
Master Trust Indenture
by and between
West Virginia Parkways Authority
and
United Bank,
as Trustee
authorizing and securing
Turnpike Toll Revenue Bonds

Dated as of August 1, 2018

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MASTER TRUST INDENTURE

This MASTER TRUST INDENTURE (this “*Indenture*”), dated as of August 1, 2018, by and between the West Virginia Parkways Authority (the “*Authority*”), a public body corporate and politic and instrumentality of the State of West Virginia created and existing under the Constitution and Laws of West Virginia, and United Bank (the “*Trustee*”), a Virginia banking corporation having the powers of a trust company and having a corporate trust office in Charleston, West Virginia, as Trustee, under the circumstances summarized in the following recitals. Capitalized terms used but not defined in the recitals and granting clauses shall have the meanings given to such capitalized terms in Section 101 hereof.

WHEREAS, Article 16A, Chapter 17 of the Code of West Virginia, 1931, as amended (the “*Act*”), empowers the Authority to construct, reconstruct, improve, maintain, repair, and operate parkway projects within the State and empowers the Authority to issue bonds to provide for the costs of paying all or any part of any one or more such projects;

WHEREAS, under Section 5 of the Act, “parkway projects” include existing or new projects to be constructed, reconstructed, improved, maintained, repaired, and operated by the Authority during the term of this Indenture, either on the Turnpike (“*On-Turnpike Authority Projects*”) or as special Authority projects, as well as certain projects to be constructed, reconstructed, improved, maintained, repaired, and operated by the West Virginia Division of Highways, a division of the West Virginia Department of Transportation (“*WVDOH*”) that are located (a) off the Turnpike and (b) in ten specific counties identified in the Act that include the four counties through which the Turnpike runs and six counties contiguous to said four counties, to the extent allowed under the Act and applicable federal laws (“*Off-Turnpike WVDOH Projects*,” and collectively with On-Turnpike Authority Projects and special Authority projects, “*Parkway Projects*”);

WHEREAS, this Indenture is being adopted for the purposes of: (A) providing for the issuance by the Authority of Turnpike Toll Revenue Bonds in one or more Series, from time to time, on the terms set forth herein (collectively, the “*Bonds*”) for the purpose of financing Parkway Projects, to pay the costs of issuance of any such Bonds, to fund applicable reserve requirements, and to fund or pay for any other costs or expenses permitted under the Act; (B) pledging the Net Toll Road Revenues and any other such revenues as are permitted by the Act for the payment of the Bonds; (C) pledging such funds and accounts created and held pursuant to the Indenture and any supplemental indenture as are identified as being pledged for the payment of the Bonds and are subjected to the lien of this Indenture; (D) providing the manner in which such other revenues as are now or hereafter permitted by the Act to be so pledged, may be pledged for the payment of the Bonds; and (E) making other covenants and agreements and providing other details with respect to the Bonds, subject to and in accordance with the terms hereof;

WHEREAS, pursuant to the Act, the Authority on June 7, 2018 adopted a Resolution that, among other things, authorized this Authority to enter into this Indenture and to issue the initial series of Bonds under this Indenture; and

WHEREAS, additional terms of each Series of Bonds will be specified in a Supplemental Indenture adopted as provided herein in connection with the issuance of such Series.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: In consideration of the premises, the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of each Series of Bonds by the Holders thereof, and for the purpose of fixing and declaring the general terms and conditions upon which the Bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become Holders thereof, and to secure the payment of each Series of Bonds at any time issued and Outstanding hereunder and the interest and premium, if any, thereon according to their tenor, purport and effect, and to grant certain rights to the applicable Credit Providers, if any (but only if, and to the extent, provided in a Supplemental Indenture granting such rights to applicable Credit Providers) and to secure the performance and observance of all of the covenants, agreements and conditions contained therein and herein or in any Reimbursement Agreement (but only if, and to the extent, provided in a Supplemental Indenture relating to any Reimbursement Agreement), the Authority does hereby grant and confirm a security interest in, and does confirm, assign, transfer, pledge and grant and convey unto the Trustee and its successors and assigns forever, for the benefit of the Bondholders and each Credit Provider, if any (but only if, and to the extent, provided in a Supplemental Resolution granting such rights to applicable Credit Providers), until the applicable credit enhancement or liquidity support is no longer outstanding and no amounts are due under the applicable Reimbursement Agreement (but only if, and to the extent, provided in a Supplemental Indenture relating to any Reimbursement Agreement), the following property:

A. Amounts constituting Net Toll Road Revenues;

B. Amounts on deposit from time to time in the Funds and the Accounts created pursuant hereto and expressly made subject to the pledge of this Indenture under Article IV, including the earnings thereon, subject to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, provided, however, that there expressly is excluded from any pledge, assignment, lien or security interest created by this Indenture (i) amounts in the Operation and Maintenance Account within the Operation and Maintenance Fund, (ii) amounts in the Arbitrage Rebate Fund, and (iii) amounts in the General Fund (though such General Fund monies may be expended by the Authority to restore deficiencies in any funds or accounts created under the Indenture); and

C. Any and all other property of any kind from time to time hereafter by delivery or by writing of any kind specifically conveyed, pledged, assigned or transferred, as and for additional security hereunder for the Bonds, by the Authority or by anyone on its behalf or with its written consent in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof (collectively, the "*Trust Estate*").

TO HAVE AND TO HOLD all such properties pledged, assigned and conveyed by the Authority hereunder, including all additional property which by the terms hereof has or may become subject to the encumbrance hereof, unto the Trustee and its successors in trust and its assigns forever, subject, however, to the rights reserved hereunder.

IN TRUST NEVERTHELESS, for the equal and proportionate benefit and security of the Holders from time to time of all Bonds issued, authenticated, delivered and outstanding hereunder, without preference, priority or distinction as to lien or otherwise of any of such Bonds over any other such Bonds, except to the extent otherwise provided in Section 103.

PROVIDED, HOWEVER, that if the Authority shall pay fully and promptly when due all liabilities, obligations and sums at any time secured hereby or provide for the payment thereof in accordance with the provisions hereof, and shall promptly, faithfully and strictly keep, perform and observe or cause to be kept, performed and observed all of its covenants, warranties and agreements contained herein and in each Reimbursement Agreement, if any, then and in such event, except for the provisions of Article IX hereof, as applicable, this Indenture shall be and become void and of no further force and effect; otherwise, the same shall remain in full force and effect, and upon the trusts and subject to the covenants and conditions hereafter set forth.

THIS INDENTURE FURTHER WITNESSETH: It is expressly declared that all Bonds are to be issued, authenticated and delivered and all said property, rights, and interest, including, without limitation, the revenues and other amounts hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby agree and covenant with the Trustee and with the respective Holders of the Bonds, and as provided herein for the benefit of applicable Credit Providers, if any (but only if, and to the extent, provided in a Supplemental Resolution granting such rights to applicable Credit Providers), and to secure further the performance and observance of all of the covenants, agreements and conditions contained therein and herein or in any Reimbursement Agreement (but only if, and to the extent, provided in a Supplemental Indenture relating to any Reimbursement Agreement), and has further agreed and covenanted, and does hereby further agree and covenant, as follows:

ARTICLE I DEFINITIONS; RULES OF CONSTRUCTION

Section 101. Definitions.

In addition to terms elsewhere defined in this Indenture, the following terms, for all purposes of this Indenture, shall have the following meanings unless a different meaning clearly applies from the context:

“Account” means any account or subaccount created in any Fund created hereunder or under a Supplemental Indenture.

“Accreted Value” means (a) with respect to any Capital Appreciation Bonds, as of any date of calculation, the sum of the amount set forth in a Supplemental Indenture as the amount representing the initial principal amount of such Capital Appreciation Bonds plus the interest accumulated, compounded and unpaid thereon as of the most recent compounding date, the Accreted Value shall be determined in accordance with the provisions of the Supplemental Indenture authorizing the issuance of such Capital Appreciation Bonds.

“Act” means Chapter 17, Article 16A, of the Code of West Virginia, 1931, as amended.

“Agency Obligations” means senior debt obligations, including bonds, notes and other evidences of indebtedness, of U.S. government-sponsored agencies, corporations, and enterprises that are not backed by the full faith and credit of the U.S. government, including, but not limited to, Federal Home Loan Mortgage Corporation debt obligations, Farm Credit System consolidated system wide bonds and notes, Federal Home Loan Banks consolidated debt obligations, Federal National Mortgage Association debt obligations, Student Loan Marketing Association debt obligations, Tennessee Valley Authority debt obligations, Resolution Funding Corporation debt obligations (including principal and interest strips), and U.S. Agency for International Development guaranteed notes (including stripped securities).

“Annual Budget” means for any Fiscal Year the annual budget adopted by the Authority under Section 508 as may be amended from time to time as permitted by Section 508, which annual budget shall set forth, at a minimum, (a) the estimated Toll Road Revenues, (b) Operation and Maintenance Expenses, (c) the Annual Debt Service (identifying principal and interest components thereof), and (d) the Renewal and Replacement Reserve Fund Requirement, respectively, for such Fiscal Year under Section 508, **provided, however**, that, without limitation of the requirements of Section 508, such annual budget and any amended annual budget shall include and provide for amounts that, in the judgment of the Consulting Engineers, are necessary to be included in and spent on (a) Operation and Maintenance Expenses and (b) Renewal and Replacement Costs, respectively, for such Fiscal Year, which shall be memorialized in a certificate to be provided by the Consulting Engineers to the Authority as part of the annual budget-making process as required by Section 508, which certificate shall be included with and be made a part of the Annual Budget.

“Annual Debt Service” means for any Annual Period and with respect to Outstanding Bonds, or all Senior Lien Bonds or Subordinate Lien Bonds, respectively, (i) the principal

amount and interest paid (except at the option of the Authority) or payable with respect to such Bonds in such Annual Period, plus (ii) Credit Facility Payment Obligations paid or payable in such Annual Period, plus (iii) the net amount (which may be negative) of (x) all Regularly Scheduled Hedge Payments in such Annual Period, less (y) all Regularly Scheduled Hedge Receipts in such Annual Period, minus (iv) all amounts that are deposited to the credit of a debt service fund or account for the payment of capitalized interest or the payment of principal due or to be due and interest due in such Annual Period on Bonds that are used or scheduled to be used to pay interest on such Bonds during any Annual Period, and minus (v) any portion or all of the interest on or principal of the Bonds that has been irrevocably committed by the Authority to be paid from funds on hand other than Toll Road Revenues, including without limitation, (A) any security deposited and pledged for such purpose by the terms of an escrow deposit agreement or similar agreement, (B) any supplemental security pledged for such purpose by the terms of a Supplemental Indenture, or (C) other supplemental security irrevocably pledged in any other manner for such purpose; provided that if there is a balance in a Series Account for a Series of Bonds, or a balance in a composite Account, within the Debt Service Reserve Fund, then in calculating Annual Debt Service as to the Annual Period in which the final maturity or maturities of such Bonds will occur, such balance shall be subtracted from such stated maturity amount(s).

The following shall be used to calculate the Annual Debt Service for any Annual Period:

(a) Except as otherwise provided below, in determining the principal amount paid or payable with respect to Bonds or Credit Facility Payment Obligations in each Annual Period, payment shall be deemed to be made in accordance with any amortization schedule established for such Obligations to which the Authority is legally committed, including amounts paid or payable pursuant to any mandatory redemption schedule for such Bonds or Credit Facility Payment Obligations;

(b) If any of the Bonds constitute Balloon Indebtedness Bonds or Short-Term/Demand Obligations, then such amounts shall be treated as if such Bonds or Short-Term/Demand Obligations, are refunded through the issuance of Long Term Obligations on the date of the earliest permitted exercise of the put feature, stepped up interest rate and call feature or similar obligation or right to refund a series of Balloon Indebtedness Bonds, or if no such feature exists, then on the final maturity date of such Balloon Indebtedness Bonds or Short-Term/Demand Obligations. Such Long-Term Obligations shall be assumed to bear interest at a fixed interest rate estimated by the Authority's Financial Advisor or underwriter to be the estimated rate of interest for a series of such Long-Term Obligations issued to accomplish such refunding if issued on such terms on the date of such estimate;

(c) Notwithstanding subsections (b) or (f) of this definition of "Annual Debt Service," to the extent required by a Supplemental Indenture, if any of the Bonds are authorized to be issued under a direct purchase note program, such amounts shall be treated as if all of the Obligations committed to be purchased under a note purchase agreement are outstanding as of the date of calculation and continuously refinanced under such note purchase agreement until the termination date of the commitment to purchase notes under a note purchase agreement, at which time it shall be assumed that the commitment shall be amortized in the manner set forth in subsection (b), above.

(d) Notwithstanding subsections (b) or (f) of this definition of “Annual Debt Service,” to the extent required by a Supplemental Indenture, if any of the Bonds are authorized to be issued pursuant to a commercial paper program, Annual Debt Service shall be computed on the assumption that the principal amount shall continuously be refinanced under such program and remain outstanding until the first Annual Period for which interest on such Bonds has not been capitalized or otherwise provided for in such commercial paper program, at which time (which shall not be beyond the term of such program) it shall be assumed that the outstanding principal amount shall be amortized in the manner provided in subsection (b), above.

(e) As to any Annual Period prior to the date of any calculation, such requirements shall be calculated solely on the basis of Bonds that were Outstanding in such period, and as to any future Annual Period 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;

(f) If any of the Bonds or proposed Bonds constitute Variable Rate Bonds, then, if the actual rate of interest borne thereby in any future Annual Period cannot be ascertained at the time of the calculation and subject to subsection (b) of this definition and the following proviso, interest in future Annual Periods shall be assumed to be the Assumed Variable Rate; provided, however, if the Authority has entered into a Hedge Facility with respect to a Series of Bonds constituting Variable Rate Bonds that provides for the Authority to pay a fixed interest rate thereunder and to receive a variable rate that is expected to approximate the rate of such Variable Rate Bonds during any future period, the fixed interest rate payable by the Authority under the Hedge Facility during such future period shall be assumed to be the interest rate on such Variable Rate Bonds if the notional amount under the Hedge Facility is equal to or greater than the Outstanding principal amount of the Variable Rate Obligations and reduces in the amounts and on the dates that such Bonds mature, but if such conditions are not met (for example, if the notional amount under the Hedge Facility is less than the Outstanding principal amount of the Variable Rate Obligations), then for the unhedged portion the fixed interest rate payable by the Authority on the Variable Rate Bonds during such future period shall be assumed to be the Assumed Variable Rate; and

(g) Collateral postings and termination or similar payments under a Hedge Facility shall not be taken into account in any calculation of Annual Debt Service.

(h) With respect to Outstanding Capital Appreciation Bonds, (i) in determining the amount of principal to be funded in each year payments shall (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization), be assumed to be made on such Outstanding Bonds in accordance with any amortization schedule or amortization calculations established by the governing documents setting forth the terms of such Bonds, including, as a principal payment, the Accreted Value of any Capital Appreciation Bonds maturing or scheduled for redemption in such year; and (ii) in determining the amount of interest to be funded in each year (except to the extent any other subsection of this definition applies) interest payable at a fixed rate shall be assumed to be made at such fixed rate and on the required funding dates.

(i) Notwithstanding any other provision of this definition of “Annual Debt Service,” with respect to any Balloon Indebtedness Bonds, any Variable Rate Bonds, any Short-

Term/Demand Obligations, any commercial paper program obligations, any Optional Tender Bonds, and any direct purchase bonds, if there is delivered to the Trustee a certificate of an Authority Authorized Officer stating (A) that the Authority intends to refinance such Bonds or obligations or any maturity thereof, (B) the probable terms of such refinancing and (C) that the debt capacity of the Authority is sufficient to successfully complete such refinancing then, upon the receipt of such certificate, such Balloon Indebtedness Bonds, Variable Rate Bonds, Short-Term/Demand Obligations, commercial paper program obligations, Optional Tender Bonds, and any direct purchase bonds, as the case may be, shall be assumed to be refinanced in accordance with the probable terms set out in such certificate and such terms shall be used for purposes of calculating Annual Debt Service; provided, that such assumption shall not result in an interest rate lower than the Assumed Variable Rate and shall be amortized over a term of not more than thirty (30) years from the expected date of refinancing.

“Annual Period” means a Fiscal Year or any other consecutive twelve-month period, where it shall mean either the most recent Fiscal Year or any other twelve consecutive calendar month period that ends not more than 90 days prior to the date of the then-proposed indebtedness or the date of a calculation contemplated by this Indenture or any Supplemental Indenture.

“Arbitrage Rebate Fund” means the Arbitrage Rebate Fund created pursuant to Section 401.

“Assumed Variable Rate” means the rate defined in a Supplemental Indenture authorizing the Series of Bonds in question based on a reasonable estimate of such rate, or if no such rate is defined, then “Assumed Variable Rate” shall mean:

(a) in the case of Outstanding Variable Rate Bonds, the average interest rate on such Variable Rate Bonds for the most recently completed Annual Period or if such Bonds have not been outstanding for a complete 12-month period, then an interest rate estimated by the Authority’s Financial Advisor or underwriter to be the fixed rate of interest at which the Variable Rate Bonds could be refinanced and amortized over a period that corresponds with the useful life of the improvements financed with the proceeds of such Variable Rate Bonds, but not longer than thirty (30) years; or

(b) in the case of proposed Variable Rate Bonds, the interest rate estimated by the Authority’s Financial Advisor or underwriter to be the fixed rate of interest at which the Variable Rate Bonds could be financed and amortized over a period that corresponds with the useful life of the improvements financed with the proceeds of such Variable Rate Bonds, but not longer than thirty (30) years.

Notwithstanding the foregoing, in no event shall the Assumed Variable Rate be in excess of the lesser of the maximum legal rate or the highest interest rate allowed by the documents pursuant to which such Variable Rate Bonds were issued.

“Authenticating Agent” means, with respect to each Series of Bonds, the entity or entities designated as such for such Series of Bonds in the applicable Supplemental Indenture.

“Authority Authorized Officer” means the Chairman, Vice Chairman, and General Manager of the Authority and, in the case of any act to be performed or duty to be discharged,

any other member, officer, or employee of the Authority then authorized under then-current resolutions of the Authority to perform such act or discharge such duty, or such other person(s) as may be designated to act on behalf of the Authority by written certificate furnished to the Trustee containing the specimen signature(s) of such designated person(s) and signed on behalf of the Authority by the Chairman, Vice Chairman, or General Manager.

“Authorized Depositary” means any trust company or bank, or national banking association, which is eligible under the laws of the State to receive deposits of public funds, selected by the Authority as a depositary of moneys or securities, or both, qualified to do and do banking or trust business within or without the State and having an officially reported combined capital, surplus, undivided profits and reserves aggregating at least \$50,000,000, if there is such an institution willing, qualified and able to accept deposits of moneys or securities, or both, upon reasonable or customary terms, and may, but need not, be the Trustee or any paying agent designated as such in any Supplemental Indenture.

“Balloon Indebtedness Bonds” means Bonds with 25% or more of the principal of which matures in a single Annual Period on the same date, which portion of the principal is not required by the documents governing the issuance of such Bonds to be amortized by payment or redemption prior to such date. If any issue of Bonds consists partially of Variable Rate Bonds and partially of Bonds bearing interest at a fixed rate, the portion constituting Variable Rate Bonds and the portion bearing interest at a fixed rate shall be treated as separate issues for purposes of determining whether any such Bonds constitute Balloon Indebtedness Bonds. For the avoidance of doubt, commercial paper, bond anticipation notes, Optional Tender Bonds, direct purchase notes, or other Short-Term/Demand Obligations that meet the preceding definition shall constitute and be treated as Balloon Indebtedness Bonds.

“Beneficial Owners” means, so long as the Bonds are registered in the name of the Securities Depository, the persons for whom the Participants acquire and hold interests in the Bonds as nominees and register such interests with the Securities Depository. At any time when there is no Securities Depository holding the Bonds, the Beneficial Owners shall be the registered owners.

“Board” means the governing board consisting of the members of the Authority.

“Bond” or **“Bonds”** means any of the Bonds to be authenticated and delivered pursuant to this Indenture or any Supplemental Indenture.

“Bond Authorizing Resolution” means a resolution adopted by the Authority authorizing the issuance of one or more Series of Bonds under this Indenture, authorizing the execution and delivery on behalf of the Authority of the related Supplemental Indenture or Supplemental Indentures and other related agreements and approving, or duly delegating the authority to approve on behalf of the Authority, the terms and details of such Series of Bonds. The term includes any resolution or other formal action taken on behalf of the Authority by any person, committee or other entity acting pursuant to a delegation from the Authority.

“Bond Counsel” means an attorney or firm or firms of attorneys of national recognition experienced in the field of municipal bonds whose opinions are generally accepted by purchasers

of municipal bonds selected or employed by the Authority and reasonably acceptable to the Trustee.

“Bond Fund” means any Senior Lien Bond Fund and any bond fund established pursuant to any Supplemental Indenture.

“Bond Payment Date” means, with respect to each Series of Bonds, each date set forth in the applicable Supplemental Indenture with respect to such Series of Bonds on which interest is payable.

“Bond Purchase Contract” means the contract of purchase, with respect to a Series of Bonds, between the Authority and the Original Purchaser pertaining to the sale of such Series of Bonds.

“Bondholder” or **“Holder”** means the registered owner of any Senior Lien Bond or Subordinate Lien Bond.

“Business Day” means any day of the week other than Saturday, Sunday or a day which shall be, in the State of West Virginia, the State of New York or in the jurisdiction in which the Designated Office of the Trustee or the Registrar is located, a legal holiday or a day on which banking corporations are authorized or obligated by law or executive order to close.

“Capital Appreciation Bonds” means Bonds with all or a portion of the interest on which is compounded and accumulated at the Accreted Value and on the dates set forth in a Supplemental Indenture and is payable only upon redemption of such Bonds, the conversion date of such Bonds (if such Bonds are convertible), or on the maturity date of such Bonds.

“Capital Costs” means costs that are capitalized under the Authority’s internal policies and procedures governing capital expenditures and are incurred for or in connection with the (a) acquisition or construction of assets of the Authority having an anticipated useful life of greater than one year, or (b) improvements that extend the anticipated useful life of assets by more than one year.

“Chair” means the Chair, or the Chair’s designee, of the Board of the Authority.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable Treasury Regulations, rulings and procedures promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

“Consulting Engineers” means an independent engineer or engineering firm or corporation having a nationwide and favorable reputation for skill and experience in performing and carrying out the duties imposed on the Consulting Engineers by this Indenture and selected by the Authority for the purpose of performing and carrying out such duties.

“Credit Facility” or **“Credit Facilities”** means, with respect to a Series of Bonds, the letter of credit, line of credit, standby bond purchase agreement or other similar form of credit enhancement and/or liquidity support, if any, and may, without limitation, include direct purchase obligations, for such Series of Bonds, provided for in the applicable Supplemental

Indenture, including (i) any alternate Credit Facility with respect to such Series of Bonds delivered in accordance with provisions of the Supplemental Indenture providing for the issuance of such Series of Bonds and (ii) any related reimbursement agreement entered into with a Credit Provider, unless provided otherwise in the applicable Supplemental Indenture.

“Credit Facility Payment Obligations” means for any Annual Period the amounts of any payments the Authority is required to make to Credit Providers pursuant to Reimbursement Agreements with Credit Providers to reimburse such Credit Providers for debt service payments made, and to pay credit enhancement or liquidity support fees, in each case to the extent secured by this Indenture as specifically provided by a Supplemental Indenture, scheduled to come due within such Annual Period.

“Credit Provider” means, with respect to a Series of Bonds, the provider of a Credit Facility, including letter of credit, line of credit, standby bond purchase agreement or other form of credit enhancement and/or liquidity support, if any, for such Series of Bonds specified in the applicable Supplemental Indenture or Reimbursement Agreement.

“Debt Service Reserve Fund” means the Debt Service Reserve Fund for a given Series or lien level of Bonds, and therefore means, for Senior Lien Bonds, the Senior Lien Debt Service Reserve Fund created pursuant to Section 401, and means, for Subordinate Lien Bonds, such Debt Service Reserve Fund as may be created with respect to Bonds issued pursuant to a Supplemental Indenture.

“Debt Service Reserve Requirement” means the amount, if any, required to be on deposit in a Series or composite Account in the Senior Lien Debt Service Reserve Fund, Subordinate Lien Debt Service Reserve Fund, or any other Debt Service Reserve Fund, as applicable, which amount may be provided by means of a DSRF Credit Facility, all as specified in the Supplemental Indenture governing the issuance of and securing the related Series of Bonds.

“DSRF Credit Facility” means a letter of credit, surety bond or similar credit enhancement facility acquired by the Authority from, or reimbursement agreement entered into by the Authority with, a financial institution (including, without limitation, any bank, trust company, insurance company, or broker-dealer) with a long-term credit rating at the time of issuance of such facility in the third highest rating category or higher by any Rating Agency, to substitute for cash or investments required to be held in a Debt Service Reserve Fund for any Series of Bonds pursuant to the Supplemental Indenture relating to and governing the issuance of such Series of Bonds.

“DSRF Credit Provider” means the financial institution providing, and qualified under the definition of, a DSRF Credit Facility.

“DTC” means The Depository Trust Company, New York, New York.

“Event of Default” means any one or more of those events set forth in Section 601.

“Financial Advisor” means a firm experienced in, and having a favorable national reputation for, providing financial advisory services to issuers of tax-exempt municipal bonds,

that has been engaged by the Authority to provide independent financial advisory services to the Authority and serve as an independent advisor.

“Fiscal Year” means the fiscal year of the Authority ending as of June 30 of each year or such other date as may be designated from time to time in writing by the Authority to the Trustee.

“Fitch” means Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and if such corporation shall no longer perform the functions of a municipal securities rating agency, “Fitch” means any other nationally recognized municipal securities rating agency designated by the Authority.

“Fund” means any fund created hereunder or under a Supplemental Indenture.

“Funding Date” means the last Business Day immediately preceding any Interest Payment Date or Principal Payment Date.

“General Manager” means the General Manager of the Authority.

“Government Obligations” means direct, general obligations of, or obligations the timely payment of principal and interest on which are unconditionally guaranteed by, the United States of America.

“Hedge Facility” means any rate swap transaction, basis swap transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, forward payment conversion agreement, or similar transaction, which is intended to convert or limit the interest rate payable with respect to any Bonds, and which (a) is designated in writing to the Trustee by an Authority Authorized Officer as a Hedge Facility to relate to all or part of one or more Series of Bonds; (b) is with a Qualified Hedge Provider or an entity that has been a Qualified Hedge Provider, in either instance identified in writing to the Trustee, within the 60 day period preceding the date on which the calculation of Annual Debt Service or Maximum Annual Debt Service is being made; and (c) has a term not greater than the term of the designated Bonds or a specified date for mandatory tender or redemption of such designated Bonds.

“Hedge Termination Payment” means an amount payable by the Authority or a Qualified Hedge Provider, in accordance with a Hedge Facility, to compensate the other party to the Hedge Facility for any losses and costs that such other party may incur as a result of an event of default or the early termination of the obligations, in whole or in part, of the parties under such Hedge Facility.

“Indenture” means this Master Trust Indenture, and when amended or supplemented, such Indenture, as amended or supplemented from time to time.

“Interest Account” means any interest account for a Series of Bonds created in the Senior Lien Bond Fund pursuant to Section 401 or other Series of Bonds created pursuant to any Supplemental Indenture.

“Long-Term Obligations” means Bonds or other indebtedness that is amortized over a 30-year period, or such other period for level annual payments of principal and interest or such other period and payment structure as set forth in a Supplemental Indenture, not to exceed in any case the maximum period permitted by law.

“Maximum Annual Debt Service” means (a) when used with reference to a Series of Bonds, the maximum Annual Debt Service with respect to the specified Series of Bonds for any Annual Period during the term of such indebtedness, and (b) when used with reference to all Outstanding Bonds, or all Outstanding Bonds of a particular lien position, the maximum Annual Debt Service with respect to all the applicable Outstanding Bonds.

“Memorandum of Understanding” means a Memorandum of Understanding referenced, and further defined, in a Supplemental Indenture authorizing a Series of Bonds, that is entered into by and between the Authority, the Trustee, the Treasurer of the State of West Virginia, and WVDOH, establishing procedures for the Authority’s use of (and the ultimate expenditure by WVDOH of) proceeds of such Series of Bonds that are proceeds designated by the Authority (with input of WVDOH) to be deposited into that certain special revenue account in the State Treasury (which special revenue account is not part of the State’s General Revenue Fund) known as the “State Road Construction Account” created pursuant to Section 17-16A-11 of the Act and held in the State Treasury to be expended ultimately by WVDOH for the construction, maintenance and repair of Off-Turnpike WVDOH Projects as provided in the Act.

“Moody’s” means Moody’s Investors Service, Inc., a corporation existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall no longer perform the functions of a municipal securities rating agency, “Moody’s” shall mean any other nationally recognized municipal securities rating agency designated by the Authority.

“Net Toll Road Revenues” means Toll Road Revenues less Operation and Maintenance Expenses.

“Operation and Maintenance Account” means the Operation and Maintenance Account created, within the Operation and Maintenance Fund, under Section 401(a) to be used and administered as provided in Section 405 and to be funded as further provided in Article IV including without limitation Section 414.

“Operation and Maintenance Expenses” means expenses for operation, maintenance, repairs, ordinary acquisition of equipment, and any other current expenses or obligations required to be paid by the Authority under or pursuant to the provisions of this Indenture, any Supplemental Indenture, or by law, all to the extent properly and directly attributable to the operation of the Turnpike, but not any costs or expenses for new construction or any allowance for depreciation. Operation and Maintenance Expenses may include, without limitation (but subject to the preceding sentence, including but not limited to the condition that such expenses are properly and directly attributable to the operation of the Turnpike): (a) salaries, supplies, equipment, utilities, labor, travel and rent; (b) fees and expenses for data processing, policing, insurance, legal, accounting, engineering, consulting and banking services; and (c) payments to pension, retirement, health and hospitalization funds for Authority employees. Without limitation of the foregoing, Operation and Maintenance Expenses shall include costs of toll

collection and enforcement, including without limitation the costs of purchasing transponders for use in the toll collection system for the Turnpike and the costs of issuing transponders to customers of the Turnpike.

“Operation and Maintenance Fund” means the Operation and Maintenance Fund created under Section 401(a) to be used and administered as provided in Section 405 and to be funded as provided in Article IV including without limitation Section 414.

“Operation and Maintenance Reserve Account” means the Operation and Maintenance Reserve Account created, within the Operation and Maintenance Fund, under Section 401(a) to be used and administered as provided in Section 405 and to be funded as provided in Article IV including without limitation Section 414.

“Operation and Maintenance Reserve Account Requirement” means one-sixth (1/6th) of the Operation and Maintenance Expenses for the Turnpike set forth in the Authority’s current Fiscal Year budget.

“Opinion of Bond Counsel” means a written opinion of Bond Counsel.

“Opinion of Counsel” means a written opinion of an attorney or firm or firms of attorneys acceptable to the Trustee and the Authority, and who (except as otherwise expressly provided herein) may be either counsel for the Authority or for the Trustee.

“Optional Tender Bonds” means any Bond required to be purchased or redeemed at the option of its owner if the purchase or redemption price thereof is payable from the Toll Road Revenues or by a Credit Facility Provider or by a liquidity facility provider.

“Original Issue Discount Bonds” means Bonds which are sold at an initial public offering price of less than face value and which are specifically designated as Original Issue Discount Bonds by the Supplemental Indenture under which such Bonds are issued.

“Original Purchaser” means the person or entity designated in each Bond Purchase Contract as the initial purchaser or purchasers of a Series of Bonds or, if so designated in such Bond Purchase Contract, the representatives or lead or managing underwriters of such initial purchasers.

“Outstanding” when used with reference to a Series of Bonds means, as of any date of determination, all Bonds of such Series theretofore authenticated and delivered except: (a) Bonds of such Series theretofore cancelled by the Trustee or delivered to the Trustee for cancellation; (b) Bonds of such Series which are deemed paid and no longer Outstanding as provided in this Indenture; (c) Bonds of such Series in lieu of which other Bonds of such Series have been issued pursuant to the provisions of this Indenture relating to Bonds destroyed, stolen or lost, unless evidence satisfactory to the Trustee has been received that any such Bond is held by a bona fide purchaser; (d) after any tender date as may be provided for in the applicable Supplemental Indenture, any Bond of such Series held by a Bondholder who has given a tender notice or was required to tender such Bond in accordance with the provisions of the applicable Supplemental Indenture and which was not so tendered and for which sufficient funds for the payment of the purchase price of which have been deposited with the Trustee or the Paying Agent, if any, or any

tender agent appointed under such Supplemental Indenture; and (e) for purposes of any consent or other action to be taken under this Indenture by the Holders of a specified percentage of principal amount of Bonds of a Series or all Series, Bonds held by or for the account of the Authority.

“Parkway Projects” has the meaning provided in the Act.

“Parkway Projects Fund” means the Parkway Project Fund created pursuant to Section 401.

“Participant” or **“Participants”** means the participating underwriters, securities brokers or dealers, banks, trust companies, closing corporations or other persons for which the Securities Depository holds the Bonds.

“Paying Agent” means, with respect to each Series of Bonds, the banks or trust companies, if any, and their successors designated in the applicable Supplemental Indenture as the paying agent for such Series of Bonds.

“Paying Agent Agreement” means the agreement entered into by and between the Trustee and the Paying Agent pursuant to Section 713.

“Payment of a Series of Bonds” means payment in full of all principal of, purchase price of, if applicable, premium, if any, and interest on a Series of Bonds.

“Permitted Investments” means and includes any of the following, if and to the extent, the same are at the time legal for the investment of the Authority’s money:

(a) Government Obligations, including (in the case of direct, general obligations) evidences of ownership of proportionate interests in future interest or principal payments of such obligations. Investments in such proportionate interests must be limited to circumstances wherein (i) a bank or trust company acts as custodian and holds the underlying Government Obligations; (ii) the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor of the underlying Government Obligations; and (iii) the underlying Government Obligations are held in a special subaccount, segregated from the custodian’s general assets, and are not available to satisfy any claim of the custodian, any person claiming through the custodian, or any person to whom the custodian may be obligated;

(b) Agency Obligations;

(c) Bonds, notes and other evidences of indebtedness of the State of West Virginia and securities unconditionally guaranteed as to the timely payment of principal and interest by the State of West Virginia;

(d) Bonds, notes and other evidences of indebtedness that are direct general obligations of any county, city, town, district, authority or other public body of the State of West Virginia upon which there is no default, and revenue bonds issued by agencies or authorities of

the State of West Virginia or its political subdivisions upon which there is no default, which in either case are rated “Aaa” by Moody’s, “AAA” by Standard & Poor’s or “AAA” by Fitch;

(e) Time deposits, certificates of deposit or other interest-bearing accounts of any commercial bank within the State of West Virginia that is approved for the deposit of funds of the State of West Virginia or any political subdivision thereof, provided that such investments are fully insured by the Federal Deposit Insurance Corporation or any successor Federal agency;

(f) Savings accounts and certificates of savings and loan associations which are under the supervision of the State of West Virginia and are approved for the deposit of funds of the State of West Virginia or any political subdivision thereof, or Federal associations organized under the laws of the United States of America which are under Federal supervision that are approved for deposit of funds of the State of West Virginia or any political subdivision thereof, provided that such investments are fully insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation or any successor Federal agency;

(g) Investments in the West Virginia Board of Treasury Investments investment pool, provided that such fund is rated, at the time of purchase in the highest two rating categories by S&P, Moody’s or Fitch ratings;

(h) Investments in a money market fund rated “Aaa” by Moody’s or “AAAm” or “AAAm-G” or better by S&P, including those for which the Trustee or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise; and

(i) Any other investment authorized for investment of public sinking funds under the laws of the State.

Any investments described in subsections (a) and (b) of this definition may be held directly or in the form of securities of any open-end or closed-end management company or investment trust registered under the Investment Company Act of 1940, as amended, provided that the portfolio of such investment company or investment trust is limited to evidences of such types of investments.

“**Person**” or “**person**” means and includes an association, an unincorporated organization, a corporation, a partnership, a joint venture, a business trust, a government or an agency or a political subdivision thereof, or any other public or private entity, or a natural person.

“**Principal Account**” means any principal account for a Series of Bonds created in the Senior Lien Bond Fund pursuant to Section 401 or other Series of Bonds created pursuant to any Supplemental Indenture.

“**Projected Toll Rate Schedule**” means the projection of future Tolls used by the Traffic and Revenue Consultant to develop an estimate of Toll Road Revenues, which Tolls have been presented to the Board for review and approval.

“Purchase Fund” means, with respect to a Series of Bonds, the Fund of that name as may be created in the related Supplemental Indenture as provided in Section 418.

“Qualified Hedge Provider” means an entity whose senior long-term debt obligations, or whose obligations under any Hedge Facility are (a) guaranteed by a financial institution, or subsidiary of a financial institution, whose senior long-term debt obligations, at the time the Hedge Facility is first placed into effect, are rated at least in the third highest rating category or higher by any Rating Agency, or (b) fully secured by obligations described in items (a) or (b) of the definition of Permitted Investments which are (i) valued not less frequently than monthly and have a fair market value, exclusive of accrued interest, at all times at least equal to 105% (or such lower percentage as shall be acceptable to the Rating Agencies) of the “notional amount” as defined in the Hedge Facility, together with the interest accrued and unpaid thereon, (ii) held by the Trustee (who shall not be the provider of the collateral) or by any Federal Reserve Bank or a depository acceptable to the Trustee, (iii) subject to a perfected first lien on behalf of the Trustee, and (iv) free and clear from all third-party liens.

“Toll Rate Covenant” means the covenant of the Authority to set and adjust Tolls to satisfy the requirements set forth in Section 512(a).

“Rating Agency” or **“Rating Agencies”** means, with respect to a Series of Bonds, Fitch, Moody’s or Standard & Poor’s (or, if such entities are no long in existence, by comparable services) or any other nationally-recognized credit rating agencies specified in the related Supplemental Indenture; provided, that any such rating agency shall, at the time in question, be maintaining a rating on such Series of Bonds at the request of the Authority.

“Rebate Requirement” has the meaning assigned to it in the Tax Certificate.

“Record Date” means fifteen days prior to each Bond Payment Date, or, if a different record date is provided in a Supplemental Indenture with respect to a particular Series of Bonds, then the record date for such particular Series of Bonds shall be the record date set forth in such Supplemental Indenture.

“Redemption Account” means any redemption account for a Series of Bonds created in the Senior Lien Bond Fund pursuant to Section 401 or other Series of Bonds created pursuant to any Supplemental Indenture.

“Register” means, with respect to each Series of Bonds, the registration books of the Authority kept to evidence the registration and registration of transfer of such Series of Bonds.

“Registrar” means the entity set forth with respect to a Series of Bonds in the applicable Supplemental Indenture, serving as keeper of the Register for such Series of Bonds.

“Regularly Scheduled Hedge Receipts” means for any Annual Period the aggregate regularly scheduled amounts payable to the Authority in such Annual Period under the terms of a Hedge Facility, which are due absent any termination, default or dispute in connection with such Hedge Facility (excluding collateral postings, Hedge Termination Payments, and similar payments).

“Regularly Scheduled Hedge Payments” means, for any Annual Period, the aggregate regularly scheduled payments due or paid by the Authority under the terms of a Hedge Facility which are due absent any termination, default or dispute in connection with such Hedge Facility (excluding collateral postings, Hedge Termination Payments, and similar payments).

“Reimbursement Agreement” means, with respect to a Series of Bonds, any agreement or agreements in each case between a Credit Provider or Credit Providers and the Authority under or pursuant to which a Credit Facility for such Series of Bonds is issued, and any agreement that replaces such original agreement that sets forth the obligations of the Authority to such Credit Provider or Credit Providers and the obligations of such Credit Provider or Credit Providers to the Authority.

“Remarketing Agent” means, with respect to a Series of Bonds, the placement or remarketing agent or agents, if any, at the time serving as such under the Remarketing Agreement and designated in a Supplemental Indenture as the Remarketing Agent with respect to such Series of Bonds for purposes of this Indenture.

“Remarketing Agreement” means the remarketing agreement, if any, with respect to a Series of Bonds, between the Authority and the Remarketing Agent as from time to time amended and supplemented, or if such remarketing agreement shall be terminated, then such other agreement which may from time to time be entered into with any Remarketing Agent with respect to the remarketing or placement of such Series of Bonds.

“Renewal and Replacement Costs” means all costs and expenses that, in the judgment of the Consulting Engineers, are necessary or appropriate to be expended by the Authority in an Annual Period that are not incurred on any annual or seasonal basis and are necessary in keeping the Turnpike open to public travel or use, but shall not include any cost which, in the judgment of the Consulting Engineers is to be treated as Operation and Maintenance Expenses in the current Annual Period and, in reliance on such judgment, have been included in the Authority’s Annual Budget for such Annual Period. The judgment of the Consulting Engineers as to the costs and expenses that are to be included in (a) “Renewal and Replacement Costs” and (b) “Operation and Maintenance Expenses”, respectively, shall be memorialized in a certificate to be provided by the Consulting Engineers to the Authority as part of the annual budget-making process as required by Section 508.

“Renewal and Replacement Reserve Fund” means the Renewal and Replacement Reserve Fund created pursuant to Section 401.

“Renewal and Replacement Reserve Fund Requirement” means the amount recommended by the Consulting Engineers as the Renewal and Replacement Costs for a Fiscal Year, which shall be included in the Annual Budget and shall be memorialized in a certificate to be provided by the Consulting Engineers to the Authority during the annual budget-making process, which certificate is to be included in the Annual Budget, as required by Section 508.

“Responsible Officer” means an officer of the Trustee assigned to the Trustee’s corporate trust department, including, without limitation, any Vice-President, any Assistant Vice-President, any Trust Officer, or any other officer performing functions similar to those performed

by the persons who at the time shall be such officers and also means any other officer of the Trustee to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

“Revenue Fund” means the Revenue Fund created pursuant to Section 401.

“Secretary” means the Secretary of the Board of the Authority.

“Securities Depository” means DTC or its successor, if any, appointed pursuant to Section 217.

“Senior Lien Bonds” means the Authority’s revenue bonds or other indebtedness or obligations secured by the Senior Lien Bond Fund. The term “Senior Lien Bonds” may include bonds, notes, bond anticipation notes, commercial paper, Optional Tender Bonds, and other Short-Term/Demand Obligations, Regularly Scheduled Hedge Payments and other securities, contracts or obligations incurred through lease, installment purchase or other agreements or certificates of participation therein, in each case to the extent secured by the Senior Lien Bond Fund pursuant to a Supplemental Indenture.

“Senior Lien Bond Fund” means the Senior Lien Bond Fund created pursuant to Section 401.

“Senior Lien Debt Service Reserve Fund” means the Senior Lien Debt Service Reserve Fund created pursuant to Section 401.

“Series” or **“Series of Bonds”** or **“Bonds of a Series”** means a series of Bonds issued pursuant to this Indenture and the terms of a Supplemental Indenture.

“Short-Term/Demand Obligations” means each Series of Bonds issued pursuant to this Indenture, the payment of principal of which is either (a) payable on demand by or at the option of the Holder at a time sooner than a date on which such principal is deemed to be payable for purposes of computing Annual Debt Service, or (b) scheduled to be payable within one year from the date of issuance and is contemplated to be refinanced for a specified period or term either (i) through the issuance of additional Short-Term/Demand Obligations, or (ii) through the issuance of Long-Term Obligations.

“Special Project” or **“Special Projects”** means any property, improvement or project owned and/or operated by the Authority (or by the Authority’s lessees, contractual operators, and/or concessionaires), or to be acquired, constructed, owned and/or operated, by the Authority (or by the Authority’s lessees, contractual operators, and/or concessionaires) (A) under legal authority provided in the Act and (B) for any new Special Project created on or after the date of this Indenture, as to which the Authority, by adoption of a resolution, as to which the Authority has determined that such property, improvement or project is not part of the Turnpike for travel by motor vehicles, including air rights, if any. Existing Special Projects include, without limitation, (i) the service plazas adjacent to the Turnpike, and the operations selling fuel, food and other products and services at those service plazas, (ii) the facility known as Tamarack located in Beckley, Raleigh County, West Virginia, located at Exit 45 of the Turnpike, including

without limitation the Caperton Center at such facility, and (iii) the Tourist Information Center located in Princeton, West Virginia near Exit 9 on Interstate 77 in Mercer County, West Virginia.

“Special Project Bonds” means bonds, notes, loans or other obligations or arrangements that are not issued pursuant to this Indenture, but are issued or entered into in connection with Special Projects. Special Project Bonds are not Bonds.

“Standard & Poor’s” or **“S&P”** means Standard & Poor’s Corporation, a corporation organized and existing under the laws of the State of New York, and its successors and assigns and, if such corporation shall no longer perform the functions of a municipal securities rating agency, Standard & Poor’s shall mean any other nationally recognized municipal securities rating agency designated by the Authority.

“State” means the State of West Virginia.

“State Road Construction Account” means that certain special revenue account in the State Treasury (which special revenue account is not part of the State’s General Revenue Fund) created pursuant to Section 17-16A-11 of the Act and held in the State Treasury to be expended ultimately by WVDOH for the construction, maintenance and repair of Off-Turnpike WVDOH Projects as provided in the Act and in the Memorandum of Understanding.

“Subordinate Lien Bond Fund” means the Subordinate Lien Bond Fund created pursuant to Section 401.

“Subordinate Lien Bonds” means the Authority’s revenue bonds or other indebtedness or obligations with a priority below Senior, including, without limitation refunding bonds or obligations, which are secured by the Subordinate Lien Bond Fund. The term “Subordinate Lien Bonds” shall include bonds, notes, bond anticipation notes, commercial paper and other Short-Term/Demand Obligations, Regularly Scheduled Hedge Payments and other securities, contracts or obligations incurred through lease, installment purchase or other agreements or certificates of participation therein, in each case to the extent secured by the Subordinate Lien Bond Fund pursuant to a Supplemental Indenture.

“Subordinate Lien Debt Service Reserve Fund” means the Subordinate Lien Debt Service Reserve Fund created pursuant to Section 401.

“Supplemental Indenture” means an indenture supplemental to or amendatory of this Indenture entered into by the Authority and the Trustee in accordance with Article VIII.

“Tax Certificate” means a Tax Certificate concerning certain matters pertaining to the use of proceeds of the Bonds and other tax matters as may be required by Bond Counsel, executed and delivered by the Authority, including any and all exhibits attached thereto.

“Tax-Exempt Bonds” means any Bond, the interest on which is excludable from gross income of the holder for purposes of federal income tax.

“Toll Rate Schedule” means the schedule of Tolls approved by the Authority as part of the regulatory process established for setting Tolls.

“Toll Road Consultant” means a firm or firms of national recognition with expertise and experience regarding the operation, management and financing of, and the collection of revenues from, toll roads, selected and employed by the Authority from time to time.

“Toll Road Revenues” means the sum of (a) Tolls, (b) any interest income on, and any profit realized from, the investment of moneys in any Fund or Account, excluding, however, any interest income on, and any profit realized from, the investment of moneys in the Arbitrage Rebate Fund, (c) all proceeds of insurance payable to or received by the Authority with respect to the Turnpike (whether by way of claims, return of premiums, ex gratia settlements or otherwise), including proceeds from business interruption insurance and loss of advance profits insurance, except for proceeds of fire and other casualty insurance, (d) the proceeds of any condemnation awards with respect to the Turnpike and (e) all other amounts derived from or with respect to the operation of the Turnpike, plus (f) any additional revenues added to the Turnpike as provided in Section 216, *but excluding, however*, any concession revenues, and other revenues derived from the operation or use of service plazas and tourist and information centers, including without limitation Tamarack, the proceeds of any sale of land, buildings or equipment; and any other amounts which are not deemed to be revenues in accordance with generally accepted accounting principles or which are restricted as to their use. Unless otherwise provided in a Supplemental Indenture, there also shall be excluded from the term “Toll Road Revenues” any Hedge Termination Payments received by the Authority. To the extent that the Authority shall adopt a resolution and enter into a Supplemental Indenture that identify a new source of revenues and pledge such new source of revenues for the repayment of, and as security for, Senior Lien Bonds issued under and secured by this Indenture, then such revenues shall also be included in “Toll Road Revenues”.

“Tolls” means all tolls, fares, incomes, receipts, and charges and all returns or moneys of an income nature derived by or for the benefit of the Authority from motor vehicle travelers of any part of the Turnpike, including without limitation any moneys received in consideration of issuing EZ-Pass® transponders to travelers who establish an EZ-Pass® account with the Authority, *but excluding, however*, any concession revenues, and other revenues derived from the operation or use of service plazas and tourist and information centers, including without limitation Tamarack.

“Traffic and Revenue Consultant” means an independent firm or corporation having a nationwide and favorable reputation for skill and experience in performing and carrying out the duties imposed on the Traffic and Revenue Consultant by this Indenture and selected by the Authority for the purpose of performing and carrying out such duties.

“Treasurer” means the Treasurer of the Board of the Authority.

“Tripartite Agreement” means the Agreement, dated December 13, 1988, between the Authority, as successor to the West Virginia Turnpike Commission, WVDOT, as successor to WVDOH, and the Federal Highway Administration, as amended by the Amended and Restated Agreement, dated June 1, 2018, and as the same may be further amended from time to time, but only if the Authority has provided written notification of such further amendment to the Trustee and to any Rating Agency then rating the Bonds prior to the effective date therefor pursuant to its terms.

“**Trustee**” means United Bank, a Virginia banking corporation, and any successor to its duties under this Indenture.

“**Turnpike**” means the West Virginia Turnpike as currently administered by the Authority from Charleston, West Virginia to the intersection of Interstate 77 and U.S. Route 460 near Princeton, West Virginia and any extensions, additions, removals, or enhancements thereto permitted pursuant to the Act and the Tripartite Agreement, and may include any Parkway Project, but shall exclude Special Projects except to the extent that the Authority has made such Special Projects part of the West Virginia Turnpike as provided in Section 216.

“**Turnpike Capital Improvement Fund**” means the Turnpike Capital Improvement Fund created pursuant to Section 401.

“**Variable Rate Bond**” means any Bond the interest rate on which is not established at a single numerical rate for the entire remaining term of the Bond.

“**Vice Chairman**” means the Vice Chairman of the Board of the Authority.

“**WVDOH**” means the State of West Virginia Department of Transportation, Division of Highways.

Section 102. Rules of Construction.

Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Indenture:

(a) Any reference herein to the Authority, the Board thereof or any officer thereof shall include any persons or entities succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

(b) The use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine and feminine gender.

(c) Words importing the singular number shall include the plural number and vice versa.

(d) Words importing the redemption or calling for redemption of Bonds shall not be deemed to refer to or connote the payment of Bonds at their stated maturity.

(e) All references herein to particular articles or sections are references to articles or sections of this Indenture.

(f) The headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Indenture nor shall they affect its meaning, construction or effect.

(g) All references to terms such as herein, hereunder, hereto, etc. refer to this Indenture, as amended or supplemented.

(h) All references herein to payment of Bonds are references to payment of principal of, purchase price of, if applicable, premium, if any, and interest on Bonds.

(i) All references herein to the time of day shall mean Charleston, West Virginia time.

Section 103. Parity as to Net Toll Road Revenues; Bonds of a Series Equally and Ratably Secured.

(a) All Bonds issued hereunder and at any time Outstanding that are of the same lien priority level shall be equally and ratably secured, with the same right, lien and preference with respect to the Trust Estate, including the Net Toll Road Revenues, with all other outstanding Bonds of the same lien priority level, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds. The Subordinate Lien Bonds shall in all respects be junior and subordinate to the Senior Lien Bonds, and, if and to the extent provided in the Supplemental Indenture providing for the issuance of a Series of Subordinate Lien Bonds may also be, if and as so provided, subordinate to the Senior Lien Bonds and to one or more Series of Subordinate Lien Bonds.

(b) All Bonds of a particular Series shall in all respects be equally and ratably secured and shall have the same right, lien and preference hereunder established for the benefit of such Series of Bonds, including, without limitation, any related Series Account in the applicable Bond Fund and any related Series Account in the applicable Debt Service Reserve Fund; provided that nothing herein shall be construed to preclude the creation of separate reserve funds or the obtaining of separate surety bonds, insurance policies and other Credit Facilities for any Series of Bonds, which may or may not be pledged toward the payment of other Series of Bonds. Amounts drawn under a Credit Facility with respect to a particular Series and all other amounts held in accounts or funds established with respect to such Series pursuant to the provisions of Article IV hereof and the Supplemental Indenture providing for the terms of such Series shall be applied solely to make payments on such Series of Bonds.

Section 104. Priority of Lien.

There is hereby created an irrevocable lien upon the Trust Estate for the benefit of holders of the Bonds authorized herein. The pledge hereby made shall be valid and binding from and after the time of the delivery of the first Bond authenticated and delivered under this Indenture. Pursuant to the Act, the security so pledged and then or thereafter received by the Authority shall immediately be subject to the lien of such pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the Authority with regard to the Trust Estate, to the extent provided herein, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof.

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ARTICLE II TERMS OF BONDS

Section 201. Issuance.

The Authority may issue Bonds from time to time in one or more Series as hereinafter provided, and as permitted by the Act, without limitation as to amount, except as may be limited by the Bond Authorizing Resolution or the Act. Unless otherwise provided in the Supplemental Indenture providing for the issuance of a Series of Bonds, the Bonds shall be designated "Turnpike Toll Revenue Bonds" and shall bear an appropriate lien (Senior Lien or Subordinate Lien, as appropriate) and Series designation.

Section 202. Terms.

Each Series of Bonds shall bear the terms provided herein and in the Supplemental Indenture providing for the issuance thereof.

Section 203. Medium and Place of Payment.

(a) The principal of, purchase price of, if applicable, premium, if any, and interest on the Bonds shall be payable in currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts. The principal of, purchase price of, if applicable, premium, if any, and interest on a Series of Bonds shall be payable in the manner and at the place specified in the Supplemental Indenture providing for the issuance of such Series of Bonds.

(b) In the event of a default by the Authority in the payment of interest due on a Bond on any Bond Payment Date, such defaulted interest will be payable to the person in whose name such Bond is registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed by the Registrar for such Bond to the registered owner thereof not less than 10 days preceding such special record date.

(c) So long as the registered owner of any Bond is the Securities Depository or a nominee therefor, the Securities Depository shall disburse any payments received, through its Participants or otherwise, to the Beneficial Owners. Neither the Authority nor the Paying Agent shall have any responsibility or obligation for the payment to any Participant, any Beneficial Owner or any other person or entity (except a registered owner of Bonds) of the principal of, purchase price of, if applicable, premium, if any, and interest on the Bonds. Notwithstanding any other provision of this Indenture to the contrary, so long as the Bonds are registered in the name of Cede & Co., as nominee for the Securities Depository, all payments with respect to principal of, purchase price of, if applicable, premium, if any, and interest on the Bonds shall be made in the manner provided in the Authority's letter of representations to DTC.

(d) Subject to the foregoing provisions of this Section 203, each Bond delivered under this Indenture upon transfer of or exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 204. Mutilated, Destroyed, Lost and Stolen Bonds.

(a) If any Bond shall become mutilated, lost, stolen, or destroyed, the affected Bondholder shall be entitled to the issuance of a substitute Bond only as follows:

(i) in the case of a destroyed, lost, or stolen Bond, the Bondholder shall provide notice of the loss to the Authority within a reasonable time after the Bondholder receives notice of the loss;

(ii) in the case of a destroyed, lost or stolen Bond, the Bondholder shall request the issuance of a substitute Bond before the Authority receives notice of the transfer of the original Bond to a bona fide purchaser for value without notice;

(iii) in all cases, the Bondholder shall provide indemnity against any and all claims arising out of or otherwise related to the issuance of substitute Bonds pursuant to this Section satisfactory to the Trustee and the Authority;

(iv) in the case of a mutilated Bond, the Bondholder shall surrender the Bond to the Trustee for cancellation; and

(v) in the case of a destroyed, lost or stolen Bond, the Bondholder shall provide evidence, satisfactory to the Authority and the Trustee, of the ownership and the destruction, loss or theft of the affected Bond.

Upon compliance with the foregoing, a new Bond of like tenor and denomination, executed by the Authority, shall be authenticated by the Trustee and delivered to the Bondholder, all at the expense of the Bondholder to whom the substitute Bond is delivered. Notwithstanding the foregoing, the Trustee shall not be required to authenticate and deliver any substitute for a Bond which has been called for redemption or which has matured or is about to mature and, in any such case, the principal or redemption price then due or becoming due shall be paid by the Trustee in accordance with the terms of the mutilated, destroyed, lost or stolen Bond without substitution therefor.

(b) Every substituted Bond issued pursuant to this Section 204 shall constitute an additional contractual obligation of the Authority and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder unless the Bond alleged to have been mutilated, destroyed, lost, or stolen shall be at any time enforceable by a bona fide purchaser for value without notice. In the event the Bond alleged to have been destroyed, lost, or stolen shall be enforceable by anyone, the Authority may recover the substitute Bond from the Bondholder to whom it was issued or from anyone taking under the Bondholder except a bona fide purchaser for value without notice.

(c) All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost, or stolen Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or investment or other securities without their surrender.

Section 205. Execution and Authentication of Bonds.

All Bonds shall be executed for and on behalf of the Authority by the Chair and attested by the Secretary and Treasurer. The signatures of the Chair, the Secretary and the Treasurer may be mechanically or photographically reproduced on the Bonds. If any officer of the Authority whose signature appears on any Bond ceases to be such officer before delivery thereof, such signature shall remain valid and sufficient for all purposes as if such officer had remained in office until such delivery. Each Bond shall be authenticated manually by an authorized officer of the Authenticating Agent, without which authentication no Bond shall be entitled to the benefits hereof.

Section 206. Exchange of Bonds.

Bonds, upon presentation and surrender thereof to the Registrar together with written instructions satisfactory to the Registrar, duly executed by the registered Holder or his attorney duly authorized in writing, may be exchanged for an equal aggregate principal amount of fully registered Bonds of the same Series and tenor.

Section 207. Negotiability and Transfer of Bonds; Book-Entry System.

(a) All Bonds issued under this Indenture shall be negotiable, subject to the provisions for registration and registration of transfer thereof contained herein or in the Bonds.

(b) The Authority shall cause the Register, with respect to each Series of Bonds, to be maintained at the offices of the Registrar therefor and shall provide for the registration and registration of transfer of any Bond of such Series under such reasonable regulations as the Authority or the Registrar may prescribe. The Registrar with respect to each Series of Bonds shall maintain the Register for purposes of exchanging and registering Bonds in accordance with the provisions hereof.

(c) Each Bond of a Series shall be registered or registered for transfer only upon the Register maintained by the Registrar, by the Holder thereof in person or by his attorney duly authorized in writing, upon presentation and surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Holder or his duly authorized attorney. Upon surrender for registration of transfer of any such Bond, the Authority shall cause to be executed and the Authenticating Agent shall authenticate and deliver, in the name of the transferee, one or more new Bonds of the same Series, interest rate, maturity, principal amount and date as the surrendered Bond, as fully registered Bonds only.

(d) The Trustee, as Registrar, hereby designates its principal corporate trust office as the location where it will maintain the Register for the Bonds. If the Registrar is replaced, the Authority shall cause any replacement Registrar to designate, by a written notification to the Trustee, a specific office location (which may be changed from time to time, upon similar notification) at which the Register will be kept.

(e) The Registrar for the Bonds shall, in any case where it is not also the Trustee in respect of the Bonds, forthwith following each Record Date in respect of the Bonds and at any other time as reasonably requested by the Trustee for the Bonds, certify and furnish to the

Trustee, and to any Paying Agent for the Bonds as the Trustee shall specify, the names, addresses, and holdings of Bondholders and any other relevant information reflected in the Bond Register, and the Trustee and any such Paying Agent shall for all purposes be fully entitled to rely upon the information so furnished to it and shall have no liability or responsibility in connection with the preparation thereof.

(f) The Bonds shall be registered upon original issuance and upon subsequent transfer or exchange as provided in this Indenture. Unless otherwise provided in a Supplemental Indenture, each Bond shall be registered in the name of the Securities Depository or a nominee therefor. Purchases by Beneficial Owners of the Bonds shall be made in book-entry form, and the Beneficial Owners shall not receive certificates evidencing their interests in the Bonds. Except as hereinafter provided, all of the Bonds shall continue to be registered in the name of the Securities Depository or a nominee therefor. To the extent that printed Bonds, rather than typewritten Bonds, are to be delivered, such modifications to the form of Bond as may be necessary or desirable in such case are hereby authorized and approved.

(g) A single certificate shall be issued and delivered to the Securities Depository for each maturity of the Bonds. The actual purchasers of the Bonds, herein referred to as the Beneficial Owners, will not receive physical delivery of Bond certificates except as may be provided in a Supplemental Indenture. So long as there exists a Securities Depository as provided herein, all transfers of beneficial ownership interests in the Bonds shall be made by book-entry only, and no person purchasing, selling or otherwise transferring beneficial ownership interests in the Bonds will be permitted to receive, hold, or deliver any Bond certificate. The Authority and the Trustee shall treat the Securities Depository or its nominee as the sole and exclusive Bondholder for all purposes, including payments of principal of, purchase price of, if applicable, premium, if any, and interest on the Bonds, notices and voting.

(h) With respect to Bonds registered in the name of Cede & Co., the Authority and the Trustee shall have no responsibility or obligation to any Participant or to any Beneficial Owner. Without limiting the immediately preceding sentence, the Authority and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any beneficial ownership interest in the Bonds, (ii) the delivery to any Participant, Beneficial Owner or other person, other than DTC, of any notice with respect to the Bonds, including any notice of redemption, (iii) the payment to any Participant, Beneficial Owner or other person, other than DTC, of any amount with respect to the principal, purchase price or redemption price of, or any interest on, the Bonds, or (iv) any consent given or other action taken by DTC as owner of the Bonds. The Trustee shall pay the principal, purchase price or redemption price of, and interest on, all Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to such principal or redemption price, and interest, to the extent of the sum or sums so paid.

(i) The Authority and the Trustee covenant and agree, so long as DTC shall continue to serve as Securities Depository for the Bonds, to meet the requirements of DTC with respect to required notices and other provisions of the Authority's letter of representations to DTC. Whenever Bonds remain Outstanding and the beneficial ownership thereof must be determined by the books of the Securities Depository, the requirements in this Indenture for holding,

delivering, tendering, or transferring Bonds shall be deemed modified to require the appropriate person to meet the requirements of the Securities Depository with respect to such actions to produce the same effect. Any provision hereof permitting or requiring delivery of Bonds shall, while the Bonds are in the Book-Entry System, be satisfied by notation on the books of the Securities Depository in accordance with state law.

(j) The Trustee and the Authority may from time to time appoint a successor Securities Depository pursuant to Section 217 and enter into any agreement with such Securities Depository to establish procedures with respect to the Bonds not inconsistent with the provisions of this Indenture.

(k) The Authority and the Trustee may conclusively rely upon (i) a certificate of the Securities Depository as to the identity of the Participants in the Book-Entry System with respect to the Bonds and (ii) a certificate of any such Participant as to the identity of, and the respective principal amount of Bonds beneficially owned by, the Beneficial Owners.

(l) Neither the Authority nor the Trustee shall have any responsibility or obligation to any Securities Depository, any Participant in the Book-Entry System or the Beneficial Owners with respect to: (i) the accuracy of any records maintained by the Securities Depository or any Participant; (ii) the payment by the Securities Depository or by any Participant of any amount due to any Beneficial Owner in respect of the principal amount (including premium) or redemption or purchase price of, or interest on, any Bonds; (iii) the delivery of any notice by the Securities Depository or any Participant; (iv) the selection of the Beneficial Owners to receive payment in the event of any partial redemption of the Bonds; or (v) any other action taken by the Securities Depository or any Participant in connection with the Bonds.

(m) Unless otherwise provided in a Supplemental Indenture, Bond certificates shall be delivered to and registered in the name of Beneficial Owners only under the following circumstances:

(i) The Securities Depository determines to discontinue providing its service with respect to the Bonds and no successor Securities Depository is appointed as described in Section 217. Such a determination may be made at any time by the Securities Depository's giving reasonable notice to the Authority or the Trustee and discharging its responsibilities with respect thereto under applicable law.

(ii) The Authority determines not to continue the Book-Entry System through any Securities Depository.

Section 208. Persons Deemed Owners.

Except as provided in the applicable Supplemental Indenture, as to any Bond, the person in whose name such Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal of, purchase price of, if applicable, premium, if any, and interest on any Bond shall be made, as provided in the applicable Supplemental Indenture, only to or upon the written order of the registered Holder thereof. Such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the amount so paid.

Section 209. Provisions with Respect to Transfers and Exchanges.

(a) All Bonds surrendered in any exchange or registration of transfer of Bonds shall forthwith be cancelled by the Registrar.

(b) In connection with any such exchange or registration of transfer of Bonds, the Holder requesting such exchange or registration of transfer shall as a condition precedent to the exercise of the privilege of making such exchange or registration of transfer remit to the Registrar an amount sufficient to pay any service charge, tax or other governmental charge required to be paid with respect to such exchange or registration of transfer.

(c) Except with respect to Bonds of a Series that are subject to optional tender or are purchased, paid or held by a Credit Provider, neither the Authority nor the Registrar shall be obligated to register the transfer or exchange of any Bond which has been or is being called for redemption in whole or in part.

(d) Upon surrender for transfer of any Bond at the office of the Registrar, the Authority shall execute and the Trustee (or Authenticating Agent) shall authenticate and deliver in the name of the designated transferee or transferees one or more new Bonds of any authorized denomination of a like aggregate principal amount.

(e) At the option of the Beneficial Owner, Bonds may be exchanged for other Bonds of any authorized denomination, of a like Series, maturity, interest rate and aggregate principal amount, upon surrender of the Bonds to be exchanged at any such office. Whenever any Bonds are so surrendered for exchange, the Authority shall execute, and the Trustee (or Authenticating Agent) shall authenticate and deliver in the name of the Beneficial Owner requesting such exchange, one or more new Bonds of any authorized denomination of a like Series, maturity, interest rate and aggregate principal amount.

(f) All Bonds presented for transfer, exchange, redemption, or payment (if so required by the Authority, the Registrar or the Trustee), shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature reasonably satisfactory to the Trustee, duly executed by the Beneficial Owner or by his duly authorized attorney in fact.

(g) New Bonds delivered upon any transfer or exchange shall be valid obligations of the Authority, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and entitled to all of the rights, remedies and security hereunder to the same extent as the Bonds surrendered.

(h) Neither the Authority nor the Registrar shall have any responsibility or obligation with respect to the accuracy of the records of the Securities Depository or a nominee therefor or any Participant regarding any ownership interest in the Bonds or transfers thereof, or the delivery to any Participant, Beneficial Owner or any other person (except a registered owner of Bonds) of any notice with respect to the Bonds.

Section 210. Conditions for Delivery of Bonds.

Upon the execution and delivery of a Supplemental Indenture providing for the issuance of a Series of Bonds, the Authority shall execute and deliver such Series of Bonds to the Trustee, the Trustee shall deliver such Series of Bonds to the Authenticating Agent for authentication and delivery to or for the account of the Original Purchaser as directed by the Authority Authorized Officer, and the Authenticating Agent shall authenticate such Series of Bonds; provided, however, that, prior to delivery by the Trustee of such Series of Bonds, there shall be delivered to the Trustee the following:

- (a) A certified copy of the applicable Bond Authorizing Resolution.
- (b) Executed or true counterparts of this Indenture, such Supplemental Indenture, such Bond Purchase Contract, such Hedge Facility, if any, such Reimbursement Agreement, if any, and the executed Credit Facility issued pursuant thereto and such Remarketing Agreement, if any.
- (c) A request and authorization by the Authority to the Authenticating Agent to authenticate and deliver the Series of Bonds, describing such Bonds, designating the Original Purchaser to whom such Bonds are to be delivered upon payment therefor and stating the amount to be paid therefor to the Trustee for the account of the Authority.
- (d) The amounts specified in the Supplemental Indenture for deposit to the credit of the applicable Funds and Accounts created hereunder.
- (e) A certificate of the Consulting Engineers setting forth its opinions as to (i) the Turnpike's being in good repair, and, except with respect to refunding Bonds, (ii) the estimated amount of Operation and Maintenance Expenses for each of the Annual Periods through the next five (5) years or, if such Bonds are being issued to construct a new Parkway Project, then at least five (5) years of operation after completion of such Parkway Project.
- (f) Except with respect to refunding Bonds, a certificate of the Traffic and Revenue Consultant setting forth its opinion as to the aggregate estimated amount of Toll Road Revenues which the Authority should derive from the operation of the Turnpike under the Toll Rate Schedule or the Projected Toll Rate Schedule referred to, set forth in, or attached to, the certificate, for each of the Annual Periods through the repayment of all Outstanding Bonds and all other obligations issued by the Authority and payable from Toll Road Revenues including the additional non-refunding Bonds proposed to be issued.
- (g) Any other items required by the Supplemental Indenture pursuant to which such Series of Bonds is being issued.
- (h) Such other closing documents as the Authority or the Trustee reasonably may specify.
- (i) If the Series of Bonds are additional Bonds, the documents and certificates required by Section 213.

Section 211. Form of Bonds.

The definitive Bonds of each Series shall be in substantially the form set forth as an exhibit to the Supplemental Indenture providing for the issuance of such Series of Bonds.

Section 212. Temporary Bonds.

(a) Until definitive Bonds are prepared, the Authority may execute and, upon request by the Authority, the Authenticating Agent shall authenticate and deliver temporary Bonds which may be typewritten, printed or otherwise reproduced in lieu of definitive Bonds subject to the same provisions, limitations and conditions as definitive Bonds. The temporary Bonds shall be dated as provided in the applicable Supplemental Indenture, shall be in such denomination or denominations and shall be numbered as prepared and executed by the Authority, shall be substantially of the tenor of the definitive Bonds of such Series, but with such omissions, insertions and variations as the Authority Authorized Officers executing the same may determine, may only be issued in fully registered form, and may be issued in the form of a single Bond.

(b) Without unreasonable delay after the issuance of temporary Bonds, if any, the Authority shall cause the definitive Bonds to be prepared, executed and delivered to the Authenticating Agent. The definitive Bonds of such Series shall be prepared in such fashion as is acceptable to the Original Purchaser. Any temporary Bonds issued shall be exchangeable for definitive Bonds of such Series upon surrender to the Registrar at its principal corporate trust office (or such other location as may be designated by it) of any such temporary Bond or Bonds, and, upon such surrender, the Authority shall execute and, upon delivery of a certificate of an Authority Authorized Officer, the Authenticating Agent shall authenticate and deliver to the Holder of the temporary Bond or Bonds, in exchange therefor, a like face amount of definitive Bonds of such Series in authorized denominations. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits as definitive Bonds of such Series authenticated and issued pursuant hereto.

(c) Interest on temporary Bonds, when and as payable, shall be paid to the Holders thereof.

(d) All temporary Bonds surrendered in exchange for a definitive Bond or Bonds shall forthwith be cancelled by the Registrar.

Section 213. Additional Bonds.

The Authority may issue one or more Series of additional Bonds to pay costs of the Parkway Projects, to refund all or a portion of a Series of Bonds, to pay costs of issuance, or for any combination of such purposes. Each Series of additional Bonds shall be issued pursuant to a Supplemental Indenture. If such Series of additional Bonds are Senior Lien Bonds, they shall be equally and ratably secured under this Indenture with all other Senior Lien Bonds, without preference, priority or distinction of any Senior Lien Bonds over any other Senior Lien Bonds. If such Series of additional Bonds are Subordinate Lien Bonds, they shall be equally and ratably secured under this Indenture with all other Subordinate Lien Bonds, without preference, priority or distinction of any Subordinate Lien Bonds over any other Subordinate Lien Bonds, except

that, to the extent provided in the Supplemental Indenture providing for the issuance of a particular Series of Subordinate Lien Bonds, a Series of Subordinate Lien Bonds may be subordinate to both Senior Lien Bonds and to one or more Series of Subordinate Lien Bonds. If such Series of additional Bonds are Subordinate Lien Bonds having a particular degree of subordination and priority, they shall be equally and ratably secured under this Indenture with all other Subordinate Lien Bonds having the same degree of subordination and priority, without preference, priority or distinction of any such Subordinate Lien Bonds over any other such Subordinate Lien Bonds.

The Trustee shall authenticate and deliver such additional Bonds, but only upon receipt by the Trustee of, among other things, the following:

(a) A certificate of the Authority, dated as of the date of delivery of such additional Bonds, stating that, as of the date of such certificate, no event or condition has happened or existed, or is happening or existing, that continues, or that, with notice or lapse of time or both, would constitute an Event of Default by the Authority under this Indenture;

(b) A certificate of the Authority, dated as of the date of delivery of such additional Bonds, stating that, with respect to all then Outstanding Bonds, all applicable Toll Rate Covenants were met in the prior Annual Period and the Authority is current in all deposits into the various Funds and Accounts and in all payments theretofore required to have been deposited or made by it under the provisions of the Indenture as to all Senior Lien Bonds;

(c) If such additional Bonds are Senior Lien Bonds:

(i) and such additional Bonds are being issued to provide funding for Parkway Projects, then either:

(A) a certificate of an Authority Authorized Officer certifying that the Net Toll Road Revenues (adjusted to reflect any authorized and to be implemented within six months adjustment in tolls, fees and charges, as if such adjustment had been in effect since the beginning of the period described herein) for (1) the most recent Annual Period for which audited statements are available or (2) a 12-consecutive-month period in the immediately prior 18 months were at least 125% of the Maximum Annual Debt Service for all then Outstanding Senior Lien Bonds (excluding any Senior Lien Bonds being refunded) and the additional Senior Lien Bonds proposed to be issued; or

(B) a certificate of the Authority stating that, based upon the report of the Consulting Engineers and Traffic and Revenue Consultant, the projected Net Toll Road Revenues (adjusted to reflect any authorized adjustment in tolls, fees and charges, provided that such adjustment is to be implemented within six months, as if such adjustment had been in effect since the beginning of the period described herein) for the current and each of the Annual Periods through the fifth Annual Period following the issuance of the additional Senior Lien Bonds are at least 135% of

Annual Debt Service for each such year and projected Net Toll Road Revenues in the fifth such year equaled or exceeded 135% of the Maximum Annual Debt Service for all then Outstanding Senior Lien Bonds (excluding any Senior Lien Bonds being refunded) and the additional Senior Lien Bonds proposed to be issued.

(ii) and such additional Senior Lien Bonds are refunding Bonds, a certificate demonstrating compliance with clause (i), clause (ii) or clause (iii) of Section 213(d).

(d) If additional Bonds are being issued for the purpose of refunding all or a portion of one or more Series of Bonds, a certificate of the Authority certifying that either (i) the Maximum Annual Debt Service for all then Outstanding Senior and Subordinate Lien Bonds, after giving effect to such refunding, would not be more than the Maximum Annual Debt Service for all then Outstanding Senior and Subordinate Lien Bonds immediately prior to the issuance of such additional Bonds, (ii) as a result of the proposed refunding, savings in the aggregate Annual Debt Service savings for all then Outstanding Senior and Subordinate Lien Bonds will be achieved in each Annual Period, or (iii) if the additional Bonds are Senior Lien Bonds that are refunding Senior Lien Bonds, then, as an alternative to (i) or (ii) above, a certificate demonstrating compliance with either of the two coverage tests set forth in subsection 213(c)(i).

(e) If such additional Bonds are Subordinate Lien Bonds, then the Trustee shall authenticate and deliver such additional Bonds, upon compliance with the applicable requirements of this Section 213(a) and (b) and upon such further terms and subject to such further conditions as are provided in a Supplemental Indenture authorizing such Bonds.

Section 214. Non-Presentation of Bonds; Unclaimed Moneys.

(a) If any Bond is not presented for payment when the principal thereof becomes due (whether at maturity or call for redemption or otherwise), all liability of the Authority to the Holder thereof for the payment of such Bond shall be completely discharged if funds sufficient to pay such Bond and the interest due thereon shall be held by the Trustee for the benefit of such Bondholder, and thereupon it shall be the duty of the Trustee to hold such funds subject to subsection (b) below, without liability for interest thereon, for the benefit of such Bondholder, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature under this Indenture or on, or with respect to, such Bond.

(b) Notwithstanding any provision of this Indenture to the contrary, if any Bond is not presented for payment of principal of, purchase price of, if applicable, premium, if any, and interest on the Bonds within two (2) years after delivery of such funds to the Trustee, and absent knowledge of the Trustee of any continuing Event of Default, the moneys shall, upon request in writing by the Authority, be paid to the Authority free of any trust or lien and thereafter the Holder of such Bond shall look only to the General Fund of the Authority and then only to the extent of the amounts so received by the Authority without any interest thereon. Prior to the transfer of any moneys, the Trustee shall give notice of such transfer to each affected Holder, and, while the Bonds are in the Book-Entry System, to the Securities Depository in lieu of the

Holder, and publish such notice in a newspaper of general circulation in the Charleston, West Virginia area. The Trustee shall have no further responsibility with respect to such moneys or payment of principal of, purchase price of, if applicable, premium, if any, and interest on the Bonds.

Section 215. Subordinate Lien Obligations.

(a) The Authority shall not issue additional obligations payable from Toll Road Revenues with a lien thereon prior and superior to the Senior Lien Bonds.

(b) The Authority has the power and the right to issue or enter into other bonds, notes, loans or other obligations or arrangements that are payable from and secured by the Toll Road Revenues on a basis that is junior and subordinate to the use of and the lien on the Toll Road Revenues granted to the Trustee for the benefit of the Holders of any Senior Lien Bonds. Any such subordinate obligation, and any funds or accounts established in connection therewith, may be authorized and designated as such by resolution of the Authority, by Supplemental Indenture or any other agreement or instrument of the Authority.

Section 216. Revenue Derived from Special Projects Not Included in Toll Road Revenues; Right of Authority to Add Special Projects to the Turnpike; Definitions of Certain Terms.

(a) Revenue derived from Special Projects is not included in Toll Road Revenues and shall not be subject to the lien of this Indenture, unless the Authority takes action to include such Special Projects in the Turnpike as provided in Section 216(b) below. If the Authority satisfies the requirements of Section 216(b), then the revenues from and the operation and maintenance expenses and renewal and replacement costs of Special Projects shall become Turnpike Toll Road Revenues, Operation and Maintenance Expenses, Renewal and Replacement Costs, respectively. The following capitalized terms shall have the following meanings when used in this Section 216:

(i) "Special Projects Operation and Maintenance Expenses" means, with respect to a Special Project or Special Projects, as applicable, expenses for operation, maintenance, and repairs of a Special Project or Special Projects, ordinary acquisition of equipment, and any other current expenses or obligations required to be paid by the Authority under or pursuant to the provisions of this Indenture, any Supplemental Indenture, or by law, all to the extent properly and directly attributable to the operation of the Special Project or Special Projects, but not any costs or expenses for new construction or any allowance for depreciation. Special Project Operation and Maintenance Expenses shall be further defined as provided in the applicable indenture of trust, Supplemental Indenture, and resolution of the Authority, as applicable to such Special Project or Special Projects

(ii) "Special Project Renewal and Replacement Costs" means, with respect to a Special Project or Special Projects, as applicable, all costs and expenses necessary or appropriate to be incurred by the Authority on other than an annual

or seasonal basis in keeping the Special Project or Special Projects open to public travel or use, but shall not include any cost which the Authority has budgeted as Special Project Operation and Maintenance Expenses in the current Annual Period.

(iii) “Special Project Revenues” means, with respect to a Special Project or Special Projects, as applicable, the sum of (a) all rents, fees, sales revenues, commissions, concession revenues and other charges paid to the Authority by, and collected by the Authority from, users of the Special Project and by vendors and concessionaires (or any other persons) who engage in activities at the Special Project or Special Projects that generate revenue of any sort and shall be further defined as provided in the applicable indenture of trust, Supplemental Indenture, and resolution of the Authority, as applicable to such Special Project or Special Projects.

(b) The Authority shall have the right to add one or more Special Project or Special Projects to, and, by adoption of a specific resolution of the Authority, to designate such Special Project or Special Projects as a part of, the Turnpike; provided, that the Authority has complied with the following conditions, as applicable:

(1) An Authority Authorized Officer certificate is delivered to the Trustee certifying that (A) no Event of Default exists; (B) the Authority is current in all deposits into the various Funds and Accounts and in all payments theretofore required to have been deposited or made by it under the provisions of the Indenture as to all Senior Lien Bonds; (C) the Authority is either in compliance with the covenants of the Indenture by which it or its assets are bound, or, upon the inclusion of such Special Project or Special Projects, will be in compliance with all such covenants; and (D) a true and correct copy of the Authority’s resolution designating such Special Project or Special Projects as part of the Turnpike is attached to such certificate.

(2) An Authority Authorized Officer certificate is delivered to the Trustee certifying that:

(A) if the Special Project has been generating Special Project Revenues for at least one year, the actual annual Special Project Revenues generated by such Special Project or Special Projects for the most recently completed 12-month period (that is, using actual historical revenues therefrom), equaled or exceeded the sum of (i) Special Projects Operation and Maintenance Expenses for such 12-month period as certified for this purpose by the Consulting Engineers, (ii) to the extent there are Outstanding Special Project Bonds, the debt service due on such Outstanding Special Project Bonds in the prior year, and (iii) Special Projects Renewal and Replacement Costs, as certified for this purpose by the Consulting Engineers; and

(B) Special Project Revenues estimated by the Traffic and Revenue Consultant to be generated by such Special Project or Special Projects in the next five (5) years after addition of such Special Project or Special Projects (taking into account any available historical revenues therefrom, and the reasonably anticipated effects of any new or increased charges, tolls, rents or the like for such Special Project or Special Projects, shall equal or exceed the sum of (i) the Special Projects Operation and Maintenance Expenses for each such Annual Period as certified for this purpose by the Consulting Engineers, (ii) to the extent there are Outstanding Special Project Bonds, the debt service due for each of such five (5) years, and in the fifth (5th) such year, the maximum annual debt service for any Annual Period during the term of such indebtedness, and (iii) Special Projects Renewal and Replacement Costs for each such Annual Period as certified for this purpose by the Consulting Engineers.

(3) If Special Project Bonds are Outstanding, such Special Project Bonds may only be transferred into this Indenture if the applicable Special Project or Special Projects for which such Special Project Bonds were issued is transferred to the Turnpike; provided, that if such Outstanding Special Project Bonds are to be transferred into this Indenture and are to become Senior Bonds secured hereby, then such Special Project Bonds may be so transferred if there also is delivered to the Trustee an Authority Authorized Officer certificate certifying that either:

(A) the sum of Net Special Project Revenues and Net Toll Road Revenues (adjusted to reflect any authorized and to be implemented within six months adjustment in tolls, fees and charges, as if such adjustment had been in effect since the beginning of the period described herein) for (1) the most recent Annual Period for which audited statements are available or (2) a 12-consecutive-month period in the immediately prior 18 months was at least 125% of the Maximum Annual Debt Service for all then Outstanding Bonds (excluding any Senior Lien Bonds being refunded), then Outstanding Special Project Bonds associated with such Special Project or Special Projects being designated as part of the Turnpike, and additional Bonds and Special Project Bonds, if any, then proposed to be issued; or

(B) based upon the report of the Consulting Engineers and Traffic and Revenue Consultant, the sum of the projected Net Toll Road Revenues and the projected Net Special Project Revenues (adjusted to reflect any authorized and to be implemented within six months adjustment in tolls, fees and charges, as if such adjustment had been in effect since the beginning of the period described herein) for the current and each of the Annual Periods through the fifth Annual Period following the designation of such Special Project or Special Projects as part of the Turnpike is at least 135% of Annual Debt Service for each such year and projected Net Toll Road Revenues and projected net Special Project Revenues in the fifth such year equaled or exceeded 135% of the Maximum Annual Debt

Service for all then Outstanding Senior Lien Bonds (excluding any Senior Lien Bonds being refunded) any additional Senior Lien Bonds proposed to be issued, and the Special Project Bonds to be transferred into this Indenture.

(c) The Authority may contribute, to the extent available for such purpose, Toll Road Revenues to support Special Projects and/or to pay debt service on Special Project Bonds.

Section 217. Resignation or Removal of Securities Depository.

(a) The Authority may remove the Securities Depository and the Securities Depository may resign by giving 60 days' prior written notice to the other of such removal or resignation. Additionally, the Securities Depository shall be removed 60 days after receipt by the Authority of written notice from the Securities Depository to the effect that the Securities Depository has received written notice from Participants having interests, as shown in the records of the Securities Depository, in an aggregate principal amount of not less than 50% of the aggregate principal amount of the then Outstanding Bonds to the effect that the Securities Depository is unable or unwilling to discharge its responsibilities or a continuation of the requirement that all of the Outstanding Bonds be registered in the name of the Securities Depository or a nominee therefor is not in the best interests of the Beneficial Owners. Upon the removal or resignation of the Securities Depository, the Securities Depository shall take such action as may be necessary to assure the orderly transfer of the computerized book-entry system with respect to the Bonds to a successor Securities Depository or, if no successor Securities Depository is appointed as herein provided, the transfer of the Bonds in certificate form to the Beneficial Owners or their designees. Upon the giving of notice by the Authority of the removal of the Securities Depository, the giving of notice by the Securities Depository of its resignation or the receipt by the Authority of notice with respect to the written notice of Participants referred to herein, the Authority may, within 60 days after the giving of such notice, appoint a successor Securities Depository upon such terms and conditions as the Authority shall impose.

(b) Any such successor Securities Depository shall at all times be a registered "clearing agency" under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation, and in good standing thereunder.

(c) If the Authority fails to appoint a successor Securities Depository within such time period, the Bonds shall no longer be restricted to being registered in the name of the Securities Depository or a nominee therefor, but may be registered in whatever name or names owners transferring or exchanging bonds shall designate.

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ARTICLE III REDEMPTION OF BONDS

Section 301. Right to Redeem.

The Bonds of a Series shall be subject to redemption prior to maturity at such times, to the extent and in the manner provided herein and in the applicable Supplemental Indenture.

Section 302. Sinking Fund Redemption.

Bonds of a Series shall be subject to mandatory sinking fund redemption and shall be redeemed in the amounts and on the dates and in the years set forth in the Supplemental Indenture providing for the issuance of such Bonds.

Section 303. Purchase or Cancellation in Lieu of Redemption.

Except as may be provided in the applicable Supplemental Indenture, on or before the forty-fifth (45th) day next preceding any applicable sinking fund redemption date, the Authority has the option to: (i) cause to be paid to the Trustee for deposit in the applicable subaccount of the relevant Series Redemption Account such amount, or direct the Trustee to use moneys in the applicable sinking fund account in such amount, as the Authority may determine, accompanied by a certificate signed by the Authority Authorized Officer directing the Trustee to apply such amount to the purchase of the applicable Series of Bonds, and the Trustee shall use all reasonable efforts to expend such funds as nearly as may be practicable in the purchase of such Series of Bonds, at a price not exceeding the principal amount thereof plus accrued interest to such sinking fund redemption date; or (ii) receive a credit against the sinking fund redemption obligation for the applicable Series of Bonds to the extent such Series of Bonds have been purchased by the Authority and presented to the Trustee for cancellation or redeemed (other than pursuant to the above-mentioned sinking fund requirements) and cancelled by the Trustee.

Each Series of Bonds so purchased, delivered or previously redeemed shall be credited by the Trustee as provided above at 100% of the principal amount thereof against the obligation of the Authority on the applicable sinking fund redemption date. Any excess over such obligation shall be credited as directed by the Authority against applicable future sinking fund redemption obligations, or deposits with respect thereto, and the principal amount of such Series of Bonds to be redeemed by operation of the sinking fund shall be accordingly reduced. Any funds received by the Trustee pursuant to clause (i) of the preceding paragraph, but not expended as provided therein for the purchase of a Series of Bonds on or before said forty-fifth (45th) day shall be retained in the relevant Series Redemption Account and shall thereafter be used only for the purchase of such Series of Bonds, as a credit as directed by the Authority, against future sinking fund obligations, or deposits with respect thereto as directed by the Authority.

Section 304. Notice of Redemption.

Except as may be provided otherwise in the applicable Supplemental Indenture:

(a) If less than all Bonds of a Series are to be redeemed, and subject to the provisions of subsection (b) hereof, the Bonds to be redeemed shall be identified by reference to the Series

designation, date of issue, serial numbers and maturity date. Each notice of redemption shall specify: (i) the date fixed for redemption, (ii) the principal amount of Bonds or portions thereof to be redeemed, (iii) the applicable redemption price, (iv) the place or places of payment, (v) that payment of the principal amount and premium, if any, will be made upon presentation and surrender to the Trustee or Paying Agent, as applicable, of the Bonds to be redeemed, unless provided otherwise in the applicable Supplemental Indenture, (vi) that interest accrued to the date fixed for redemption will be paid as specified in such notice, (vii) that on and after such date interest on Bonds which have been redeemed will cease to accrue, and (viii) the designation, including Series, and the CUSIP and serial numbers, if any, of the Bonds to be redeemed and, if less than the face amount of any such Bond is to be redeemed, the principal amount to be redeemed. Notice of redemption of any Bonds shall be mailed at the times and in the manner set forth in subsection (b) of this Section.

(b) Except as may be provided otherwise in the applicable Supplemental Indenture, any notice of redemption shall be sent by the Trustee not less than 20 nor more than 60 days prior to the date set for redemption by first-class mail (i) to the Holder of each such Bond to be redeemed in whole or in part at his address as it appears on the Register, or while the Bonds are held in book-entry form, to the Securities Depository, (ii) to all organizations registered with the Securities and Exchange Commission as securities depositories, and (iii) to the Municipal Securities Rulemaking Board. During such period, the Trustee shall not be responsible for mailing notices of redemption to anyone other than such Securities Depository or its nominee. In preparing such notice, the Trustee shall take into account, to the extent applicable, the prevailing tax-exempt securities industry standards and any regulatory statement of any federal or state administrative body having jurisdiction over the Authority, or the tax-exempt securities industry. Failure to give any notice specified in (i), or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds with respect to which no such failure has occurred and failure to give any notice specified in (ii), (iii) or (iv), or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds with respect to which the notice specified in (i) is given correctly.

(c) If at the time of notice of any optional redemption of a Series of Bonds there has not been deposited with the Trustee moneys available for payment sufficient to redeem all of such Series of Bonds called for redemption, the notice shall state that it is conditional in that it is subject to the deposit of sufficient moneys by not later than the redemption date, and if the deposit is not timely made the notice shall be of no effect.

Section 305. Selection of Bonds to be Redeemed.

(a) Bonds of any Series to be called for redemption shall be selected as provided in the applicable Supplemental Indenture. Except as provided otherwise in the applicable Supplemental Indenture: (i) If less than all of the Bonds of a Series are called for mandatory sinking fund redemptions required under the terms of any Supplemental Indenture, the Authority will select the maturities of the serial bonds and portions of the amortization of the term bonds to be redeemed and will designate such selection in an Authority Authorized Officer's certificate; (ii) if less than all Bonds of a serial maturity are called for redemption, the particular Bonds of a Series of such maturity to be redeemed will be selected by DTC or any successor securities depository pursuant to its rules and procedures or, if the book entry system is discontinued, will

be selected by the Trustee by lot in such manner as the Trustee at its discretion may determine; and (iii) the portion of any Bond to be redeemed shall be in the principal amount of \$1,000 or some multiple thereof. In selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$1,000. If a portion of a Bond shall be called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof shall be issued to the registered owner upon the surrender thereof.

(b) The Trustee shall treat each Bond of a denomination greater than the minimum denomination authorized in the applicable Supplemental Indenture as representing the number of separate Bonds that can be obtained by dividing the Bond's actual principal amount by such minimum denominations.

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ARTICLE IV REVENUES AND FUNDS

Section 401. Creation of Funds and Accounts.

(a) The Authority hereby establishes and creates for the Bonds the following Funds and Accounts:

(i) Parkway Projects Fund, which shall contain the following Accounts with respect to each Series of Bonds:

- (A) Parkway Projects Account; and
- (B) Costs of Issuance Account.

(ii) Revenue Fund.

(iii) Operation and Maintenance Fund, which shall contain the following Accounts:

- (A) Operation and Maintenance Account; and
- (B) Operation and Maintenance Reserve Account.

(iv) Senior Lien Bond Fund, which shall contain the following Accounts with respect to each Series of Senior Lien Bonds:

- (A) Interest Account;
- (B) Principal Account; and
- (C) Redemption Account.

(v) Senior Lien Debt Service Reserve Fund, which shall contain an Account with respect to each Series of Senior Lien Bonds, or may have a composite Account for two or more Series of Senior Lien Bonds, as further provided in any related Supplemental Indenture(s).

(vi) Subordinate Lien Bond Fund, which shall contain the following Accounts with respect to each Series of Subordinate Lien Bonds:

- (A) Interest Account;
- (B) Principal Account; and
- (C) Redemption Account.

(vii) Subordinate Lien Debt Service Reserve Fund, which shall contain an Account with respect to each Series of Subordinate Lien Bonds, or may have a composite

Account for two or more Series of Subordinate Lien Bonds, as further provided in any related Supplemental Indenture(s).

(viii) Arbitrage Rebate Fund, which shall contain the Accounts with respect to each Series of Bonds as set forth in the applicable Supplemental Indenture.

(ix) Renewal and Replacement Reserve Fund.

(x) Turnpike Capital Improvement Fund.

(xi) General Fund.

(b) The Funds and Accounts created hereby shall constitute trust funds and accounts for the purposes provided in this Indenture, and shall be separately accounted for by the Authority with an Authorized Depository. The Senior Lien Bond Fund and the Accounts therein (the Principal Account, the Interest Account, and the Redemption Account), the Senior Lien Debt Service Reserve Fund, the Subordinate Lien Bond Fund and the Accounts therein (the Principal Account, the Interest Account, and the Redemption Account), the Subordinate Lien Debt Service Reserve Fund, and the Arbitrage Rebate Fund shall be held pursuant to this Indenture by the Trustee. The Parkway Projects Fund and the Accounts therein (the Parkway Projects Account and the Costs of Issuance Account), the Revenue Fund, and the Operation and Maintenance Fund and the Accounts therein (the Operation and Maintenance Account and the Operation and Maintenance Reserve Account) shall be held pursuant to this Indenture by the Authority with an Authorized Depository.

(c) There has been created, or is being created (simultaneously with the issuance of the first Series of Bonds under this Indenture), in the Treasury of the State of West Virginia, pursuant to the Memorandum of Understanding and the Act, the State Road Construction Account.

Section 402. Application of Bond Proceeds.

All proceeds of the sale of each Series of Bonds shall be paid to the Trustee, against receipt therefor, at or prior to the delivery of such Series of Bonds and shall be deposited or delivered by the Trustee as provided by the Supplemental Indenture providing for the issuance of such Bonds. The preceding sentence shall not be construed to prohibit the Authority from having net proceeds (that is, gross proceeds less underwriters' discount) paid to the Trustee, in the Authority's discretion, and such payments and proceeds are expressly permitted. Without limitation of the preceding sentence, it is anticipated that the Supplemental Indenture for the initial Series of Bonds to be issued under this Indenture shall require that, immediately upon receipt of such proceeds, the portion of the proceeds of such Bonds relating to the Off-Turnpike WVDOH Projects shall be transferred by the Trustee to the State Road Construction Account as further provided in the Memorandum of Understanding.

Section 403. Parkway Projects Fund.

(a) All proceeds of the Bonds relating to the Parkway Projects (excluding amounts transferred by the Trustee to the State Road Construction Account pursuant to Section 402) shall

be deposited into the Parkway Projects Fund, and the Costs of Issuance Account, as provided in the Supplemental Indenture relating to a Series of Bonds

(b) There also may be deposited to the credit of the Parkway Projects Fund any other moneys (including all obligations held as investments thereof and the proceeds of such investments) received from any other source for paying costs of the Parkway Projects, or for any other purpose or project authorized by law. Amounts in the Parkway Projects Fund shall be pledged to the Bondholders.

(c) Moneys in the Parkway Projects Fund shall be applied to the payment of (i) costs of issuance (from the applicable Costs of Issuance Account therein), and (ii) the cost of the On-Turnpike Authority Projects or for other projects and purposes then authorized by law (from the applicable Parkway Projects Account therein). The Authority covenants that the funds in the Parkway Projects Fund shall be applied in accordance with the provisions of this Section and the covenants contained in Section 510.

(d) Moneys, instruments and securities in the Parkway Projects Fund shall be held by the Authority, as secured party for the Holders of the Bonds. The Authority shall maintain the Parkway Projects Fund, which shall be separately accounted for, with and by an Authorized Depositary and shall execute and deliver to the Trustee an account control agreement or similar agreement with the Trustee and such Authorized Depositary reasonably sufficient, as confirmed in an Opinion of Bond Counsel, to perfect the pledge of, and security interest in, amounts in the Parkway Projects Fund under this Indenture.

(e) After payments of, and reimbursements with respect to, the Parkway Projects financed by the related Series of Bonds are completed, as certified by the Authority, and **provided that** no Event of Default has occurred and is continuing in the payment of principal of or interest on any Bonds, and **provided further** that the Authority shall have received an Opinion of Bond Counsel that such use will not affect adversely the exclusion of interest on such Bonds from gross income for federal income tax purposes and, if applicable, the non-tax preference status of such interest for federal alternative minimum income tax purposes, and the qualification of earnings on any Funds or Accounts for treatment pursuant to Section 148(f)(4)(B) of the Code as meeting the requirement of Section 148(f)(2) to rebate amounts to the United States, excess funds in the Parkway Projects Fund shall be applied (i) to eliminate any deficiency in the applicable Series Account, if any, in the Debt Service Reserve Fund, (ii) at the earliest date such Bonds are subject to optional redemption without premium or for the purchase of such Bonds, to the applicable Redemption Account for the optional redemption, if applicable, of such Bonds, or (iii) to the applicable Account in the relevant Bond Fund.

Section 404. Revenue Fund.

(a) Commencing immediately after the issuance of the first Series of Bonds pursuant to this Indenture, the Authority shall deposit all Toll Road Revenues upon receipt, and may deposit amounts from any available source, to the Revenue Fund. Amounts in the Revenue Fund shall be pledged to the Holders of such Bonds.

(b) Moneys, instruments and securities in the Revenue Fund shall be separately accounted for by the Authority with an Authorized Depositary. The Authority shall maintain the Revenue Fund, which shall be separately accounted for, with and by an Authorized Depositary and shall execute and deliver to the Trustee an account control agreement or similar agreement with the Trustee and such Authorized Depositary reasonably sufficient, as confirmed in an Opinion of Bond Counsel, to perfect the pledge of, and security interest in, amounts in the Revenue Fund under this Indenture.

Section 405. Operation and Maintenance Fund.

Amounts in the Operation and Maintenance Fund shall be separately accounted for by the Authority and shall be maintained with and by an Authorized Depositary and shall be used by the Authority to pay Operation and Maintenance Expenses.

(a) Operation and Maintenance Account. Amounts in the Operation and Maintenance Account in the Operation and Maintenance Fund shall be used by the Authority solely to pay Operation and Maintenance Expenses. The amount deposited in the Operation and Maintenance Account shall equal one-twelfth (1/12th) of the Operation and Maintenance Expenses for the current Fiscal Year, provided that the payment due for the last month of each Fiscal Year shall equal the difference between budgeted and actual expenses so that the total deposits to the Operation and Maintenance Account shall equal the actual expenses for such Fiscal Year. The monthly payments shall be increased or decreased, as necessary, to reflect amendments to the Annual Budget. Amounts in the Operation and Maintenance Account within the Operation and Maintenance Fund shall not be pledged to Bondholders.

(b) Operation and Maintenance Reserve Account. Amounts in the Operation and Maintenance Reserve Account in the Operation and Maintenance Fund shall be used by the Authority to pay Operation and Maintenance Expenses in the event that amounts on deposit in the Operation and Maintenance Account are insufficient to pay all Operation and Maintenance Expenses when due. The amount deposited in the Operation and Maintenance Reserve Account shall equal one-sixth (1/6th) of the Operation and Maintenance Expenses for the Turnpike set forth in the Authority's current Fiscal Year budget. The Authority shall execute and deliver to the Trustee an account control agreement or similar agreement with the Trustee and such Authorized Depositary reasonably sufficient, as confirmed in an Opinion of Bond Counsel, to perfect the pledge of, and security interest in, amounts in the Operation and Maintenance Reserve Account under this Indenture. Amounts in the Operation and Maintenance Reserve Account shall be pledged to Holders of the applicable Senior Lien Bonds or all Senior Lien Bonds.

Section 406. Senior Lien Bond Fund.

(a) Amounts in each Account in the Senior Lien Bond Fund shall be used by the Trustee to pay the principal of and interest on the related Series of Senior Lien Bonds when due in accordance with the terms of the Supplemental Indenture creating each Series of Senior Lien Bonds; provided, however, that while there is a Credit Facility in effect with respect to any Series of Senior Lien Bonds, amounts in the related Series Interest, Principal or Redemption Account in the Senior Lien Bond Fund may be used to reimburse the Credit Provider with

respect to such Credit Facility for interest, principal or redemption payments, respectively, made to Holders of such Senior Lien Bonds with funds provided by such Credit Provider in accordance with the provisions of the applicable Supplemental Indenture with respect to such Series of Senior Lien Bonds to the extent that such reimbursement obligations of the Authority are secured by this Indenture. Amounts in the Senior Lien Bond Fund shall be pledged to Holders of such Senior Lien Bonds.

(b) In the event that on the Business Day preceding any interest payment date the amount in any Account of the Senior Lien Bond Fund shall be less than the amount required for payment of the interest on and the principal of the related Outstanding Senior Lien Bonds, and any related parity obligation due and payable on such interest payment date, the Trustee shall withdraw the amount necessary to increase the amount on deposit in such Account in the applicable Senior Lien Bond Fund to the requirement therefor from the applicable Senior Lien Debt Service Reserve Fund.

(c) When Senior Lien Bonds are redeemed or purchased, the amount, if any, in the applicable Account of the Senior Lien Bond Fund representing interest thereon shall be applied to the payment of accrued interest in connection with such redemption or purchase. Whenever the amount in an Account of the Senior Lien Bond Fund is sufficient to redeem all of the Outstanding Senior Lien Bonds of the applicable Series and to pay interest accrued to the redemption date, the Authority will cause the Trustee to redeem all such Senior Lien Bonds on the applicable redemption date specified by the Authority. Any amounts remaining in the Senior Lien Bond Fund after payment in full of the principal or redemption price, premium, if any, and interest on the applicable Senior Lien Bonds (or provision for payment thereof) and the fees, charges and expenses of the Authority, including all amounts owed to the Credit Providers, if any, the Trustee and any paying agents, shall be paid to the Authority.

(d) Moneys delivered to the Trustee in contemplation of optional or mandatory redemption or maturity of the Senior Lien Bonds shall be deposited in the related Redemption Account and shall be used by the Trustee to redeem or pay the principal of and interest on such Senior Lien Bonds (including any redemption premium thereon) in accordance with the provisions hereof. If any Series of Senior Lien Bonds is to be paid or redeemed in full, any balance in the Redemption Account for such Series may, at the option of the Authority, be applied in whole or in part to the payment or redemption of such Series or transferred to the applicable Senior Lien Bond Fund.

Section 407. Senior Lien Debt Service Reserve Fund.

(a) Subject to the provisions of Section 406, amounts in the Senior Lien Debt Service Reserve Account shall be used to pay debt service on the applicable Senior Lien Bonds or all Senior Lien Bonds, as appropriate, on the date such debt service is due when insufficient funds for that purpose are available in the applicable Accounts relating to such Outstanding Senior Lien Bonds. Amounts in the Senior Lien Debt Service Reserve Account shall be pledged to Holders of the applicable Senior Lien Bonds or all Senior Lien Bonds.

(b) In lieu of or in addition to cash or investments, at any time the Authority may cause to be deposited to the credit of the Senior Lien Debt Service Reserve Account any form of

DSRF Credit Facility, in the amount of the Senior Lien Debt Service Reserve Requirement, irrevocably payable to the Trustee as beneficiary for the Holders of the Senior Lien Bonds, provided that the Trustee has received evidence satisfactory to it that (i) at the time of issuance of such DSRF Credit Facility, the DSRF Credit Provider has a credit rating with a long-term credit rating in the third highest rating category or higher by any Rating Agency, (ii) except as provided in the next sentence of this subsection, the only condition to a drawing under the DSRF Credit Facility is insufficient amounts in the applicable Funds and Accounts held by the Trustee with respect to the Senior Lien Bonds when needed to pay debt service on such Senior Lien Bonds or the expiration of the DSRF Credit Facility, and (iii) the Authority shall notify the Trustee at least 90 days prior to expiration of the DSRF Credit Facility. If (a) the Authority receives such expiration notice and the DSRF Credit Provider does not extend the expiration date of the DSRF Credit Facility or (b) the Authority receives notice of the termination of the DSRF Credit Facility, the Authority shall (x) provide a substitute DSRF Credit Facility that meets the requirements set forth in the foregoing sentences, (y) deposit in the Senior Lien Debt Service Reserve Account, in 36 equal monthly installments the total amount needed to restore the balance in the Senior Lien Debt Service Reserve Account to, the Senior Lien Debt Service Reserve Requirement within 36 months of the termination date in the case of receipt of a termination notice, or (z) instruct the Trustee to draw on such DSRF Credit Facility in the amount necessary to meet the Senior Lien Debt Service Reserve Requirement prior to the termination date in the case of receipt of a termination notice, and deposit such drawing to the Senior Lien Debt Service Reserve Account. Amounts, if any, released from the Senior Lien Debt Service Reserve Account, upon deposit to the credit of such Senior Lien Debt Service Reserve Account of a DSRF Credit Facility pursuant to subsection (b) of this Section shall, upon designation by an Authority Authorized Officer, accompanied by an Opinion of Bond Counsel that such use will not adversely affect the exclusion from gross income of interest on the Senior Lien Bonds for federal income tax purposes and, if applicable, the non-tax preference status of such interest for federal alternative minimum income tax purposes, be transferred to the Senior Lien Principal Account or the Senior Lien Redemption Account and used to pay principal of or to redeem such Senior Lien Bonds.

(c) In the event that the Trustee shall have withdrawn moneys in the Senior Lien Debt Service Reserve Account for the purpose of paying principal and interest on such Senior Lien Bonds when due, the Trustee shall promptly notify the Authority of such withdrawal. Upon receipt of such notification, the Authority shall, on or prior to the first Business Day of each month, commencing the month after receipt of the notification from the Trustee, transfer to the Trustee for deposit in the Senior Lien Debt Service Reserve Account an amount equal to one-twelfth (1/12th) of the aggregate amount of each unreplenished withdrawal until the amount on deposit in the Senior Lien Debt Service Reserve Account is equal to the Senior Lien Debt Service Reserve Requirement.

(d) Notwithstanding anything contained herein to the contrary, the Authority may elect, by resolution adopted prior to the issuance of any Series of Bonds, to fully fund the Debt Service Reserve Account applicable to any such Series of Bonds over a period specified in such resolution not to exceed the period during which capitalized debt service and an amount sufficient to pay all principal and interest due on such Series of Bonds has been deposited with the Trustee, during which period the Authority shall make substantially equal monthly installments in order that the amounts on deposit therein and available amounts under any DSRF

Credit Facility at the end of such period shall equal the Debt Service Reserve Requirement. If the Debt Service Reserve Account applicable to any such Series of Bonds is to be funded in installments as provided in this paragraph, the deposits required to be made to the Debt Service Reserve Account applicable to any such Series of Bonds pursuant to the foregoing may be limited to the amount which will be sufficient to pay the required monthly installments specified in such resolution, plus an additional amount necessary to make up any deficiencies caused by withdrawals or resulting from valuation of investments of funds on deposit therein.

Section 408. Subordinate Lien Bond Fund.

(a) Amounts in each Account in the Subordinate Lien Bond Fund shall be used by the Trustee to pay the principal of and interest on the related Series of Subordinate Lien Bonds when due in accordance with the terms of the Supplemental Indenture creating each Series of Subordinate Lien Bonds; provided, however, that while there is a Credit Facility in effect with respect to any Series of Subordinate Lien Bonds, amounts in the related Series Interest, Principal or Redemption Account in the Subordinate Lien Bond Fund may be used to reimburse the Credit Provider with respect to such Credit Facility for interest, principal or redemption payments, respectively, made to Holders of such Subordinate Lien Bonds with funds provided by such Credit Provider in accordance with the provisions of the applicable Supplemental Indenture with respect to such Series of Subordinate Lien Bonds to the extent that such reimbursement obligations of the Authority are secured by this Indenture. Amounts in the Subordinate Lien Bond Fund shall be pledged to Holders of such Subordinate Lien Bonds.

(b) In the event that on the Business Day preceding any interest payment date the amount in any Account of the Subordinate Lien Bond Fund shall be less than the amount required for payment of the interest on and the principal of the related Outstanding Subordinate Lien Bonds, and any related parity obligation due and payable on such interest payment date, the Trustee shall withdraw the amount necessary to increase the amount on deposit in such Account in the applicable Subordinate Lien Bond Fund to the requirement therefor from the applicable Subordinate Lien Debt Service Reserve Fund.

(c) When Subordinate Lien Bonds are redeemed or purchased, the amount, if any, in the applicable Account of the Subordinate Lien Bond Fund representing interest thereon shall be applied to the payment of accrued interest in connection with such redemption or purchase. Whenever the amount in an Account of the Subordinate Lien Bond Fund is sufficient to redeem all of the Outstanding Subordinate Lien Bonds of the applicable Series and to pay interest accrued to the redemption date, the Authority will cause the Trustee to redeem all such Subordinate Lien Bonds on the applicable redemption date specified by the Authority. Any amounts remaining in the Subordinate Lien Bond Fund after payment in full of the principal or redemption price, premium, if any, and interest on the applicable Subordinate Lien Bonds (or provision for payment thereof) and the fees, charges and expenses of the Authority, including all amounts owed to the Credit Providers, if any, the Trustee and any paying agents, shall be paid to the Authority.

(d) Moneys delivered to the Trustee in contemplation of optional or mandatory redemption or maturity of the Subordinate Lien Bonds shall be deposited in the related Redemption Account and shall be used by the Trustee to redeem or pay the principal of such

Subordinate Lien Bonds (including any redemption premium thereon) in accordance with the provisions hereof. If any Series of Subordinate Lien Bonds is to be paid or redeemed in full, any balance in the Redemption Account for such Series may, at the option of the Authority, be applied in whole or in part to the payment or redemption of such Series or transferred to the applicable Subordinate Lien Bond Fund.

Section 409. Subordinate Lien Debt Service Reserve Fund.

(a) Subject to the provisions of Section 408, amounts in the Subordinate Lien Debt Service Reserve Account shall be used to pay debt service on all Outstanding Subordinate Lien Bonds on the date such debt service is due when insufficient funds for that purpose are available in the applicable Accounts relating to such Outstanding Subordinate Lien Bonds. Amounts in the Subordinate Lien Debt Service Reserve Account shall be pledged to Holders of Subordinate Lien Bonds.

(b) In lieu of or in addition to cash or investments, at any time the Authority may cause to be deposited to the credit of the Subordinate Lien Debt Service Reserve Account any form of DSRF Credit Facility, in the amount of the Subordinate Lien Debt Service Reserve Requirement, irrevocably payable to the Trustee as beneficiary for the Holders of the Subordinate Lien Bonds, provided that the Trustee has received evidence satisfactory to it that (i) at the time of issuance of such DSRF Credit Facility, the DSRF Credit Provider has a credit rating with a long-term credit rating in the third highest rating category or higher by any Rating Agency, (ii) except as provided in the next sentence of this subsection, the only condition to a drawing under the DSRF Credit Facility is insufficient amounts in the applicable Funds and Accounts held by the Trustee with respect to the Subordinate Lien Bonds when needed to pay debt service on such Subordinate Lien Bonds or the expiration of the DSRF Credit Facility, and (iii) the Authority shall notify the Trustee at least 90 days prior to expiration of the DSRF Credit Facility. If (a) the Authority receives such expiration notice and the DSRF Credit Provider does not extend the expiration date of the DSRF Credit Facility or (b) the Authority receives notice of the termination of the DSRF Credit Facility, the Authority shall (x) provide a substitute DSRF Credit Facility that meets the requirements set forth in the foregoing sentences, (y) deposit in the Subordinate Lien Debt Service Reserve Account, in 36 equal monthly instalments the total amount needed to restore the balance in the Senior Lien Debt Service Account to, the Senior Lien Debt Service Reserve Requirement within 36 months of the termination date in the case of receipt of a termination notice, or (z) instruct the Trustee to draw on such DSRF Credit Facility in the amount necessary to meet the Subordinate Lien Debt Service Reserve Requirement prior to the termination date in the case of receipt of a termination notice, and deposit such drawing to the Subordinate Lien Debt Service Reserve Account. Amounts, if any, released from the Subordinate Lien Debt Service Reserve Account, upon deposit to the credit of such Subordinate Lien Debt Service Reserve Account of a DSRF Credit Facility pursuant to subsection (b) of this Section shall, upon designation by an Authority Authorized Officer, accompanied by an Opinion of Bond Counsel that such use will not adversely affect the exclusion from gross income of interest on the Subordinate Lien Bonds for federal income tax purposes and, if applicable, the non-tax preference status of such interest for federal alternative minimum income tax purposes, be transferred to the Subordinate Lien Principal Account or the Subordinate Lien Redemption Account and used to pay principal of or to redeem such Subordinate Lien Bonds.

(c) In the event that the Trustee shall have withdrawn moneys in the Subordinate Lien Debt Service Reserve Account for the purpose of paying principal and interest on such Subordinate Lien Bonds when due, the Trustee shall promptly notify the Authority of such withdrawal. Upon receipt of such notification, the Authority shall, on or prior to the first Business Day of each month, commencing the month after receipt of the notification from the Trustee, transfer to the Trustee for deposit in the Subordinate Lien Debt Service Reserve Account an amount equal to one-twelfth (1/12th) of the aggregate amount of each unreplenished withdrawal until the amount on deposit in the Subordinate Lien Debt Service Reserve Account is equal to the Subordinate Lien Debt Service Reserve Requirement.

(d) Notwithstanding anything contained herein to the contrary, the Authority may elect, by resolution adopted prior to the issuance of any Subordinate Lien Bonds, to fully fund the Debt Service Reserve Account applicable to any such Series of Bonds over a period specified in such resolution not to exceed the period during which capitalized debt service and an amount sufficient to pay all principal and interest due on such Series of Bonds has been deposited with the Trustee, during which period the Authority shall make substantially equal monthly installments in order that the amounts on deposit therein and available amounts under any DSRF Credit Facility at the end of such period shall equal the Debt Service Reserve Requirement. If the Debt Service Reserve Account applicable to any such Series of Bonds is to be funded in installments as provided in this paragraph, the deposits required to be made to the Debt Service Reserve Account applicable to any such Series of Bonds pursuant to the foregoing may be limited to the amount which will be sufficient to pay the required monthly installments specified in such resolution, plus an additional amount necessary to make up any deficiencies caused by withdrawals or resulting from valuation of investments of funds on deposit therein.

Section 410. Arbitrage Rebate Fund.

(a) The Arbitrage Rebate Fund shall be maintained by the Trustee as a fund separate from any other fund established and maintained hereunder. Within the Arbitrage Rebate Fund, the Trustee shall maintain such accounts as shall be required by the Authority in order to comply with the terms and requirements of the Tax Certificate. All money at any time deposited in the Arbitrage Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the Treasury Department of the United States of America. The Authority or the owner of any Bonds shall not have any rights in or claim to such money. All amounts deposited into or on deposit in the Arbitrage Rebate Fund shall be governed by this Section 408 and the Tax Certificate (which is incorporated herein by reference). Amounts in the Arbitrage Rebate Fund shall not be pledged to Bondholders.

(b) The Trustee shall be deemed conclusively to have complied with this Section 410 and the Tax Certificate if it follows the directions of an Authority Authorized Officer, including supplying all necessary written information in the manner provided in the Tax Certificate, and shall have no liability or responsibility for compliance (except as specifically set forth herein or in the Tax Certificate) or to enforce compliance by the Authority with the terms of the Tax Certificate.

(c) Upon the written direction of the Authority, the Trustee shall deposit in the Arbitrage Rebate Fund amounts received from the Authority, so that the balance on deposit thereto shall be equal to the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the Authority in accordance with the Tax Certificate. The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section 410, other than from moneys held in the Funds and Accounts created under this Indenture or from other moneys provided to it by the Authority.

(d) The Trustee shall invest all amounts held in the Arbitrage Rebate Fund as provided in written directions of the Authority. In issuing such directions, the Authority shall comply with the restrictions and instructions set forth in the Tax Certificate. Moneys from the Arbitrage Rebate Fund may only be applied as provided in this Section 410.

(e) Upon receipt of written instructions and certification of the Rebate Requirement from an Authority Authorized Officer, the Trustee shall pay the amount of such Rebate Requirement to the Treasury Department of the United States of America, out of amounts in the Arbitrage Rebate Fund, as so directed. Notwithstanding any other provisions of this Indenture, the obligation to remit the Rebate Requirement to the United States of America and to comply with all other requirements of this Section 410 and the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 411. Renewal and Replacement Reserve Fund.

(a) Amounts in the Renewal and Replacement Reserve Fund shall be used exclusively for funding new Renewal and Replacement Costs, as certified for such Fiscal Year by the Consulting Engineers, in accordance with the Authority's Annual Budget, except as permitted otherwise by the first sentence of Section 411(c). Amounts in the Renewal and Replacement Reserve Fund shall be pledged to Bondholders.

(b) Amounts to be deposited in the Renewal and Replacement Reserve Fund in a Fiscal Year shall equal, in the aggregate (and subject to the monthly deposit required under Section 414) the Renewal and Replacement Reserve Fund Requirement for such Fiscal Year, as recommended and certified by the Consulting Engineers, and which Renewal and Replacement Reserve Fund Requirement shall be included in the Authority's Annual Budget.

(c) After a provision has been made for funding of all Renewal and Replacement Costs and for all of the other major maintenance expenditures budgeted by the Authority for any given Fiscal Year, the Authority may, at its discretion, at any point during the Fiscal Year, transfer any funds remaining in the Renewal and Replacement Reserve Fund to the Turnpike Capital Improvement Fund. Except as permitted otherwise by the preceding sentence, the amount deposited in the Renewal and Replacement Fund shall equal the amount in the Annual Budget to be deposited to the credit of such Renewal and Replacement Fund for such month.

(d) The Authority shall maintain the Renewal and Replacement Reserve Fund in a segregated account with an Authorized Depositary and shall execute and deliver to the Trustee an account control agreement or similar agreement with the Trustee and such Authorized Depositary reasonably sufficient, as confirmed in an Opinion of Bond Counsel, to perfect the

pledge of, and security interest in, amounts in the Renewal and Replacement Reserve Fund under this Indenture.

Section 412. Turnpike Capital Improvement Fund.

(a) The Turnpike Capital Improvement Fund shall be separately accounted for by the Authority and shall be maintained with and by an Authorized Depositary. Amounts in the Turnpike Capital Improvement Fund may, from time to time, be disbursed or transferred by the Authority for the purposes of providing funds to pay Capital Costs on the Turnpike that are not included in the Renewal and Replacement Costs budgeted by the Authority in its then current Annual Budget. Amounts in the Turnpike Capital Improvement Fund shall be pledged to Bondholders.

(b) Amounts to be deposited in the Turnpike Capital Improvement Fund shall be the aggregate of the amounts specified at the discretion of the Authority from time to time in resolutions of the Authority as the total estimated amounts that will need to be deposited therein to fund on Capital Costs on the Turnpike that are not included in the Renewal and Replacement Costs budgeted by the Authority in its then current Annual Budget. Such amounts, once specified, at the discretion of the Authority, shall be reflected in the Authority's five-year capital improvement program for the Turnpike. That five-year capital improvement program shall include and separately identify (i) such Capital Costs of such capital improvements on the Turnpike and (ii) the Renewal and Replacement Reserve Fund Requirement, for each of the five years covered by such program all as further provided in Section 508. As the Authority makes expenditures on such Capital Costs from the Turnpike Capital Improvement Fund, an appropriate credit and reduction (in the amount of such expenditures) shall be made to the aggregate amounts required to be on deposit in such Fund.

(c) Upon the determination of the Authority in its sole discretion that funds in the Turnpike Capital Improvement Fund are not needed for such Capital Costs, and after satisfying any deficiencies in any Debt Service Fund, any Debt Service Reserve Fund, and Renewal and Replacement Fund, respectively, created under this Indenture, the Authority may transfer such amounts to the General Fund or any other Fund or Account created under this Indenture.

Section 413. General Fund.

(a) The Authority shall maintain the General Fund in a segregated account with an Authorized Depositary.

(b) As provided in Subsection 414(n), after first having made the deposits required by Subsections 414(a) through 414(m), and while any Bonds are Outstanding, the Authority shall transfer monthly from the Revenue Fund to the credit of the General Fund any funds remaining in the Revenue Fund. Moneys in the General Fund may be expended by the Authority to restore deficiencies in any Funds or Accounts created under this Indenture, and absent any such deficiency, for any of the following purposes, but for no other purposes, with no one item having priority over any of the others:

- (i) to purchase or redeem Bonds;

(ii) to secure and pay the principal or redemption price of and interest on, any Senior Lien Bonds;

(iii) to secure and pay the principal or redemption price of and interest on, any Subordinate Lien Bonds;

(iii) to make payments into the Parkway Projects Fund or any other Fund or Account created under this Indenture;

(iv) to fund improvements, extensions and replacements of the Turnpike; or

(v) to further any corporate purpose of the Authority that involves expenditures on assets, operations and/or employees of the Authority and is in furtherance of the acquisition, operation, maintenance, improvement, enhancement and/or preservation of assets, operations and/or employees of the Authority.

(c) Amounts in the General Fund shall be not be pledged to Bondholders; **provided**, that moneys in the General Fund may be expended by the Authority as provided in Subsection 413(b) to restore deficiencies in any Funds or Accounts created under this Indenture.

Section 414. Flow of Funds.

The amounts in the Revenue Fund shall be withdrawn and deposited or transferred no later than the fifth day of each month in the amounts and order of priority set forth below:

(a) To the Operation and Maintenance Account in the Operation and Maintenance Fund, one-twelfth (1/12th) of the Operation and Maintenance Expenses set forth in the Authority's current Annual Budget.

(b) To the Operation and Maintenance Reserve Account in the Operation and Maintenance Fund, an amount, if any, necessary to maintain a balance therein equal to the Operation and Maintenance Reserve Account Requirement set forth in the Authority's current Annual Budget.

(c) An amount equal to one-twelfth (1/12th) of the installment of principal due on the next succeeding Bond Payment Date that is a principal payment date with respect to all Senior Lien Bonds or such lesser amount that, in each case, together with amounts already on deposit in the applicable Principal Account, will be sufficient to pay principal on all Senior Lien Bonds coming due on the next succeeding Bond Payment Date that is a principal payment date; **provided, however**, that if the first installment of principal on a Series of Bonds will be due on a date that is either less than or greater than twelve months from the date of issuance of such Series of Bonds, then the fractional amount to be deposited in the Principal Account in respect of such Series of Bonds shall be adjusted to a larger (or smaller) fraction, proportionally, based on the actual time less than (or greater than) twelve months that actually will elapse until the Bond Payment Date on which such first installment of principal will come due.

(d) An amount equal to one-twelfth (1/12th) of the amount of any sinking fund installment due on the next succeeding Bond Payment Date with respect to all Senior Lien Bonds or such lesser amount that, in each case, together with amounts already on deposit in the applicable Redemption Account, will be sufficient to pay any sinking fund installment on all Senior Lien Bonds coming due on the next succeeding Bond Payment Date; **provided, however**, that if the first sinking fund installment on a Series of Bonds will be due on a date that is either less than or greater than twelve months from the date of issuance of such Series of Bonds, then the fractional amount to be deposited in the Redemption Account in respect of such Series of Bonds shall be adjusted to a larger (or smaller) fraction, proportionally, based on the actual time less than (or greater than) twelve months that actually will elapse until the Bond Payment Date on which such first sinking fund installment will come due.

(e) An amount equal to one-sixth (1/6th) of the installment of interest due on the next succeeding Bond Payment Date with respect to all Senior Lien Bonds or such lesser amount that, in each case, together with amounts already on deposit in the applicable Interest Account, will be sufficient to pay interest on all Senior Lien Bonds coming due on the next succeeding Bond Payment Date; **provided, however**, that if the first installment of interest coming due on a Series of Bonds will be due a Bond Payment Date that is either less than or greater than six months from the date of issuance of such Series of Bonds, then the fractional amount to be deposited in the Interest Account in respect of such Series of Bonds shall be adjusted to a larger (or smaller) fraction, proportionally, based on the actual time less than (or greater than) six months that actually will elapse until the Bond Payment Date on which such first installment of interest will come due.

(f) To the applicable Account in the Senior Lien Debt Service Reserve Fund with respect to each Series of Senior Lien Bonds (or, as applicable, to any aggregate or composite Account in the Senior Lien Debt Service Reserve Fund for any Senior Lien Bonds) an amount, if any, which, together with the funds on deposit therein and the available amounts under any DSRF Credit Facility, will be sufficient to make the amounts on deposit therein equal to the Debt Service Reserve Requirement within the applicable time frame and making the applicable monthly replenishment installments, as provided under Section 407(b) or Section 407(c), as applicable, or if the Authority has exercised its option under Section 407(d) to fund the Debt Service Reserve Account in installments, the amount then required to be on deposit in the Debt Service Reserve Account in accordance with such election.

(g) To the applicable Principal Account, an amount equal to one-twelfth (1/12th) of the installment of principal due on the next succeeding Bond Payment Date that is a principal payment date with respect to all Subordinate Lien Bonds or such lesser amount that, in each case, together with amounts already on deposit in the applicable Principal Account, will be sufficient to pay principal on all Subordinate Lien Bonds coming due on the next succeeding Bond Payment Date that is a principal payment date; **provided, however**, that if the first installment of principal coming due on a Series of Bonds will be due a Bond Payment Date that is either less than or greater than twelve months from the date of issuance of such Series of Bonds, then the fractional amount to be deposited in the Principal Account in respect of such Series of Bonds shall be adjusted to a larger (or smaller) fraction, proportionally, based on the actual time less than (or greater than) twelve months that actually will elapse until the Bond Payment Date on which such first installment of principal will come due.

(h) An amount equal to one-twelfth (1/12th) of the amount of any sinking fund installment due on the next succeeding Bond Payment Date with respect to all Subordinate Lien Bonds or such lesser amount that, in each case, together with amounts already on deposit in the applicable Redemption Account, will be sufficient to pay any sinking fund installment on all Subordinate Lien Bonds coming due on the next succeeding Bond Payment Date; **provided, however,** that if the first sinking fund installment on a Series of Bonds will be due on a date that is either less than or greater than twelve months from the date of issuance of such Series of Bonds, then the fractional amount to be deposited in the Redemption Account in respect of such Series of Bonds shall be adjusted to a larger (or smaller) fraction, proportionally, based on the actual time less than (or greater than) twelve months that actually will elapse until the Bond Payment Date on which such first sinking fund installment will come due.

(i) An amount equal to one-sixth (1/6th) of the installment of interest due on the next succeeding Bond Payment Date with respect to all Subordinate Lien Bonds or such lesser amount that, in each case, together with amounts already on deposit in the applicable Interest Account, will be sufficient to pay interest on all Subordinate Lien Bonds coming due on the next succeeding Bond Payment Date; **provided, however,** that if the first installment of interest coming due on a Series of Bonds will be due a Bond Payment Date that is either less than or greater than six months from the date of issuance of such Series of Bonds, then the fractional amount to be deposited in the Interest Account in respect of such Series of Bonds shall be adjusted to a larger (or smaller) fraction, proportionally, based on the actual time less than (or greater than) six months that actually will elapse until the Bond Payment Date on which such first installment of interest will come due.

(j) To the applicable Account in the Subordinate Lien Debt Service Reserve Fund with respect to each Series of Subordinate Lien Bonds (or, as applicable, to any aggregate or composite Account in the Subordinate Lien Debt Service Reserve Fund for any Subordinate Lien Bonds) an amount, if any, which, together with the funds on deposit therein and the available amounts under any DSRF Credit Facility, will be sufficient to make the amounts on deposit therein equal to the Debt Service Reserve Requirement within the applicable time frame and making the applicable monthly replenishment installments, as provided under Section 409(b) or Section 409(c), as applicable, or if the Authority has exercised its option under Section 409(d) to fund the Debt Service Reserve Account in installments, the amount then required to be on deposit in the Debt Service Reserve Account in accordance with such election.

(k) As directed in the applicable Tax Certificate, to the Arbitrage Rebate Fund and any accounts established therein an amount, if any, necessary to maintain a balance therein equal to the Rebate Requirement.

(l) To the Renewal and Replacement Reserve Fund an amount equal to a minimum of one-twelfth of the Renewal and Replacement Reserve Fund Requirement as set forth in the Annual Budget; **provided, however,** that nothing in this Section 414(l) shall be construed as preventing the Authority in its sole discretion from depositing amounts in excess of such minimum deposit in any one month, and **provided further,** that if the Authority previously has deposited amounts in the Renewal and Replacement Reserve Fund in excess of such minimum amount, then, in its discretion, the Authority shall have the right to elect to

credit, against such minimum monthly deposit, some or all of such cumulative excess deposits during the Fiscal Year to date.

(m) From time to time, to the Turnpike Capital Improvement Fund, such sums as shall be certified by the Authority in its sole discretion as necessary to be deposited therein in order to finance Capital Costs on the Turnpike that are not included in Renewal and Replacement Costs budgeted by the Authority in its then current Annual Budget, taking into account (i) funding for such Capital Costs that has been carried over in such Fund from the prior Fiscal Year and (ii) prior expenditures from such Fund for Capital Costs of capital improvement projects on the Turnpike.

(n) To the General Fund, such sums as shall be remaining in the Revenue Fund (if any) not already deposited or transferred at the times and in the amounts pursuant to subsections (a) through (m) of this Section 414 set forth above.

Section 415. Investment of Moneys.

(a) Moneys in all Funds and Accounts held by the Authority shall be invested as soon as practicable upon receipt in Permitted Investments by the Authority, and in the case of Funds and Accounts held by the Trustee, by the Trustee, as directed in writing by an Authority Authorized Officer, or, in the absence of direction by the Authority, as selected by the Trustee; provided that (i) the maturity date or the date on which such Permitted Investments may be redeemed at the option of the holder thereof shall coincide as nearly as practicable with (but in no event shall be later than) the date or dates on which moneys in the Funds or Accounts for which the investments were made will be required for the purposes thereof, and (ii) subject to subsection (h) of this Section, in the absence of direction from an Authority Authorized Officer, the Trustee, shall invest moneys in all Funds and Accounts held by the Trustee overnight in money market funds described in clause (h) of the definition of Permitted Investments.

(b) For purposes of subsection (a) of this Section, moneys in the following Funds or Accounts shall be invested in Permitted Investments maturing or redeemable at the option of the holder, including the Trustee, of such Permitted Investments not later than the respective following dates: (i) Principal Account, the last Business Day of the then current Bond year with respect to each applicable Series of Bonds set forth in the applicable Supplemental Indenture; (ii) Interest Account, the Business Day preceding the next Bond Payment Date with respect to the applicable Series of Bonds set forth in the applicable Supplemental Indenture; and (iii) Redemption Account, the Business Day preceding the next date on which Bonds of the applicable Series of Bonds set forth in the applicable Supplemental Indenture are to be redeemed.

(c) Investment of amounts in any Fund or Account shall be made in the name of such Fund or Account.

(d) Amounts credited to a Fund or Account may be invested, together with amounts credited to one or more other Funds or Accounts, in the same Permitted Investment; provided, however, that (i) each such investment complies in all respects with the provisions of subsection (a) of this Section as they apply to each Fund or Account for which the joint investment is made,

and (ii) separate records are maintained for each Fund and Account and such investments are accurately reflected therein.

(e) The Trustee may make any investment permitted by this Section through or with its own commercial banking or investment departments, unless otherwise directed by the Authority.

(f) Except as otherwise specifically provided herein, in computing the amount in any Fund or Account, Permitted Investments purchased as an investment of moneys therein shall be valued at the current market value thereof or at the redemption price thereof, if then redeemable at the option of the holder, in either event inclusive of accrued interest.

(g) The holder of an investment shall sell at the market price, or present for redemption, any Permitted Investment whenever it shall be necessary to provide moneys to meet any payment or transfer from the Fund or Account for which such investment was made.

(h) The Authority shall not knowingly use or direct or permit the use of any moneys of the Authority in its possession or control in any manner which would cause any Bond to be an "arbitrage bond" within the meaning ascribed to such term in Section 148 of the Code, or any successor section of the Code.

(i) Any transfer to or deposit in any Fund or Account required by this Indenture may be satisfied by transferring or depositing an investment with a market value equal to the required transfer or deposit in lieu of transferring or depositing cash.

(j) Notwithstanding any provision of this Indenture, the Trustee shall observe its covenants and agreements contained herein, to the extent that and for so long as such covenants and agreements are required by law.

Section 416. Liability of Trustee for Investments.

The Trustee shall not be liable for making any investment authorized by the provisions of this Article in the manner provided in this Article or for any loss resulting from any such investment so made, except for its own negligence, willful misconduct or self-dealing constituting a breach of trust under applicable law.

Section 417. Investment Income or Losses.

(a) Unless otherwise specified herein or in the applicable Supplemental Indenture, all investment income or losses on all Funds and Accounts shall be credited to the Fund or Account on which such amount was earned or lost; provided, however, that earnings on amounts in Accounts in the Bond Fund with respect to a Series of Bonds shall be transferred to the Interest Account with respect to such Series. The Authority shall keep records of all such investment income or losses and the applicable Fund or Account which is the source of the income or losses for purposes of determining any rebate amount with respect to each Series.

(b) Investments in each Fund and Account shall be valued by the Authority at current market value as of June 1 and December 1 of each Fiscal Year, or, if those dates do not fall on a

Business Day, on the first Business Day thereafter. Immediately after each such valuation by the Authority, any excess in each Account in the Debt Service Reserve Funds shall be transferred to the Revenue Fund.

Section 418. Purchase Fund.

The Trustee shall establish a separate Purchase Fund for any Series of Bonds that, pursuant to the Supplemental Indenture providing for issuance of such Bonds, is or may be subject to redemption for purchase at the option of the Holders or mandatory tender for purchase. The Purchase Fund for a Series and the amounts deposited therein shall not be subject to the lien and pledge created by this Indenture but shall be held by the Trustee or Paying Agent, as applicable, for the benefit of tendering Holders of Bonds of such Series. Amounts in each Series Purchase Fund shall be held and disbursed as provided in the applicable Supplemental Indenture.

Section 419. Transfer of Excess Funds to the Authority.

Any amounts remaining in any Account of any Bond Fund or any Debt Service Reserve Fund, after payment of all Bonds and reimbursement of the Credit Provider for any drawings on or payments under any Credit Facility which were used to pay principal, premium, if any, or interest on the Bonds and all other obligations owed to the Credit Providers under any Reimbursement Agreements, the fees and expenses of the Trustee, the Paying Agent, and all other amounts required to be paid hereunder, shall be transferred to the General Fund.

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ARTICLE V

COVENANTS OF THE AUTHORITY

Section 501. Maintenance of Corporate Existence

The Authority covenants and agrees that it will maintain its corporate existence and will not merge with or into any other entity in a manner that will materially and adversely affect its ability to comply with its obligations under this Indenture and all Supplemental Indentures and provided that any successor entity must assume all of the obligations of the Authority under this Indenture, all Supplemental Indentures and all other applicable agreements.

Section 502. Payment of Principal and Interest; Pledge of the Toll Road Revenues; Negative Pledge; Annual No Default Certificate.

(a) The Authority covenants and agrees that it will pay or cause to be paid as and when due the principal of, premium, if any, interest on, and other payments with respect to each Bond issued hereunder at the place, on the dates and in the manner provided herein and in the applicable Supplemental Indenture and in such Fund according to the terms thereof but solely from the sources pledged to such payment or from such other sources or revenues as may be used for such payment. Except as expressly pledged hereunder or in any Supplemental Indenture, the Authority has no obligation to make any payment of principal of or interest on any Bond from any assets used in or revenues derived from the operation of the Turnpike or any other funds of the Authority.

(b) Without limiting the generality of the granting clauses set forth above, as security for the payment of the principal of, interest, any premium on and other payments due with respect to the Bonds, the Authority hereby grants to the Trustee a pledge of and lien on the Net Toll Road Revenues, subject only to application as provided herein and in any Supplemental Indenture. To the fullest extent provided by the Act and other applicable law, such pledge shall be valid and binding from and after the date hereof and all Net Toll Road Revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the Bond Authorizing Resolution nor this Indenture by which the pledge is created need to be filed or recorded except in the records of the Authority.

(c) The Authority covenants and agrees that it will not create any pledge, lien or encumbrance upon, or permit any pledge, lien or encumbrance to be created on, Toll Road Revenues except for a pledge, lien or encumbrance subordinate to the pledge and lien granted hereby for the benefit of the Senior Lien Bonds or as otherwise permitted hereby or by any Supplemental Indenture.

(d) Neither the State nor the Authority shall be obligated to pay the principal of or interest on the Bonds and neither the faith and credit nor the taxing power of the State or any political subdivision thereof nor the Authority is pledged to the payment of the principal of or

interest on the Bonds. The Authority's obligations under this Indenture and the Bonds shall be limited to payment from Net Toll Road Revenues. The Authority has no taxing power.

(e) The Authority shall deliver to the Trustee within 90 days after the close of each Fiscal Year, a certificate signed by an Authority Authorized Officer stating that during such Fiscal Year, and as of the date of such certificate, no event or condition has happened or existed, or is happening or existing, which constitutes, or which, with notice or lapse of time or both, would constitute an Event of Default under this Indenture, or if such an event or condition has happened or existed, or is happening or existing, specifying the nature and period of such event or condition and what action the Authority has taken, is taking or proposes to take with respect thereto, and directing, if necessary, the Trustee to take actions in provided in Section 603.

Section 503. Operation and Maintenance of Turnpike in Good Repair; Appointments of Consulting Engineers and Traffic and Revenue Consultant; Annual Inspection and Report of Consulting Engineers on Condition of Turnpike; Role of Consulting Engineers in Annual Budget-Making Process.

(a) The Authority will at all times operate the Turnpike, or cause the Turnpike to be operated, in an efficient manner and at reasonable cost; will maintain, preserve and keep, or cause to be maintained, preserved and kept, the properties of the Turnpike and all additions and betterments thereto and thereof, and every part and parcel thereof, in good repair, working order and condition; and to that end will from time to time make, or cause to be made, all necessary and proper repairs, renewals, replacements, additions, extensions and betterments thereto.

(b) The Authority covenants that it will, for the purpose of performing and carrying out the duties imposed on the Consulting Engineers by this Indenture, employ an independent engineer or engineering firm or corporation having a nationwide and favorable reputation or skill and experience in such work. The Authority shall file copies of its appointments of the Consulting Engineers with the Trustee and provide copies thereof to any Bondholder who shall make request therefor.

(c) The Consulting Engineers shall make a physical examination and inspection of the Turnpike once a year and shall submit to the Authority a written annual report on the condition of the Turnpike prior to the end of each Fiscal Year. Each such report shall be in sufficient detail to show whether the Authority in operating the Turnpike has maintained it in good repair, working order and condition, and whether the Authority has complied with the covenants set forth in this Indenture with respect to the efficient management of the Turnpike, the proper maintenance of the properties of the Turnpike, and the making of necessary repairs, renewals and replacements thereto and thereof and the necessity for capital replacements and improvements, and recommendations therefor made by the Consulting Engineers. If the Authority shall have in any way failed to perform or comply with the covenants and agreements mentioned in the previous sentence, such report shall specify the detail of such failure. The Consulting Engineers shall annually certify to the Authority and include in their reports their recommendations as to the amounts that are necessary to be expended for the Renewal and Replacement Reserve Fund Requirement for the Turnpike for not less than each of the five (5) next succeeding Fiscal Years. The Authority covenants to include such estimates of the Renewal

and Replacement Reserve Fund Requirement in its five-year capital program for the Turnpike that the Authority is required to include with and as part of its Annual Budget.

Copies of all such reports shall be filed with the Authority, the Trustee and any Bondholder who shall make request therefor.

Section 504. Instruments of Further Assurance.

The Authority covenants and agrees that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such instruments supplemental hereto and such further acts, instruments and transfers as the Trustee reasonably may require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee the Authority's interest in and to the Toll Road Revenues as a perfected security interest, subject to application as provided herein and in any Supplemental Indenture, and all other property that is conveyed, pledged or assigned to secure or provide for the payment of the principal, premium, if any, and interest on the Bonds in the manner and to the extent contemplated herein or therein, including the filing of any required financing statements and continuation statements and/or other filings or recordings under the Uniform Commercial Code or other laws.

Section 505. Performance of Covenants.

The Authority covenants that it faithfully will perform at all times any and all covenants, undertakings, stipulations and provisions on its part to be performed as provided herein and in any Supplemental Indenture, in each and every Bond executed, authenticated and delivered hereunder, in each Credit Facility and in all proceedings of the Authority pertaining thereto; provided, that the Authority's payment obligations under this Indenture and the Bonds shall be solely from Toll Road Revenues.

Section 506. Compliance with Laws, Rules and Regulations; Tripartite Agreement.

The Authority will comply with all valid and material requirements, including the Act and any rules, regulations, orders and directives of any governmental, legislative, executive, administrative or judicial body applicable to the Turnpike and to the Authority's operation of the Turnpike, unless the same shall be contested in good faith. The Authority covenants that it will comply with the terms, provisions, and conditions of the Tripartite Agreement.

Section 507. Notice of Events of Default and Termination Events.

The Authority covenants and agrees that it will promptly notify the Trustee of any event that constitutes an Event of Default under this Indenture or any Supplemental Indenture, or a default under any Credit Facility.

Section 508. Annual Budget.

(a) The Authority shall adopt its Annual Budget for the succeeding Fiscal Year prior to the first day of each Fiscal Year, and shall file the same with the Trustee promptly after each such Annual Budget is adopted but in any event prior to the first day of the then succeeding Fiscal Year. The certificate of the Consulting Engineers setting forth the Consulting Engineers'

judgment as to the amounts necessary to be expended in such Fiscal Year for Operation and Maintenance Expenses and for the Renewal and Replacement Reserve Fund Requirement shall be included with and constitute part of the Annual Budget. In addition, the Authority shall include as part of its Annual Budget, the estimated costs to be incurred in the current Fiscal Year under its five-year capital program (which program shall include the Consulting Engineers' certified estimates for Renewal and Replacement Reserve Fund Requirements for each Fiscal Year covered by the Authority's five-year capital program).

(b) The Authority covenants that it will include in its Annual Budget sufficient amounts to fulfill the Authority's obligations under this Indenture and any Supplemental Indentures, including its obligations to pay debt service on the Bonds, to fund the Funds and Accounts in the amounts required by this Indenture and its other agreements, and to operate and maintain the Turnpike.

(c) If, for any reason, the Authority is prevented or precluded from adopting an Annual Budget, the Authority covenants that it shall continue to operate under the Annual Budget for the previous Fiscal Year, provided, however, that the Authority nonetheless shall take such action as may be required to permit it to obligate and expend moneys for (i) debt service on previously authorized obligations including, without limitation, all Annual Debt Service on Outstanding Bonds, and (ii) all other required deposits to Funds and Accounts created under this Indenture.

(d) The Authority may at any time adopt and file with the Trustee an amended Annual Budget for the remainder of the then current Fiscal Year, provided that a copy of any adopted amendment to its then current Annual Budget shall be provided to the Trustee prior to the effective date of such amendment, and the amended Annual Budget shall meet all the other requirements for an Annual Budget under this Indenture.

Section 509. Financial Records and Statements.

The Authority covenants to maintain proper books of record and accounts, in which full and correct entries shall be made in accordance with generally accepted accounting principles, of all its business and affairs. It covenants to have an annual audit made by independent certified public accountants of recognized standing and shall by December 31 after the end of each of its Fiscal Years furnish to the Trustee copies of the balance sheet of the Authority as of the end of such Fiscal Year and complete audited financial statements of the Authority for such Fiscal Year, all in reasonable detail.

Section 510. Tax Covenants.

(a) The Authority covenants that it shall not take any action, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds under Section 103 of the Code. Without limiting the generality of the foregoing, the Authority covenants that it will comply with the instructions and requirements of the applicable Tax Certificate, which is

incorporated herein as if fully set forth herein. This covenant shall survive payment in full or defeasance of the Bonds.

(b) In the event that at any time the Authority is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Trustee under this Indenture, the Authority shall so instruct the Trustee under this Indenture in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

(c) Notwithstanding any provisions of this Section, if the Authority shall provide to the Trustee an opinion of Bond Counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Trustee may conclusively rely on such opinion in complying with the requirements of this Section and of the applicable Tax Certificate, and the covenants hereunder shall be deemed to be modified to that extent.

Section 511. Establishment of Tolls and Free Passage.

(a) The Authority covenants and agrees that it has and shall maintain so long as any Bonds remain Outstanding and until all other obligations under this Indenture have been satisfied, the exclusive right and lawful power to establish, charge and collect Tolls, user fees and other charges for the use of the Turnpike. The Authority further covenants and agrees that it will take all reasonable measures permitted by law to enforce prompt payment to it of such Tolls, user fees and other charges when and as due.

(b) The Authority covenants that it will not allow or permit any free use of the toll facilities of the Turnpike except to officials or employees of the Authority and/or WVDOH engaged in official business of the Authority and/or WVDOH, or law enforcement officers or emergency vehicles while in the discharge of their official duties, or in the event of an emergency which is temporary, free passage is required in order to assure the health, safety, and security of customers on the Turnpike.

(c) The Authority covenants and agrees that at no time will it subject its exclusive right to establish, charge and collect Tolls and other user fees and charges for the use of the Turnpike to the approval or consent of any other individual or entity, governmental or otherwise. None of the State or any other individual or entity, governmental or otherwise, shall have any rights or responsibilities pursuant to this Indenture.

Section 512. Toll Rate Covenant.

(a) The Authority shall establish, charge, and collect Tolls for the privilege of traveling on the Turnpike at rates sufficient to meet Operation and Maintenance Expenses and produce Net Toll Road Revenues in such Fiscal Year and in each Fiscal Year thereafter that are at least:

(i) 125% of the Annual Debt Service with respect to all Outstanding Senior Lien Bonds, if any, for such Fiscal Year; and

(ii) 100% of the sum of (A) Annual Debt Service with respect to all Outstanding Bonds, (B) the amounts, if any, necessary to restore the amount on deposit in any Debt Service Reserve Fund to the applicable aggregate or composite Debt Service Reserve Requirement in accordance with this Indenture, and (C) the Renewal and Replacement Reserve Fund Requirement.

(b) All such Tolls and charges shall be established and maintained in accordance with all laws, rules, and regulations of the State or of the United States of America applicable thereto. Nothing herein shall require, however, that the Authority make any payment with respect to the Bonds which are not general obligations of the Authority except from the sources and in the manner expressly provided for such Bonds by the Authority.

(c) Prior to the first day of each Fiscal Year while any Series of Bonds are Outstanding, the Authority shall prepare its Annual Budget and deliver to the Trustee a statement in which it sets forth its conclusion as to whether Toll Road Revenues for such budgeted Fiscal Year will be sufficient to satisfy the Toll Rate Covenant set forth in subsection (a) of this Section.

(d) If either (i) the Annual Budget adopted by the Authority under Section 508 for any Fiscal Year shows that Toll Road Revenues will be inadequate to meet the Toll Rate Covenant for such Fiscal Year or (ii) the audited financial reports regarding the Turnpike prepared by the Authority show that the Authority did not satisfy the Toll Rate Covenant for a Fiscal Year, then, the Authority shall:

(i) within 30 days of the date such Annual Budget is adopted or such audit is final, whichever occurs first (and without requiring two studies for the same Fiscal Year), engage a Toll Road Consultant to conduct a study and, within 90 days of such engagement, the Toll Road Consultant shall deliver a written report to the Authority containing the results of such study and the recommendations of the Toll Road Consultant as to the actions required with respect to the operation of the Turnpike and Tolls, fees and charges for the privilege of traveling on the Turnpike in order to provide sufficient Toll Road Revenues in each subsequent Fiscal Year to comply with the Toll Rate Covenant; and

(ii) take the actions recommended by the Toll Road Consultant in such report no later than 60 days after the receipt of such report; provided, however, that if the procedural requirements for a toll increase as provided by the Act (including, without limitation, the requirements for giving public notice, holding public meetings and providing opportunities for public comment) cannot reasonably be complied with in such 60 days, and if the Authority within such 60-day period has commenced and is diligently pursuing the steps necessary to be completed to approve a toll increase, then the Authority shall have an additional 180 days to take such recommended actions; provided, further, that the Authority may take such further actions as it reasonably determines are likely to produce results similar to those recommended by the Toll Road Consultant, as certified by an Authority Authorized Officer; and provided, further, that if the Toll Road Consultant reasonably believes that such further actions as are described in such certificate are not reasonably likely to produce results similar to those recommended by the Toll Road Consultant, then the Toll Road Consultant shall so notify the Authority in writing and

provide a copy of such notification to the Trustee within 30 days after receiving the Authority Authorized Officer certificate.

(e) Failure to comply with the Toll Rate Covenant shall not constitute an Event of Default if (i) the Authority complies with the covenants described in subsections (c) and/or (d) of this Section and (ii) the Toll Road Consultant provides a written opinion stating that the actions required in order to produce the required Toll Road Revenues are impracticable at that time and the Authority has commenced the necessary steps to enact increased tolls and charges within the 60-day period as provided under Section 512(d)(ii), and has been diligently pursuing the completion of such steps and enactment of such toll increase and charges to comply as nearly as possible with the recommendation of the Toll Road Consultant, but still is unable to comply with subsection (a) of this Section. For purposes of this subsection, “*impracticable*” means (A) such actions would not result in an increase in Toll Road Revenues that is sufficient to comply with the Toll Rate Covenant, (B) the economic cost of taking such actions exceeds the economic benefit resulting from such actions or (C) the Authority does not have sufficient available funds to pay the cost of taking such actions.

(f) If any study conducted pursuant to subsection (d) of this Section concludes that actions with respect to the operation of the Turnpike and Tolls, fees and charges for the privilege of traveling on the Turnpike will not provide sufficient Toll Road Revenues in each subsequent Fiscal Year to comply with Toll Rate Covenant, the Authority shall use its best efforts to collect revenues from other sources that will enable it to comply with the Toll Rate Covenant.

(g) The Authority shall not reduce tolls unless and until the Toll Road Consultant certifies that the Toll Rate Covenant will be achieved, after the application of such reduction, in the current Fiscal Year and all future Fiscal Years Bonds are then Outstanding.

(h) If the Authority shall adopt a new or revised Toll Rate Schedule, in accordance with the procedures and requirements under the Act, the Authority shall provide a certified copy of such new or revised Toll Rate Schedule to the Trustee.

Section 513. Operation and Maintenance of Turnpike – Additional Covenants.

(a) The Authority covenants and agrees that it has taken, and, so long as any Bonds are Outstanding, that it will take, all steps necessary to ensure that it will continue to have lawful right and lawful power to operate and maintain the Turnpike as a revenue-producing facility consistent with its obligations under the Act.

(b) The Authority covenants and agrees that it will pay all Operation and Maintenance Expenses in accordance with customary business practices.

(c) The Authority covenants that it will, from time to time, duly pay and discharge, or cause to be paid and discharged, any taxes, assessments or other governmental charges lawfully imposed upon the Turnpike or upon any part thereof, or upon the Toll Road Revenues, when the same shall become due, as well as any lawful claim for labor, materials, or supplies which, if unpaid, might by law become a lien or charge upon the Turnpike or the Toll Road Revenues, or which might impair the security of the Bonds.

Section 514. Retention of Assets.

The Authority covenants and agrees that it will not dispose of assets necessary to operate the Turnpike in the manner and at the levels of activity required to enable it to perform its covenants contained herein, including, without limitation, the covenants contained in Section 511.

Section 515. Insurance.

(a) The Authority shall at all times cause to be maintained, to the extent reasonably obtainable, the following kinds of insurance with responsible insurance and/or reinsurance companies authorized and qualified to do business in (or with companies duly authorized and qualified to do business with companies that are authorized and qualified to do business in) the State, in such amounts as recommended by the Consulting Engineers as provided below or as determined by the Authority:

(i) multi-risk insurance on the facilities of the Turnpike which are of an insurable nature and of the character usually insured by those operating similar facilities, covering direct physical loss or damage thereto from causes customarily insured against, in such amounts recommended by the Consulting Engineers to provide against such loss or damage and to protect the interest of the Authority;

(ii) use and occupancy insurance covering loss of Toll Road Revenues by reason of necessary interruption, total or partial, in the use of the facilities of the Turnpike, due to loss or damage to any such facility on which multi-risk insurance is maintained as provided in this Section, in such amount as recommended by the Consulting Engineers to provide income during the period of interruption, but in no event less than 12 months, in the event of the occurrence or any such loss or damage, equal to the amount of the loss of Toll Road Revenues, computed on the basis of Toll Road Revenues for the corresponding period during the preceding calendar year, or if such facility was not in operation during the preceding calendar year, then computed on the basis of the Consulting Engineers' estimate, attributable to such loss or damage;

(iii) public liability insurance covering injuries to persons or property, in such amount as recommended by the Consulting Engineers;

(iv) war risk insurance, if obtainable from the United States Government or any agency thereof, covering direct physical loss or damage, and loss of Toll Road Revenues attributable thereto, on the facilities of the Turnpike which are insurable thereunder;

(v) during the period of construction or reconstruction of any material portion of the facilities of the Turnpike, such insurance as is customarily carried by others with respect to similar structures used for similar purposes, **provided, however**, that the Authority shall not be required to maintain any such insurance to the extent that such insurance is carried for the benefit of the Authority by contractors, and **provided, further**, that the Authority shall require contractors

constructing any such portion of the facilities of the System to file bonds or undertakings for the full performance of such contracts, and under which all risks from any cause whatsoever, without any exceptions, during the period of such construction, shall be assumed by such contractors; and

(vi) any additional or other insurance as the Authority in its discretion may determine;

provided, however, that the Authority may self-insure, in whole or in part, with the approval of the Consulting Engineers, against public liability for bodily injury and property damage, loss of Toll Revenues normally covered by use and occupancy insurance and other risks not enumerated above to the extent permitted by law and up to the levels recommended by the Consulting Engineers or a recognized, independent insurance consultant. The adequacy of any self-insurance reserve, or other insurance reserve, established by the Authority shall be evaluated annually by the Authority in consultation with the Consulting Engineers (or a recognized, independent insurance consultant). Deficiencies, if any, in any such self-insurance reserve, or other insurance reserve, shall be made up in accordance with the recommendations of the Consulting Engineers. Except to the extent such coverage is provided by the Authority, such policies shall be taken in the names of the Authority and the Trustee for the benefit of the Holders.

(b) The proceeds of such insurance policies covering loss or damage shall at the direction of the Authority either (i) be applied to the redemption of Bonds or (ii) be paid to the Authority and held by the Authority in a special trust account for the sole purpose of reconstructing or replacing the facility or reimbursing the Authority if the Authority has advanced funds for such reconstruction or replacement. If such proceeds are insufficient to reconstruct or replace the damaged facilities, any deficiency thereof shall be provided by the Authority from lawfully available funds. Any proceeds of use and occupancy insurance paid to the Authority shall be deposited promptly by the Authority into the applicable Debt Service Fund if necessary to prevent a default in payment thereon.

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ARTICLE VI DEFAULT AND REMEDIES

Section 601. Events of Default.

Subject to the limitation that nonpayment alone of principal of, premium, if any, or interest on any Subordinate Lien Bond shall not constitute an Event of Default with respect to Senior Lien Bonds, each of the following is hereby declared an “*Event of Default*” hereunder with respect to a Series of Bonds:

(a) if payment by the Authority in respect of any installment of principal or interest on any Bond of such Series shall not have been made in full when the same became due and payable, whether at maturity or by proceedings for redemption or otherwise;

(b) if payment by the Authority in respect of any Regularly Scheduled Hedge Payment or any payment pursuant to a Reimbursement Agreement with any Credit Provider with respect to any Bond of such Series shall not have been made in full when the same becomes due and payable;

(c) if the Authority shall fail to observe or perform any covenant or agreement on its part under this Indenture, other than the Toll Rate Covenant, for a period of 60 days after the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Authority by the Trustee, or to the Authority and the Trustee by the Holders of at least 50.01% in aggregate principal amount of Bonds of a Series then Outstanding; provided, however, that if the breach of covenant or agreement is one which cannot be completely remedied within the 60 days after written notice has been given, it shall not be an Event of Default with respect to such Series as long as the Authority has taken active steps within the 60 days after written notice has been given to remedy the failure and is diligently pursuing such remedy; or

(d) if the Authority shall institute proceedings to adjudicate its bankruptcy or insolvency, or shall consent to the institution of bankruptcy or insolvency proceedings against it, or shall file a petition or answer or consent seeking reorganization or relief under the Federal Bankruptcy Code or any other similar applicable Federal or state law, or shall consent to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Authority or of any substantial part of the Turnpike or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due.

(e) The first Supplemental Indenture pursuant to which Subordinate Lien Bonds are issued shall specify all Events of Default applicable to the Subordinate Lien Bonds, and Events of Default (if any) that are applicable only to a particular Series of Subordinate Lien Bonds shall be set forth in the applicable Supplemental Indenture under which such Series was issued.

Section 602. No Acceleration or Cross Default with Respect to the Bonds.

There shall be no right of acceleration with respect to the Bonds. An Event of Default with respect to the Subordinate Lien Bonds shall not cause an Event of Default with respect to any Senior Lien Bonds, unless such event or condition on its own constitutes an Event of Default with respect to the Senior Lien Bonds pursuant to Section 601.

Section 603. Remedies and Enforcement of Remedies under the Indenture.

(a) Subject to the provisions of Section 615, upon the occurrence and continuance of any Event of Default with respect to a Series of Bonds, the Trustee may or, upon the written request of the Holders of not less than 50.01% in an aggregate principal amount of the Bonds of such Series, together with indemnification of the Trustee to its satisfaction therefor, shall proceed to protect and enforce its rights and the rights of the Bondholders under this Indenture, the Act and such Bonds by such suits, actions or proceedings, as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

- (i) Civil action to recover money or damages due and owing;
- (ii) Civil action to enjoin any acts or things, which may be unlawful or in violation of the rights of the Holders of such Bonds; and
- (iii) Enforcement of any other right of such Bondholders conferred by law, including the Act, or hereby, including, without limitation, by suit, action, injunction, mandamus or other proceedings to enforce and compel the performance by the Authority of actions required by the Act or this Indenture, including the fixing, charging and collecting of Tolls, fees and charges for the privilege of traveling on the Turnpike.

(b) Subject to the provisions of Section 607, regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than 25% in aggregate principal amount of the Bonds of a Series, shall upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient (i) to prevent any impairment of the security hereunder by any acts or omissions to act which may be unlawful or in violation hereof, or (ii) to preserve or protect the interests of the Holders, provided that such request is in accordance with law and the provisions hereof and, in the sole judgment of the Trustee, is not unduly prejudicial to the interest of the Holders of Bonds of each Series not making such request.

(c) Notwithstanding anything else in this Section, the remedies provided herein with respect to using the moneys on deposit in the Funds or the Accounts hereunder shall be limited to the Funds or Accounts hereunder pledged to the applicable Series of Bonds with respect to which an Event of Default exists.

Section 604. Application of Toll Road Revenues and Other Moneys After Default.

During the continuance of an Event of Default with respect to any Series of Bonds, all moneys held in trust and pledged hereunder and received by the Trustee with respect to such Series of Bonds pursuant to any right given or action taken under the provisions of this Article

shall, after payment of the expenses and advances incurred or made by the Trustee, any Credit Provider or the Bondholders with respect thereto, including reasonable costs and expenses of counsel, be applied according to the accrued debt service deposits or payments with respect to each such Series as follows; provided, however, that money drawn under a Credit Facility, if any, and amounts held in Accounts in any Bond Fund and any Debt Service Reserve Fund shall be applied solely to pay interest or principal, as applicable, on the related Series of Bonds:

First: To the payment of all installments of interest then due on any Senior Lien Bonds in the order of maturity of such installments, including installments of interest due with respect to any mandatory sinking fund redemption, Regularly Scheduled Hedge Payments or any payments made on any Senior Lien Bonds pursuant to a Reimbursement Agreement, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment of the amounts due on such date ratably, without any discrimination or preference;

Second: To the payment of any principal or redemption price of any Senior Lien Bonds which shall have become due, whether at maturity or by call for redemption or otherwise or upon the tender of any Senior Lien Bonds pursuant to the terms of the Supplemental Indenture providing for the issuance of such Senior Lien Bonds, as well as any principal due with respect to Regularly Scheduled Hedge Payments or any payments made on any Senior Lien Bonds pursuant to a Reimbursement Agreement, and, if the amount available shall not be sufficient to pay in full all Senior Lien Bonds and any related obligations described above due on any particular date, then to the payment of the amounts due on such date ratably, without any discrimination or preference;

Third: To the payment of all installments of interest then due on any Subordinate Lien Bonds in the order of maturity of such installments, including installments of interest due with respect to any mandatory sinking fund redemption, Regularly Scheduled Hedge Payments or any payments made on any Subordinate Lien Bonds pursuant to a Reimbursement Agreement, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment of the amounts due on such date ratably, without any discrimination or preference;

Fourth: To the payment of any principal or redemption price of any Subordinate Lien Bonds which shall have become due, whether at maturity or by call for redemption or otherwise or upon the tender of any Subordinate Lien Bonds pursuant to the terms of the Supplemental Indenture providing for the issuance of such Subordinate Lien Bonds, as well as any principal due with respect to Regularly Scheduled Hedge Payments or any payments made on any Subordinate Lien Bonds pursuant to a Reimbursement Agreement, and, if the amount available shall not be sufficient to pay in full all Subordinate Lien Bonds and any related obligations described above due on any particular date, then to the payment of the amounts due on such date ratably, without any discrimination or preference.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine in accordance with this Indenture, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Bond Payment Date unless it shall deem another date more suitable) upon

which such application is to be made and upon such date interest on the principal amounts to be paid on such dates shall cease to accrue if so paid. The Trustee shall give such notice as it may deem appropriate in accordance with this Indenture of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement of any partial payment or for cancellation if fully paid.

Whenever all installments of interest then due on the Outstanding Bonds and all unpaid principal amounts of any Outstanding Bonds that shall have become due have been paid under the provisions of this Section and all expenses and charges of the Trustee have been paid, and each Credit Provider, if any, has been reimbursed for all amounts drawn under the applicable Credit Facility, if any, and used to pay principal, premium, if any, and interest on the Outstanding Bonds, the Authority shall resume making the transfers from the Revenue Fund in the amounts and according to the priority set forth in Section 414.

Section 605. Remedies Not Exclusive.

No remedy by the terms hereof conferred upon or reserved to the Trustee or the Bondholders or any Credit Provider is intended to be exclusive of any other remedy but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity or by statute, including the Act, on or after the date hereof.

Section 606. Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) hereunder or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee may be brought in its name as the Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Section 606, any recovery or judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 607. Control of Proceedings.

(a) For the purpose of this Section 607 only, the Holders of the Senior Lien Bonds may control the proceedings if there is an Event of Default with respect to the Senior Lien Bonds; provided, however, that the provisions of Section 606 shall apply with respect to the application of Toll Road Revenues and other moneys after an Event of Default. Subject to the foregoing and the additional limitation that nonpayment of principal of, purchase price of, if applicable, premium, if any, or interest on any Subordinate Lien Bonds shall not alone constitute an Event of Default while any Senior Lien Bonds are Outstanding or remain unpaid, if an Event of Default with respect to a Series of Bonds shall have occurred and be continuing, the Holders of a majority in aggregate principal amount of Bonds of such Series then Outstanding shall have the right, at any time, by any instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken with respect to funds or assets solely securing such Series in connection with the

enforcement of the terms and conditions hereof, provided that such direction (i) is in accordance with law and the provisions hereof (including indemnity to the Trustee as provided herein) and (ii), in the sole judgment of the Trustee, is not unduly prejudicial to the interest of Bondholders of each Series of Bonds not joining in such direction, and provided further that nothing in this Section shall impair the right of the Trustee in its discretion to take any other action hereunder which it may deem proper in accordance with this Indenture and which is not inconsistent with such direction by Bondholders.

(b) If an Event of Default with respect to all Series of Bonds shall have occurred and be continuing, the Holders of a majority in aggregate principal amount of all Senior Lien Bonds then outstanding shall have the right, at any time, by any instrument in writing executed and delivered to the Trustee to direct the method and place of conducting any proceeding to be taken with respect to the Toll Road Revenues or other assets securing all Bonds in connection with the enforcement of the terms and conditions hereof, provided that such direction is in accordance with law and the provisions hereof (including indemnity to the Trustee as provided herein) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interest of Bondholders not joining in such direction and provided further that nothing in this Section shall impair the right of the Trustee in its discretion to take any other action hereunder which it may deem proper in accordance with this Indenture and which is not inconsistent with such direction by Bondholders.

(c) No owner of any Subordinate Lien Bond shall have any right to institute any judicial or other action or remedial proceeding (including, without limitation, bankruptcy or insolvency proceedings) against the Authority or any of the Authority's other rights, interests, assets or properties, to collect any moneys due, to enforce payment on its Subordinate Lien Bond so long as any Senior Lien Bonds remain Outstanding without the written consent of a majority of the aggregate principal amount of the Senior Lien Bonds then Outstanding. Any action commenced by an owner of any Subordinate Lien Bond shall terminate upon annulment of the default in respect of the Senior Lien Bonds.

Section 608. Individual Bondholder Action Restricted.

(a) No Holder of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement hereof or for the execution of any trust hereunder or for any remedy hereunder unless:

(i) an Event of Default has occurred with respect to such Series (A) under subsection (a) or (b) of Section 601 of which the Trustee is deemed to have notice, or (B) under subsection (c), (d) or (e) of Section 601 as to which a Responsible Officer has actual knowledge or as to which the Trustee has been notified in writing by the Authority;

(ii) in the case of an Event of Default under subsection (a) or (b) of Section 601, the Holders of at least 51% in aggregate principal amount of Bonds of such Series then Outstanding, or in the case of an Event of Default under subsection (c), (d), or (e) of Section 601, the Holders of at least 51% in aggregate principal amount of all Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted herein or to institute such action, suit or proceeding in its own name;

(iii) such Bondholders shall have offered the Trustee indemnity as provided in Section 702;

(iv) the Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of 60 days after receipt by it of such request and offer of indemnity; and

(v) during such 60-day period no direction inconsistent with such written request has been delivered to the Trustee by the Holders of a majority in aggregate principal amount of Bonds of such Series then Outstanding in accordance with Section 609.

(b) No one or more Holders of Bonds of such Series shall have any right in any manner whatsoever to affect, disturb or prejudice the security hereof or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds of such Series then Outstanding.

(c) Nothing contained herein shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond of such Series (i) to receive payment of the principal of or interest on such Bond on or after the due date thereof or (ii) to institute suit for the enforcement of any such payment on or after such due date; provided, however, no Holder of any Bond of such Series may institute or prosecute any such suit or enter judgment therein if, and to the extent that, the institution or prosecution of such suit or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the lien hereof on the moneys, funds and properties pledged hereunder for the equal and ratable benefit of all Holders of Bonds of such Series.

(d) Neither the Holder of any Bond of a Series nor the Trustee shall name or join WVDOH, or the State or any officer thereof in any legal proceeding seeking remedies provided hereunder or other enforcement of this Indenture except to the extent joining WVDOH is required as a necessary party in order to give a court jurisdiction over such action.

Section 609. Termination of Proceedings.

In case any proceeding taken by the Trustee on account of an Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or to the Bondholders, then the Authority, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

Section 610. Waiver of Event of Default.

(a) No delay or omission of the Trustee, of any Holder of the Bonds or, if provided by Supplemental Indenture, any Credit Provider to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article to the Trustee, the Holders of the Bonds and, if provided by Supplemental Indenture, any

Credit Provider, respectively, may be exercised from time to time and as often as may be deemed expedient by them.

(b) The Trustee, with the written consent of any Credit Provider, if provided by Supplemental Indenture (provided, however, that such Credit Provider's consent may be required only in connection with an Event of Default on a Series of Bonds with respect to which such Credit Provider is providing a Credit Facility), may waive any Event of Default with respect to the Bonds, that in its opinion, shall have been remedied at any time, regardless of whether any suit, action or proceeding has been instituted, before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof, or before the completion of the enforcement of any other remedy hereunder.

(c) Notwithstanding anything contained herein to the contrary, the Trustee, upon the written request of (i) the Credit Provider, if any, if provided by a Supplemental Indenture, with respect to an Event of Default which applies only to the related Series of Bonds, (ii) Holders of at least a majority of the aggregate principal amount of Bonds of a Series then Outstanding with respect to any Event of Default which applies only to such Series, with the consent of the applicable Credit Provider, if any, if provided by a Supplemental Indenture or (iii) Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding with respect to any Event of Default which applies to all Bonds, shall waive any such Event of Default hereunder and its consequences; provided, however, that a default in the payment of the principal amount of, premium, if any, or interest on any such Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds then Outstanding of such Series to which an Event of Default applies and any consent of the applicable Credit Provider, if any, if provided by a Supplemental Indenture.

(d) In case of any waiver by the Trustee of an Event of Default hereunder, the Authority, the Trustee, the Bondholders and, if provided by a Supplemental Indenture, the Credit Provider shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to any one for waiving or refraining from waiving any Event of Default in accordance with this Section.

Section 611. Notice of Event of Default.

(a) As soon as possible after the occurrence of an Event of Default with respect to a Series of Bonds under Section 601(a), promptly, but in any event within 10 days after (i) the occurrence of an Event of Default with respect to a Series of Bonds under Section 601(a) or (b), of which the Trustee hereby is deemed to have notice, or (ii) receipt, in writing or otherwise, by a Responsible Officer of the Trustee of actual knowledge or notice of an Event of Default with respect to a Series of Bonds under Section 601(c) or (d), the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to the Authority, the Registrar, each Holder of Bonds of such Series then Outstanding, any Credit Provider and, as long as the Bonds are held in book-entry form, to the Securities Depository in lieu of the Holders of the Bonds, provided that, except in the case of a default in the payment of principal amounts, Sinking Fund installments, or the redemption price of or interest on any of

the Bonds of such Series, the Trustee may withhold such notice to such Holders if, in its sole judgment in accordance with this Indenture, it determines that the withholding of such notice is in the best interest of the Holders of such Series of Bonds.

(b) The Trustee shall promptly notify the Authority or any other person, of every notice of election to sell, notice of sale or other notice required by law or by this Indenture in connection with the exercise of remedies under this Indenture.

Section 612. Limitations on Remedies.

It is the purpose and intention of this Article to provide rights and remedies to the Trustee and Bondholders which lawfully may be granted pursuant to the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Bondholders shall be entitled to every other right and remedy provided in this Indenture and by law. The Authority has no obligation to make any payment of any Bond or the interest thereon from any assets used in or revenues derived from the operation of the Turnpike or any other funds of the Authority.

Section 613. Credit Providers to Control Remedies.

While a Credit Facility with respect to a Series of Bonds is in effect, notwithstanding anything else herein to the contrary, a Supplemental Indenture may provide that no right, power or remedy hereunder with respect to such Series of Bonds may be pursued without the prior written consent of such Credit Provider and a Supplemental Indenture may provide that the Credit Provider shall have the right to direct the Trustee to pursue any right, power or remedy available hereunder with respect to any assets available hereunder which secure no Bonds other than the Series of Bonds secured by such Credit Facility, including, without limitation, any right, power or remedy with respect to Toll Road Revenues or other assets securing all Bonds.

Section 614. Inconsistent or Lack of Directions in Default.

Notwithstanding anything else herein to the contrary, if any applicable Credit Providers or Holders of separate Series in default do not direct remedies or proceedings to be taken pursuant to this Article, the Trustee shall take whatever action, if any, pursuant to Section 606 it deems to be in the best interest of Bondholders without regard to the existence of any Credit Facility that may exist with respect to any or all Bonds.

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ARTICLE VII THE TRUSTEE

Section 701. Acceptance of Trust; General.

By execution hereof or by authenticating one or more Bonds, the Trustee shall evidence its acceptance of the powers, duties and obligations of the Trustee only as are specifically set forth herein. The Trustee shall have no duty, responsibility or obligation for the issuance of Bonds or for the validity or exactness hereof, or of any other document relating to such issuance. The Trustee shall have no duty, responsibility or obligation for the payment of Bonds except for payment in accordance with the terms and provisions hereof from, and to the extent of, funds which are held in trust by the Trustee for the purpose of such payment.

Prior to an Event of Default and after the curing or waiving of all Events of Default which may have occurred, the Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. The Trustee shall have no liability for any act or omission to act hereunder, or under any other instrument or document executed pursuant hereto except for the Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Trustee shall be determined solely by the express provisions hereof, and no implied powers, duties or obligations of the Trustee shall be read into this Indenture.

During an Event of Default, the Trustee shall exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

The Trustee shall not be required to expend or risk its own funds or otherwise incur individual liability in the performance of any of its duties or in the exercise of any of its rights or powers as the Trustee, except as may result from its own negligent action, its own negligent failure to act or its own willful misconduct.

Notwithstanding any other provision hereof, the Trustee shall have no liability for any (a) error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or (b) action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of Bonds then Outstanding, then existing relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee hereunder.

Section 702. Trustee Not Required to Take Action Unless Indemnified.

Except as expressly required herein (including the requirements of the next sentence) the Trustee neither shall be required to institute any suit or action or other proceeding in which it may be a defendant, nor to take any steps to enforce its rights and expose it to liability, nor shall the Trustee be deemed liable for failure to take any such action, unless and until it shall have been indemnified, to its satisfaction, against any and all reasonable costs, expenses, outlays, counsel and other fees, other disbursements including its own reasonable fees and against all liability and damages. The Trustee nevertheless, may begin suit, or appear in and defend suit, or

do anything else which in its judgment is proper to be done by it as the Trustee, without prior assurance of indemnity, and , to the extent permitted by law, in such case the Authority shall reimburse the Trustee for all reasonable costs, expenses, outlays, counsel and other fees, and other reasonable disbursements including its own fees, and for all liability and damages suffered by the Trustee in connection therewith, except for the Trustee's own negligent action, its own negligent failure to act, its own willful misconduct or self-dealing constituting a breach of trust under applicable law. If the Trustee begins, appears in or defends such a suit, the Trustee shall give reasonably prompt notice of such action to the Authority and shall give such notice prior to taking such action if possible. If the Authority shall fail to make reimbursement, the Trustee may reimburse itself for any such costs and expenses in accordance with Section 607.

Section 703. Employment of Experts.

The Trustee is hereby authorized to employ as its agents such attorneys at law, and other qualified independent consultants (who are not employees of the Trustee), as it may deem necessary to carry out any of its obligations hereunder, and shall be reimbursed by the Authority for all reasonable expenses and charges in so doing. The Trustee shall not be responsible for any misconduct or negligence of any such agent appointed with due care by the Trustee.

Section 704. Enforcement of Performance by Others.

It shall not be the duty of the Trustee, except as herein specifically provided, to seek the enforcement of any duties and obligations herein imposed upon the Authority.

Section 705. Right to Deal in Bonds and Take Other Actions.

The Trustee may in good faith buy, sell or hold and deal in any Bonds with like effect as if it were not such Trustee and may commence or join in any action which a Holder is entitled to take with like effect as if the Trustee were not the Trustee. It is understood and agreed that the Trustee engages in a general banking business and no provision hereof is to be construed to limit or restrict the right of the Trustee to engage in such business with the Authority or any Holder. So engaging in such business shall not, in and of itself, and so long as the Trustee duly performs all of its duties as required hereby, constitute a breach of trust on the part of the Trustee.

Section 706. Removal and Resignation of Trustee.

The Trustee may resign at any time. Written notice of such resignation shall be given to the Authority and such resignation shall take effect upon the appointment and qualification of a successor Trustee. In the event a successor Trustee has not been appointed and qualified within 60 days after the date notice of resignation is given, the Trustee or the Authority may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time as a successor is appointed as provided in this Section.

In addition, the Trustee may be removed at any time by the Authority but only for cause by Supplemental Indenture so long as (a) no Event of Default shall have occurred and be continuing and (b) the Authority determines, in such Supplemental Indenture, that the removal of the Trustee shall not have an adverse effect upon the rights or interests of the Bondholders.

In the event of the resignation or removal of the Trustee or in the event the Trustee is dissolved or otherwise becomes incapable to act as the Trustee, the Authority shall be required to appoint a successor Trustee. In such event, the successor Trustee shall cause notice to be mailed to the Holders of all Bonds then outstanding in such manner deemed appropriate by the Authority. If the Trustee resigns, the resigning Trustee shall pay for such notice. If the Trustee is removed, is dissolved, or otherwise becomes incapable of acting as Trustee, the Authority shall pay for such notice.

Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Trustee shall be a trust company or bank having the powers of a trust company as to trusts, qualified to do and doing trust business within or without the State and having an officially reported combined capital, surplus, undivided profits and reserves aggregating at least \$50,000,000, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Every successor Trustee howsoever 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 further action, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, and such predecessor shall execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of such predecessor. The predecessor Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Trustee. The predecessor Trustee promptly shall deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Trustee.

Each successor Trustee, not later than 10 days after its assumption of the duties hereunder, shall mail a notice of such assumption to each Holder of a registered Bond.

Section 707. Proof of Claim.

The Trustee shall have the right and power to act in its name or in the name and place of the Authority or Holders to make proof of claim in any proceeding, bankruptcy, reorganization or otherwise where proof of claim may be required. Any amount recovered by the Trustee as a result of any such claim, after payment of all fees (including reasonable attorneys' fees), costs, expenses, and advances incurred by the Trustee or its agents in pursuing such claim, shall be for the equal benefit of all the Holders of Bonds Outstanding.

Section 708. Trustee's Fees and Expenses.

The Authority hereby agrees to pay fees to and expenses of the Trustee for its services hereunder as agreed to by the Authority and the Trustee pursuant to the terms of a separate agreement. Any provision hereof to the contrary notwithstanding, if the Authority fails to make any payment properly due to the Trustee for its reasonable fees, costs, expenses, and fees of attorneys, certified public accountants, recognized authorities in their field and agents (not employees of the Trustee) incurred in performance of its duties, the Trustee may reimburse itself

from any surplus moneys on hand in any Fund or Account held by it, other than any amounts in any Bond Fund or any Debt Service Reserve Fund.

Section 709. Reliance Upon Documents.

In the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely upon and shall be protected in acting or refraining from acting in reliance upon any document, including but not limited to any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper officials of the Authority, the Holders or agents or attorneys of the Holders; provided, that in the case of any such document specifically required to be furnished to the Trustee hereby, the Trustee shall be under a duty to examine the same to determine whether it conforms to the requirements hereof. The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, or other paper or document submitted to the Trustee; provided, however, that the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may deem prudent. Whenever in the administration hereof, the Trustee shall deem it desirable that a matter be provided or established prior to taking or not taking any action hereunder, the Trustee (unless other evidence be specifically prescribed herein) may rely upon any document provided for in this Indenture.

Except where other evidence is required hereby, any request or direction of the Authority mentioned herein shall be sufficiently evidenced by a certified copy of such request executed by an Authority Authorized Officer.

Section 710. Recitals and Representations.

The recitals, statements, and representations contained herein or in any Bond shall be taken and construed as made by and on the part of the Authority and not by the Trustee, and the Trustee neither assumes nor shall be under any responsibility for the correctness of the same other than the Trustee's certification of authentication of any Bonds as to which it is Authenticating Agent.

The Trustee makes no representation as to, and is not responsible for, the validity or sufficiency hereof or, except as herein required, the filing or recording or registering of any document. The Trustee shall be deemed not to have made representations as to the security afforded hereby or hereunder or as to the validity or sufficiency of such document. The Trustee shall not be concerned with or accountable to anyone for the use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof. The Trustee shall not be responsible or liable for any loss suffered in connection with the investment of any funds made by it in accordance with the provisions hereof. Except with respect to Events of Default described in Section 601(a), the Trustee shall have no duty of inquiry with respect to any default which constitutes or with notice or lapse of time or both would constitute an Event of Default without actual knowledge of a Responsible Officer or receipt by the Trustee of written notice of a default which constitutes or with notice or lapse of time or both would constitute an Event of Default from the Authority or any Holder.

Section 711. Destruction of Bonds.

Upon payment of or surrender to the Trustee for cancellation of any Bond, the Trustee shall destroy or register the cancellation of such Bond. At least annually the Trustee shall deliver a certificate of such destruction or cancellation to the Authority. Upon surrender of any Bond to a Paying Agent for payment, such Bond shall be cancelled by the Paying Agent and delivered to the Trustee for destruction or register of cancellation.

Section 712. Reports.

The Trustee monthly shall prepare and submit to the Authority reports covering all moneys received and all payments, expenditures and investments made as the Trustee hereunder since the last previous such report.

Section 713. Paying Agent, Authenticating Agent and Registrar.

The Authority may appoint a Paying Agent, an Authenticating Agent and a Registrar with respect to a Series of Bonds in the Supplemental Indenture pursuant to which such Series is issued. Each Paying Agent, Authenticating Agent and Registrar shall (i) designate to the Trustee its principal office and (ii) signify its acceptance of the duties and obligations imposed upon it hereunder and under such Supplemental Indenture by written instrument of acceptance delivered to the Authority and the Trustee. In addition, the Trustee is authorized and directed to enter into a Paying Agent Agreement with each Paying Agent as to such Paying Agent's rights and duties.

Each Paying Agent shall exercise its duties in accordance with the terms of and shall have the protection provided to the Trustee in this Indenture.

If any Paying Agent, Authenticating Agent or Registrar shall resign or be removed, the Authority shall designate a successor. If the Authority shall designate a successor, then, upon the Trustee's receipt of the written designation and the written acceptance of such designated successor, such entity shall thereupon, without further action by the Authority, be appointed as successor Paying Agent, Authenticating Agent and Registrar.

In the event that any Paying Agent, Authenticating Agent or Registrar shall resign or be removed, or be dissolved, or if the property or affairs of any Paying Agent, Authenticating Agent or Registrar shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and no successor shall have been appointed, the Trustee shall, ipso facto be deemed to be any Paying Agent, Authenticating Agent or Registrar, until the appointment of a successor.

Any corporation into which any Paying Agent, Authenticating Agent or Registrar may be merged or converted or with which it may be consolidated, or any corporation resulting from any such merger, consolidation or conversion, or succeeding to the corporate trust business of Paying Agent, Authenticating Agent or Registrar, shall be the successor of the Paying Agent, the Authenticating Agent and the Registrar if such successor corporation is otherwise eligible under this Section, without the execution or filing of any further act on the part of the Trustee or the entity serving as Paying Agent, the Authenticating Agent and the Registrar or such successor corporation.

Section 714. Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, that, in the event of an assignment of this Indenture by the Trustee, such assignment shall not be binding on the Authority unless and until the Authority has received a certified copy of the assignment, together with written notice of the assignee to which notices may be sent; provided that, if such agreement is required to be recorded, the assignee shall deliver to the Authority a copy of the proof of recordation bearing the date and the instrument number or book and page of such recordation.

Section 715. Appointment of Co-Trustee.

It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, and in particular in case of the enforcement of any such document in default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or Co-Trustee. The following provisions of this Section are adopted to these ends.

The Trustee may appoint an additional individual or institution as a separate or Co-Trustee, in which event each and every remedy, power, right, claim, demand, cause of action, indemnity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or Co-Trustee but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or Co-Trustee shall run to and be enforceable by either of them.

Should any deed, conveyance or instrument in writing from the Authority be required by the separate or Co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate or Co-Trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or Co-Trustee, so far as permitted by law, shall vest in and be exercisable by the Trustee until the appointment of a new Trustee or successor to such separate or Co-Trustee.

ARTICLE VIII

SUPPLEMENTAL INDENTURES

Section 801. Supplemental Indentures Not Requiring Consent of Bondholders.

The Authority and the Trustee may, without the consent of or notice to any of the Holders, enter into one or more Supplemental Indentures for one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission herein;
- (b) to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising hereunder that shall not materially adversely affect the interests of the Holders;
- (c) to grant or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that may lawfully be granted or conferred upon them;
- (d) to secure additional revenues or provide additional security or reserves for payment of the Bonds;
- (e) to preserve the excludability of interest on any Bonds from gross income for purposes of federal income taxes, or to change the tax covenants set forth in Section 509, pursuant to an Opinion of Bond Counsel that such action will not affect adversely such excludability;
- (f) to remove the Trustee in accordance with the second paragraph of Section 707;
- (g) to add requirements the compliance with which is required by a Rating Agency in connection with issuing a rating with respect to any Series of Bonds;
- (h) to accommodate the technical, operational and structural features of Bonds which are issued or are proposed to be issued or of a financing program which has been authorized or is proposed to be authorized by a resolution of the Authority and identified in a previous or proposed Supplemental Indenture, and for which the items required under Section 210 and Section 213 have been or will be filed with the Trustee (including demonstration of compliance with the applicable additional bonds test), including, but not limited to, changes in methods and assumptions to be used in calculations of "Annual Debt Service" and any other changes needed to accommodate bond anticipation notes, commercial paper, auction Bonds, Hedge Facilities, Short-Term/Demand Obligations and other variable rate or adjustable rate Bonds, Original Issue Discount Bonds and any other discounted or compound interest Bonds, or other forms of indebtedness which the Authority from time to time deems appropriate to incur;
- (i) to accommodate the use of a Credit Facility for specific Bonds or a specific Series of Bonds;

(j) to comply with the requirements of the Code as are necessary, in the Opinion of Bond Counsel, to prevent the federal income taxation of the interest on any of the Bonds, including, without limitation, the segregation of Toll Road Revenues into different funds;

(k) to evidence the appointment of a separate Trustee or a Co-Trustee or to evidence the succession of a new Trustee;

(l) to modify, alter, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939 or any similar federal statute then in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States of America and, if the Authority and the Trustee so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by the Trust Indenture Act of 1939 or similar federal statute;

(m) to issue additional Series of Bonds pursuant to Section 213, to provide additional Funds and Accounts relating such additional Bonds, to authorize different authorized denominations of the Bonds and to make correlative amendments and modifications to this Indenture regarding exchangeability of Bonds of different authorized denominations, redemptions of portions of Bonds of particular authorized denominations and similar amendments and modifications of a technical nature;

(n) to make any amendments appropriate or necessary to provide for any insurance policy, letter of credit, guaranty, surety bond, line of credit, revolving credit agreement, standby bond purchase agreement or other Credit Facility delivered to the Trustee and providing for (i) payment of the principal, interest and redemption premium on the Bonds or a portion thereof, (ii) payment into the Debt Service Reserve Fund, or (iii) payment of the purchase price of the Bonds, or (iv) any combination of (i), (ii) and (iii);

(o) to conform any provision contained herein to permit the issuance of Bonds to a private party or to permit the Authority to participate in a public-private partnership with respect to the funding of the Turnpike; and

(p) to modify, alter, amend or supplement this Indenture in any other respect which in the judgment of the Trustee is not inconsistent with this Indenture and which is not materially adverse to the interests of the Bondholders.

Before the Authority and the Trustee shall enter into any Supplemental Indenture pursuant to this Section 801, there shall have been delivered to the Trustee an opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by the Acts and is authorized under this Indenture, that such Supplemental Indenture will, upon the execution and delivery thereof, be valid and binding upon the Authority in accordance with its terms and will not adversely affect the exclusion from gross income of the interest on the Bonds for federal income tax purposes.

Section 802. Supplemental Indentures Requiring Consent of Bondholders.

(a) Other than Supplemental Indentures referred to in Section 801 and subject to the terms and provisions and limitations contained in this Article and not otherwise, the Holders of not less than a majority in aggregate principal amount of the Senior Lien Bonds then Outstanding and the Holders of not less than a majority in aggregate principal amount of the Subordinate Lien Bonds then Outstanding may consent to or approve, from time to time, which consent or approval shall be in writing and shall not be withheld unreasonably, anything contained herein to the contrary notwithstanding, the execution by the Authority and the Trustee of such Supplemental Indentures as shall be deemed necessary and desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Indenture; provided, that if any Supplemental Indenture modifying, altering, amending, adding to or rescinding any of the terms and provisions of this Indenture contains provisions which affect the rights and interests of less than all Series of Bonds and Section 801 is not applicable, then such Supplemental Indenture shall require the consent only of the Holders of a majority in Outstanding principal amount of the Series of Bonds so affected; and provided further, that nothing in this Section shall permit or be construed as permitting a Supplemental Indenture which would:

(i) extend the stated maturity of or time for paying the interest on any Bond or reduce the principal amount of or the redemption premium or rate of interest payable on any Bond without the consent of the Holder of such Bond;

(ii) prefer or give a priority to any Bond over any other Bond without the consent of the Holder of each Bond then Outstanding not receiving such preference or priority; or

(iii) reduce the aggregate principal amount of Bonds then Outstanding the consent of the Holders of which is required to authorize such Supplemental Indenture without the consent of the Holders of all Bonds then Outstanding.

(b) If at any time the Authority shall request the Trustee to enter into a Supplemental Indenture pursuant to this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed modifications, alterations, amendments, additions to or rescissions of the provisions of this Indenture to be mailed by first class mail, postage prepaid, to all Holders of Bonds of any affected Series then outstanding at their addresses as they appear on the registration books herein provided for. The Trustee, however, shall not be subject to any liability to any Bondholder by reason of its failure to mail, or the failure of such Bondholder to receive, the notice required by this Section, and any such failure shall not affect the validity of any Supplemental Indenture when consented to and approved as provided in this Section. Such notice shall set forth briefly the nature of the proposed modifications, alterations, amendments, additions to or rescissions of the provisions of this Indenture and shall state that copies thereof are on file at the office of the Trustee for inspection by all Bondholders. It shall not be required that Bondholders approve the final form of such Supplemental Indenture, but it shall be sufficient if such Bondholders approve the substance thereof.

(c) If within such period as shall be prescribed by the Authority, following the first giving of a notice as provided in subsection Section 802(b) above, the Trustee shall receive an instrument or instruments purporting to be executed by the Holders of not less than the aggregate principal amount or number of Bonds specified in subsection Section 802(a) for the Supplemental Indenture in question which instrument or instruments shall refer to the proposed modifications, alterations, amendments, additions to or rescissions of the provisions of this Indenture described in such notice and shall specifically consent to and approve the execution of a Supplemental Indenture or Supplemental Indentures effecting such changes, thereupon, the Trustee may execute any such Supplemental Indenture without liability or responsibility to any Holder of any Bond, regardless of whether such Holder shall have consented thereto.

(d) Any such consent shall be irrevocable for a period of one year (or such longer period as shall be set forth in such consent) and shall be binding upon the Holder of the Bond giving such consent and upon any subsequent Holder of such Bond and of any Bond issued in exchange therefor (regardless of whether such subsequent Holder thereof has notice thereof), unless after such one year (or longer) period, such consent is revoked in writing by the Holder of such Bond giving such consent or by a subsequent Holder thereof by filing with the Trustee, prior to the execution by the Trustee of such Supplemental Indenture, such revocation. At any time after the Holders of the required principal amount or number of Bonds shall have filed their consents to the execution of such a Supplemental Indenture, the Trustee shall make and file with the Authority a written statement to that effect. Such written statement shall be conclusive that such consents have been so filed.

(e) If the Holders of the required principal amount or number of the Bonds Outstanding shall have consented to and approved the proposed modifications, alterations, amendments, additions to or rescissions of the provisions of this Indenture and the execution of such Supplemental Indenture as herein provided, no Holder of any Bond shall have any right to object to the execution thereof, 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 taking any action pursuant to the provisions thereof.

Section 803. Execution and Effect of Supplemental Indentures.

(a) In executing any Supplemental Indenture permitted by this Article, the Trustee shall be entitled to receive and to rely upon an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted hereby. The Trustee may but shall not be obligated to enter into any such Supplemental Indenture which affects the Trustee's own rights, duties or immunities.

(b) Upon the execution and delivery of any Supplemental Indenture in accordance with this Article, the provisions hereof shall be modified in accordance therewith and such Supplemental Indenture shall form a part hereof for all purposes and every Holder of a Bond theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

(c) Any Bond authenticated and delivered after the execution and delivery of any Supplemental Indenture in accordance with this Article may, and if required by the Authority or

the Trustee shall, bear a notation in form approved by the Authority and Trustee as to any matter provided for in such Supplemental Indenture. If the Authority shall so determine, new Bonds so modified as to conform in the opinion of the Trustee and the Authority to any such Supplemental Indenture may be prepared and executed by the Authority and authenticated and delivered by the Trustee in exchange for and upon surrender of the Bonds then Outstanding.

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ARTICLE IX

SATISFACTION AND DISCHARGE

Section 901. Discharge.

If payment of all principal of, purchase price of, if applicable, premium, if any, and interest on a Series of Bonds in accordance with their terms and as provided herein is made, or is provided for in accordance with this Article, and if all other sums payable by the Authority hereunder with respect to such Series of Bonds shall be paid or provided for, then the liens, estates and security interests granted hereby shall cease with respect to such Series; provided, however, that the rebate provisions, if any, of the related Supplemental Indenture shall survive so long as there is any amount due to the federal government pursuant to the provisions of such Supplemental Indenture. Thereupon, upon the request of the Authority, and upon receipt by the Trustee of an Opinion of Bond Counsel stating that all conditions precedent to the satisfaction and discharge of the lien hereof have been satisfied with respect to such Series of Bonds and such Bonds are no longer Outstanding and, if applicable, that the defeasance of such Series of Bonds will not adversely affect the exclusion from gross income for federal income tax purposes of interest on such Bonds, the Trustee shall execute and deliver proper instruments acknowledging such satisfaction and discharging the lien hereof with respect to such Series of Bonds. If the lien hereof has been discharged with respect to all Series of Bonds, the Trustee shall transfer all property held by it hereunder, other than moneys or obligations held by the Trustee for payment of amounts due or to become due on the Bonds to the Authority or such other person as may be entitled thereto as their respective interests may appear. Such satisfaction and discharge shall be without prejudice to the rights of the Trustee thereafter to charge and be compensated or reimbursed for services rendered and expenditures incurred in connection herewith.

The Authority may at any time surrender to the Trustee for cancellation any Bonds previously authenticated and delivered which the Authority at its option may have acquired in any manner whatsoever and such Bond upon such surrender and cancellation shall be deemed to be paid and retired.

Section 902. Providing for Payment of Bonds.

Payment of the Bonds or any Series of Bonds may be provided for by the deposit with the Trustee of moneys, Government Obligations or Agency Obligations of the definition of Permitted Investments in Section 101, or any combination thereof. Payment of the Bonds or any Series of Bonds shall be so provided for when the aggregate of amounts in the applicable Account of the Debt Service Reserve Fund together with other amounts available for such purpose hereunder is sufficient to so provide. The moneys and the maturing principal and interest income on such Government Obligations or pre-refunded municipal obligations, if any, shall be sufficient and available to pay when due the principal of, whether at maturity or upon fixed redemption dates, and premium, if any, and interest on such Bonds. The moneys, Government Obligations and pre-refunded municipal obligations shall be held by the Trustee irrevocably in trust for the Holders of such Bonds solely for the purpose of paying the principal or redemption price of, including premium, if any, and interest on such Bonds as the same shall mature or become payable upon prior redemption, and, if applicable, upon simultaneous direction, expressed to be irrevocable, to

the Trustee as to the dates upon which any such Bonds are to be redeemed prior to their respective maturities.

The Trustee shall receive a verification report as to the sufficiency of moneys and investments to provide for Payment of a Series of Bonds in the case of a defeasance thereof.

If Payment of a Series of Bonds is so provided for, the Trustee shall mail a notice so stating to each Holder of such Bond.

Bonds the payment of which has been provided for in accordance with this Section shall no longer be deemed Outstanding hereunder. The obligation of the Authority in respect of such Bonds shall nevertheless continue but the Holders thereof shall thereafter be entitled to payment only from the moneys, Government Obligations and pre-refunded municipal obligations deposited with the Trustee to provide for the payment of such Bonds.

No Bond may be so provided for if, as a result thereof or of any other action in connection with which the provision for payment of such Bond is made, the interest payable on any Tax-Exempt Bond with respect to which an Opinion of Bond Counsel has been rendered that such interest is excluded from gross income for federal income tax purposes is made subject to federal income taxes. The Trustee shall receive and may rely upon an Opinion of Bond Counsel (which opinion may be based upon a ruling or rulings of the Internal Revenue Service) to the effect that the provisions of this paragraph will not be breached by so providing for the payment of any Bonds.

Section 903. Payment of Bonds After Discharge; Unclaimed Moneys.

Notwithstanding the discharge of the lien hereof as in this Article IX, the Trustee nevertheless shall retain such rights, powers and duties hereunder as may be necessary and convenient for the payment of amounts due or to become due on the Bonds, including pursuant to any sinking fund redemptions, and the registration, transfer, exchange and replacement of bonds as provided herein. Nevertheless, any moneys held by the Trustee or any Paying Agent for the payment of the principal of, purchase price of, if applicable, premium, if any, or interest on any Bond remaining unclaimed for two (2) years after such payment has become due and payable, or such other period provided by law, whether at maturity or upon proceedings for redemption, shall be disposed of pursuant to the provisions of Section 214. After discharge of the lien hereof, but prior to payment of such amounts to holders or as provided pursuant to Section 214, the Trustee shall invest such amounts in Government Obligations described in paragraph (a) of the definition of Permitted Investments in Section 101 at the direction of and for the benefit of the Authority.

ARTICLE X MISCELLANEOUS

Section 1001. Evidence of Acts of Bondholders.

Any request, direction, consent or other instrument provided hereby to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Trustee and the Authority with regard to any action taken by them, or either of them, under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the person signing such writing acknowledged before him the execution thereof, or by the affidavit of a witness of such execution; and

(b) The ownership of all Bonds shall be proved by the Register.

Nothing in this Section shall be construed as limiting the Trustee to the proof herein specified, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient.

Any action taken or suffered by the Trustee pursuant to any provision hereof, upon the request or with the assent of any person who at the time is the Holder of any Bond or Bonds shall be conclusive and binding upon all future Holders of the same Bond or Bonds.

Section 1002. Limitation of Rights.

With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the parties hereto, the Holders of the Bonds and any Paying Agents, Registrars, Authenticating Agents and Credit Providers, if any, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto, the Holders of the Bonds and any Paying Agents, Registrars, Authenticating Agents and Credit Providers, if any, as herein provided.

Section 1003. Notice to Rating Agencies.

The Trustee hereby agrees that if at any time (a) the Authority shall redeem the entire principal amount of the Bonds Outstanding hereunder prior to maturity, (b) a successor Trustee is appointed hereunder, or (c) the Bondholders shall consent to any amendment to this Indenture or shall waive any provision of this Indenture then, in each case, the Trustee promptly will give notice of the occurrence of such event to each Rating Agency rating any of the Bonds, which

notice in the case of an event referred to in clause (c) hereof shall include a copy of such amendment or waiver.

Section 1004. Severability.

If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof, or the Bonds issued pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

Section 1005. Holidays.

When the date on which principal of, purchase price of, if applicable, premium, if any or interest on any Bond is due and payable is a day which is not a Business Day, payment may be made on Bonds on the next Business Day with effect as though payment were made on the due date, and, if such payment is made, no interest shall accrue from and after such due date. When any other action is provided herein to be done on a day named or within a time period named, and the day or the last day of the period falls on a day other than a Business Day, it may be performed on the next Business Day with effect as though performed on the appointed day or within the specified period.

Section 1006. Governing Law.

This Indenture and the Bonds are contracts made under the laws of the State and shall be governed and construed in accordance with such laws.

Section 1007. Notices.

(a) Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall be deemed sufficiently given or served if given in writing, mailed by first class mail, postage prepaid and addressed as follows:

(i) If to the Authority, addressed to:

West Virginia Parkways Authority
3310 Piedmont Road
Charleston, WV 25306

If to the Trustee, sent by registered or certified mail addressed to:

United Bank
500 Virginia Street East
Charleston, WV 25301

(ii) If to WVDOH, addressed to:

West Virginia Division of Highways
1900 Kanawha Boulevard East
Charleston, WV 25305

(iii) If to the registered Holder of a Bond, addressed to such Holder at the address shown on the books of the Registrar kept pursuant hereto.

(b) The Authority and the Trustee may from time to time by notice in writing to all parties to this Indenture designate a different address or addresses for notice hereunder.

Section 1008. Counterparts.

This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

Section 1009. Immunity of Individuals.

No recourse shall be had for the payment of the principal of, purchase price of, if applicable, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement herein against any past, present or future member, officer, employee, agent or consultant of the Authority, whether directly or indirectly and all liability of any such individual as such is hereby expressly waived and released as a condition of and in consideration for execution hereof and the issuance of the Bonds.

Section 1010. Binding Effect.

This instrument shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns subject to the limitations contained herein.

[Remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the Authority has caused these presents to be signed in its name and on its behalf and attested by its duly authorized officers, and, to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and on its behalf by its duly authorized officer, all as of the day and year first above written.

[SEAL]

Attest:

By: Gregory C. Barr
Name: Gregory C. Barr
Its: General Manager

WEST VIRGINIA PARKWAYS AUTHORITY

By: Ann Vincent Urling
Name: Ann V. Urling
Its: Chair's Designee

UNITED BANK, as Trustee

By: Thomas J. Provenzano
Name: Thomas J. Provenzano
Its: Vice President