any Fund or Account created under the provisions of this Agreement and all time deposits or similar arrangements made in connection therewith, shall be deemed at all times to be a part of such Fund or Account, and the interest accruing thereon and any profit realized from any investment shall be credited to such Fund or Account, and any loss resulting from any investment shall be charged to such Fund or Account; provided, however, that Section 508 hereof shall be applicable at all times to the Reserve Accounts, and the excess investment earnings from the Reserve Accounts shall be deposited as required in Section 508. It is further provided that, at the option of the Authority, during the period of construction or completion of construction of any project, the Authority may direct the Trustee to transfer from the Construction Fund and deposit to the credit of the applicable Bond Interest Account, from the investment earnings deposited in the Construction Fund and/or the Reserve Maintenance Fund all or any part of an amount, which, together with the amount then available in the applicable Bond Interest Account, will be sufficient to pay the interest coming due on the bonds on each interest payment date, respectively. The Trustee shall account for all amounts at any time on hand in the Construction Fund attributable to all investment earnings, regardless of their source, and shall make the deposits required above to the extent of such investment earnings on hand at the time each such deposit is required to be made. It is further provided that in the unexpected event that such investment earnings should not be sufficient to supplement the applicable Bond Interest Account in an amount required to enable the Trustee to pay from the applicable Bond Interest Account the interest coming due on the bonds on any interest payment date, then the Trustee, without further authorization or requisition, shall use the corpus of the Construction Fund (original bond proceeds) to the extent necessary to provide the required supplement to the applicable Bond Interest Account.

The Trustee, any other depositaries, and the Authority, as the case may be, shall sell at the best price obtainable in the exercise of reasonable diligence, or present for payment or redemption, any obligations so purchased, whenever and to the extent it shall be necessary so to do, in order to provide moneys required to meet any payment or transfer from any Fund or Account. The Trustee, any other depositaries, and the Authority, as the case may be, shall present for payment all such obligations when they mature or when they shall be called for redemption and the proceeds thereof shall be reinvested promptly, unless needed to meet any such payment or transfer. Neither the Trustee, any other depositaries, nor the Authority shall be liable or responsible for making any such investment or for any loss resulting from any such investment, but any resulting deficiency in any Fund or Account shall be restored from the first moneys available therefor in accordance with Section 507 hereof. The Trustee and any other depositaries shall advise the Authority in writing, on or before the fifth day of each month, of the details of all money and investments held by them for the credit of any such Fund or Account.

The provisions of this Agreement which relate to the deposit and to the investment of moneys shall be subject to the provisions of any applicable laws of the State of Texas.

All Authorized Investments purchased as an investment of any Fund or Account created hereunder shall be valued at the amortized value thereof (at the "Value of Authorized Investments" as defined in Section 101 hereof). The Reserve Accounts shall be valued by the Authority as of the last business day of the current Fiscal Year, and semiannually thereafter as of the last business day of the sixth and twelfth months, respectively, of each Fiscal Year.

Notwithstanding any other provisions of this Agreement, if investment income derived from any Fund or Account maintained pursuant hereto is required to be rebated to the United States of America, as required by the tax covenants of the Authority described in Section 713 hereof, in order to prevent any bonds from being "arbitrage bonds", such investment income shall be so rebated from the appropriate Fund or Account, and the amounts of such rebates shall not be considered to be revenues of the Tollway. The Trustee shall forthwith, upon the request and direction of the Authority, transmit any such rebate amounts held by it to the United States of America as directed by the Authority.

ARTICLE VII PARTICULAR COVENANTS

Section 701. Payment of Principal, Interest, and Premium; Pledge of Tolls and other Revenues of the Tollway. The Authority covenants that it will promptly pay the principal of and the interest on every bond, including Payment Obligations, at the places, on the dates and in the manner provided herein and in said bonds, and any premium required for the retirement of said bonds by redemption, according to the true intent and meaning thereof. The principal, interest (except interest paid from proceeds of the bonds) and premiums are payable solely in the priorities and from the sources herein described, including the tolls and other revenues derived from the ownership and operation of the Tollway, which sources, tolls, and other revenues are hereby pledged to the payment thereof in the manner and to the extent hereinabove particularly specified, and nothing in the bonds or in this Agreement shall be construed as pledging any other funds or assets of the Authority for their payment.

Section 702. Use and Operation of Tollway. The Authority covenants that it will establish and enforce reasonable rules and regulations governing the use of the Tollway and the

operation thereof, that all compensation, salaries, fees and wages paid by it in connection with the maintenance, repair and operation thereof will be reasonable, that no more persons will be employed by it than are necessary, that it will maintain and operate the Tollway in an efficient and economical manner, that, from the revenues of the Tollway, it will at all times maintain the same in good repair and in sound operating condition and will make all necessary repairs, renewals and replacements, and that it will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Tollway.

The Authority further covenants that it will take all lawful action on its part which may be necessary or desirable to advertise and promote the Tollway to the traveling public and to secure the cooperation and aid of TxDOT in the placing and replacing of highway designation signs and adequate directional signs to the Tollway which, in the judgment of the Authority, may be beneficial to the Tollway or necessary to protect against the diversion of traffic from the Tollway.

Section 703. Observance and Compliance with Valid Requirements; No Liens or Charges upon Tollway, Tolls or Other Revenues; Payment of Lawful Charges. The Authority covenants that it will duly observe and comply with all valid requirements of any governmental authority relative to the Tollway or any part thereof, that it will not create or suffer to be created any lien or charge upon the Tollway or any part thereof or upon the tolls or other revenue therefrom except the lien and charge of the bonds secured hereby upon such tolls and revenue, unless any such lien or charge is junior and subordinate in all respects to the lien and charge of the bonds secured hereby, it being understood that the Authority may issue bonds, notes, or other obligations payable from, or secured by, moneys in the Capital Improvement Fund to the extent now or hereafter permitted by law without violating the foregoing covenant. The Authority further covenants that, from such revenues or other available funds, it will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Tollway or any part thereof or the tolls or other revenue therefrom; provided, however, that nothing in this Section contained shall require the Authority to pay or cause to be discharged, or make provision for, any such lien or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

Section 704. Employment of Consulting Engineers and Traffic Engineers. (a) The Authority covenants that, until the bonds and the interest thereon shall have been paid or provision for such payment shall have been made, it will employ Consulting Engineers for the purpose of performing and carrying out the duties imposed on the Consulting Engineers by this Agreement.

(b) The Authority covenants that, until the bonds and the interest thereon shall have been paid or provision for such payment shall have been made, it will, for the purpose of performing and carrying out the duties imposed on the Traffic Engineers by this Agreement, employ from time to time where required by this Agreement, an independent engineer or engineering firm or corporation, other than the Consulting Engineers, having a nation-wide and favorable repute for skill and experience in such work.

Section 705. Insurance Recommendations. The Authority covenants that, during each Fiscal Year while any bonds are Outstanding, it will obtain from the Consulting Engineers, on or before the 90th day prior to the end of each Fiscal Year, the report of the Consulting Engineers required by Section 504 hereof, containing their advice and recommendations concerning the amounts and types of insurance which should be carried with respect to the Tollway during the ensuing Fiscal Year or years.

Section 706. Insurance Requirements. The Authority covenants that it will follow the recommendations of the Consulting Engineers with respect to insurance, and will carry with a qualified and responsible insurance company or companies such insurance with respect to the Tollway as is then required by law and otherwise as is recommended by the Consulting Engineers in accordance with Section 705.

Section 707. Self Insurance. Notwithstanding the provisions of Sections 705 and 706, the Authority may, upon the recommendation of the Consulting Engineers, establish programs for self insurance against various risks and losses, to the extent and in the manner as may be deemed advisable.

Section 708. Schedule of Insurance Policies; Settlement of Insurance Claims. Within the first three (3) months of each Fiscal Year the Authority shall mail to the Consulting Engineers and the Trustee a schedule of all insurance policies or self insurance plans referred to in Sections 705, 706 and 707 of this Article which are then in effect, stating with respect to each policy the name of the insurer, the amount, number and expiration date, and the hazards and risks covered thereby, and also stating the details of each self insurance program established by the Authority. All such insurance policies shall be open to the inspection of the bondholders and their representatives at all reasonable times. The Trustee is hereby authorized, but is not obligated, in its own name to demand, collect, sue and receipt for any insurance money which may become due and payable under any policies payable to it.

Any appraisalment or adjustment of any loss or damage under any policy payable to the Trustee and any settlement or payment of indemnity under such policy which may be agreed upon between the Authority and any insurer shall be evidenced to the Trustee by a certificate, signed by the Chairman or Vice Chairman and a Board Representative, which certificate may be relied upon by the Trustee as conclusive. The Trustee shall in no way be liable or responsible for the collection of insurance moneys in case of any loss or damage.

Section 709. Rights of Trustee or of Bondholders Not to be Impaired. The Authority covenants and agrees that, until the bonds and the interest thereon shall have been paid or provision for such payment shall have been made, none of the revenues of the Tollway will be used for any purpose other than as provided in this Agreement and no contract or contracts will be entered into or any action taken by which the rights of the Trustee or of the bondholders will be impaired or diminished, except as provided in this Agreement.

Section 710. Further Instruments and Action. The Authority covenants that it will, from time to time, execute and deliver such further instruments and take such further action as may be required to carry out the purposes of this Agreement.

Section 711. Accurate Records; Monthly Reports; Annual Audits; Additional Reports or Audits, Annual Report. The Authority covenants that it will keep an accurate record of the daily tolls and other revenues collected, of the number and class of vehicles using

the Tollway and of the application of such tolls. Such record shall be open to the inspection of the bondholders and their agents and representatives.

The Authority further covenants that once each month it will cause to be filed with the Trustee and mailed to the Consulting Engineers, the Traffic Engineers, and each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority, copies of any revision of the Toll Rate Schedule during the preceding calendar month and a report setting forth in respect of the preceding calendar month:

- (a) the income and expense account of the Tollway,
- (b) the number of vehicles in each class using the Tollway,
- (c) all payments, deposits and credits to and any payments, transfers and withdrawals from each Fund and Account created under the provisions of this Agreement,
- (d) all bonds issued, paid, purchased or redeemed,
- (e) the amounts at the end of such month to the credit of each Fund and Account, showing the respective amounts to the credit of each such Fund and Account, and any security held therefor, and showing the details of any investments thereof, and
- (f) the amounts of the proceeds received from any sales of property pursuant to the provisions of Section 712 of this Article.

The Authority further covenants that during the month following the end of each Fiscal Year it will cause an audit to be made of its books and accounts relating to the Tollway for the previous Fiscal Year by an independent certified public accountant of recognized ability and standing. Promptly thereafter reports of each audit shall be filed with the Authority and the Trustee, and copies of such report shall be mailed by the Authority to the Consulting Engineers, the Traffic Engineers, and each bondholder who shall have filed his name with the Board Representative designated for such purpose, which shall initially be the Chief Financial Officer of the Authority. Each such audit shall set forth in respect to the preceding Fiscal Year the same matters as are hereinabove required for the monthly reports, and also the findings of such certified public accountants whether the moneys received by the Authority under the provisions of this Agreement have been applied in accordance with the provisions of this Agreement. Such monthly reports and annual audit reports shall be open to the inspection of the bondholders and their agents and representatives.

The Authority further covenants that it will furnish to the Trustee such other information concerning the Tollway or the operation thereof as the Trustee may reasonably request.

Section 712. Covenant Against Sale or Encumbrance; Exception. The Authority covenants that, until the bonds and interest thereon have been paid or provision for such payment shall have been made, and except as in this Agreement otherwise permitted, it will not sell, lease or otherwise dispose of or encumber the Tollway or any part thereof and will not create or permit to be created any charge or lien on the revenues derived therefrom unless such charge or lien is made junior and subordinate in all respects to the charge and lien herein made for the benefit of the bonds; provided that the Authority may lease or contract with respect to the operation of service stations or other facilities referred to in Section 12 of the Turnpike Act. The Authority may, however, from time to time, sell, exchange or otherwise dispose of any machinery, fixtures,

apparatus, tools, instruments or other movable property acquired by it from the proceeds of bonds issued on account of the Tollway or from the revenues thereof or otherwise, if the Authority shall determine that such articles are no longer needed or are no longer useful in connection with the construction or operation and maintenance of the Tollway, and the proceeds thereof shall be applied to the replacement of the properties so sold or disposed of or shall be paid to the Trustee to be held for the credit of the Construction Fund, the Reserve Maintenance Fund, the Capital Improvement Fund or the Sinking Funds, as the Authority may direct. The Authority may from time to time sell, exchange or otherwise dispose of any real property or release, relinquish or extinguish any interest therein as the Authority by resolution shall declare is not needed or serves no useful purpose in connection with the maintenance and operation of the Tollway, and the proceeds thereof, if any, shall be applied as hereinabove provided for the proceeds of the sale or disposal of movable property. Notwithstanding the foregoing, it is acknowledged and agreed that nothing herein shall prevent the Authority from re-conveying or allowing the reversion of property leased or otherwise acquired upon the termination of the lease or agreement pursuant to which such property was originally acquired.

Upon any disposition of property under the provisions of this Section the Authority shall notify the Trustee thereof and the amount and disposition of the proceeds thereof.

Section 713. Tax Covenants. All covenants in any bond resolution or Supplement with respect to the treatment of the Existing Bonds as obligations described in Section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation, are hereby confirmed by the Authority. All such covenants, if any, with respect to Additional Bonds hereafter issued shall be provided for in the Supplemental Agreement or bond resolution relating to the issuance of such Additional Bonds.

ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

Section 801. Remedies Applicable. The bondholders shall be entitled to the remedies provided in this Article VIII.

Section 802. Events of Default. Each of the following events is hereby declared an "Event of Default," that is to say: If

- (a) the Authority shall default in the payment of the principal or premium, if any, of any of the bonds when the same shall become due and payable, either at maturity or by proceedings for redemption; or
- (b) the Authority shall default in the payment of any installment of interest on any bond when the same shall become due and payable; or
- (c) any part of the Tollway shall be destroyed or damaged to the extent of impairing its efficient operation and adversely affecting its gross or net revenues and shall not be promptly repaired, replaced or reconstructed (whether such failure promptly to repair, replace or reconstruct the same be due to the impracticability of such repair, replacement or reconstruction or to lack of funds therefor or for any other reason); or
- (d) judgment for the payment of money shall be rendered against the Authority if such judgment is under any circumstances payable from the revenues of the Tollway and any such judgment shall not be discharged within ninety (90) days from the entry thereof

or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, in such manner as to set aside or stay the execution of or levy under such judgment, decree or process or the enforcement thereof; or

(e) an order or decree shall be entered, with the consent or acquiescence of the Authority, appointing a receiver or receivers of the Tollway or any part thereof or of the tolls or other revenues thereof, or if such order or decree, having been entered without the consent or acquiescence of the Authority, shall not be vacated or discharged or stayed within ninety (90) days after the entry thereof; or

(f) any proceeding shall be instituted, with the consent or acquiescence of the Authority, for the purpose of effecting a composition between the Authority and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the revenues of the Tollway; or

(g) the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the bonds or in this Agreement on the part of the Authority to be performed, and such default shall continue for sixty (60) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of not less than ten percent (10%) in principal amount of the bonds then Outstanding; and the Trustee shall investigate and consider any allegation of such default or Event of Default of which any Bond Insurer of record notifies the Trustee in writing; or

(h) the occurrence and continuance of an event of default by the Authority under a Credit Agreement or Reserve Surety Agreement.

A payment default under Section 802(a) or (b) with respect to a Second Tier Bond or a Third Tier Bond shall not constitute an Event of Default with respect to First Tier Bonds. A payment default under Section 802(a) or (b) with respect to a Third Tier Bond shall not constitute an Event of Default with respect to Second Tier Bonds.

Section 803. Enforcement of Remedies. Upon the happening and continuance of any Event of Default specified in Section 802 of this Article, then and in every such case the Trustee may proceed, and upon the written request of the holders of not less than twenty percent (20%) in principal amount of the bonds then Outstanding hereunder shall proceed, subject to the provisions of Section 902 of this Agreement, to protect and enforce its rights and the rights of the bondholders under the Turnpike Act and under this Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for mandamus or the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights. Notwithstanding anything to the contrary contained in this Trust Agreement, acceleration of the principal of or interest on the bonds or any of the bonds upon the occurrence of an Event of Default is not a remedy available under this Trust Agreement and in no event shall the Trustee, the owners or other parties have the ability, upon

the occurrence of an Event of Default, to declare immediately due and payable the principal of or interest on the bonds or any of the bonds.

In the enforcement of any remedy under this 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, interest or otherwise under any of the provisions of this Agreement or of the bonds and unpaid, with interest on overdue payments at the rate or rates of interest borne by such bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under such bonds, without prejudice, to any other right or remedy of the Trustee or of the bondholders, and to recover and enforce judgment or decree against the Authority, but solely as provided herein and in such bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect (but solely from moneys in the applicable Sinking Fund and any other moneys available for such purposes) in any manner provided by law, the moneys adjudged or decreed to be payable.

Section 804. Pro Rata Application of Funds. If at any time the moneys in the First Tier Sinking Fund, the Second Tier Sinking Fund, the Third Tier Sinking Fund, the Reserve Maintenance Fund or any other sinking funds established hereunder shall not be sufficient to pay the principal of or the interest on the bonds as the same become due and payable, such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied (subject to the provisions of Section 902 and Section 905 of this Agreement) as follows; provided, however, amounts on deposit in a fund or account (i) dedicated to the payment or security of the First Tier Bonds, the Second Tier Bonds or Third Tier Bonds or (ii) constituting Additional Bond Security for the benefit of one or more specific series of bonds shall not be applied as provided below but shall be used only for the purpose for which such deposits were made:

(a) Unless the principal of all the First Tier Bonds shall then be 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 First Tier Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the First Tier Bonds; and second: to the payment of the principal of any First Tier Bonds which have matured, and, if the amount available shall not be sufficient to pay all of such matured First Tier Bonds, then to the payment thereof ratably, according to the amount due; or if no First Tier Bonds have matured, to the retirement of First Tier Bonds in accordance with the provisions of Section 511(a) of this Agreement.

(b) If the principal of all the First Tier Bonds shall then be due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the First Tier 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 First Tier Bond over any other First Tier 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 the First Tier Bonds.

(c) If there is no default existing in the payment of the principal of, premium, if any, or interest on the First Tier Bonds but the principal of, premium, if any, or interest on Second Tier Bonds has not been paid when due, unless the principal of all the Second Tier Bonds shall then be 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 Second Tier Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Second Tier Bonds; and second: to the payment of the principal of any Second Tier Bonds which have matured, and, if the amount available shall not be sufficient to pay all of such matured Second Tier Bonds, then to the payment thereof ratably, according to the amount due; or if no Second Tier Bonds have matured, to the retirement of Second Tier Bonds in accordance with the provisions of Section 511(b) of this Agreement.

(d) If there is no default existing in the payment of the principal of, premium, if any, or interest on the First Tier Bonds, but the principal of all the Second Tier Bonds shall then be due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Second Tier 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 Second Tier Bond over any other Second Tier 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 the Second Tier Bonds.

(e) If there is no default existing in the payment of the principal of, premium, if any, or interest on the First Tier Bonds and Second Tier Bonds but the principal of, premium, if any, or interest on Third Tier Bonds has not been paid when due, unless the principal of all the Third Tier Bonds shall then be 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 Third Tier Bonds, in the order of priority established in the Supplemental Agreement entered into in conjunction with the issuance of such Third Tier Bonds, and within a class of Third Tier Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference within a class of Third Tier Bonds except as to any difference in the respective rates of interest specified in the Third Tier Bonds; and second: to the payment of the principal of any Third Tier Bonds, in the order of priority established in the Supplemental Agreement entered into in conjunction with the issuance of such Third Tier Bonds, which have matured, and, if the amount available shall not be sufficient to pay all of such matured Third Tier Bonds within such class, then to the payment thereof ratably, according to the amount due; or if no Third Tier Bonds have matured, to the retirement of Third Tier

Bonds in accordance with the provisions of the Supplemental Agreement executed and delivered in conjunction with the issuance of such Third Tier Bonds.

(f) If there is no default existing in the payment of the principal of, premium, if any, or interest on the First Tier Bonds and Second Tier Bonds, but the principal of all the Third Tier Bonds shall then be due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Third Tier Bonds of each class, in the order of priority established in the Supplemental Agreement entered into in conjunction with the issuance of such Third Tier 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 Third Tier Bond over any other Third Tier Bond within the same class, 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 the Third Tier 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 in its sole discretion shall 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 deposit of such moneys with the Paying Agent, or otherwise setting aside such moneys, in trust for the proper purpose shall constitute proper application by the Trustee; and the Trustee shall incur no liability whatsoever to the Authority, to any bondholder 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 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 unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment to the holder of any unpaid bond or the interest thereon unless such bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 805. Effect of Discontinuance of Proceedings. In case any action taken by the Trustee on account of any default shall have been discontinued or abandoned for any reason, then and in every such case the Authority, the Trustee, any Bond Insurer of record, and the bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such action had been taken.

Section 806. Majority of Bondholders May Control Proceedings. Anything in this Agreement to the contrary notwithstanding, the holders of not less than a majority in principal amount of the First Tier Bonds then Outstanding hereunder (or, if no First Tier Bonds are then Outstanding, then the holders of not less than a majority in principal amount of the Second Tier Bonds then Outstanding, or, if no First Tier Bonds or Second Tier Bonds are then Outstanding, then the holders of not less than a majority in principal amount of the Third Tier Bonds then Outstanding) shall have the right, subject to the provisions of Section 902 of this Agreement, by

an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial actions to be taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions of this 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 bondholders not parties to such direction.

Section 807. Restrictions upon Action by Individual Bondholder. No holder of any of the Outstanding bonds shall have any right to institute any suit, action, mandamus or other proceeding in equity or at law for the execution of any trust hereunder or the protection or enforcement of any right under this Agreement or any resolution of the Authority authorizing the issuance of bonds, or any right under the Turnpike Act or the laws of Texas, excepting only an action for the recovery of overdue and unpaid principal, interest or redemption premium, unless such holder previously shall have given to the Trustee written notice of the Event of Default or breach of trust or duty on account of which such suit or action is to be taken, and unless the holders of not less than twenty percent (20%) in principal amount of the bonds then Outstanding shall have made written request of 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 herein granted or granted by the Turnpike Act or by the laws of Texas, or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity 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; and 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 Agreement or for any other remedy hereunder or under the Turnpike Act or the laws of Texas. It is understood and intended that no one or more holders of the bonds hereby secured shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security of this Agreement, or to enforce any right hereunder or under the Turnpike Act or the laws of Texas with respect to the bonds or this Agreement, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all holders of the Outstanding bonds, except as otherwise permitted herein with reference to over-due and unpaid principal, interest or redemption premium.

Section 808. Actions by Trustee. All rights of action under this Agreement or under any of the bonds, enforceable by the Trustee, may be enforced by it without the possession of any of the bonds or the production thereof on 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 the holders of such bonds, subject to the provisions of this Agreement.

Section 809. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee, any Bond Insurer, or to the holders of the bonds is intended to be exclusive of any other remedy or remedies, 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 810. No Delay or Omission Construed to be a Waiver; Repeated Exercise of Powers and Remedies; Waiver of Default. No delay or omission of the Trustee or of any

holder of the bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to the Trustee and the holders of the bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of the holders of not less than a majority in principal amount of the bonds then Outstanding shall, waive any default which in its opinion shall have been remedied before the completion of the enforcement of any remedy under this Agreement, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

Section 811. Notice of Default. The Trustee shall mail to each Bond Insurer of record, and each bondholder of record written notice of the occurrence of any Event of Default set forth in Section 802 of this Article, within thirty (30) days after the Trustee has knowledge of any such Event of Default. If in any Fiscal Year the total amount of deposits to the Sinking Funds shall be less than the amounts required so to be deposited under the provisions of this Agreement, the Trustee, on or before the first day of the second month of the next succeeding Fiscal Year, shall mail to each Bond Insurer of record, and all bondholders of record written notice of the failure to make such deposits. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to mail any notice required by this Section.

Section 812. Bond Insurer's Rights. Notwithstanding any other provisions of this Article VIII, if there has been filed with the Trustee a Bond Insurance Policy, or a certified copy thereof, with respect to any bond, all enforcement remedies and rights to waive defaults with respect to such bond may be exercised by the registered bondholders only with the written consent of such Bond Insurer, and, in the alternative, at the option of the Bond Insurer, such Bond Insurer may enforce any such remedies or waive any default with respect to such bond without the consent of the registered bondholder, and in such event such Bond Insurer shall be deemed to be the bondholder for such purpose. Any Bond Insurer under a Bond Insurance Policy, or certified copy thereof, which has been filed with the Trustee and is then in effect shall, for all purposes of this Agreement, constitute and may be called a Bond Insurer of record.

ARTICLE IX CONCERNING THE TRUSTEE

Section 901. Acceptance of Trusts. The Trustee accepts and agrees to execute the trusts imposed upon it by this Agreement, but only upon the terms and conditions and subject to the provisions of this Agreement, to all of which the parties hereto and the respective holders of the bonds agree.

Section 902. Trustee Entitled to Indemnity; Trustee May Act Without Indemnity; Reimbursement of Trustee. The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this 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, outlays and counsel fees and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by

it as such Trustee, without indemnity, and in any such case the Authority shall reimburse the Trustee for all costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith. If the Authority shall fail to make such reimbursement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Agreement and shall be entitled to a preference therefor over any of the bonds Outstanding hereunder.

Section 903. Limitation on Liabilities and Responsibilities of Trustee. The Trustee shall be under no obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Authority, or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur.

Section 904. Trustee Not Liable for Failure of Authority to Act or for Deposits in other Banks. The Trustee shall not be liable or responsible because of the failure of the Authority or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the Authority, or its employees or agents or because of the loss of any moneys arising through the insolvency or the act or default or omission of any Depositary, or any Paying Agent other than itself, in which such moneys shall have been deposited under the provisions of this Agreement. The Trustee shall not be responsible for the application of any of the proceeds of the bonds or any other moneys deposited with it and paid out, invested, withdrawn or transferred in accordance with the provisions of this Agreement. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

Section 905. Compensation and Indemnification of Trustee. Subject to the provisions of any contract between the Authority and the Trustee, the Authority shall pay to the Trustee reasonable compensation for all services performed by it hereunder and also all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees incurred in and about the administration and execution of the trusts hereby created and the performance of their powers and duties hereunder, and shall indemnify and save the Trustee harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, except to the extent any such liabilities result from the negligence or willful misconduct of the Trustee. If the Authority shall fail to make any payment required by this Section, the Trustee may make such payments from any moneys in its possession under the provisions of this Agreement and shall be entitled to a preference therefor over any of the bonds Outstanding hereunder.

Section 906. Trustee May Rely on Certificates. In case at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee, and in any case in which this Agreement provides for permitting or taking any action, the Trustee may rely conclusively upon any certificate required or permitted to be filed with it under the provisions of this Agreement, and any such certificate shall be evidence of such fact to protect it in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Any request, notice or other instrument from the Authority to the Trustee shall be deemed to have been signed by the proper party or parties if signed by the Chairman or Vice Chairman or a Board Representative, and the Trustee may

accept a certificate signed by the Board Representative as to any resolution adopted or any other action taken by the Authority.

Section 907. Notice of Default. Except as otherwise provided in this Agreement, the Trustee shall not be obliged to take notice or be deemed to have notice of any Event of Default hereunder, unless specifically notified in writing of such Event of Default by the holders of not less than twenty percent (20%) in principal amount of the bonds then Outstanding or by any Bond Insurer of record.

Section 908. Trustee May Deal in Bonds and Take Action as Bondholders. Any bank or trust company acting as Trustee under this Agreement, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the bonds issued under and secured by this Agreement, and may join in any action which any bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Agreement.

Section 909. Trustee Not Responsible for Recitals. The recitals, statements and representations contained herein and in the bonds (excluding the Trustee's certificate on the bonds) shall be taken and construed as made by and on the part of the Authority and not by the Trustee, and the Trustee assumes and shall have no responsibility for the correctness of the same.

Section 910. Trustee Protected in Relying on Certain Documents. In performing its duties under the terms of this Agreement, the Trustee shall be liable only for its own negligence or willful misconduct, and shall incur no liability in acting or proceeding, or in not acting or not proceeding, reasonably and in good faith, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which 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 Agreement, or upon the opinion of any attorney, engineer, or accountant believed by the Trustee to be qualified in relation to the subject matter. The Trustee shall not be bound to recognize any person as a holder of any bond or to take any action at his request unless such bond shall be deposited with the Trustee.

Section 911. Resignation of Trustee. The Trustee may resign and thereby become discharged from the trusts hereby created, by notice in writing to be given to the Authority and mailed to each bondholder of record not less than sixty (60) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Trustee, if such new Trustee shall be appointed before the time limited by such notice and shall then accept the trusts hereof; provided, however, such resignation shall not become effective until and unless a successor trustee is appointed and accepts the trusts hereunder. If no successor trustee has been appointed and accepted the trusts hereunder within ninety (90) days after the date the foregoing resignation is to take effect, the schedule of fees and charges of the Trustee then in effect shall terminate, and the Trustee may establish such fees and charges for its services as Trustee deems necessary to reasonably compensate it for such services under the circumstances then existing.

Section 912. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing, signed by the holders of not less than a majority in principal amount of the bonds hereby secured and then Outstanding and filed with the Authority. A photostatic copy of each such instrument shall be delivered promptly by the

Authority to the Trustee. It is further provided, however, that no removal of a Trustee shall be effective until and unless a qualified successor trustee shall have been appointed and accepted the trusts hereunder.

The Trustee may also be removed at any time, for any reason, in the sole discretion of the Authority, by a resolution duly adopted by the Authority; provided that such resolution shall name a successor Trustee in accordance with Section 913, and shall direct the successor Trustee to mail written notice of such change in Trustee to each registered bondholder on or before the next interest payment date or redemption date, whichever is first to occur.

Section 913. Appointment of Successor Trustee. If at any time the Trustee shall resign, or shall be removed, be dissolved or otherwise become incapable of acting, or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, the Authority shall appoint a Trustee to fill such vacancy. The Authority shall publish notice of any such appointment once in each week for four successive weeks in a financial journal of general circulation published in the Borough of Manhattan, City and State of New York, provided that no such publication is required if such notice is mailed to each bondholder of record.

At any time within one year after any such vacancy shall have occurred, the owners of a majority in principal amount of the bonds then Outstanding, by an instrument or concurrent instruments in writing, signed by such bondholders or their attorneys in fact hereunto duly authorized and filed with the Authority, may appoint a successor Trustee, which shall supersede any Trustee theretofore appointed by the Authority. Photostatic copies of each such instrument shall be delivered promptly by the Authority to the predecessor Trustee and to the Trustee so appointed by the bondholders.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section, the owner of any bond Outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

Any Trustee hereafter appointed shall be a bank or trust company duly organized and doing business under the laws of the United States of America and located in the State of Texas, authorized under such laws to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having, at the time of its appointment, a combined capital and surplus aggregating not less than One Hundred Million Dollars (\$100,000,000.00).

The Authority covenants that it will promptly notify in writing each Bond Insurer of record of the resignation or removal of any Trustee and of the appointment of any successor Trustee.

Any Trustee which is replaced by a successor Trustee promptly shall turn over to such successor Trustee all funds, books, and records pertaining to this Agreement.

Section 914. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Authority, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights,

immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on the written request of its successor or of the Authority, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to the provisions of Section 905 of this Article, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it hereunder to its successor.

Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the Authority.

Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Agreement and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be merged or consolidated, or to which the assets and business of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

ARTICLE X EXECUTION OF INSTRUMENTS BY BONDHOLDERS AND PROOF OF OWNERSHIP OF BONDS

Section 1001. Execution of Instruments by Bondholders; Proof of Execution; Proof of Holding of Bonds; Other Proof; Bondholders' Actions Bind Future Holders. Any request, direction, consent or other instrument in writing required or permitted by this Agreement to be signed or executed by bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such bondholders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of bonds shall be sufficient for any purpose of this Agreement, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument, if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the verification of any officer in any jurisdiction who, by the laws thereof, has power to take affidavits within such jurisdiction, to the effect that such instrument was subscribed and sworn to before him, or by an affidavit of a witness to such execution.

(b) The fact of owning bonds by any bondholder shall be proved by the registration books kept by the Trustee under the provisions of this Agreement.

But nothing contained in this Article shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which to it may seem sufficient. Any request or consent of the holder of any bond shall bind every future holder of the same bond in respect of anything done by the Trustee in pursuance of such request or consent.

ARTICLE XI
SUPPLEMENTAL AGREEMENTS

Section 1101. Supplemental Agreements by Authority and Trustee. The Authority and the Trustee may, from time to time and at any time, without the consent of the owners of the bonds, enter into such agreements supplemental hereto as shall not be in conflict with the terms and provisions hereof (which supplemental agreements shall thereafter form a part hereof),

- (a) to cure any ambiguity or formal defect or omission in this Agreement or in any Supplemental Agreement, or
- (b) to grant to or confer upon the Trustee for the benefit of the bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the bondholders or the Trustee, or
- (c) to close the Agreement against or provide limitations and restrictions, in addition to the limitations and restrictions contained in this Agreement, with respect to the future issuance of Additional Bonds, or
- (d) to set forth additional covenants and provisions with respect to any improvements, extensions, enlargements, or projects in connection with the Tollway, and any bonds issued in connection therewith, or
- (e) to set forth additional provisions, if deemed necessary or advisable, with respect to the issuance of the Additional Bonds permitted under Section 208, Section 209 or Section 210, including provisions for the use and functioning of a Construction Fund for additional projects, and the addition of certain other funds and accounts necessary or convenient for effecting the payment of principal of or interest on such bonds or creation and maintenance of a reserve fund for such bonds, or
- (f) to comply with additional requirements to the extent necessary in the opinion of Bond Counsel to preserve the exemption from federal income taxation of interest on the bonds under Section 103 of the Code, or
- (g) to make any changes or amendments requested by Standard & Poor's, Fitch or Moody's, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Authority, materially adversely affect the interests of the owners of the Outstanding bonds or any Bond Insurer of record, or
- (h) to the extent permitted by law, to permit the Authority to enter into Qualified Credit Agreements or to issue Additional Bonds in foreign denominated currencies; provided, however, no such amendment shall be made unless the Authority shall have received a letter from Standard & Poor's, Fitch and Moody's to the effect that such amendment will not result in any of such rating agencies lowering the assigned rating on the then Outstanding bonds, or
- (i) upon direction of the Authority, provided that the Trustee receives a written confirmation from each rating agency then maintaining a rating on the First Tier Bonds and the Second Tier Bonds to the effect that the execution and delivery of such Supplemental Agreement will not in and of itself cause such rating agency to reduce or withdraw the then current rating on the First Tier Bonds and the Second Tier Bonds, together with the prior written consent of each Bond Insurer and other Credit Provider

then providing credit support for any series of bonds, provided, however, that no such amendment shall have the effect of amending a provision of this Agreement that would otherwise require the consent of the holders of not less than 51% in aggregate principal amount of bonds Outstanding pursuant to Section 1102 below.

Section 1102. Modification of Agreements with Consent of Holders of 51% of Bonds; Restrictions on Modifications; Notice of Supplemental Agreements. Subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than 51% in aggregate principal amount of the bonds then Outstanding, or in case less than all of the bonds then Outstanding are affected by the modification or amendment, the holders of not less than 51% in aggregate principal amount of the bonds so affected and Outstanding, shall have the right, from time to time, anything contained in this Agreement to the contrary notwithstanding, to consent to and approve the execution by the Authority and the Trustee of such agreement or agreements supplemental hereto as shall be deemed necessary or desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Agreement or in any Supplemental Agreement; provided, however, that nothing herein contained shall permit, or be construed as permitting, (a) an extension of the principal of or the interest on any bond issued hereunder, or (b) a reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of revenues ranking prior to or on a parity with (to the extent not permitted hereunder) the lien or pledge created by this Agreement, or (d) a preference or priority of any First Tier Bonds, Second Tier Bonds or Third Tier Bonds, as the case may be, over any other First Tier Bonds, Second Tier Bonds, or Third Tier Bonds (except, in the case of Third Tier Bonds, as is set forth in the Supplemental Agreement pursuant to which a series of Third Tier Bonds are issued), or (e) a reduction in the aggregate principal amount of the bonds required for consent to such Supplemental Agreement. Nothing herein contained, however, shall be construed as making necessary the approval by bondholders of the execution of any Supplemental Agreement or Agreements as authorized in Section 1101 of this Article.

If at any time the Authority shall request the Trustee to enter into any Supplemental Agreement for any of the purposes of this Section, the Trustee shall, at the expense of the Authority, cause notice of the proposed execution of such Supplemental Agreement to be published once in each week for four successive weeks in a financial journal of general circulation published in the Borough of Manhattan, City and State of New York; provided that if before the first publication of such notice, the Trustee shall cause such notice to be mailed, postage prepaid, to all registered owners of bonds then Outstanding at their addresses as they appear on the registration books hereinabove provided for, then no such publication shall be required. Said notice shall briefly set forth the nature of the proposed Supplemental Agreement and shall state that a copy thereof is on file at the office of the Trustee for inspection by all bondholders. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to mail the notice required by this Section, and any such failure shall not affect the validity of such Supplemental Agreement when consented to and approved as provided in this Section.

Whenever, at any time within one (1) year after the date of the first publication of such notice or the date of mailing of such notice, as applicable, the Authority shall deliver to the Trustee an instrument or instruments purporting to be executed by the holders of not less than 51% in aggregate principal amount of the bonds then Outstanding, which instrument or

instruments shall refer to proposed Supplemental Agreement described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice as on file with the Trustee, thereupon, but not otherwise, the Trustee may execute such Supplemental Agreement in substantially such form, without liability or responsibility to any holder of any bond, whether or not such holder shall have consented thereto.

If the holders of not less than 51% in aggregate principal amount of the bonds Outstanding at the time of the execution (or, in the case that less than all of the bonds then Outstanding are affected by the modification or amendment, the holders of not less than 51% in aggregate principal amount of the bonds so affected and Outstanding at the time of the execution) of such Supplemental Agreement shall have consented to and approved the execution thereof as herein provided, no holder of any bond shall have any right to object to the execution of such Supplemental Agreement, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any Supplemental Agreement pursuant to the provisions of this Section, this Agreement shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Agreement of the Authority and the Trustee and all holders of bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

Section 1103. Trustee Joining in Supplemental Agreements; Supplemental Agreements Part of this Agreement. The Trustee is authorized to join with the Authority in the execution of any such Supplemental Agreement and to make the further agreements and stipulations which may be contained therein. Any Supplemental Agreement executed in accordance with the provisions of this Article shall thereafter form a part of this Agreement, and all the terms and conditions contained in any such Supplemental Agreement as to any provision authorized to be contained therein shall be and shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes. In case of the execution and delivery of any Supplemental Agreement, express reference may be made thereto in the text of any bonds issued thereafter, if deemed necessary or desirable by the Trustee or the Authority.

Section 1104. Reliance by Trustee on Opinion of Counsel. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be Counsel for the Authority, as conclusive evidence that any such proposed Supplemental Agreement complies with the provisions of this Agreement, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such Supplemental Agreement.

Section 1105. Modification of Agreement with Consent of Holders of all Outstanding Bonds. Notwithstanding anything contained in the foregoing provisions of this Agreement, the rights and obligations of the Authority and of the holders of the bonds and the terms and provisions of the bonds and this Agreement or any Supplemental Agreement, may be modified or altered in any respect with the consent of the Authority and the consent of the holders of all of the bonds then Outstanding.

Section 1106. Rights of Bond Insurers. Notwithstanding the foregoing provisions of this Article XI, if there has been filed with the Trustee a Bond Insurance Policy, or a certified copy thereof, with respect to any bond, no consent by the registered owner of such bond to the execution of any Supplemental Agreement or other modification of this Agreement shall be effective unless the Bond Insurer consents in writing to the execution of such Supplemental Agreement or other modification. The Authority further covenants that it will furnish to each Bond Insurer of record a transcript of the pertinent proceedings relating to each Supplemental Agreement to this Agreement.

ARTICLE XII DEFEASANCE

Section 1201. Release of Agreement. (a) If the whole amount of the principal and the interest and the premium, if any, due or to become due and payable upon all of the bonds then Outstanding shall be paid or sufficient funds shall be held by the Trustee for such purpose, and provision shall also be made for paying all other sums payable hereunder by the Authority, and if any bonds to be redeemed prior to maturity shall have been duly called for redemption or irrevocable instructions to call such bonds for redemption shall have been given by the Authority to the Trustee, then and in that case the right, title and interest of the Trustee herein shall thereupon cease, determine and become void, provided that the sufficiency of the above funds held by the Trustee for such purpose must be verified in a report which must be obtained by the Trustee from an independent nationally recognized certified public accountant. For the purpose of this Section, amounts paid by any Bond Insurer under any Bond Insurance Policy shall not be deemed to have been paid, and shall be deemed to continue to be due and owing under this Agreement until paid by the Authority in accordance with this Agreement. The Trustee in such case, on demand of the Authority, shall release this Agreement and shall execute such documents to evidence such release as may be reasonably required by the Authority, and shall turn over to the Authority all balances remaining in all Funds and Accounts created by this Agreement, other than funds held for redemption or payment of bonds or interest thereon; otherwise this Agreement shall be, continue and remain in full force and effect.

(b) Any bond shall be deemed to be paid and no longer Outstanding within the meaning of this Agreement (a "Defeased Debt"), and particularly Article XII hereof, when payment of the principal of, redemption premium, if any, on such Defeased Debt, plus interest thereon to the due date thereof and, in the case of a bond bearing interest at Variable Rates, at the lesser of the maximum rate allowed by law or provided in such bond (whether such due date be by reason of maturity, upon redemption, mandatory or optional tender, or otherwise), either (i) shall have been made in accordance with the terms thereof, or (ii) shall have been provided by irrevocably depositing with the Trustee, in trust, and irrevocably set aside exclusively for such payment, (1) money sufficient to make such payment or (2) Government Obligations, as defined hereinafter in this Article, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amount and at such times as will insure the availability, without reinvestment, of sufficient money to make such payment, and all necessary and proper fees, compensation, and expenses of the Trustee and the Paying Agent pertaining to the bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee. At such time as a Defeased Debt shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to

the benefits of this Agreement except for the purposes of any such payment from such money or Government Obligations.

(c) Any moneys so deposited with the Trustee may at the direction of the Authority also be invested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the Trustee pursuant to this Article XII which is not required for the payment of the bonds, the redemption premium, if any, and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Authority.

(d) The Authority and the Trustee hereby covenant that no deposit will be made or accepted under clause (ii) of Section 1201(b) and no use made of any such deposit which would cause the bonds to be treated as arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

(e) For the purpose of this Article XII, the term "Government Obligations" shall mean (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) subject to the consent of the Bond Insurers of record, noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent.

(f) Any determination not to redeem Defeased Debt that is made in conjunction with the payment arrangements specified above in (b)(i) or (ii) shall not be irrevocable, provided that: (1) in the proceedings providing for such defeasance, the Authority expressly reserves the right to call the Defeased Debt for redemption; (2) the Authority gives notice of the reservation of that right to the owners of the Defeased Debt immediately following the defeasance; (3) the Authority directs that notice of the reservation be included in any defeasance or redemption notices that it authorizes; and (4) at or prior to the time of the redemption, the Authority satisfies the conditions of subsection (b) with respect to such Defeased Debt as though it was being defeased at the time of the exercise of the option to redeem the Defeased Debt, after taking the redemption into account in determining the sufficiency of the provisions made for the payment of the Defeased Debt.

ARTICLE XIII MISCELLANEOUS PROVISIONS

Section 1301. Successorship of Authority. In the event of the dissolution of the Authority, all of the covenants, stipulations, obligations, and agreements contained in this Agreement by or in behalf of or for the benefit of the Authority shall bind or inure to the benefit of the successor or successors of the Authority from time to time and any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in

accordance with law. It is further specifically provided that in such event all Funds and Accounts established by and pursuant to this Agreement (which Agreement constitutes the "proceedings" authorizing and securing the bonds) shall remain with the Trustee.

Section 1302. Manner of Giving Notice, Etc. Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the Authority or the Trustee shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when sent by registered mail, return receipt requested to the Authority, if addressed to North Texas Tollway Authority, 5900 West Plano Parkway, Suite 100, Plano, TX 75093, Attention: Chief Financial Officer or at such other address as may be designated in writing by the Authority to the Trustee; and to the Trustee, at its then principal office.

All documents received by the Trustee under the provisions of this Agreement shall be retained in its possession, subject at all reasonable times to the inspection of the Authority, the Consulting Engineers, any bondholder, and the agents and representatives thereof.

Section 1303. Rights under this Agreement. Except as herein otherwise expressly provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, each Bond Insurer of record, any Credit Agreement obligor, and the holders of the bonds any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the foregoing.

Section 1304. Credit of State or any Political Subdivision Not Pledged. The bonds and the interest thereon do not constitute a debt of the State of Texas or of any political subdivision thereof, and neither the State of Texas, the Authority or any political subdivision of the State of Texas shall be obligated to pay the bonds or the interest thereon except from the revenues of the Tollway and other sources solely as provided in the Agreement, and neither the faith and credit nor the taxing power of the State of Texas or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds.

Section 1305. Effect of Partial Invalidity. In case any one or more of the provisions of this Agreement or of the bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement or of said bonds, but this Agreement and said bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the bonds or in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Authority to the full extent permitted by law.

Section 1306. Effect of Covenants, Etc. All covenants, stipulations, obligations and agreements of the Authority contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the Authority to the full extent authorized by the Turnpike Act and other applicable laws and permitted by the Constitution of Texas. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent or employee of the Authority in his individual capacity, and neither the members of the Authority nor any official executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 1307. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

Section 1308. Headings, Etc. Not Part of Agreement. Any headings preceding the texts of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

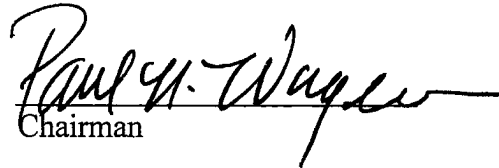
Section 1309. Bonds Held by Authority. Bonds held by or for the account of the Authority or any person controlling, controlled by or under common control with the Authority shall not be deemed to be Outstanding for purposes of any consent or other action to be taken by the holders or a specified percentage of Outstanding bonds.

Section 1310. Additional Covenants Regarding Existing Bonds. (a) While the Series 2003A Bonds, the Series 2003B Bonds or the Series 2005C Bonds are Outstanding, without the written consent of the Bond Insurer of record for the Series 2003A Bonds, the Series 2003B Bonds and the Series 2005C Bonds, the Authority will not enter into a Qualified Credit Agreement containing a provision granting to the counterparty to the Qualified Credit Agreement a lien on or pledge of Net Revenues securing the Authority's obligation to make a termination payment to the counterparty upon the termination of the Qualified Credit Agreement on a parity with the Series 2003A Bonds, the Series 2003B Bonds or the Series 2005C Bonds.

(b) While the Series 2003A Bonds or the Series 2003B Bonds are Outstanding, without the written consent of the Bond Insurer of record for the Series 2003A Bonds and the Series 2003B Bonds, the Authority will not enter into a Qualified Credit Agreement in connection with the Series 2003A Bonds or the Series 2003B Bonds unless the Credit Provider's long term debt is rated, at the time the Qualified Credit Agreement is entered into, in one of the two highest rating categories by Moody's and S&P, without regard to rating sub-categories.

IN WITNESS WHEREOF, the North Texas Tollway Authority has caused this Agreement to be executed by its Chairman and its official seal to be impressed hereon and attested by its Secretary, and Wells Fargo Bank, N.A., has caused this Agreement to be executed in its behalf by one of its Vice Presidents, and its corporate seal to be impressed hereon and attested by one of its Trust Officers, as of the day and year first above written.

NORTH TEXAS TOLLWAY AUTHORITY

By: 
Chairman

(AUTHORITY SEAL)

ATTEST:


Secretary

WELLS FARGO BANK, N.A., Trustee

By: 
Vice President

(BANK SEAL)

ATTEST:


Assistant Vice President

FIRST SUPPLEMENT TO AMENDED AND RESTATED TRUST AGREEMENT

THIS FIRST SUPPLEMENT TO AMENDED and RESTATED TRUST AGREEMENT (this "Supplement to A&R Trust Agreement") dated as of April 1, 2008, supplements and amends the Amended and Restated Trust Agreement dated as of April 1, 2008, (the "A&R Trust Agreement") by and between the North Texas Tollway Authority (the "NTTA") and Wells Fargo Bank, N.A., as Trustee (the "Trustee"). The A&R Trust Agreement secures the Texas Turnpike Authority Dallas North Tollway System Revenue Refunding Bonds, Series 1997, the North Texas Tollway Authority Dallas North Tollway System Revenue Refunding Bonds, Series 1997A, the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 1998, the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 2003A, the North Texas Tollway Authority Dallas North Tollway System Revenue Refunding Bonds, Series 2003B, the North Texas Tollway Authority Dallas North Tollway System Revenue Bonds, Series 2005A, the North Texas Tollway Authority Dallas North Tollway System Variable Rate Revenue Bonds, Series 2005C, the North Texas Tollway Authority System First Tier Current Interest Revenue Refunding Bonds, Series 2008A, the North Texas Tollway Authority System First Tier Current Interest Revenue Refunding Bonds, Series 2008B, the North Texas Tollway Authority System First Tier Taxable Current Interest Revenue Refunding Bonds, Series 2008C, the North Texas Tollway Authority System First Tier Insured Capital Appreciation Revenue Refunding Bonds, Series 2008D, and the North Texas Tollway Authority System First Tier Revenue Refunding Bonds, Series 2008E (the "Outstanding Bonds") and the Payment Obligations of the NTTA under the ISDA Master Agreements entered into between the NTTA and each of Bear Stearns Financial Products Inc., Citibank N.A., New York, and Lehman Brothers Derivative Products Inc., under the 2004 Swap Transactions in the respective notional amounts of \$50,680,000, \$101,360,000, and \$50,680,000 and under the 2005 Swap Transactions in the respective notional amounts of \$69,475,000, \$34,737,500, and \$34,737,500.

This Supplement to A&R Trust Agreement, together with the amended and restated resolution adopted by the Board of Directors of the NTTA on February 20, 2008 (the "Note Resolution"), which authorizes the North Texas Tollway Authority System Commercial Paper Notes, Series A (the "Series A Notes") and Bank Notes (as defined in the Note Resolution), have been adopted and executed to secure the Series A Notes and the Bank Notes, and the Series A Notes and the Bank Notes shall be fully secured by the A&R Trust Agreement. Terms used herein and not otherwise defined shall have the meanings given such terms in the A&R Trust Agreement.

Section 1. The Series A Notes are issued for the purpose of financing Costs of Eligible Projects (as defined in the Note Resolution) and to refinance, renew, or refund notes, bonds, and other obligations of the NTTA System. The Series A Notes and the Bank Notes are issued from time to time as Additional Third Tier Bonds permitted by Section 210 of the A&R Trust Agreement, are Short-Term Indebtedness, and shall constitute Class A Third Tier Bonds for all purposes. The principal of and interest on the Series A Notes and the Bank Notes shall be payable out of the Third Tier Sinking Fund on a parity and pro rata basis with all other Class A Third Tier Bonds.

Section 2. There is hereby created, within the Third Tier Bond Interest Account and the Third Tier Redemption Account, respectively, a sub-account designated "Class A Third Tier Bond Interest Sub-Account" and a sub-account designated "Class A Third Tier Redemption Sub-Account." Transfers made pursuant to Section 507(h) of the A&R Trust Agreement for Third Tier Bonds shall be made first to the Class A Third Tier Bond Interest Sub-Account and Class A Third Tier Redemption Sub-Account as required by Section 507(h) of the Amended and Restated Trust Agreement, prior to transfers to any other sub-accounts within the Third Tier Sinking Fund. Funds held in the Class A Third Tier Bond Interest Sub-Account and the Class A Third Tier Redemption Sub-Account are held exclusively for the payment of Third Tier Bonds that are designated as Class A Bonds. It is expressly acknowledged that the Series A Notes and the Bank Notes are not entitled to the benefit and security of the Third Tier Reserve Account or any sub-account established therein.

Section 3. Section 210 of the A&R Trust Agreement specifically requires the NTTA to enter into this Supplement to A&R Trust Agreement with respect to the Series A Notes and the Bank Notes. It is hereby agreed that the provisions of the Note Resolution are incorporated herein and made a part hereof for all purposes, and that the provisions of the A&R Trust Agreement shall be supplemented and amended as provided in the Note Resolution. Except as set forth herein and in the Note Resolution, the A&R Trust Agreement shall remain in full force and effect and shall be applicable to the Series A Notes and the Bank Notes for all pertinent purposes. Henceforth the term "Agreement" or "Amended and Restated Agreement" shall mean for all purposes the A&R Trust Agreement as supplemented by this Supplement to A&R Trust Agreement.

Section 4. This Supplement to A&R Trust Agreement may be executed in any number of counterparts, and each such counterpart shall be, and shall be deemed to be, an original. All such counterparts shall constitute but one and the same instrument. This Supplement to A&R Trust Agreement shall be governed, in all respects including validity, interpretation and effect by, and shall be enforceable in accordance with, the laws of the State of Texas.

EXECUTED as of the date first written above.

NORTH TEXAS TOLLWAY AUTHORITY

Paul A. Wagner
Chairman

ATTEST:

Ruby Franklin
Secretary

(SEAL)

WELLS FARGO BANK, N.A.,
as Trustee

By [Signature]
Title: Vice President

ATTEST:

[Signature]
Title: Vice President

(SEAL)