

**STANDBY BOND PURCHASE AGREEMENT**

among

**MASSACHUSETTS WATER RESOURCES AUTHORITY,**  
as Authority

**U.S BANK TRUST NATIONAL ASSOCIATION,**  
as Tender Agent

and

XXXXXXXXXXXXXXXXXXXX  
acting through its New York Branch

in connection with

\$180,000,000  
Massachusetts Water Resources Authority  
Multi-Modal Subordinated  
General Revenue Refunding Bonds  
2001 Series A and 2001 Series B

Dated as of July 1, 2005

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## STANDBY BOND PURCHASE AGREEMENT

**THIS STANDBY BOND PURCHASE AGREEMENT** (as amended, modified or supplemented from time to time, this "Agreement") dated as of July 1, 2005 is among **MASSACHUSETTS WATER RESOURCES AUTHORITY**, a body politic and corporate and a political subdivision duly created and validly existing under the laws of the Commonwealth (the "Authority"), **U.S. BANK TRUST NATIONAL ASSOCIATION**, as Tender Agent under that certain Supplemental Resolution as hereinafter defined (together with any successors thereto, the "Tender Agent"), and **XXXXXXXXXX**, a public law financial institution organized and existing under the laws of XXXXX, acting through its New York Branch (the "Bank").

### WITNESSETH:

WHEREAS, the Authority has heretofore issued the Bonds designated Multi-Modal Subordinated General Revenue Refunding Bonds, 2001 Series A (the "Series A Bonds") and 2001 Series B (the "Series B Bonds" and together with the Series A Bonds, the "Bonds"), under and subject to the Resolution, pursuant to the provisions of the Act, and pursuant to the Supplemental Resolution, U.S. Bank Trust National Association (successor to State Street Bank and Trust Company, N.A.) has been designated as Tender Agent;

WHEREAS, Financial Guaranty Insurance Company, a New York stock insurance company (together with its successors and assigns, the "Bond Insurer"), has issued a municipal bond insurance policy in favor of the holders of the Bonds (including the Bank) in order to insure the payment of principal of and interest on the Bonds when due;

WHEREAS, the Bonds are subject to purchase from time to time at the option of the owners thereof and are required to be purchased in certain events and, to further assure the availability of funds for the payment of the purchase price therefor, the Authority has provided for the remarketing of such Bonds and, to the extent such remarketing may not be successful, for the purchase of such Bonds by FGIC Securities Purchase, Inc. (the "Initial Liquidity Facility Issuer"), pursuant to a Standby Bond Purchase Agreement dated as of September 26, 2001 between the Tender Agent and the Initial Liquidity Facility Issuer (the "Initial Liquidity Facility");

WHEREAS, the Authority desires to replace the Initial Liquidity Facility with this Agreement; and

WHEREAS, the Bank is willing from time to time, upon the occurrence of certain events and under certain conditions, to purchase Bonds, which when purchased will become Purchased Bonds.

NOW, THEREFORE, in consideration of the respective agreements contained herein, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** The following terms have the meanings indicated below or in the referenced Section of this Agreement, unless the context shall clearly indicate otherwise:

*"2001 Official Statement"* means the Official Statement of the Authority, dated September 19, 2001, with respect to the Bonds, the Supplement to 2001 Official Statement and any other supplement thereto used with respect to the Bonds.

*"2005 Official Statement"* means the Official Statement of the Authority, dated March 15, 2005 with respect to the Authority's \$80,000,000 General Revenue Refunding Bonds, 2005 Series B.

*"Act"* shall mean Chapter 372 of the Acts of 1984 of The Commonwealth of Massachusetts, as amended.

*"Affiliate"* means a corporation, partnership, association, agency, authority, instrumentality, joint venture, business trust or similar entity organized under the laws of any state that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the related party. For purposes of this definition, a Person "controls" another Person when the first Person possesses or exercises directly, or indirectly through one or more other Affiliates or related entities, the power to direct the

management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

“*Alternate Liquidity Facility*” means a replacement standby bond purchase agreement or other liquidity facility meeting the requirements of an “*Alternate Liquidity Facility*” (as defined in the Supplemental Resolution) set forth in the Supplemental Resolution.

“*Assignees*” shall have the meaning assigned to such term in Section 8.03 hereof.

“*Authority*” shall have the meaning assigned to that term in the introductory paragraph of this Agreement.

“*Available Commitment*” means, on any day, the sum of the Available Principal Commitment and the Available Interest Commitment on such day.

“*Available Interest Commitment*” initially means Two Million One Hundred Nineteen Thousand Thirty-Six Dollars (\$2,119,036) (an amount equal to thirty-seven (37) days’ interest on the Bonds, computed as if the Bonds bore interest at the rate of twelve percent (12%) per annum and on the basis of a year of 365 or 366 days, as applicable, and the actual number of days elapsed). The Available Interest Commitment shall be adjusted from time to time as follows: (a) downward by an amount that bears the same proportion to such amount as the amount of a reduction in the Available Principal Commitment pursuant to clauses (a) or (b) of the definition of “*Available Principal Commitment*” bears to the Available Principal Commitment prior to such reduction; and (b) upward by an amount that bears the same proportion to such amount as the amount of any increase in the Available Principal Commitment pursuant to clause (c) of the definition of “*Available Principal Commitment*” bears to the Available Principal Commitment prior to such increase; provided that after giving effect to such adjustment the Available Interest Commitment shall never exceed Two Million One Hundred Nineteen Thousand Thirty-Six Dollars (\$2,119,036). Any adjustments pursuant to clauses (a) and (b) above shall occur simultaneously with the event requiring such adjustment.

“*Available Principal Commitment*” initially means One Hundred Seventy Four Million Two Hundred Thousand Dollars (\$174,200,000), constituting the principal face amount of the Bonds, and thereafter means such amount adjusted from time to time as follows: (a) downward by the amount of any reduction of the Available Principal Commitment pursuant to Section 2.03 hereof; (b) downward by the principal amount of any Bonds purchased by the Bank pursuant to Section 2.02 hereof; and (c) upward by the principal amount of any Bonds theretofore purchased by the Bank pursuant to Section 2.02 hereof, which are resold by a Purchased Bondholder pursuant to Section 2.04(b) hereof, or which cease to bear interest at the Purchased Bond Rate pursuant to Section 2.04(d) hereof; provided that after giving effect to such adjustment the Available Principal Commitment shall never exceed One Hundred Seventy Four Million Two Hundred Thousand Dollars (\$174,200,000). Any adjustments pursuant to clauses (a), (b) and (c) above shall occur simultaneously with the event requiring such adjustment.

“*Bank*” shall have the meaning assigned to that term in the introductory paragraph of this Agreement.

“*Base Rate*” means, for any day, a fluctuating rate per annum equal to the higher of (a) the Prime Rate or (b) the Fed Funds Rate plus fifty basis points (0.5%). Any change in the Base Rate shall take effect on the date specified in the announcement of such change.

“*Bond Insurance Policy*” shall have the meaning assigned to that term in the recitals to this Agreement.

“*Bond Insurer*” shall have the meaning assigned to that term in the recitals to this Agreement.

“*Bond Insurer Event of Insolvency*” means the occurrence and continuance of one or more of the following events: (a) the issuance, under Article 74 of the Insurance Law of New York or any successor provision thereof (or any other law to which the Bond Insurer is at the time subject), of an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution of the Bond Insurer that is not dismissed within ninety (90) days; (b) the commencement by the Bond Insurer of a voluntary case or other proceeding seeking an order for relief, liquidation, supervision, rehabilitation, conservation, reorganization or dissolution with respect to itself or its debts under the laws of the state of incorporation or formation of the Bond Insurer or any bankruptcy, insolvency or other similar law now or hereafter in effect including, without limitation, the appointment of a trustee, receiver, liquidator, conservator, custodian or other similar official for itself or any substantial part of its property; (c) the consent of the Bond Insurer to any relief referred to in the preceding clause (b) in an involuntary case or other proceeding commenced against it; (d) the making by the Bond Insurer

of an assignment for the benefit of creditors; (e) the failure of the Bond Insurer generally to pay its debts or claims as they become due; provided that any failure by the Bond Insurer to make payment on any municipal bond insurance policy (i) that is being contested in good faith or (ii) with respect to which thirty (30) days have not elapsed, shall not constitute a failure by the Bond Insurer generally to pay its debts or claims as they become due; or (f) the initiation by the Bond Insurer of any actions to authorize any of the foregoing.

“*Bond Purchase Agreement*” means, collectively, the Contract of Purchase, dated September 25, 2001, between the Authority and Citigroup Global Markets, Inc. (formerly known as Salomon Smith Barney) relating to the Series A Bonds and the Contract of Purchase, dated September 25, 2001 between the Authority and Lehman Brothers, Inc. relating to the Series B Bonds.

“*Bond Register*” means the bond register with respect to the Bonds maintained by the Trustee or other bond registrar designated in the Resolution in accordance with the Resolution and by the Tender Agent as co-registrar pursuant to Section 2.10 of the Supplemental Resolution.

“*Bonds*” shall have the meaning assigned to that term in the recitals to this Agreement and shall include, unless the context otherwise requires, all Purchased Bonds.

“*Book-Entry Bonds*” means the Bonds so long as the book-entry system with DTC is used for determining beneficial ownership of the Bonds.

“*Business Day*” shall have the meaning assigned to that term in the Supplemental Resolution.

“*Capped Rate*” means the lesser of (a) twenty-five percent (25%) per annum and (b) the Maximum Lawful Rate.

“*Change of Law*” means the adoption of or change in, after the Effective Date, any law, rule, regulation, statute, treaty, guideline or directive of any Governmental Authority or the occurrence of the effective date of any of the foregoing if adopted prior to the Effective Date or any change after the Effective Date in the application, interpretation or enforcement of any of the foregoing.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Commercial Paper Mode*” shall have the meaning assigned to that term in the Resolution.

“*Commitment Fee*” shall have the meaning assigned to that term in Section 2.05(b) hereof.

“*Commonwealth*” shall mean The Commonwealth of Massachusetts.

“*Compliance Certificate*” shall mean a certificate of the Authority in the form of Exhibit E hereto.

“*Daily Mode*” shall have the meaning assigned to that term in the Resolution.

“*Debt*” means (a) indebtedness or liability for borrowed money, or for the deferred purchase price of property or services; (b) obligations as lessee under leases which are, should be or should have been reported as capital leases in accordance with Generally Accepted Accounting Principles; (c) current liabilities in respect of unfunded vested benefits under plans covered by Title IV of ERISA; (d) all guarantees, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations to purchase, to provide funds for payment, to supply funds to invest in any Person or otherwise to assure a creditor against loss; (e) obligations secured by any mortgage, lien, pledge, security interest or other charge or encumbrance on property, whether or not the obligations have been assumed; and (f) all other items or obligations which would be included in determining total liabilities on the balance sheet of a Person; provided, however, that “*Debt*” shall not include trade payables and similar obligations incurred in the ordinary course of business.

“*Default*” means the occurrence of any event or the existence of any condition which constitutes an Event of Default or an Event of Termination and the occurrence of any event or the existence of any condition which with the giving of notice, the passage of time, or both, would constitute an Event of Default or an Event of Termination.

“*Default Rate*” means a rate per annum equal to the Base Rate plus an amount equal to two hundred basis points (2.00%).

“*Defaulted Interest*” means accrued interest payable on a Bond that was not paid when due under the terms of the Resolution.

“*Differential Interest Amount*” means, with respect to any Purchased Bond, the excess of (a) interest which has accrued and could actually be paid on such Purchased Bond at the Purchased Bond Rate, as determined in

accordance with Section 3.01 hereof, up to but excluding the Sale Date less (b) the amount of interest on such Purchased Bond received by the Purchased Bondholder on the Sale Date as part of the Sale Price. “*Differential Interest Amount*” shall not include the Final Excess Bond Interest Amount.

“*Dollars*” and “*\$*” means the lawful currency of the United States of America.

“*DTC*” means The Depository Trust Company.

“*Effective Date*” means July 14, 2005.

“*Eligible Bonds*” means any Bond in a Daily Mode or a Weekly Mode, other than Bonds owned by, for the account of, or on behalf of, the Authority or an Affiliate thereof, and excludes, in any event, Purchased Bonds, Bonds in a Commercial Paper Mode, Bonds in a Term Rate Mode and Bonds that have been removed from coverage under this Agreement by redemption, defeasance or substitution of an Alternate Liquidity Facility.

“*Event of Default*” shall have the meaning assigned to that term in Section 7.02 hereof.

“*Event of Termination*” shall have the meaning assigned to that term in Section 7.01 hereof.

“*Excess Bond Interest*” shall have the meaning assigned to that term in Section 3.01(c) hereof.

“*Excess Bond Interest Amount*” shall have the meaning assigned to that term in Section 3.01(c) hereof.

“*Extended Purchase Period*” shall have the meaning assigned to that term in Section 8.10 hereof.

“*Fed Funds Rate*” means for any day, a fluctuating interest rate per annum equal to the weighted average (rounded to the next higher 1/100 of 1.0%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not published for any day which is a Business Day, the average (rounded to the next higher 1/100 of 1.0%) of the quotations for such day on such transactions received by the Bank from three Federal funds brokers of recognized standing selected by the Bank. Each determination of the Fed Funds Rate shall be conclusive and binding on the Authority.

“*Fee Payment Date*” means each January 1, April 1, July 1 and October 1 during the Purchase Period.

“*Final Excess Bond Interest Amount*” shall have the meaning assigned to that term in Section 3.01(c) hereof.

“*Fitch*” means Fitch Ratings, or any successor thereto.

“*General Resolution*” means the General Revenue Bond Resolution of the Authority adopted on January 24, 1990, as the same may be amended, modified or supplemented from time to time in accordance with its terms and the terms hereof.

“*Generally Accepted Accounting Principles*” means generally accepted accounting principles consistently applied and maintained throughout the period indicated and consistent with the prior financial practice of the Authority, except for changes permitted by the Governmental Accounting Standards Board or any similar accounting authority of comparable standing.

“*Governmental Authority*” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau, central bank or comparable authority.

“*Indemnified Party*” shall have the meaning assigned to that term in Section 8.05 hereof.

“*Interest Component*” shall have the meaning assigned to that term in Section 2.01 hereof.

“*Interest Payment Date*” with respect to Purchased Bonds means each January 1, April 1, July 1 and October 1 and, with respect to Bonds that are not Purchased Bonds, shall have the meaning assigned to that term in the Supplemental Resolution.

“*Mandatory Purchase Date*” means each date Bonds are required to be purchased pursuant to the Resolution.

“*Maximum Lawful Rate*” means the maximum rate of interest on the relevant obligation permitted by applicable law without regard to any filing made by a lender with respect to notice of rates in excess of any statutory or regulatory threshold interest rate.

“*Moody’s*” means Moody’s Investors Service, Inc., or any successor thereto

“*Non-Covered Interest Rate*” means the Purchased Bond Rate or a rate of interest borne by bonds that are not Eligible Bonds.

“*Notch Downgrade*” means a reduction in a long-term rating evidenced by the removal or substitution of a modifier or numerical qualifier. For example, a downgrade from A- to BBB+ is a Notch Downgrade, as is a



downgrade from BBB+ to BBB. Similarly, a downgrade from A3 to Baa1 or from Baa1 to Baa2 is a Notch Downgrade.

“*Notice Date*” means the date that is 120 days prior to the next succeeding Optional Termination Date.

“*Notice of Extension*” means a notice in the form of Exhibit C attached hereto.

“*Notice of Purchase*” means a notice in the form of Exhibit A attached hereto.

“*Notice of Termination*” means a notice in the form of Exhibit B attached hereto.

“*Obligations*” means only those senior unsecured long-term debt obligations of the Bank which benefit from the support of the Anstaltslast (maintenance obligation) and the Gewährträgerhaftung (guarantee obligation) provided by the Free State of Bavaria.

“*Optional Termination Date*” means July 14, 2010 or July 14, 2015, if and to the extent designated by the Bank in an Optional Termination Notice.

“*Optional Termination Notice*” means a notice in the form of Exhibit G attached hereto.

“*Outstanding*” has the meaning assigned to such term in the Resolution.

“*Participant*” means any entity to which the Bank has sold a participation in this Agreement pursuant to Section 8.03 hereof.

“*Payment Agreement*” means that certain Payment Agreement, dated September 26, 2001, among the Authority, the Tender Agent and the Initial Liquidity Facility Provider.

“*Person*” means an individual, a corporation, a partnership, a limited liability corporation, an association, a trust or any other entity or organization, including a government or a political subdivision or an agency or instrumentality thereof.

“*Potential Event of Termination*” shall have the meaning assigned to that term in Section 7.03(d) hereof.

“*Prime Rate*” means the rate established by the New York Branch of the Bank, from time to time as its prime rate; the Bank may lend to its customers at rates that are at, above or below the Prime Rate.

“*Purchase Date*” means a Business Day during the Purchase Period on which the Bank is required to purchase Tendered Bonds pursuant to Section 2.02 hereof.

“*Purchase Notice*” shall have the meaning assigned to that term in Section 2.04(b) hereof.

“*Purchase Period*” means the period from the Effective Date to and including 5:00 p.m. on the earliest of (a) the Stated Expiration Date; (b) the date of receipt by the Bank of a certificate signed by the Tender Agent stating that this Agreement has been terminated because (i) an Alternate Liquidity Facility has been provided and become effective under the Supplemental Resolution, provided that this Agreement shall not terminate until the Bank has purchased any Bonds required to be purchased pursuant to any mandatory tender resulting from the provision of any Alternate Liquidity Facility, (ii) no Bonds remain Outstanding under the Supplemental Resolution or (iii) all of the Bonds have been converted to a Non-Covered Interest Rate; (c) the date specified in a written notice delivered by the Authority to the Bank that the Authority has elected to terminate this Agreement pursuant to Section 8.09(b) hereof; (d) the Purchase Termination Date or (e) the Optional Termination Date.

“*Purchase Price*” means an amount equal to 100% of the unpaid principal amount of any Tendered Bond, plus accrued and unpaid interest thereon from and including the Interest Payment Date next preceding the Purchase Date thereof, in each case without premium to the Purchase Date; provided, however, that if the Purchase Date is an Interest Payment Date with respect to such Tendered Bond, then the Purchase Price shall not include accrued and unpaid interest; and provided, further that the aggregate amount of the Purchase Price constituting the Interest Component shall not exceed the amount specified in Section 2.01 hereof.

“*Purchase Termination Date*” means the date on which the Bank is no longer required to purchase Tendered Bonds pursuant to Section 7.03(a), (b), (c) or (d) hereof.

“*Purchased Bond Rate*” means the interest rate applicable from time to time to Purchased Bonds as determined in accordance with Section 2.2 of the Supplemental Resolution and as specified in Section 3.01 of this Agreement. The Purchased Bond Rate is defined as the “*Bank Interest Rate*” in the Supplemental Resolution.

“*Purchased Bondholder*” means the Bank (in its capacity as owner (which shall include beneficial owner if the Bonds are Book-Entry Bonds) of Purchased Bonds pursuant to this Agreement) and any Assignee and other

Person to whom the Bank has sold Purchased Bonds or beneficial interests therein pursuant to Section 2.04(a) hereof.

“*Purchased Bonds*” means each Bond purchased with funds provided by the Bank under this Agreement, until such Bonds are remarketed in accordance with Section 2.04(b) hereof or cease to bear interest at the Purchased Bond Rate pursuant to Section 2.04(c) hereof. “*Purchased Bonds*” are defined as “*Bank Bonds*” in the Supplemental Resolution.

“*Rating Agency*” means S&P, Moody’s, Fitch or any successor or additional rating agency that rates the Bonds at the written request of the Authority with the written consent of the Bank.

“*Rating Category*” shall have the meaning assigned to that term in the Resolution.

“*Related Documents*” means the Resolution, the Bonds, the Bond Insurance Policy and the Remarketing Agreement, and any exhibits, instruments or agreements relating thereto, as the same may be amended, supplemented or modified in accordance with their respective terms and the terms hereof.

“*Remarketing Agent*” means, collectively, the Series A Remarketing Agent and the Series B Remarketing Agent.

“*Remarketing Agreement*” means, collectively, the Series A Remarketing Agreement and the Series B Remarketing Agreement

“*Resolution*” means the General Resolution, as amended and supplemented through the Supplemental Resolution.

“*Revenues*” shall have the meaning assigned to that term in the Resolution.

“*Sale Date*” shall have the meaning assigned to that term in Section 2.04(b) hereof, and shall not be earlier than the Business Day following the Business Day on which a Purchased Bondholder receives a Purchase Notice in accordance with Section 2.04(b).

“*Sale Price*” shall have the meaning assigned to that term in Section 2.04(b) hereof.

“*S&P*” means Standard & Poor’s Rating Services, a division of the McGraw–Hill Companies, Inc., or any successor thereto.

“*Section 3.01(a) Rate*” shall have the meaning assigned to that term in Section 3.01(c) hereof.

“*Series A Bonds*” shall have the meaning assigned to that term in the recitals to this Agreement.

“*Series B Bonds*” shall have the meaning assigned to that term in the recitals to this Agreement.

“*Series A Remarketing Agent*” means Citigroup Global Markets, Inc. (formerly known as Salomon Smith Barney) and its successors and assigns.

“*Series B Remarketing Agent*” means Lehman Brothers, Inc. and its successors and assigns.

“*Series A Remarketing Agreement*” means the Remarketing Agreement relating to the Series A Bonds, dated as of September 26, 2001 between the Authority and the Series A Remarketing Agent, as amended or supplemented in accordance with the terms hereof and thereof, or such other agreement as may be entered into with any remarketing agent with respect to the remarketing of the Bonds.

“*Series B Remarketing Agreement*” means the Remarketing Agreement relating to the Series B Bonds, dated as of September 26, 2001 between the Authority and the Series B Remarketing Agent, as amended or supplemented in accordance with the terms hereof and thereof, or such other agreement as may be entered into with any remarketing agent with respect to the remarketing of the Bonds.

“*Series Documents*” means the Supplemental Resolution, the Bonds, the Bond Insurance Policy and the Remarketing Agreement, and any exhibits, instruments or agreements relating thereto, as the same may be amended, supplemented or modified in accordance with their respective terms and the terms hereof.

“*Stated Expiration Date*” means 5:00 p.m. on the later of (a) November 30, 2015 or (b) the last day of any extension of such date pursuant to Section 8.10 hereof; provided, however, that if the date specified in (a) or (b), as applicable, is not a Business Day, the next preceding Business Day.

“*Supplement to the 2001 Official Statement*” means the Supplement to Official Statement Dated September 19, 2001, dated July 8, 2005, with respect to the Bonds.

“*Supplemental Resolution*” means the Thirty-Fourth Supplemental Resolution to the General Resolution adopted by the Authority on March 21, 2001, as the same may be amended, modified or supplemented from time to time in accordance with its terms and the terms hereof.

“*Taxes*” has the meaning set forth in Section 2.07(c) hereof.

“*Tendered Bonds*” means, as of any date, Eligible Bonds that are tendered, or deemed tendered, for purchase pursuant to the Supplemental Resolution.

“*Term Rate Mode*” shall have the meaning assigned to that term in the Supplemental Resolution.

“*Termination Event*” shall have the meaning assigned to that term in Section 7.03(a) hereof.

“*Trustee*” shall have the meaning assigned to that term in the Resolution.

“*Underlying Rating*” means the credit rating that Moody’s, S&P or Fitch would assign to the Bonds if the Bond Insurance Policy were not in full force and effect.

“*Weekly Mode*” shall have the meaning assigned to that term in the Resolution.

“*written*” or “*in writing*” means any form of written communication or a communication by means of facsimile or telegram.

**Section 1.02. Incorporation of Certain Definitions by Reference.** Each capitalized term used herein and not defined herein shall have the meaning provided therefor in the Resolution.

**Section 1.03. Computation of Time Periods.** In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

**Section 1.04. Construction.** Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, the singular includes the plural and the part includes the whole and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The word “including” has the meaning “including, but not limited to.” The section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Agreement unless otherwise specified.

**Section 1.05. Accounting Terms and Determinations.** Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with Generally Accepted Accounting Principles.

**Section 1.06. Time.** All times are the time then in effect in New York, New York.

**Section 1.07. This Agreement.** This Agreement is a Reimbursement Agreement and an Alternate Liquidity Facility within the meaning of the Supplemental Resolution.

## ARTICLE II

### THE COMMITMENT; FEES AND CERTAIN PAYMENTS

#### Section 2.01. Commitment to Purchase Bonds.

(a) **Commitment.** The Bank agrees, on the terms and subject to the satisfaction of the conditions contained in this Agreement, to extend credit to the Authority through the purchase of Tendered Bonds, for the Bank’s own account, from time to time during the Purchase Period at the Purchase Price. The aggregate principal amount (or portion thereof) of any Bond purchased by the Bank on any Purchase Date shall be an authorized denomination applicable to Eligible Bonds pursuant to the Supplemental Resolution, and the aggregate principal amount of all Bonds purchased on any Purchase Date shall not exceed the Available Principal Commitment on such date (calculated without giving effect to any purchase of Tendered Bonds by the Bank on such date). The aggregate amount of the

Purchase Price comprising interest on the Bonds (the “*Interest Component*”) purchased on any Purchase Date shall not exceed the lesser of (i) the Available Interest Commitment on such date or (ii) the actual aggregate amount of interest accrued on each such Bond, other than Defaulted Interest, to such Purchase Date (calculated, in each case, without giving effect to any purchase of Tendered Bonds by the Bank on such date); provided, however, that in the event the Purchase Date is also an Interest Payment Date for the Bonds to be purchased, no accrued interest on such Bonds shall be included in the Purchase Price. Any Bonds so purchased shall thereupon constitute Purchased Bonds and shall, from the date of such purchase and while they are Purchased Bonds, bear interest at the Purchased Bond Rate and have other characteristics of Purchased Bonds as set forth herein and in the Supplemental Resolution.

(b) ***Limited Commitment.*** The Bank’s commitment under this Agreement is limited to the purchase of Tendered Bonds, and does not guarantee the payment of principal of or interest on the Bonds.

(c) ***Rights of Bondholder.*** In the event that the Bank purchases any Tendered Bonds in accordance with the provisions of this Section 2.01, in addition to its rights hereunder, the Bank shall be entitled to exercise all of the rights of (except the right to tender Bonds for purchase under the Supplemental Resolution), and shall be secured to the same extent as, any other holder of Bonds under the Resolution, including, without limitation, the right to receive payments of principal and interest, all rights with respect to payments under the Bond Insurance Policy, the right to have such Purchased Bonds remarketed pursuant to the Supplemental Resolution and the Remarketing Agreement and all rights under the Resolution upon the occurrence and continuation beyond any applicable grace period of any “event of default” under the Resolution.

## **Section 2.02. Method of Purchasing.**

(a) ***Notice of Purchase.*** On the Business Day immediately preceding the date on which Bonds are subject to tender for purchase by the Bank pursuant to the Supplemental Resolution, the Authority shall cause the Remarketing Agent to give notice to the Bank of the principal amount of Bonds to be tendered on the next Business Day for which, as of 4:00 p.m., it did not have commitments for purchase; provided, however, that the failure of the Remarketing Agent to provide such notice shall not, of itself, negate the obligation of the Bank to purchase Bonds upon and subject to the terms and conditions otherwise provided hereunder. By no later than 11:30 a.m. on the Business Day on which Bonds are subject to an optional tender or mandatory purchase, the Tender Agent shall give written notice of purchase, by facsimile, telex or telegram, in the form of Exhibit A. If the Bank receives such notice at or before 11:30 a.m., and subject to the satisfaction of the conditions set forth in Section 5.02 hereof, the Bank will transfer to the Tender Agent not later than 2:30 p.m. on such date (a “*Purchase Date*”), in immediately available funds, an amount equal to the aggregate Purchase Price of all or such portion of such Eligible Bonds as requested by the Tender Agent. Bonds purchased pursuant to this Section 2.02(a) shall be registered in the name of the Bank, or if directed in writing by the Bank its nominee or designee, on the Bond Register and shall be promptly delivered to the Tender Agent to be held as Purchased Bonds or as the Bank may otherwise direct in writing, and prior to such delivery shall be held in trust by the Tender Agent for the benefit of the Bank. Notwithstanding the foregoing, if and so long as the Bonds purchased pursuant to this Section 2.02(a) are Book-Entry Bonds, the beneficial ownership of such Bonds shall be credited to the account of the Bank, or if directed in writing by the Bank, the Tender Agent or other nominee or designee of the Bank, maintained at DTC.

(b) ***Remittance of Extra Funds.*** In the event that any funds paid by the Bank to the Tender Agent pursuant to Section 2.02(a) hereof shall not be required to be applied to purchase Bonds as provided herein, such funds shall be returned to the Bank as soon as practicable by the Tender Agent and until so returned shall be held in trust by the Tender Agent for the account of the Bank. To the

extent any such amounts are not returned to the Bank in immediately available funds by 3:30 p.m. on the same day on which such funds were advanced, such amounts shall bear interest, payable by the Authority on demand and in any event on the date on which such funds are returned, at a rate equal to the Base Rate from the date disbursed until the date returned to the Bank (but in any event for not less than one (1) day). The parties hereto acknowledge that such amount is not covered by the Bond Insurance Policy.

(c) ***No Liability of the Bank.*** The Bank shall not have any responsibility for, or incur any liability in respect of, any act, or any failure to act, by the Trustee or the Tender Agent (i) to credit the appropriate account with funds made available by the Bank pursuant to this Section 2.02 or (ii) to effect the purchase for the account of the Bank of Bonds with funds provided pursuant to this Section 2.02.

(d) ***Payment with Own Funds.*** All purchases of Tendered Bonds made by the Bank hereunder shall be made with the Bank's own funds.

**Section 2.03. Mandatory Reduction of Commitment.** Upon receipt by the Bank of written notice of (a) any redemption, prepayment or other payment pursuant to the Resolution of all or any portion of the principal amount of the Bonds (other than Purchased Bonds) such that such Bonds cease to be Outstanding or (b) any conversion of all or a portion of the Bonds to a Non-Covered Interest Rate, the aggregate Available Principal Commitment shall automatically be reduced by the principal amount of such Bonds so redeemed, paid, deemed paid or converted, as the case may be, and the Available Interest Commitment shall also be simultaneously reduced as provided in the definition thereof in Section 1.01 hereof. The Authority shall notify the Bank within one (1) Business Day of such redemption, repayment or other payment or conversion of the Bonds. The Available Commitment shall automatically terminate when an Alternate Liquidity Facility has become effective pursuant to the Supplemental Resolution, provided that this Agreement shall not terminate until the Bank has purchased any Bonds required to be purchased pursuant to any mandatory tender resulting from the provision of any Alternate Liquidity Facility.

#### **Section 2.04. Sale of Purchased Bonds.**

(a) ***Right to Sell Purchased Bonds.*** The Bank expressly reserves the right to sell, at any time, any Purchased Bond or the beneficial interest therein subject, however, to the express terms of this Agreement. The Bank agrees that such sales (other than sales made pursuant to Section 2.04(b) hereof or to Assignees pursuant to Section 8.03 hereof) will be made only to institutional investors or other entities or individuals, which customarily purchase commercial paper or tax-exempt securities in large denominations. The Bank agrees to notify the Authority, the Bond Insurer, the Tender Agent and the Remarketing Agent promptly in writing of any such sale (other than a sale made pursuant to Section 2.04(b) hereof) and to notify the transferee in writing that (i) so long as such Bond remains a Purchased Bond, the Bank is not obligated to purchase it hereunder, (ii) there may not be a short-term investment rating assigned to such Bond so long as it remains a Purchased Bond and (iii) such Bond is subject to sale, and may cease to be a Purchased Bond, as provided in Section 2.04(b) hereof. The Bank shall provide the Tender Agent with the written agreement of each Purchased Bondholder purchasing a Purchased Bond or beneficial interest therein (A) acknowledging the terms of this Agreement relating to Purchased Bonds, (B) agreeing not to sell such Purchased Bond or beneficial interest except for sales to the Bank, sales to a purchaser identified by the Remarketing Agent pursuant to Section 2.04(b) hereof and sales to institutional investors or other entities which customarily purchase tax-exempt securities and who agree to be bound by the sale restrictions of this Section 2.04(a), (C) acknowledging that such Purchased Bondholder has no right to tender such Purchased Bond for purchase pursuant to the Resolution and (D) specifying appropriate notice and account information for purposes of all notices and payments to such Purchased Bondholder.

(b) ***Sales by Remarketing Agent.*** The Bank and, by its acceptance of a Purchased Bond, each other Purchased Bondholder, subject to Section 2.04(c) hereof, hereby authorize the Remarketing Agent to sell Purchased Bonds on behalf of the Bank or such other Purchased Bondholder at a price equal to the principal amount thereof plus unpaid accrued interest thereon to the Sale Date at the interest rate to be borne by the Bonds after such sale or, if less, the Purchased Bond Rate (the “*Sale Price*”). If less than all Purchased Bonds are remarketed on any date, the Purchased Bonds having the lowest aggregate amount of Excess Bond Interest payable with respect thereto shall be deemed to be remarketed first.

Prior to 11:30 a.m. on any Business Day on which a Purchased Bondholder holds Purchased Bonds, the Remarketing Agent may deliver a notice (a “*Purchase Notice*”) to a Purchased Bondholder as registered on the Bond Register and to the Bank stating that the Remarketing Agent has located a purchaser for some or all of such Purchased Bonds and that such purchaser desires to purchase an authorized denomination of such Purchased Bonds at the Sale Price on the second Business Day following the date on which a Purchased Bondholder receives a Purchase Notice (a “*Sale Date*”).

A Purchased Bondholder shall decide whether to sell any Purchased Bonds by giving written notice of such decision to the Tender Agent and the Remarketing Agent by 4:00 p.m. on the Business Day preceding the Sale Date. In the event such notice is not timely delivered by a Purchased Bondholder, such Purchased Bondholder shall be deemed to have determined to sell such Purchased Bonds. If a Purchased Bondholder determines or is deemed to have determined to sell such Purchased Bonds, such Purchased Bondholder shall deliver such Purchased Bonds to the Tender Agent (or, in the case of Purchased Bonds which are Book–Entry Bonds, shall cause the beneficial ownership thereof to be credited to the account of the applicable Remarketing Agent at DTC) by 10:00 a.m. on the Sale Date against receipt of the Sale Price therefor, plus the Differential Interest Amount, if any, in immediately available funds to the Bank at the account specified pursuant to Section 2.07(a) hereof or at the Purchased Bondholder’s address listed in the Bond Register, as applicable, and such Bonds shall thereupon no longer be considered Purchased Bonds. Any sale of a Purchased Bond pursuant to this Section 2.04(b) shall be without recourse to the seller and without representation or warranty of any kind. When Purchased Bonds are purchased in accordance with this Section 2.04(b), the Tender Agent shall, upon receipt of authorization to transfer such Bonds and upon receipt by such Purchased Bondholder of the Sale Price and the Differential Interest Amount, if any, notify the Remarketing Agent and the Authority that such Bonds are no longer Purchased Bonds. The Tender Agent shall not instruct or authorize the bond registrar to transfer any such Purchased Bonds, or re–register the same, pursuant to the instructions of the Remarketing Agent until the Tender Agent has received from the Purchased Bondholder written confirmation of the receipt of such funds.

(c) ***Right to Retain Bonds.*** If a Purchased Bondholder notifies the Tender Agent and the Remarketing Agent by 4:00 p.m. on the Business Day preceding the Sale Date that it will not sell such Purchased Bonds, such Bonds shall no longer be Purchased Bonds as of the Sale Date, and the Tender Agent shall on the Sale Date give notice to such effect to the Bank and such Purchased Bondholder. Such election may be revoked in writing by the Purchased Bondholder at any time prior to 4:00 p.m. on the Business Day preceding the Sale Date.

(d) ***Bonds Ceasing to be Purchased Bonds.*** After any sale of Purchased Bonds by the Remarketing Agent pursuant to Section 2.04(b) hereof, or any election to retain Bonds pursuant to Section 2.04(c) hereof, Purchased Bonds shall from such Sale Date or upon such election cease to bear interest at the Purchased Bond Rate and shall bear interest at the rate determined by the Remarketing Agent in accordance with the Supplemental Resolution. Following any sale of Purchased Bonds pursuant to Section 2.04(b) hereof, Section 8.03 hereof or otherwise, or any election to retain Bonds pursuant to Section 2.04(c) hereof, the Bank and any other Purchased Bondholders shall retain the right

to receive payment from the Authority of any accrued Excess Bond Interest Amount and interest thereon as provided herein and any other amounts then due and owing under this Agreement.

## **Section 2.05. Fees and Payments.**

(a) **Closing Fee.** The Authority hereby agrees to pay or cause to be paid to the Bank a non-refundable closing fee on the Effective Date of \$2,500.

(b) **Commitment Fee.** The Authority hereby agrees to pay or cause to be paid to the Bank a commitment fee (the "Commitment Fee"), which shall be fully earned when due and non-refundable when paid, at the rate of thirteen basis points (0.13%) per annum on the average daily amount of the Available Commitment based on a year of 365 or 366 days, as applicable, and the actual number of days elapsed. Such Commitment Fee shall be payable quarterly in arrears, on each Fee Payment Date, commencing October 1, 2005, with respect to the period or portion thereof ending on the last day of the preceding calendar quarter, and on the last day of the Purchase Period. For purposes of this Section 2.05(b) only, the Available Commitment shall be deemed not to be reduced during any period for which the Bank's obligation to purchase Bonds has been suspended pursuant to Section 7.03(c) or 7.03(d) hereof. For every Notch Downgrade of the Underlying Rating assigned to the Bonds by any one or more of S&P, Moody's or Fitch, below "A" with respect to S&P, "A2" with respect to Moody's, or "A" with respect to Fitch, the Commitment Fee shall be increased by an additional five basis points (0.05%) per annum. If any one or more of S&P, Moody's or Fitch withdraw or suspend the Underlying Rating assigned the Bonds or reduce such Underlying Rating below "BBB-" with respect to S&P, "Baa3" with respect to Moody's, or "BBB-" with respect to Fitch, the Commitment Fee shall be increased by an additional one hundred basis points (1.00%) per annum. In the event the Underlying Rating assigned the Bonds is subsequently upgraded, the Commitment Fee shall be restored to the corresponding lesser rate.

(c) **Expenses and Counsel.** The Authority shall reimburse the Bank on the Effective Date for its out-of-pocket expenses and fees, including \$2,500 in foreign counsel fees and \$30,000 plus disbursements in domestic counsel fees, in connection with the preparation, execution and delivery of this Agreement.

(d) **Transfer/Amendment Fee.** Upon each transfer or amendment of this Agreement in accordance with its terms or appointment of a successor Tender Agent under the Resolution, the Authority agrees to pay the Bank the sum of \$2,500 and to reimburse the Bank for its actual costs and expenses associated with such transfer, appointment or amendment (and interest on such costs and expenses from the date expended by the Bank to the date reimbursed by the Authority at the Default Rate) payable on the date of such transfer, appointment or amendment. The Bank hereby acknowledges that U.S. Bank Trust National Association has become Tender Agent as successor to State Street Bank and Trust Company, N.A. and consents thereto.

(e) **Payment of Interest Component.** The Authority shall pay the Bank interest at the Purchased Bond Rate on the amount of the Interest Component, if any, included in the Purchase Price from the Purchase Date until, and the Interest Component (together with interest thereon) shall be due and payable on, the earliest of (i) the Interest Payment Date next succeeding the Purchase Date, (ii) the date on which such Purchased Bonds are remarketed, paid at maturity or redeemed or (iii) the last day of the Purchase Period. Alternatively, the Bank may, in its sole discretion, require the Authority to pay the amount of such Interest Component (together with interest thereon) to the Bank not later than the second Business Day next following the date on which written notice from the Bank of such requirement and the amount thereof is received by the Authority. The Bank and any Purchased Bondholder, by acceptance of the Purchased Bonds, acknowledges that the obligation of the Authority to pay interest on

the Interest Component pursuant to this Section 2.05(e) or to pay the Interest Component on a date other than the scheduled Interest Payment Date is not insured under the terms of the Bond Insurance Policy.

(f) **Purchase Demand Fee.** Upon each advance of funds hereunder to purchase Tendered Bonds, the Authority agrees to pay to the Bank, a purchase demand fee of \$250, payable without any requirement of notice or demand by the Bank on the day on which such advance is paid by the Bank.

(g) **Transfer of Bonds Fee.** The Authority agrees to pay to the Bank on each Purchase Date or Sale Date, as applicable, an amount equal to any charge imposed on the Bank pursuant to the Resolution in connection with the transfer or exchange of Bonds. The Authority agrees to cause the bond registrar to give the Bank timely notice of each such charge, including the amount thereof.

(h) **Overdue Amounts.** If the Authority shall fail to pay when due any amount owing to the Bank under this Agreement, then to the extent permitted by law the Authority will pay to the Bank on demand interest on the amount in default from the date such payment became due until payment in full at the Default Rate.

(i) **Termination Fee.** Upon any termination of this Agreement, the Authority agrees to pay all accrued and unpaid fees through and including the date of termination. If the Authority terminates or reduces the Available Commitment on or before July 14, 2006, the Authority shall pay to the Bank a fee equal to the Commitment Fee required pursuant to Section 2.05(b) hereof which would have been paid to the Bank for the first twelve (12) months subsequent to the Effective Date, based on the Available Commitment as of the Effective Date, less the Commitment Fee previously paid to the Bank pursuant to Section 2.05(b) hereof. Provided, however, that no such termination fee will become payable if the Authority terminates this Agreement upon the occurrence of the condition denominated in Section 8.09(b)(iii) hereof.

(j) **Administration.** The Authority hereby agrees to pay all of the Bank's out-of-pocket expenses (including, without limitation, reasonable fees and disbursements of domestic and foreign counsel for the Bank) arising in connection with the administration and enforcement of, preservation of rights in connection with a workout, restructuring or default under or amendment or waiver with respect to, this Agreement, the Bonds and the other Related Documents.

(k) **Parity Payments.** The Authority's (i) obligation to pay principal and interest then due and owing on Purchased Bonds and (ii) obligation to pay the Commitment Fee under Section 2.05(b) hereof are on a parity with the Authority's obligation to pay principal and interest then due and owing on the Bonds and other parity obligations. All other amounts due and owing under this Agreement are subordinate to the Authority's obligation to pay principal and interest then due and owing on the Bonds, replenishment of any debt service reserve fund and payment of the fees of the Tender Agent.

## **Section 2.06. Yield Protection.**

(a) **Reserves.** If, after the Effective Date, any United States (or other Governmental Authority having jurisdiction over the Bank or any Participant or Assignee) federal, state or other law, rule, regulation or guideline, whether or not having the force of law, or the enforcement, interpretation or administration thereof by any court or any administrative or Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof shall at any time (i) impose, modify or deem applicable any reserve, special deposit or similar requirement (including, without limitation, pursuant to Regulation D of the Board of Governors of the Federal Reserve System) against credits or commitments to extend credit extended by, or assets (funded or contingent) of, deposits with or for the account of, or other acquisitions of funds or bonds by the Bank or any Participant or Assignee,



or (ii) subject credits or commitments to extend credit extended by the Bank or any Participant or Assignee to any assessment or other cost imposed by the Federal Deposit Insurance Corporation or any successor thereto, or (iii) impose on the Bank or any Participant or Assignee any other or similar condition regarding this Agreement, the commitment or obligations of the Bank hereunder or the purchase or holding of Purchased Bonds, and the result of any event referred to in clause (i), (ii) or (iii) above shall be to increase the cost to the Bank or any Participant or Assignee of agreeing to issue, issuing or maintaining the Available Commitment or making, funding or maintaining (or agreeing to fund or maintain) purchases of Bonds hereunder or its holding Purchased Bonds by an amount which the Bank or any Participant or Assignee shall deem to be material (which increase in cost shall be the result of the reasonable allocation by the Bank or any Participant or Assignee of the aggregate of such cost increases resulting from such events), then, within thirty (30) days after the Authority's receipt of the Bank's written demand, the Authority shall pay to the Bank (for itself or the account of such Participant or Assignee) from time to time as specified by the Bank, additional amounts which shall be sufficient to compensate the Bank or any Participant or Assignee for such increased cost from the date of such change, together with interest on each such amount from the date payment is due until the earlier of the date of payment in full thereof and the date on which such payment is due at the Base Rate, and thereafter at the Default Rate.

(b) **Capital Charges.** If the Bank or any Participant or Assignee shall have determined after the Effective Date that the applicability of any law, rule, regulation or guideline adopted or issued pursuant to or arising out of the July 1988 report of the Basle Committee on Banking Regulations and Supervisory Practices entitled "International Convergence of Capital Measurement and Capital Standards," or the adoption or issuance of any other law, rule, regulation or guideline (whether or not having the force of law) regarding capital adequacy, by any Governmental Authority (including, but not limited to any Governmental Authority having jurisdiction over the Bank or any Participant or Assignee), or any change in any applicable law, rule, regulation or guideline, as the case may be, or any change in the enforcement or interpretation or administration thereof by any court or any administrative or Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank (or any lending office thereof) or any Participant or Assignee with any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency has or would have the effect of reducing the rate of return on capital of the Bank or any such Participant or Assignee, if any, as a consequence of its obligations hereunder or its purchase or holding of Purchased Bonds to a level below that which the Bank or such Participant or Assignee could have achieved but for such adoption, change or compliance (taking into consideration the policies of the Bank or such Participant or Assignee with respect to capital adequacy) by an amount deemed by the Bank or such Participant or Assignee to be material, then within thirty (30) days after the Authority's receipt of the Bank's written demand, the Authority shall pay to the Bank (for itself or for the account of such Participant or Assignee) such additional amount or amounts as will compensate the Bank or its Participant or Assignee, if any, as the case may be, for such reduction from the date of such adoption, change or compliance with respect to such law, rule, regulation, guideline, request or directive, together with interest on each such amount from the date payment is due until the earlier of the date of payment in full thereof and the date on which such payment is due at the Base Rate and thereafter at the Default Rate.

(c) **Calculations.** The amounts owed by the Authority as compensation to the Bank pursuant to this Section 2.06 shall be calculated as though the Bank were the holder of all Purchased Bonds and without regard to any sales of Purchased Bonds by the Bank pursuant to Section 2.04(a) hereof.

(d) **Demand for Payment.** Each demand for compensation pursuant to Section 2.06(a) or 2.06(b) hereof shall be accompanied by a certificate of the Bank in reasonable detail setting forth the

computation of such compensation (including the reason therefor), which certificate shall be conclusive, absent manifest error, as against all other Persons, including without limitation, the Authority.

(e) **Third Party Beneficiaries.** The benefits of this Section 2.06 shall be available to each Assignee and each Participant.

### **Section 2.07. Payment Particulars.**

(a) **General.** Except to the extent otherwise provided in the Resolution with respect to payments on Purchased Bonds and in Section 2.02(b) hereof, all payments by or on behalf of the Authority under this Agreement shall be made to the Bank prior to 3:00 p.m. on the date such payment is due by wire transfer in Dollars and in immediately available funds to Wachovia Bank, National Association, New York, ABA #: XXXXXX, Account: XXXXXX, New York Branch, Account #: XXXXXXXX Reference: Massachusetts Water Resources Authority, Multi-Modal Subordinated General Revenue Refunding Bonds, 2001 Series A & 2001 Series B. Any payment received by the Bank after 3:00 p.m. shall be deemed to be received by the Bank on the next succeeding Business Day. Any amount owed to the Bank hereunder which is not paid when due shall bear interest from the date such payment was due until paid in full at a rate equal to the Default Rate, such interest to be payable on demand. All computations of interest and fees shall be made on the basis of a year of 365 or 366 days, as applicable, and the actual number of days elapsed.

(b) **Payment Dates.** Except as may be otherwise provided herein, whenever any payment or action to be made or taken hereunder shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and such extension of time shall be included in computing interest or fees, if any, in connection with such payment or action.

(c) **Net of Taxes.** All payments by or on behalf of the Authority under this Agreement shall be made without counterclaim, set-off, condition or qualification, and free and clear of and without deduction or withholding for or by reason of any present or future taxes, levies, imposts, deductions or charges of any nature whatsoever, excluding, however, taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being referred to as "Taxes"). If requested, the Bank, any Assignee and Participant shall from time to time provide the Authority, the Tender Agent and the United States Internal Revenue Service (to the extent such information and forms may be lawfully provided by the Bank or such Assignee or Participant) with such information and forms as may be required by Treasury Regulations Section 1.1411 or any other such information and forms as may be necessary to establish that the Authority is not subject to any withholding obligation under Section 1442 or other comparable provisions of the Code. If as a result of a Change of Law, the Authority shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.07(c)) the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Authority shall make such deductions and (iii) the Authority shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the Authority shall make any payment under this Section 2.07(c) to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States then the Bank shall pay to the Authority an amount equal to the amount by which such other taxes are actually reduced; provided, however, that the aggregate amount payable by the Bank pursuant to this

sentence shall not exceed the aggregate amount previously paid by the Bank with respect to such Taxes. The amounts owed by the Authority as compensation to the Bank pursuant to this Section 2.07(c) shall be calculated as though the Bank were the holder of all Purchased Bonds and without regard to any sales of Purchased Bonds by the Bank pursuant to Section 2.04(a) hereof.

(d) **Application of Payments.** Payments received by the Bank (other than payments made pursuant to the Bond Insurance Policy) shall be applied, first, to any fees, costs, charges or expenses payable by the Authority under this Agreement; second, to past due interest; third, to current interest; and, fourth, to principal.

## ARTICLE III

### THE PURCHASED BOND RATE

#### Section 3.01. Bonds to Bear Interest at Purchased Bond Rate; Other Interest Provisions.

(a) **Purchased Bond Rate.** As provided in the Bonds and the Supplemental Resolution, any Bond purchased by the Bank pursuant to this Agreement shall thereupon become a Purchased Bond and shall bear interest at the Purchased Bond Rate for the period commencing from the date that the Bank shall have purchased such Bond and, subject to Section 2.04(c) hereof, continuing until such Bond is paid in full or remarketed as provided in Section 2.04(b) hereof. Subject to Section 3.01(c) hereof, the Purchased Bond Rate for any Purchased Bond shall be a rate per annum equal to (i) from the Purchase Date of such Purchased Bond through the day that is thirty (30) days after such Purchase Date, the Base Rate, and (ii) from the date that is the thirty-first (31<sup>st</sup>) day after the Purchase Date of such Purchased Bond through the date that is the ninetieth (90) day after such Purchase Date, the Base Rate plus fifty basis points (.50%) and (iii) thereafter, the Base Rate plus one hundred basis points (1.0%); provided, however, that immediately upon the occurrence and continuation of an Event of Default or an Event of Termination, the Purchased Bond Rate shall be equal to the Default Rate; and provided further that at no time shall the Purchased Bond Rate exceed the Capped Rate or be less than the applicable rate of interest on Eligible Bonds which are not Purchased Bonds.

(b) **Overdue Rate.** If the principal amount of any Purchased Bond or, to the extent permitted by law, any interest payment required thereunder, is not paid when due (whether by acceleration, redemption or otherwise), such overdue principal or interest payment shall bear interest from the date such obligation was due until paid in full (after as well as before judgment) at a rate per annum equal to the Default Rate, such interest to be payable on demand.

(c) **Excess Bond Interest Amount.** The rate set forth in Section 3.01(a) hereof, without giving effect to the reference therein to this Section 3.01(c) or to the last proviso therein limiting the Purchased Bonds Rate to the Capped Rate, is referred to in this Section 3.01(c) as the “*Section 3.01(a) Rate*”. The amount of interest, if any, that would accrue on Purchased Bonds at the Section 3.01(a) Rate on any date but which does not so accrue due to the limitation of the Purchased Bond Rate to the Capped Rate shall constitute “*Excess Bond Interest*”. As of any date, the cumulative Excess Bond Interest, if any, on all days since the Effective Date hereof, reduced as set forth in the next sentence, shall constitute the “*Excess Bond Interest Amount*”. If there is any Excess Bond Interest Amount on any date when the Section 3.01(a) Rate is less than the Capped Rate, the Purchased Bond Rate for such date shall be the Capped Rate rather than the Section 3.01(a) Rate and the Excess Bond Interest Amount shall be reduced on such date by the excess of the amount of interest accrued on such date at the Capped Rate over the amount of interest that would have accrued on such date at the Section 3.01(a) Rate; provided that if the accrual of interest on Purchased Bonds at the Capped Rate on any date would result in a reduction of the Excess Bond Interest Amount to a negative number, such Purchased Bonds shall accrue interest on such

date at such lesser rate as shall result in the reduction of the Excess Bond Interest Amount on such date to zero. For so long as a Bond remains a Purchased Bond, interest thereon at the Purchased Bond Rate as adjusted pursuant to this Section 3.01(c) shall be insured by the Bond Insurance Policy. If on the date of maturity, redemption or remarketing of any Purchased Bonds, or on the date any Purchased Bonds cease to constitute Purchased Bonds pursuant to Section 2.04(c) hereof, there remains any unpaid Excess Bond Interest Amount with respect to such Purchased Bonds (the “*Final Excess Bond Interest Amount*”), such Final Excess Bond Interest Amount shall be paid by the Authority to the Purchased Bondholder on such date. Each Purchased Bondholder, by acceptance of the Purchased Bonds, acknowledges that payment of any Final Excess Bond Interest Amount and any interest thereon is not insured under the terms of the Bond Insurance Policy and is subordinate to the Authority’s obligation to pay principal and interest then due and owing on the Bonds and other parity obligations.

### **Section 3.02. Purchased Bonds Interest Payment Dates; Notification of Rate.**

(a) ***Payment Dates.*** Notwithstanding anything to the contrary contained in the Bonds or the Resolution, the Authority agrees that, with respect to each Purchased Bond, (i) the Interest Component, if any, included in the Purchase Price for such Bond shall be paid as set forth in Section 2.05(e) hereof; (ii) except with respect to the Differential Interest Amount, which shall be paid as set forth in Section 2.04(b) hereof, and Excess Bond Interest, the Excess Bond Interest Amount and the Final Excess Bond Interest Amount, which shall be payable in accordance with Section 3.01(c) hereof, interest payable pursuant to Section 3.01(a) hereof shall be payable on each Interest Payment Date, upon redemption (to the extent of the interest accrued on the amount being redeemed), at maturity (whether by acceleration or otherwise), and after maturity, on demand. In the event any Purchased Bond is remarketed before payment in full of the funds provided by the Bank hereunder with respect thereto, together with interest thereon, the provisions of this Article III shall continue to apply to such indebtedness until all sums owing for all periods during which the same was a Purchased Bond are paid.

(b) ***Notification of Rate.*** The Bank will give telephone notice (promptly confirmed in writing) to the Authority and the Tender Agent not later than 10:00 a.m. on each Sale Date of the Differential Interest Amount owed by the Authority hereunder as a result of any sale of Purchased Bonds pursuant to Section 2.04(b) hereof. Notwithstanding the preceding sentence, the Authority’s obligations to make payments in respect of any Differential Interest Amount (together with accrued interest thereon, if applicable) shall not be discharged or reduced in any way as a result of the Bank’s failure to deliver any notice referred to in the preceding sentence. The Bank will, upon the request of the Authority or the Tender Agent, notify the Authority or the Tender Agent, as the case may be, of the Purchased Bond Rate in effect during any period in which Purchased Bonds are held by the Bank or any other Purchased Bondholders or during which any Differential Interest Amount, Excess Bond Interest, Excess Bond Interest Amount, Final Excess Bond Interest Amount or any amount in respect of the Interest Component remains unpaid. Absent manifest error, the Bank’s determination of any of the foregoing shall be binding upon the Authority and the Tender Agent.

**Section 3.03. Redemption of Purchased Bonds First.** Amounts applied for the redemption of Bonds (whether optional, pursuant to sinking fund requirements or otherwise) shall be used first to redeem Purchased Bonds.

**Section 3.04. Required Optional Redemption of Purchased Bonds.** Subject to the final sentence of this Section 3.04, commencing on the earlier of the one hundred eighty-first (181<sup>st</sup>) day after the Purchase Date or the first Business Day of the sixth (6th) month after the end of the Purchase Period, the Authority shall cause Purchased Bonds to be subject to a required optional redemption pursuant to Section 3.1 of the Supplemental Resolution over a five (5) year period with principal payable in twenty (20) equal quarterly installments and interest at the Purchased Bond Rate or the Default Rate, as applicable, payable monthly in arrears, the first such

installment to be due on the first Interest Payment Date following the three (3) month anniversary of the day on which such Purchased Bonds first became Purchased Bonds. All accrued and unpaid interest and principal of Purchased Bonds shall be due and paid no later than the fifth (5<sup>th</sup>) anniversary of the commencement of the required optional redemption period.

**Section 3.05. Limitations of Bond Insurance Policy.** The Bank hereby agrees that the Excess Bond Interest Amount, the Final Excess Bond Interest Amount and interest thereon, interest on the Interest Component and the installments of principal and interest required pursuant to Section 3.04 hereof are not entitled to the benefits of the Bond Insurance Policy and that payment of the Final Excess Bond Interest Amount and interest thereon is subordinate to the Authority's obligation to pay principal and interest then due and owing on the Bonds, replenishment of any debt service reserve fund and payment of the fees of the Tender Agent.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES

**Section 4.01. Representations of the Authority.** To induce the Bank and the Tender Agent to enter into this Agreement and for the Bank to purchase Bonds as provided herein, the Authority makes the following representations and warranties to, and agreements with the Bank and the Tender Agent (which representations, warranties and agreements shall survive the execution and delivery of this Agreement and any purchases of Bonds by the Bank):

(a) **Organization, Powers, Etc.** The Authority is a body politic and corporate and a political subdivision duly created and validly existing under the Constitution and the laws of the Commonwealth, including the Act, and has full power and authority (a) to issue and sell the Bonds and the Purchased Bonds, (b) to own its properties and to carry on its activities as now conducted and as contemplated to be conducted in connection with the issuance of the Bonds and the Purchased Bonds and the execution, delivery and performance of its obligations under the Related Documents and this Agreement, (c) to execute, deliver and perform its obligations under the Related Documents and this Agreement, and (d) to provide for the security of the Bonds and the Purchased Bonds pursuant to the Act and the Resolution; and the Authority has complied with all provisions of applicable law, including the Act, in all matters related to such actions of the Authority as are contemplated by the Related Documents and this Agreement.

(b) **Authorization, Absence of Conflicts, Etc.** The execution and delivery or adoption and performance by the Authority of the Series Documents and this Agreement (a) have been duly authorized by all necessary action on the part of the Authority, (b) do not and will not conflict with, or result in a violation of, any constitutional provision or any law, including the Act, or any order, writ, rule, regulation, judgment, injunction, decree or award of any court or Governmental Authority binding upon or applicable to the Authority and (c) do not and will not conflict with, result in a violation of, or constitute a default under, any resolution, agreement or instrument to which the Authority is a party or is subject, or by which the Authority or any of its property is bound, or conflict with or constitute a default under or result in the creation or imposition of any security interest, lien, charge or encumbrance (other than the lien of the Resolution) on any of its assets pursuant to the provisions of any of the foregoing.

(c) **Binding Obligation.** Each of the Series Documents, the Resolution and this Agreement, has been duly executed and delivered, or adopted as the case may be, by the Authority, constitutes a legal, valid and binding obligation of the Authority enforceable in accordance with its terms, except to the extent, if any, that the enforceability thereof may be limited by (a) any applicable bankruptcy, insolvency, reorganization, moratorium or other similar law of the Commonwealth or the federal

government affecting the enforcement of creditors' rights heretofore or hereafter enacted and (b) the fact that enforcement may also be subject to the exercise of judicial discretion in appropriate cases. The Bonds have been duly issued, executed and delivered in conformity with the Resolution and constitute legal, valid and binding obligations of the Authority, enforceable in accordance with their terms, except to the extent, if any, that the enforceability thereof may be limited by (a) any applicable bankruptcy, insolvency, reorganization, moratorium or other similar law of the Commonwealth or the federal government affecting the enforcement of creditors' rights heretofore or hereafter enacted and (b) the fact that enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

(d) ***Compliance with Laws and Contracts.*** Neither the execution and delivery or adoption by the Authority of this Agreement and the Series Documents to which the Authority is a party, nor the consummation of the transactions herein and therein contemplated, nor compliance with the provisions hereof or thereof will violate any constitutional provision or any law, rule, regulation, order, writ, judgment, injunction, decree or award of any court or Governmental Authority, arbitration, agency or other instrumentality applicable to the Authority binding on the Authority, the Authority's charter, bylaws or other organizational documents or the provisions of any indenture, instrument or agreement to which the Authority is a party or is subject, or by which it or its property is bound, or conflict with or constitute a default under or result in the creation or imposition of any security interest, lien, charge or encumbrance (other than the lien of the Resolution) on any of its assets pursuant to the provisions of any of the foregoing.

(e) ***Absence of Material Litigation.*** There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any Governmental Authority, court, arbitrator, governmental or other board, body or official, pending or, to the best knowledge of the Authority, threatened against or affecting the Authority or the Commonwealth, questioning the validity of the Act or any proceeding taken or to be taken by the Authority or the Commonwealth in connection with the execution, delivery and performance by the Authority or the Commonwealth, as applicable, of the Series Documents, the Resolution or this Agreement, or seeking to prohibit, restrain or enjoin the execution, delivery or performance by the Authority of any of the foregoing.

(f) ***No Defaults.*** No Event of Default or, to the knowledge of the Authority, no Event of Termination, Potential Event of Termination or Default has occurred and is continuing.

(g) ***Financial Condition.*** The financial statements as of and for the period ended June 30, 2004 supplied to the Bank fairly present the financial status and operating results of the Authority as of such date and have been prepared in accordance with Generally Accepted Accounting Principles consistently applied except as stated in the notes thereto; and there has not been any material adverse change in the financial condition of the Authority since such date, other than as disclosed in or contemplated by the 2005 Official Statement.

(h) ***Bonds.*** The Bonds (including all Purchased Bonds) have been duly issued under the Resolution and the Act and are entitled to the benefits thereof.

(i) ***Official Statement.*** The 2005 Official Statement and the Supplement to the 2001 Official Statement, true copies of which have heretofore been delivered to the Bank, do not contain and will not contain any untrue statement of a material fact and do not and will not omit to state a material fact necessary to make the statements therein, in light of the circumstances under which made, not misleading.

(j) ***Bond Insurance.*** The Bonds (including all Purchased Bonds) are entitled to the benefits of the Bond Insurance Policy.

(k) ***Governmental Consent or Approval.*** No consent, license, approval, validation, permit, authorization or order of, or registration, validation, declaration or filing with, any court or Governmental Authority or other instrumentality not already obtained, given or made is required in connection with the execution, delivery, performance, validity or enforceability of the Series Documents, the Resolution or this Agreement.

(l) ***Incorporation of Representations and Warranties.*** The representations and warranties of the Authority contained in the Series Documents and the Resolution (which representations and warranties are hereby expressly incorporated herein and made for the benefit of the Bank) are true and correct.

(m) ***Complete and Correct Information.*** All information, reports and other papers and data with respect to the Authority furnished to the Bank were, at the time the same were so furnished, complete and correct in all material respects. Any financial, budget and other projections furnished to the Bank were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent, the Authority's best estimate of its future financial performance. No fact is known to the Authority that materially and adversely affects or in the future may (so far as it can reasonably foresee) materially and adversely affect the security for any of the Bonds, or the Authority's ability to pay when due its obligations under this Agreement, any of the Bonds, the Resolution and the Series Documents that has not been set forth in the 2005 Official Statement referenced in Section 4.01(i) hereof or in such information, reports, papers and data or otherwise disclosed in writing to the Bank. Taken as a whole, the documents furnished and statements made by the Authority in connection with the negotiation, preparation or execution of this Agreement, the Resolution and the Series Documents do not contain untrue statements of material facts or omit to state material facts necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(n) ***Business of the Authority.*** The Authority is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any margin stock as defined in Regulation U of the Board of Governors of the Federal Reserve System.

(o) ***No Maximum Legal Interest Rate.*** The Authority is authorized by the laws of the Commonwealth to enter into this Agreement and the transactions contemplated hereby. In accordance therewith, the obligations of the Authority hereunder and under the Purchased Bonds are not subject to any limitation as to maximum rate of interest payable to regulated financial institutions.

(p) ***Obligations of the Authority under the Initial Liquidity Facility and the Payment Agreement.*** Except for the commitment fee for the period from June 1, 2005 until July 14, 2005, such commitment being not greater than \$31,795.24, there are no amounts due or owing under the Initial Liquidity Facility or the Payment Agreement.

(q) ***Insurance.*** The Authority currently maintains insurance of such type and in such amounts or in excess of such amounts as are customarily carried by, and insures against such risks as are customarily insured against by, businesses of like type, size and character to the Authority.

(r) ***Purchased Bonds.*** The Purchased Bonds purchased pursuant to Article II will be transferred to or held for the benefit of the Bank, free and clear of all liens, security interests or claims of any Person other than the Bank, except for consensual liens or other security interests as may be created by the Bank.

(s) **Security.** The Resolution creates the pledge, lien and assignment which it purports to create to secure the Bonds (including the Purchased Bonds) as and to the extent provided herein and in the Resolution and is a perfected second-priority lien. Except as permitted or contemplated by the Resolution, the Authority has not pledged or granted a lien, security interest or other encumbrance of any kind on the Revenues.

(t) **No Proposed Legal Changes.** There is no amendment or proposed amendment certified for placement on a statewide ballot, or, to the knowledge of the Authority, to the Constitution of the Commonwealth or any published administrative interpretation of the Constitution of the Commonwealth or any law of the Commonwealth, or any legislation that has passed either house of the legislature of the Commonwealth, or any published judicial decision interpreting any of the foregoing, the effect of which is to materially adversely affect the Bonds, or any holder thereof in its capacity as such, or this Agreement or the security thereof or any of the Related Documents or any Revenues.

**Section 4.02. Representation of the Bank.** The Bank represents and warrants that, on the Effective Date, the Bank is rated “Aaa” / “P-1” by Moody’s, “AAA” / “A-1+” by S&P and “AAA” / “F1+” by Fitch.

## ARTICLE V

### CONDITIONS PRECEDENT

**Section 5.01. Conditions Precedent to Effectiveness.** This Agreement shall become effective on the Effective Date provided that each of the conditions enumerated in this Section 5.01 has been fulfilled to the satisfaction of the Bank.

(a) **Representations.** On the Effective Date (and after giving effect to the issuance of the Bonds and the effectiveness of this Agreement), (i) there shall exist no Event of Termination, Potential Event of Termination, Default or Event of Default, and (ii) all representations and warranties made by the Authority in this Agreement or in any of the Related Documents to which it is a party shall be true and correct with the same effect as though such representations and warranties had been made at and as of such time.

(b) **Supporting Documents.** On or prior to the Effective Date, the Bank shall have received, in form and substance satisfactory to the Bank, the following:

(i) true and complete executed originals of this Agreement, each of the Related Documents and the 2001 Official Statement and a photocopy of the Bond Insurance Policy (certified, where appropriate);

(ii) resolutions of the Authority authorizing this Agreement and the Series Documents to which it is a party and the execution of the Supplement to the 2001 Official Statement, certified prior to the Effective Date by an authorized officer of the Authority (which certificate shall state that such resolutions are in full force and effect on the Effective Date);

(iii) signature and incumbency certificates, dated the Effective Date, of the signatories of the Authority and the Tender Agent executing this Agreement, the Related Documents to which it is a party and the Supplement to the 2001 Official Statement;

(iv) a certificate of an authorized officer of the Authority, dated the Effective Date, to the effect set forth in Section 5.01(a) hereof;



(v) executed copies of the legal opinions either addressed to the Bank or stating that the Bank is entitled to rely thereon as if said opinions were addressed to it), certificates, reports and other documents rendered or delivered in connection with the issuance of the Bonds, the Supplement to the 2001 Official Statement, the sale of the Bonds pursuant to the Bond Purchase Agreement, the delivery of this Agreement and the delivery of the Series Documents;

(vi) executed legal opinions, in form and substance satisfactory to the Bank (A) of counsel to the Bond Insurer, as to (1) the due organization of the Bond Insurer and the due authorization, execution and delivery of the Bond Insurance Policy and (2) the legality, validity, binding effect and enforceability of the Bond Insurance Policy; (B) of counsel to the Authority, to the effect set forth in Section 4.01(a) through (e) hereof inclusive, and covering such other matters as the Bank may reasonably request; and (C) of Bond Counsel, covering such matters relating to the Purchased Bonds and the Authority's obligations under the Related Documents as the Bank may reasonably request.

(c) **Bond Insurance Policy.** The Bond Insurance Policy insuring the payment of regularly scheduled principal of and interest on the Bonds and the Purchased Bonds shall be in full force and effect on the Effective Date.

(d) **Other Supporting Documents.** There shall have been delivered to the Bank such information and copies of documents, approvals (if any) and records (certified, where appropriate) of corporate and legal proceedings as the Bank may have requested relating to the entering into and performance by each of the parties (other than the Bank) thereto, of each of the Related Documents or the transactions contemplated thereby or the tax-exempt status of the Bonds. The Bank shall have received such other documents, instruments, approvals (and, if requested by the Bank, certified duplicates or executed copies thereof) or opinions as the Bank may reasonably request.

(e) **The Initial Liquidity Facility.** The Initial Liquidity Facility shall have been terminated, all necessary actions and conditions precedent set forth under the Supplemental Resolution with regard to the provision of an Alternate Liquidity Facility shall have been taken and shall have been fulfilled, and all liens and security interests in favor of and securing the Initial Liquidity Facility Issuer shall have been released and discharged. The Bank shall have received evidence satisfactory to it with respect to the satisfaction of the conditions set forth in this Section 5.01(e).

(f) **Certain Payments.** The Authority shall have paid all the fees then due referred to in Section 2.05(a) hereof and the fees and expenses of domestic and foreign counsel to the Bank as provided in Section 2.05(c) hereof.

(g) **Rating.** The Bank shall have received satisfactory evidence that the Bonds shall have been rated "Aaa" and "VMIG 1" by Moody's, "AAA" and "A-1+" by S&P and "AAA" and "F1+" by Fitch.

**Section 5.02. Conditions Precedent to Purchase.** The obligation of the Bank to purchase Bonds on any date is subject to the satisfaction of the following conditions, unless waived in writing by the Bank:

(a) **No Termination Event.** No Event of Termination specified in Section 7.01(a), (b), (c) or (d) hereof or Potential Event of Termination as described in Section 7.03(d) hereof shall have occurred and be continuing or, with respect to a suspension in accordance with Section 7.03(c) hereof, the Available Commitment shall have been reinstated upon a finding or ruling by a court with jurisdiction, that the Bond Insurance Policy is valid and binding on the Bond Insurer; and

(b) **Notice of Purchase.** The Bank shall have timely received by no later than 11:30 a.m. on the Business Day on which Bonds are to be purchased, a Notice of Purchase as provided in Section 2.02 hereof; provided that if a Notice of Purchase is received after 11:30 a.m. on a Business Day, the Bank will be obligated to purchase Eligible Bonds on the Business Day following receipt thereof, and provided further that if a Notice of Purchase is received before the end of the Purchase Period, the end of the Purchase Period shall not, in and of itself, relieve the Bank of its obligation to purchase Bonds.

## ARTICLE VI

### COVENANTS

**Section 6.01. Covenants of the Authority.** During the term of this Agreement, and until the obligations of the Authority to the Bank under this Agreement are paid in full and the Bank has no further commitment under this Agreement and until payment in full of all Purchased Bonds, unless the Bank shall otherwise consent in writing, the Authority covenants and agrees as follows:

(a) **Notices.** The Authority will promptly furnish to the Bank notice of (i) the failure by the Bond Insurer to perform any of its obligations under the Bond Insurance Policy, (ii) each demand for payment made under the Bond Insurance Policy, (iii) the failure by the Remarketing Agent or the Tender Agent to perform any of its obligations under the Remarketing Agreement or the Supplemental Resolution, (iv) any proposed substitution of this Agreement or of the Bond Insurance Policy, (v) each event or occurrence of which notice is required to be given to the Bank pursuant to the Resolution, (vi) the occurrence of any Event of Termination, Potential Event of Termination, Default or Event of Default; (vii) any change in the ratings of the Bonds of which the Authority has actual knowledge; (viii) any ratings which may be assigned to uninsured debt of the Authority which ranks on a parity with the Bonds (or any changes in such ratings); and (ix) any shadow rating (or changes therein) assigned to the Bonds of which the Authority has knowledge.

(b) **Compliance with Laws.** The Authority will comply in all respects with any and all provisions of law or orders, writs, judgments, injunctions, decrees, awards, rules or regulations of any court or Governmental Authority binding upon or applicable to the Authority and material to the Bonds, the Series Documents or this Agreement, or to the operations, affairs, properties, condition (financial or otherwise) or prospects of the Authority.

(c) **Use of Proceeds of the Bonds.** The Authority will use its best efforts to cause the proceeds from purchases of Bonds made hereunder to be used solely to pay the Purchase Price of such Bonds as more fully described in Sections 2.01 and 2.02 hereof.

(d) **Related Obligations.** The Authority shall promptly pay all amounts payable by it under this Agreement and the Series Documents according to the terms hereof and thereof and shall duly perform each of its obligations under this Agreement and the other Series Documents to which it is a party. The Authority shall take such action as may be necessary to enforce the obligations of other Persons owed to the Authority and the Tender Agent pursuant to the Series Documents.

(e) **Accounting and Reports.** The Authority will maintain a standard system of accounting in accordance with Generally Accepted Accounting Principles consistently applied, and will furnish to the Bank two copies of each of the following:

(i) as soon as practicable and, in any event, within 120 calendar days after the end of each fiscal year of the Authority, a balance sheet of the Authority at the end of such fiscal year and statements of operations, changes in retained earnings, and changes in fund equity and cash

flows for the fiscal year then ended, all in reasonable detail prepared in accordance with Generally Accepted Accounting Principles consistently applied and any applicable regulations accompanied by a report and opinion of the Authority's independent accountants (who shall be of nationally recognized standing) which report and opinion shall have been prepared in accordance with generally accepted auditing standards, accompanied by a Compliance Certificate;

(ii) as soon as practicable and, in any event, within 60 calendar days after the end of each of the first three fiscal quarters of each fiscal year of the Authority, a balance sheet of the Authority as of the end of such fiscal quarter and the statements of operation and changes in retained earnings, changes in fund equity and cash flows for the portion of the fiscal year then ended, all in reasonable detail prepared in accordance with Generally Accepted Accounting Principles consistently applied and any applicable regulations, subject to normal year-end adjustments, it being understood, however, that such financial statements may not contain all of the explanatory footnotes which accompany the audited year-end financial statements, accompanied by a Compliance Certificate;

(iii) as soon as practicable but in any event within 30 calendar days after the issuance thereof, copies of any prospectus, official statement, offering circular, placement memorandum or similar or corresponding document, and any supplements thereto and updates and amendments thereof, that the Authority makes available in connection with the offering for sale of any bonds or notes of which it is the issuer and copies of any other financial reports or other written information distributed generally to holders of bonds or notes issued by the Authority;

(iv) promptly, and in any event within five (5) days after any officer of the Authority obtains knowledge thereof, a certificate of the chief financial officer for the Authority setting forth the occurrence of any Event of Termination, Potential Event of Termination, Default or Event of Default, the details thereof and the action which the Authority is taking or proposes to take with respect thereto;

(v) copies of the financial statements of and other information pertaining to the Authority required to be delivered to the Bond Insurer, no later than the date on which such deliveries are required to be made to the Bond Insurer;

(vi) the Authority shall deliver to the Bank, upon completion thereof, two copies of its annual budget for the next fiscal year and such additional period as may be covered by such budget; and

(vii) with reasonable promptness, such other data regarding the financial position or business of the Authority as the Bank may reasonably request from time to time.

(f) ***Access to Records.*** At any reasonable time and from time to time, the Authority will permit the Bank or any of its agents or representatives to visit and inspect any of the properties of the Authority, to examine the books of account of the Authority (and to make copies thereof and extracts therefrom), and to discuss the affairs, finances and accounts of the Authority with, and to be advised as to the same by its officers, all at such reasonable times and intervals as the Bank may reasonably request.

(g) ***Series Documents.*** The Authority, the Trustee and the Tender Agent shall not amend, modify, substitute or terminate, or permit the amendment, modification, substitution or termination of, or consent to, or permit or suffer to occur any action or omission which results in, or is equivalent to, an

amendment, modification, substitution or termination of any of the Series Documents (excluding the Remarketing Agreement) without the express written consent of the Bank, except as contemplated by this Agreement, the Tender Agent Agreement or the Supplemental Resolution, without having first obtained the express written approval of the Bank as to the form and substance of such Series Documents. The Authority shall provide to the Bank executed copies of any such amendments, promptly after the adoption thereof.

(h) ***Voluntary Redemption or Conversion.*** The Authority shall not voluntarily redeem any Bonds pursuant to the Resolution prior to redeeming Purchased Bonds in full or if, after giving effect to such redemption, there would be any unpaid Excess Bond Interest Amount owing under this Agreement or any other amount in respect of such Purchased Bonds which shall not have been paid in full. The Authority shall not voluntarily convert any Bonds to a Non-Covered Interest Rate pursuant to the Supplemental Resolution if, after giving effect to such conversion, there would be any unpaid Excess Bond Interest Amount owing under this Agreement or any other amount in respect of such Purchased Bonds which shall not have been paid in full.

(i) ***Alternate Liquidity Facility or Conversion to a Non-Covered Interest Rate.***

(i) The Authority agrees to use its best efforts to obtain an Alternate Liquidity Facility to replace this Agreement or to convert all of the Bonds to a Non-Covered Interest Rate in the event (A) the Bank shall determine not to extend the Stated Expiration Date (such replacement or conversion to occur on or before the mandatory purchase date established pursuant to the Supplemental Resolution), (B) the Bank shall give a Notice of Termination in accordance with Section 7.03(b) hereof (such replacement or conversion to occur on or before the mandatory purchase date established pursuant to the Resolution), (C) a mandatory purchase of Bonds shall have been effected with any funds made available under this Agreement, (D) the Bond Insurer shall fail to maintain a financial strength rating of “AA-”, “Aa3” or “AA-”, or higher, by any of S&P, Moody’s or Fitch, respectively, for a period of 30 consecutive days, or (E) the Authority terminates this Agreement pursuant to Section 8.09(b) hereof.

(ii) The Authority agrees that, as a condition to the effectiveness of any Alternate Liquidity Facility, the provider of the Alternate Liquidity Facility will provide funds, to the extent necessary, in addition to other funds available, on the date the Alternate Liquidity Facility becomes effective for the purchase of all Purchased Bonds at a purchase price of par plus accrued interest (at the Purchased Bond Rate) through the purchase date, and that as a condition to the effectiveness of the conversion to a Non-Covered Interest Rate all Purchased Bonds will be purchased on the conversion date at a purchase price of par plus accrued interest (at the Purchased Bond Rate) through the purchase date. On the effective date of such Alternate Liquidity Facility or conversion to a Non-Covered Interest Rate, as the case may be, the Authority shall pay in full all other amounts due under this Agreement (including the Excess Bond Interest Amount and unpaid interest thereon).

(iii) The Authority shall not permit an Alternate Liquidity Facility to become effective with respect to less than all of the Bonds without the prior written consent of the Bank.

(j) ***Appointment of Successors.*** The Authority shall not, without the prior written consent of the Bank, (i) permit the appointment of a successor Tender Agent or Remarketing Agent, (ii) permit the surrender, cancellation, termination, modification or amendment of the Bond Insurance Policy or (iii) permit a substitute or additional bond insurance policy to become effective. Any successor Tender Agent shall have capital of not less than \$50,000,000.

(k) **Related Covenants.** The Authority will fully and faithfully perform each of the covenants and agreements required of it pursuant to the provisions of the Series Documents, which are incorporated herein by this reference as if fully set forth at this point and made for the benefit of the Bank. To the extent that any such incorporated provision permits any Person to waive compliance with or consent to such provision or requires that a document, opinion, report or other instrument or any event or condition be acceptable or satisfactory to any Person, for purposes of this Agreement, such compliance shall be waived, or such provision shall be consented to, only if it is waived or consented to, as the case may be, by the Bank and such document, opinion, report or other instrument shall be acceptable or satisfactory to the Bank. No amendment to such covenants (or the defined terms relating thereto) made pursuant to the Series Documents shall be effective to amend such incorporated covenants without the written consent of the Bank.

(l) **Preservation of Existence.** The Authority shall preserve and maintain its existence, rights and privileges in the Commonwealth, and remain qualified and authorized to do business in the Commonwealth. The Authority will not merge or consolidate with another entity or transfer substantially all of its assets to another entity in a way that adversely affects the Authority's obligations under this Agreement or the Series Documents.

(m) **Maintenance and Approvals; Filings, etc.** The Authority shall at all times maintain in effect, renew and comply with all the terms and conditions of all consents, licenses, approvals and authorizations as may be necessary or appropriate under any applicable law or regulation for its execution, delivery and performance of this Agreement and the Series Documents to which it is a party.

(n) **Regulation U.** The Authority is not engaged principally, or as one of its important activities, in the business of extending credit for the purposes of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and will not use the proceeds of the Bonds or any amounts paid by the Bank hereunder so as to violate Regulation U as it may be amended or interpreted from time to time by the Board of Governors of the Federal Reserve System.

(o) **Resolution a Contract.** The provisions of the Resolution constitute a contract between the Authority and the owner or owners of the Bonds.

(p) **Further Assurances.** The Authority shall, upon the request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and the Series Documents or to validate, preserve and protect the interest of the Bank. Except to the extent it is exempt therefrom, the Authority will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement, the Series Documents and such instruments of further assurance.

(q) **Affiliates.** The Authority shall not permit the Remarketing Agent to sell Bonds to the Authority or any Affiliate of the Authority.

(r) **Substitution of the Bond Insurer.**

(i) The Authority shall at all times maintain the Bond Insurance Policy so that such Bond Insurance Policy (A) provides coverage in an amount equal to all regularly scheduled

payments of principal of and interest on the Bonds (whether at the stated rate for Bonds not purchased hereunder or at the Purchased Bond Rate or the Default Rate, if applicable) and (B) remains in full force and effect for so long as any payment of principal or interest is outstanding with respect to any Bond (including any Purchased Bond).

(ii) The Authority, the Trustee and the Tender Agent will not substitute the Bond Insurer as insurer of the Bonds or cancel the Bond Insurance Policy without the Bank's prior written consent, which shall be within the Bank's sole and absolute discretion. If at any time the rating of the financial strength of the Bond Insurer falls below the two top Rating Categories assigned by Moody's, S&P and Fitch, the Authority will use its best efforts, within sixty (60) days after the request of the Bank, to (A) obtain a substitute Bond Insurance Policy, (B) convert the interest rate on the Bonds to a Non-Covered Interest Rate, (C) obtain an Alternate Liquidity Facility or (iv) provide other additional insurance or other credit enhancement in respect of principal and interest on the Bonds (including Purchased Bonds) on terms comparable to the Bond Insurance Policy or as to which the Bank may otherwise consent, in form and substance and from an insurer satisfactory to the Bank.

(iii) The Authority shall promptly forward to the Bank all material notices, if any, received by the Authority from the Bond Insurer under the Bond Insurance Policy.

(s) ***Maintenance of Tax-Exempt Status of Bonds.*** The Authority will not take any action or omit to take any action which, if taken or omitted, would adversely affect the exclusion of interest on any Bond or Purchased Bond from gross income for federal income tax purposes or from personal income taxes levied by the Commonwealth or of such Bond or Purchased Bond from local personal property taxes levied by any political subdivision thereof.

(t) ***Indebtedness.*** The Authority shall not have at any time outstanding bonds, as such term is used in the Act, in an aggregate principal amount in excess of the amount prescribed by the Act

(u) ***Payments under Initial Liquidity Facility and Payment Agreement.*** The Authority shall pay all amounts due and owing under the Initial Liquidity Facility and the Payment Agreement by or before the Effective Date.

(v) ***Substitution of the Bank.*** The Authority shall use its best efforts to obtain an Alternate Liquidity Facility if the rating assigned to the Obligations falls below A- by S&P, A3 by Moody's or A- by Fitch.

## **Section 6.02. Covenants as to Rates and Charges; Debt Service Coverage Ratio.**

(a) The Authority shall for each Fiscal Year fix and adjust Rates and Charges with respect to its Waterworks and Sewer Operations, which Rates and Charges shall be adopted by the Authority's Board of Directors strictly in accordance with the provisions of the Act and which adoption shall be conclusive and final and not subject to supervision or regulation by any office, department, division, commission, board, bureau or agency of the Commonwealth or any of its political subdivisions, so as to provide funds, in the aggregate and separately, with respect to costs and operations allocable to the Waterworks and Sewer Operations at least sufficient with other revenues of the Authority, if any, available therefor (i) to pay all Current Expenses, (ii) to pay all Debt Service on Indebtedness of the Authority as the same becomes due and payable, (iii) to create and maintain all reserves established pursuant to the Resolution or reasonably required by any other agreement securing Indebtedness of the Authority or as otherwise determined by the Authority to be necessary or desirable, (iv) to pay all costs of maintenance and replacement of the System, and costs of improving, extending and enlarging the

System as determined by the Authority to be necessary or desirable, to be funded as Current Expenses in order to carry out the purposes of the Authority, (v) to provide for payments to the Commonwealth for debt service as provided in the Act, and (vi) to pay or provide for all amounts which the Authority may be obligated to pay or provide for by any law or contract including the Resolution, the Agreement and other agreement securing Indebtedness of the Authority and including any amount to be repaid to the Commonwealth to reimburse the Commonwealth for the debt service paid by the Commonwealth on a bond issued under Section 5(f) of the Act. The charges of the Authority for delivery of water and for sewer collection, disposal and treatment services shall be established as charges of general application to be borne by the local body utilizing such services (provided, however, that the Authority reserves the right to impose charges of special application in accordance with the Act) and shall be established at a level sufficient to meet the revenue requirements of the Authority as provided in this paragraph.

(b) Revenues Available for Bond Debt Service in each Fiscal Year shall be at least equal to the Combined Bond Coverage Requirement.

(c) For each period of 12 months, the Secured Bond Debt Service Coverage Ratio shall not be less than 1.1 to 1.

(d) Capitalized terms used in this Section shall have the meanings assigned to them in the Resolution, as in effect on the date hereof except that the Primary Bond Coverage Ratio shall be fixed at 1.2.

(e) During the term of this Agreement, and until the obligations of the Authority to the Bank under this Agreement are paid in full and the Bank has no further commitment under this Agreement and until payment in full of all Purchased Bonds, the Authority shall comply with Sections 305, 306, 310 and 311 of the Sixth Supplemental Resolution to the General Resolution which Sections, together with the related defined terms are incorporated herein by this reference.

**Section 6.03. Bank Information.** The Bank, during the term of this Agreement, shall, upon the written request and expense of the Authority, update the information presented in Exhibit A to the Supplement to the 2001 Official Statement under the caption “XXXXXXXXX”; provided, however, that the Bank shall have no obligation to supplement the 2001 Official Statement other than with respect to such updating information.

## ARTICLE VII

### EVENTS OF TERMINATION; EVENTS OF DEFAULT; REMEDIES

**Section 7.01. Events of Termination.** Each of the following shall constitute an “*Event of Termination*” under this Agreement:

(a) ***Non-Payment of Insured Amounts.*** Any principal or interest due on the Bonds is not paid when due and such principal or interest is not paid by the Bond Insurer when, as, and in the amounts required to be paid pursuant to the terms of the Bond Insurance Policy, or, without the prior written consent of the Bank, the Policy is surrendered, cancelled, terminated, amended or modified; or

(b) ***Invalidity or Contest of Validity of Bond Insurance Policy.*** The Bond Insurer shall in writing to the Trustee or to the Tender Agent claim that the Bond Insurance Policy with respect to the payment of principal of or interest on the Bonds is not valid and binding on the Bond Insurer, and repudiate the obligations of the Bond Insurer under the Bond Insurance Policy with respect to payment of principal of or interest on the Bonds, or the Bond Insurer shall initiate any legal proceedings to seek an adjudication that the Bond Insurance Policy, with respect to the payment of principal of or interest on

the Bonds is not valid and binding on the Bond Insurer, or any court or Governmental Authority with jurisdiction to rule on the validity of the Bond Insurance Policy shall announce, find or rule that the Bond Insurance Policy is not valid and binding on the Bond Insurer; or

(c) ***Bond Insurer Insolvency; Bond Insurer Downgrade Below Investment Grade.*** Either (i) the occurrence of a Bond Insurer Event of Insolvency, or (ii) each of Moody's, S&P, and Fitch withdraw or suspend the financial strength rating of the Bond Insurer or reduce such rating, in the case of S&P, below "BBB-", in the case of Moody's, below "Baa3", and in the case of Fitch, below "BBB-"; or

(d) ***Bond Insurer Default on other Policies.*** Any default by the Bond Insurer in making payment when, as and in the amounts required to be made pursuant to the express terms and provisions of any other bond insurance policy issued by the Bond Insurer insuring publicly-rated bonds and such failure shall continue for thirty (30) days unless the obligation of the Bond Insurer to pay is being contested by the Bond Insurer in good faith by appropriate proceedings; or

(e) ***Minimum Bond Insurer Rating.*** The Bond Insurer shall be downgraded to or below "A", "A2" or "A" by any one of S&P, Moody's or Fitch, respectively.

**Section 7.02. Events of Default.** Each of the following shall constitute an "Event of Default" under this Agreement.

(a) ***Misrepresentation.*** Any representation or warranty made by the Authority under or in connection with this Agreement shall prove to be untrue in any material respect on the date as of which it was made; or

(b) ***Non-Payment of Fees.*** Non-payment of any amounts payable under Section 2.05 hereof (together with interest thereon at the Default Rate) within ten (10) days after the Tender Agent, the Bond Insurer and the Authority have received written notice from the Bank that the same were not paid when due; or

(c) ***Other Non-Payments.*** Non-payment of any other fees or amounts payable under this Agreement (together with interest thereon at the Default Rate) within twenty (20) days after written notice thereof to the Authority, Tender Agent and the Bond Insurer by the Bank; or

(d) ***Certain Breaches.*** The breach by the Authority of any of the terms or provisions of Section 6.01(c), (g) (in a material respect), (i), (j)(i) (with respect to the Remarketing Agent only) (l) and (v) hereof; or

(e) ***Other Breaches.*** The breach by the Authority of any terms or provisions of this Agreement for which no cure period is otherwise specifically provided with respect thereto which is not remedied within thirty (30) days after written notice thereof from the Bank shall have been received by the Authority and the Bond Insurer; or

(f) ***Insolvency.***

(i) The Authority shall commence any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, (A) relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with



respect to it or its debts, (B) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets, or the Authority shall make a general assignment for the benefit of its creditors; or

(ii) There shall be commenced against the Authority any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in an order for such relief or in the appointment of a receiver or similar official or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or

(iii) There shall be commenced against the Authority any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof, provided that the amount provided in such order is equal to or greater than \$10,000,000; or

(iv) There shall be declared a moratorium with respect to the payment of any debts of the Authority; or

(v) The Authority shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), (iii) or (iv) above; or

(vi) The Authority shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts; or

(g) **Invalidity.** Any material provision of this Agreement or any Related Document (other than the Bond Insurance Policy) shall at any time for any reason cease to be valid and binding on the Authority or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the Authority or by any Governmental Authority having jurisdiction, or the Authority shall deny that it has any further liability or obligation under any such document, or such document is cancelled or terminated without the Bank's prior written consent; or

(h) **Cross-Default.** The occurrence of any "event of default" as defined in any of the Related Documents (which is not waived pursuant to the terms thereof) which is not otherwise described in this Section 7.02, other than the failure of the Bank to provide funds for the purchase of Tendered Bonds when required by the terms and conditions of this Agreement; or

(i) **Other Debt.** The Authority shall have defaulted in the payment or performance of any obligation of a principal amount of \$10,000,000 or more, which constitutes Debt, and such default permits the acceleration of the payment of moneys; or

(j) **Ratings.** The Underlying Rating is withdrawn, suspended or reduced below "BBB-" by S&P, "Baa3" by Moody's or "BBB-" by Fitch.

**Section 7.03. Remedies.** If any Event of Termination or Event of Default shall have occurred:

(a) **Immediate Termination.** In the case of an Event of Termination specified in Section 7.01(a), (c) or (d) hereof, the Available Commitment and Purchase Period and the obligation of the Bank to purchase Bonds shall immediately terminate without notice or demand (a "*Termination Event*"), and thereafter the Bank shall be under no obligation to purchase Bonds. Promptly upon the Bank obtaining knowledge of an Event of Termination specified in Section 7.01(a), (c) or (d), the Bank

shall give written notice of the same to the Tender Agent, the Authority, the Remarketing Agent and the Bond Insurer; provided, that the Bank shall incur no liability or responsibility whatsoever by reason of its failure to give such notice and such failure shall in no manner affect the immediate termination of the Available Commitment and of the Bank's obligation to purchase Bonds pursuant to this Agreement.

(b) ***Termination with Notice.*** In the case of an Event of Termination specified in Section 7.01(e) or an Event of Default specified in Section 7.02(b) or (c) hereof, the Bank may terminate the Available Commitment and Purchase Period by giving written notice to the Tender Agent, the Authority, the Remarketing Agent and the Bond Insurer, specifying the date on which the Available Commitment and Purchase Period shall terminate (a "*Notice of Termination*"), which date, the Purchase Termination Date, shall be not less than thirty (30) days from the date of receipt of such notice by the Tender Agent. On and after the Purchase Termination Date, the Bank shall be under no further obligation to purchase Bonds hereunder.

(c) ***Suspension relating to Bond Insurance Policy.*** In the case of an Event of Termination specified in Section 7.01(b) hereof, the Bank's obligations to purchase Bonds shall be immediately suspended without notice or demand and thereafter the Bank shall be under no obligation to purchase until the Available Commitment is reinstated as described in this Section 7.03(c). Promptly upon the Bank obtaining knowledge of any such Event of Termination specified in Section 7.01(b), the Bank shall give written notice of the same to the Authority, the Tender Agent, the Remarketing Agent and the Bond Insurer of such suspension; provided, that the Bank shall incur no liability or responsibility whatsoever by reason of its failure to give such notice and such failure shall in no way affect the suspension of the Bank's obligations to purchase Bonds. If a court with jurisdiction to rule on the validity of the Bond Insurance Policy shall thereafter enter a final, non-appealable judgment that the Bond Insurance Policy is not valid and binding on the Bond Insurer, then the Bank's obligation to purchase Bonds shall immediately terminate. If a court with jurisdiction to rule on the validity of the Bond Insurance Policy shall find or rule that the Bond Insurance Policy is valid and binding on the Bond Insurer, the Bank's obligations to purchase Bonds under this Agreement shall be automatically reinstated and the terms of this Agreement will continue in full force and effect (unless this Agreement shall otherwise have terminated or been suspended by its terms or in accordance with Section 7.03(a), (b) or (d)) hereof. Notwithstanding the foregoing, if, upon the earlier of the Stated Expiration Date or the date which is three (3) years after the effective date of suspension of the Bank's obligations pursuant to this Section 7.03(c), litigation is still pending and a judgment regarding the validity of the Bond Insurance Policy as is the subject of such Event of Termination has not been obtained, then the Available Commitment and the obligation of the Bank to purchase Bonds shall at such time immediately terminate, and thereafter the Bank shall be under no obligation to purchase Bonds.

(d) ***Other Suspensions.*** During the pendency of an Event of Termination pursuant to Section 7.01(c) hereof (with respect to an order described in clause (a) of the definition of Bond Insurer Event of Insolvency) or Section 7.01(d) hereof (prior to the expiration of the thirty (30) day period specified in Section 7.01(d) (each a "*Potential Event of Termination*"), the Bank's obligations to purchase Bonds shall be immediately suspended without notice or demand and thereafter the Bank shall be under no obligation to purchase Bonds until the Available Commitment is reinstated as described in this Section 7.03(d). Promptly upon the Bank obtaining knowledge of any such Potential Event of Termination, the Bank shall give written notice of the same to the Authority, the Tender Agent, the Remarketing Agent and the Bond Insurer of such suspension; provided, however, that the Bank shall incur no liability or responsibility whatsoever by reason of its failure to give such notice and such failure shall in no way affect the suspension of the Bank's obligations under this Agreement. In the event such Potential Event of Termination is cured prior to becoming a Termination Event, the Bank's obligations shall be automatically reinstated and the terms of this Agreement will continue in full force and effect

(unless this Agreement shall otherwise have terminated or been suspended by its terms or in accordance with Section 7.03(a), (b), (c) or (d) hereof).

(e) **Other Remedies.** In addition to the rights and remedies set forth in Section 7.03(a), (b), (c) and (d) hereof, in the case of any Event of Termination specified in Section 7.01 hereof or in the case of any Event of Default specified in Section 7.02 hereof, upon the election of the Bank: (i) all amounts payable hereunder (other than payments of principal and redemption price of and interest on the Bonds or payments of Excess Bond Interest) shall upon notice to the Authority become immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Authority; and (ii) the Bank shall have all the rights and remedies available to it under this Agreement, the Series Documents, the Bond Insurance Policy or otherwise pursuant to law or equity; provided, however, that the Bank shall not have the right to terminate its obligation to purchase Bonds or to declare any amount due hereunder due and payable except as expressly provided herein. Without limiting the generality of the foregoing, the Bank agrees to purchase Bonds on the terms and conditions of this Agreement notwithstanding the institution or pendency of any bankruptcy, insolvency or similar proceeding with respect to the Authority. The Bank will not assert as a defense to its obligation to purchase Bonds under this Agreement (y) the institution or pendency of a bankruptcy, insolvency or similar proceeding with respect to the Authority, or (z) a determination by a court of competent jurisdiction in a bankruptcy, insolvency or similar proceeding with respect to the Authority that this Agreement is not enforceable against the Authority under applicable bankruptcy, insolvency or similar laws. This subsection shall not limit the exercise of the Bank's remedies expressly provided for under any other subsection of this Section 7.03.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. No Waiver of Remedies.** No failure or delay on the part of the Bank in exercising any right, power or privilege hereunder and no course of dealing shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which the Bank would otherwise have. No notice to or demand on the Authority or any other party hereto in any case shall entitle the Authority or such other party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Bank to any other or further action in any circumstances without notice or demand.

**Section 8.02. Amendments.** No provision of this Agreement may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the parties hereto and only with the consent of the Bond Insurer; provided, however, that the provisions of Sections 2.05, 2.06 and 2.07 hereof, Articles IV and VI and Sections 8.07 and 8.08 (with regard to the contact information of the Bank only) hereof may be changed, waived, discharged or terminated and the Stated Expiration Date may be extended in accordance with Section 8.10 hereof by instruments in writing signed solely by the Bank and the Authority, and with written notice to the Tender Agent and the Bond Insurer; provided, further, however, that (a) any such change, waiver, discharge or termination of any of the provisions of Articles IV and VI hereof that materially and adversely affects the interests of the Bond Insurer in this Agreement and the Related Documents shall not be effective without the consent of the Bond Insurer and (b) the provisions of Section 5.02 hereof relating to conditions precedent to the purchase of Bonds and the provisions hereof relating to the coverage or application of proceeds of the Bond Insurance Policy may not be changed, waived, discharged or terminated without the prior written consent of the Bond Insurer. The Authority shall give notice to S&P, Fitch and Moody's of any amendments to this Agreement.

**Section 8.03. Binding Effect/Assignment/Participations.** This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided, however, that the Authority may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Bank, and any purported assignment in contravention hereof shall be void; and such assignee shall not be any Person registered as an investment company under the Investment Company Act of 1940, as amended, substantially all of the assets of which are invested in obligations exempt from federal income taxation under Section 103 or 103A of the Code or any similar or successor provision. Pursuant to and conditioned upon the terms of the Supplemental Resolution, the Bank may assign to one or more banks or other entities (collectively, “Assignees”) all or any part of any of its rights or obligations hereunder, including, without limitation, the Purchased Bonds, and to the extent of any such assignment the Bank shall be relieved of its obligations hereunder and each Assignee shall have the same rights and benefits hereunder and under the Bonds, as it would have if it were the Bank hereunder; provided, however, that any such assignment by the Bank which would relieve the Bank of any of its duties or obligations hereunder shall not result in the withdrawal or reduction of the ratings, if any, then assigned by Moody’s, Fitch or S&P to the Bonds and, unless the intended assignee is an Affiliate of the Bank and the then-current ratings on the Bonds have been confirmed in writing by any of Moody’s, Fitch and S&P which then maintain a rating on the Bonds, such assignment shall not be effected without the prior written consent of the Authority, the Bond Insurer and written notice to the Tender Agent. Additionally, the Bank shall have the right at any time to sell, assign, grant or transfer participations in all or part of its obligations hereunder and the obligations of the Authority hereunder to any Participant without the consent of or notice to the Authority, the Tender Agent, the Bond Insurer or any other party; provided, that any such participation shall not relieve the Bank from any of its obligations hereunder and the Authority, the Remarketing Agent, the Tender Agent and the Bond Insurer may deal exclusively with the Bank for all purposes of this Agreement, including the making of payment on Purchased Bonds, notwithstanding such participation. The Bank may disclose to any Participants or prospective Participants any information or other data or material in the Bank’s possession relating to this Agreement, any Related Document and the Bond Insurer, without the consent of or notice to the Authority or the Bond Insurer.

**Section 8.04. Governing Law; Waiver of Jury Trial.**

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; PROVIDED, HOWEVER, THAT THE RIGHTS AND OBLIGATIONS OF THE AUTHORITY HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH.

(b) TO THE FULLEST EXTENT PERMITTED BY LAW, THE AUTHORITY AND THE BANK AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT AND THE OTHER RELATED DOCUMENTS. IT IS HEREBY ACKNOWLEDGED THAT THE WAIVER OF A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE AUTHORITY AND THE BANK TO ENTER INTO THIS AGREEMENT AND THAT THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY THE AUTHORITY AND THE BANK IS MADE IN RELIANCE UPON SUCH WAIVER. THE AUTHORITY AND THE BANK EACH FURTHER WARRANT AND REPRESENT THAT SUCH WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE BY EACH PARTY HERETO, FOLLOWING CONSULTATION WITH THEIR RESPECTIVE LEGAL COUNSEL.

(c) TO THE FULLEST EXTENT PERMITTED BY LAW, THE AUTHORITY WAIVES AND REPRESENTS THAT THE AUTHORITY IS NOT ENTITLED TO SOVEREIGN IMMUNITY FROM ANY LEGAL PROCEEDINGS TO ENFORCE OR COLLECT UPON THIS AGREEMENT

OR ANY RELATED DOCUMENT TO WHICH IT IS A PARTY OR WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (INCLUDING, WITHOUT LIMITATION, IMMUNITY FROM SERVICE OF PROCESS AND IMMUNITY FROM JURISDICTION OF ANY COURT OR TRIBUNAL IN RESPECT OF ITSELF). TO THE EXTENT THAT THE AUTHORITY HAS OR HEREAFTER MAY ACQUIRE UNDER ANY APPLICABLE LAW ANY RIGHT TO IMMUNITY FROM SET-OFF OR LEGAL PROCEEDINGS ON THE GROUNDS OF SOVEREIGNTY, THE AUTHORITY HEREBY IRREVOCABLY WAIVES, TO THE EXTENT PERMITTED BY LAW, SUCH RIGHTS TO IMMUNITY FOR ITSELF IN RESPECT OF ITS OBLIGATIONS ARISING UNDER OR RELATED TO THIS AGREEMENT OR THE RELATED DOCUMENTS TO WHICH IT IS A PARTY.

(d) The waivers made pursuant to this Section 8.04 shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court sitting without a jury.

**Section 8.05. Indemnification.** To the extent permitted by applicable law, the Authority agrees to indemnify and hold harmless the Bank and any Participant and their respective officers, directors, employees and agents (each, an “Indemnified Party”) from and against any and all claims, actions, investigations, suits and other legal proceedings, and from any and all claims, demands, costs, charges, counsel fees, damages, losses, liabilities and other expenses whatsoever which an Indemnified Party may sustain or incur (or which may be claimed against an Indemnified Party by any Person or entity whatsoever) by reason of, in consequence of or arising out of or in connection with or relating to the transactions contemplated by this Agreement or the Related Documents, including without limitation (a) the issuing, offering, sale, remarketing or resale of the Bonds (including, without limitation, by reason of any untrue statement or alleged untrue statement of any material fact contained or incorporated by reference in the Related Documents, in the 2001 Official Statement (other than with respect to the information relating to the Bank in Exhibit A to the Supplement to the 2001 Official Statement under the caption “XXXXXXXXXX”) or in any supplement or amendment thereof or remarketing circular in accordance therewith, or in the 2005 Official Statement or in any supplement or amendment thereof or remarketing circular in accordance therewith, or the omission or alleged omission to state therein a material fact necessary to make such statements, in the light of the circumstances in which they are or were made, not misleading), (b) the validity, sufficiency or genuineness of the Related Documents, the 2001 Official Statement or the 2005 Official Statement, (c) the execution and delivery and performance of this Agreement, or the making or the failure to make purchases of Bonds under this Agreement, (d) payment or failure to pay hereunder, (e) the use of any proceeds of the Bonds or this Agreement or (f) any other act or activity (or failure to act) of the Authority or any other party to the Related Documents, including but not limited to any act or activity financed with the proceeds of the Bonds, provided that the Authority shall not be required to indemnify an Indemnified Party for any losses, claims, damages, liabilities, costs and expenses to the extent that there has been a final, non-appealable determination by a court of competent jurisdiction that such losses, claims, damages, liabilities, costs and expenses were caused by the willful misconduct or gross negligence of an Indemnified Party. If any proceeding shall be brought or threatened against an Indemnified Party by reason of or in connection with the events described above (and except as otherwise provided above), such Indemnified Party shall promptly notify the Authority in writing and the Authority shall assume the defense thereof, including the employment of counsel and the payment of all costs of litigation. Notwithstanding the preceding sentence, such Indemnified Party shall have the right to employ its own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (1) the employment of such counsel shall have been authorized in writing by the Authority or (2) the Authority, after due notice of the action, shall have failed to employ counsel to take charge of such defense, in either of which events the reasonable fees and expenses of counsel for such Indemnified Party shall be borne by the Authority. The Authority shall not be liable for any

settlement of any such action effected without its consent. The provisions of this Section 8.05 shall survive the termination of this Agreement and the payment in full of the Bonds and the obligations of the Authority thereunder and hereunder.

**Section 8.06. Obligations Absolute.** The obligations of the Authority under this Agreement shall be absolute, unconditional and irrevocable and shall be paid or performed strictly in accordance with the terms of this Agreement under all circumstances whatsoever, including, without limitation, the following circumstances:

- (a) to the extent permitted by applicable law, any lack of validity or enforceability of this Agreement or any Related Document or any other agreement or instrument delivered in connection herewith or therewith;
- (b) any amendment to, waiver of, consent to or departure from the terms of any of the Related Documents;
- (c) the existence of any claim, set-off, defense or other right that the Issuer may have at any time against the Trustee, the Tender Agent, the Remarketing Agent, the Bank or any other Person, whether in connection with this Agreement, the Related Documents or otherwise;
- (d) any statement or any other document presented under this Agreement or any of the Related Documents proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever; or
- (e) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing.

**Section 8.07. Liability of the Bank.** The Authority and the Tender Agent agree that the Bank shall have no liability or responsibility for the acts or omissions of the Remarketing Agent, the Authority or the Tender Agent in respect of the use of this Agreement or any amounts made available by the Bank hereunder. The Bank shall have no responsibility for, nor incur any liability in respect of, any act, or any failure to act, by the Tender Agent, the Authority or the Remarketing Agent which results in the failure of the Tender Agent to effect the purchase of Tendered Bonds for the account of the Bank with funds provided by the Bank pursuant to Section 2.02 hereof or to comply with the applicable provisions of the Supplemental Resolution or any Related Document to which the Tender Agent is a party. Neither the Bank nor any of its officers or directors shall be liable or responsible for: (a) the use which may be made of this Agreement or any amounts made available by the Bank hereunder or for any acts or omissions of the Tender Agent or the Remarketing Agent or their agents in connection therewith; (b) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged; or (c) any other circumstances whatsoever in making or failing to make payment under this Agreement, except only that the Authority shall have a claim against the Bank and the Bank shall be liable to the Authority to the extent of any direct, as distinguished from consequential, damages suffered by the Authority when the Authority proves in a final, non-appealable judgment that such direct damages were caused by the Bank's willful failure to purchase Tendered Bonds when required under the terms and conditions of this Agreement after presentation to it by the Tender Agent of a notice strictly complying with the terms and conditions hereof or were caused by the gross negligence of the Bank. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

**Section 8.08. Notice.** Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with Authority, the Tender Agent, the Remarketing Agent, the Bank or the Bond Insurer, shall be deemed or have been sufficiently given or filed for all purposes when delivered by

hand, nationally recognized overnight delivery service, or when sent by registered mail, return receipt requested, postage prepaid, or, if given by facsimile transmission when receipt is acknowledged by the individual or an authorized representative of the entity specified below; provided that any such notice, demand, direction, request or other instrument to the Bank shall be effective only when actually received by the Bank:

If to the Authority: Massachusetts Water Resources Authority  
100 First Avenue  
Charlestown Navy Yard  
Boston, Massachusetts 02129  
Tax Identification Number: 04-285-0071  
Attention: Treasurer  
Telephone: (617) 242-6000  
Facsimile: (617) 788-2721

If to the Tender Agent: U.S. Bank Trust National Association  
100 Wall Street  
Suite 1600  
New York, NY 10005  
Attention: Jean Clarke  
Telephone: (212) 361-6173  
Facsimile: (212) 361-6253

If to the Bond Insurer: Financial Guaranty Insurance Company  
125 Park Avenue  
New York, New York 10017  
Attention: Risk Management  
Re: Policy No. 01012044  
Telephone: (212) 312-3000  
Facsimile: (212) 312-3206

If to the Remarketing Agent: Citigroup Global Markets, Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, New York 10013  
Attention: Manager, Short-Term Finance  
Group  
Telephone: (212) 723-5594  
Facsimile: (212) 723-8939

Lehman Brothers, Inc.  
745 Seventh Avenue, 3rd Floor  
New York, NY 10019-6801  
Attention: Municipal Short Term Underwriting  
Telephone: 212-528-1022  
Facsimile: 646-885-9462

If to the Bank:  
For operations and funding: Attention:

For administration:

Attention:  
Telephone:  
Facsimile:

With a copy to:

Attention:

Telephone:  
Facsimile:

Telephone:  
Facsimile:

Copies of any notices hereunder shall be sent to the Bond Insurer.

**Section 8.09. Term of the Agreement; Right of Authority to Terminate Upon Certain Events.**

(a) **General.** The term of this Agreement shall be until the later of (i) the last day of the Purchase Period (as it may be extended pursuant to Section 8.10 hereof) or (ii) the payment in full of the principal of and interest on all Bonds purchased by the Bank hereunder together with all other amounts due and owing to the Bank pursuant to this Agreement. Notwithstanding the foregoing, in no event shall the Bank's obligations under this Agreement extend beyond the last day of the Purchase Period.

(b) **Authority's Right to Terminate.** To the extent permitted by the Supplemental Resolution, this Agreement may, with the written consent of the Bond Insurer, be terminated at any time by written notice from the Authority to the Bank if:

(i) the Bank fails to purchase Bonds when obligated to do so in accordance with the provisions of this Agreement; or

(ii) a proceeding is instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the Bank or for any substantial part of its property under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee or sequestrator (or other similar official) and such proceeding is not terminated for a period of sixty (60) consecutive days or such court enters an order granting the relief sought in such proceeding or the Bank shall institute or take any corporate action for the purpose of instituting any such proceeding; or the Bank shall become insolvent or unable to pay its debts as they mature, shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of the Bank or for any substantial part of its property, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action in furtherance of any of the foregoing; or

(iii) any two of S&P, Moody's or Fitch withdraw or reduce the short-term rating assigned to the Bonds below "A-1", "F1" or "VMIG-1", respectively, and the Authority elects to replace the Bank with an Alternate Liquidity Facility from a provider with a higher rating than the Bank; or



(iv) the Bank and the Authority fail to agree on an amendment to this Agreement as set forth in Section 8.12 hereof and the Authority elects to replace the Bank with an Alternate Liquidity Facility; or

(v) (A) the Bank shall have notified the Authority that pursuant to Section 2.06 hereof it requires compensation for an increase in costs, reduction in income or additional expense specified therein, (B) the Authority shall have delivered to the Bank a certificate to the effect that the Authority has identified a financial institution which will furnish an Alternate Liquidity Facility at a price which is equal to or less than the price charged by the Bank after giving effect to such increased cost, reduction in income or additional expense and (C) within ten (10) Business Days following receipt by the Bank of such certificate the Bank shall not have withdrawn or modified its imposition of such increased costs so that the Commitment Fee charged by the Bank is not in excess of the amount proposed to be charged by such other financial institution; or

(vi) the Authority for any other reason elects to replace the Bank with an Alternate Liquidity Facility.

The effective date of a termination on account of an event described in clause (i) or (ii) shall be the earlier of the effective date of an Alternate Liquidity Facility or forty-five (45) days from the date of receipt by the Bank of the notice of termination. The effective date of a termination on account of an event described in clause (iii), (iv), (v) or (vi) shall be the effective date of an Alternate Liquidity Facility. The Authority agrees to send to the Tender Agent and Remarketing Agent a copy of any termination notice given by the Authority to the Bank pursuant to this Section 8.09 promptly after delivery of such notice to the Bank.

**Section 8.10. Extension of Purchase Period.** The Stated Expiration Date may be extended from time to time by agreement in writing between the Bank and the Authority (the period from the preceding Stated Expiration Date to such new Stated Expiration Date being herein sometimes called the “*Extended Purchase Period*”). The Extended Purchase Period may itself be extended in a like manner for additional periods. If no Event of Termination or Event of Default is continuing, the Authority may make written request in the form of Exhibit F to the Bank, no later than sixty (60) days prior to then-current Stated Expiration Date and no earlier than 180 days prior to the then-current Stated Expiration Date, that the Bank extend the Stated Expiration Date. The Authority has no obligation to request an Extended Purchase Period and the Bank has no obligation to agree to any Extended Purchase Period, and all terms of the extension (including the term, commitment and other fees, interest rates and other provisions) shall be mutually acceptable to the Bank and the Authority. The Bank agrees to respond to a written extension request by the Authority (with a copy to the Bond Insurer) within sixty (60) days of receipt of such request. If the Bank and the Authority agree to an Extended Purchase Period, the Bank shall give written notice in the form of a Notice of Extension substantially in the form of Exhibit C hereto of its determination to extend to the Authority, with a copy to the Tender Agent, the Bond Insurer and the Remarketing Agent. If under the terms of the Supplemental Resolution, an extension (giving effect to any such changes in the terms and conditions of this Agreement) requires the consent of the Bond Insurer, such extension shall not become effective unless the Bond Insurer shall have consented thereto.

**Section 8.11. Survival.** All representations, warranties, covenants and agreements of the Authority contained in this Agreement as amended or supplemented from time to time or made in writing in connection herewith shall survive the execution and delivery hereof and the purchase of Bonds by the Bank hereunder and shall continue in full force and effect until payment in full of all the obligations of the Authority hereunder and with respect to the Bonds, it being understood that the agreements of the Authority found in Sections 2.05, 2.06 and 8.05 hereof shall survive the termination of this Agreement and payment in full of such obligations.

**Section 8.12. Amendments to Rule 2a-7 of the Securities and Exchange Commission.** If Rule 2a-7 of the Securities and Exchange Commission promulgated under the Investment Company Act of 1940, as

amended, is amended so that, (a) in the opinion of counsel to the Authority, this Agreement must be amended in order for the Bonds to be considered to have a maturity of less than one year under such Rule 2a-7 and (b) the Remarketing Agent certifies in writing that the failure to so amend this Agreement will have an adverse effect on the marketability of the Bonds, then the Bank and the Authority agree to negotiate in good faith to so amend this Agreement on or prior to the date on which the amendments to Rule 2a-7 are scheduled to be effective. If the Bank and the Authority are unable to agree on such amendment, the Authority shall have the right to replace the Bank in accordance with Section 8.09 hereof.

**Section 8.13. Right of Setoff.** Upon the occurrence of an Event of Termination or Event of Default, the Bank may, at any time and from time to time, without notice to the Authority or any other Person (any such notice being expressly waived), set off and appropriate and apply, against and on account of, any obligations and liabilities of the Authority to the Bank arising under or connected with this Agreement and the Related Documents, without regard to whether or not the Bank shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured, any and all deposits (general or special, including but not limited to indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other indebtedness at any time held or owing by the Bank to or for the credit or the account of the Authority.

**Section 8.14. Assignment to Federal Reserve Bank.** The Bank may assign and pledge all or any portion of the obligations owing to it to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank, provided that any payment in respect of such assigned obligations made by the Authority to the Bank in accordance with the terms of this Agreement shall satisfy the Authority's obligations hereunder in respect of such assigned obligation to the extent of such payment. No such assignment shall release the Bank from its obligations hereunder.

**Section 8.15. Beneficiaries.** Except as provided in Section 2.06(e) hereof, this Agreement is not intended and shall not be construed to confer upon any Person other than the parties hereto and their successors and permitted assigns and participants any rights or remedies hereunder provided that (a) the agreement of the Bank to purchase Bonds in accordance with the terms and conditions of this Agreement is made for the benefit of the holders from time to time of the Bonds and (b) the Bond Insurer shall be a third-party beneficiary of this Agreement.

**Section 8.16. Severability.** If any provision of this Agreement shall be held or deemed to be or shall in fact be illegal, inoperative or unenforceable, the same shall not affect any other provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

**Section 8.17. Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

**Section 8.18. Complete and Controlling Agreement.** This Agreement completely sets forth the agreements between the Bank and the Authority and fully supersedes all prior agreements, both written and oral, between the Bank and the Authority relating to the matters set forth in this Agreement.

**Section 8.19. Contractual Interpretation.** The parties acknowledge that they have read and fully understand the terms of this Agreement, have consulted with such attorneys, accountants, advisors, or other professionals as they have deemed appropriate prior to executing this Agreement with adequate opportunity and time for review thereof, and are fully aware of its contents and of its legal effect. Accordingly, this Agreement shall not be construed against any party on the grounds that such party drafted this Agreement and instead, this Agreement shall be interpreted as though drafted equally by all parties.

**Section 8.20. Optional Termination.** On the Optional Termination Date, the Bank shall have the right to terminate (a) the obligation of the Bank to advance funds hereunder for the purchase of Tendered Bonds and (b) the Available Commitment. To exercise such right, the Bank shall deliver an Optional Termination Notice to the Tender Agent, the Authority, the Remarketing Agent and the Bond Insurer on or prior to the Notice Date immediately preceding the Optional Termination Date as specified in the Optional Termination Notice. After delivery of such Optional Termination Notice, the obligation of the Bank to advance funds hereunder for the purchase of Tendered Bonds and the Available Commitment shall terminate on the Optional Termination Date (or the immediately preceding Business Day if such day is not a Business Day) specified in such Optional Termination Notice.

[Remainder of page intentionally left blank]

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

XXXXXXXXXXXXXXXXXXXX, Acting Through Its New York Branch

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

MASSACHUSETTS WATER RESOURCES AUTHORITY,  
as Authority

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

U.S. BANK TRUST NATIONAL ASSOCIATION, as Tender  
Agent

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT A**

**NOTICE OF PURCHASE**

The undersigned, a duly authorized officer of U.S. Bank Trust National Association, as Tender Agent (the "Tender Agent"), hereby certifies to XXXXXXXXXXXXXXX, acting through its New York Branch (the "Bank"), in accordance with the Standby Bond Purchase Agreement (the "Standby Agreement"), dated as of July 1, 2005, among Massachusetts Water Resources Authority, a public body politic organized and existing under the laws of Massachusetts, the Tender Agent and the Bank (all capitalized terms herein having the meanings ascribed thereto in the Standby Agreement), that:

1. [Notice of tender of Eligible Bonds for purchase having a Purchase Price of \$\_\_\_\_\_ has been received] [Eligible Bonds having a Purchase Price of \$\_\_\_\_\_ have been called for mandatory purchase] pursuant to Section \_\_\_\_\_ of the Thirty-Fourth Supplemental Resolution, of which \$\_\_\_\_\_ constitutes principal and \$\_\_\_\_\_ constitutes accrued interest.
2. Amounts available for the payment of the Purchase Price of such Eligible Bonds are \$\_\_\_\_\_, of which \$\_\_\_\_\_ is available to pay principal and of which \$\_\_\_\_\_ is available to pay accrued interest.
3. The total principal amount requested hereby for the payment of the principal portion of the Purchase Price of Eligible Bonds is \$\_\_\_\_\_, which amount does not exceed the Available Principal Commitment or the principal amount referred to in Paragraph 1 above less the principal amount referred to in Paragraph 2 above.
4. The total amount requested hereby to pay the portion of the Purchase Price for Eligible Bonds constituting accrued interest is \$\_\_\_\_\_, which amount does not exceed the Available Interest Commitment or the amount of interest referred to in Paragraph 1 above less the amount of interest referred to in Paragraph 2 above.
5. Eligible Bonds referred to above having a Purchase Price of \$\_\_\_\_\_ [the amount in Paragraph 3 plus the amount in Paragraph 4] are hereby tendered to the Bank for purchase pursuant to the Standby Agreement on the date hereof.
6. Upon completion of purchase, the Tender Agent will [register such Bonds or, if a Bond for which notice of optional tender or mandatory purchase has been given is not delivered, a new Bond issued in replacement of the undelivered Bond, in the name of the Bank or if directed in writing by the Bank, its nominee or designee, on the Bond Register] [cause the beneficial ownership of such Bonds to be credited to the account of the Bank or if directed in writing by the Bank, its nominee or designee, with DTC], and will promptly hold such Bonds in trust for the benefit of the Bank or deliver such Bonds as the Bank may otherwise direct in writing, and prior to such delivery will hold such Bonds in trust for the benefit of the Bank.
7. The Purchase Date is \_\_\_\_\_.
8. The Purchase Price for such Bonds is to be paid to the Tender Agent as follows:
  - (a) \_\_\_\_\_;
  - (b) \_\_\_\_\_.
9. To the knowledge of the Tender Agent, no Termination Event specified in Section 7.03(a), (b), (c) or (d) or Potential Event of Termination specified in Section 7.03(d) has occurred and is occurring.  
IN WITNESS WHEREOF, the Tender Agent has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

U.S. BANK TRUST NATIONAL ASSOCIATION, as Tender Agent

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT B  
FORM OF TERMINATION NOTICE**

[DATE]

U.S. Bank Trust National Association  
100 Wall Street  
Suite 1600  
New York, NY 10005

Attention: Jean Clarke

\$180,000,000  
Massachusetts Water Resources Authority  
Multi-Modal Subordinated  
General Revenue Refunding Bonds  
2001 Series A and 2001 Series B

Ladies and Gentlemen:

The undersigned, duly authorized officer of XXXXXXXXXXXXXXXX, acting through its New York Branch (the "Bank"), hereby notifies the Tender Agent, the Bond Insurer, the Remarketing Agent and the Authority, each as defined in the Standby Bond Purchase Agreement (the "Standby Agreement"), dated as of July 1, 2005, among the Authority, the Tender Agent and the Bank (all capitalized terms herein having the meanings ascribed thereto in the Standby Agreement), that this notice constitutes a "Notice of Termination" in accordance with Section 7.03(b) of the Standby Agreement as a result of the occurrence of [an Event of Termination under Section 7.01(e)][an Event of Default under Section 7.02(\_\_\_\_)] of the Standby Agreement. The Available Commitment and Purchase Period shall terminate on \_\_\_\_\_, which date is not earlier than thirty (30) days from the date of receipt of this notice by the Tender Agent.

Sincerely,

XXXXXXXXXXXXXXXXXXXX, Acting Through Its New York Branch

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

cc: Massachusetts Water Resources Authority

**EXHIBIT C**

**NOTICE OF EXTENSION**

[DATE]

U.S. Bank Trust National Association  
100 Wall Street  
Suite 1600  
New York, NY 10005

Massachusetts Water Resources Authority  
Charlestown Navy Yard  
100 First Avenue  
Boston, MA 02129

\$180,000,000  
Massachusetts Water Resources Authority  
Multi-Modal Subordinated  
General Revenue Refunding Bonds  
2001 Series A and 2001 Series B

Ladies and Gentlemen:

The undersigned, a duly authorized officer of XXXXXXXXXXXXX, acting through its New York Branch (the "Bank"), hereby notifies the Tender Agent, the Bond Insurer, the Remarketing Agent and the Authority, each as defined in the Standby Bond Purchase Agreement (the "Standby Agreement"), dated as of July 1, 2005, among the Authority, the Tender Agent and the Bank (all capitalized terms herein having the meanings ascribed thereto in the Standby Agreement), that [COMPLETE AS APPROPRIATE]:

1. Effective upon the Authority's acceptance as indicated by its signature below, the Stated Expiration Date has been extended from [INSERT CURRENT EXPIRATION DATE] to [INSERT NEW EXPIRATION DATE].
2. Except as specifically provided in paragraph (1) above, all of the terms and conditions of the Standby Agreement remain unchanged and in full force and effect.
3. This Notice of Extension is an integral part of the Standby Agreement.]

[The Stated Expiration Date will not be extended at this time.]



IN WITNESS WHEREOF, the undersigned, on behalf of the Bank, has executed and delivered this Notice of Extension as of the \_\_\_ day of \_\_\_\_\_.

XXXXXXXXXXXXXXXXXX, Acting Through Its New York Branch

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

ACCEPTED:  
MASSACHUSETTS WATER RESOURCES  
AUTHORITY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

cc:

**EXHIBIT D  
RESERVED**

**EXHIBIT E**

**FORM OF COMPLIANCE CERTIFICATE**

Name

Address

City State Zip

Attention: First Vice President and Manager, Public Finance

\$180,000,000

Massachusetts Water Resources Authority  
Multi-Modal Subordinated  
General Revenue Refunding Bonds  
2001 Series A and 2001 Series B

Ladies and Gentlemen:

Pursuant to the provisions of Section 6.01(e) of that certain Standby Bond Purchase Agreement dated July 1, 2005 (the "Standby Agreement"), by and between XXXXXXXXXX, acting through its New York Branch (the "Bank"), the Massachusetts Water Resources Authority (the "Authority") and U.S. Bank Trust National Association, the undersigned hereby certifies as follows:

The representations and warranties contained in Section 4.01 of the Standby Agreement are true and correct on and as of the date hereof as if made on and as of such date (except as to transactions permitted by the Standby Agreement and except that the references in Section 4.01(g) of the Standby Agreement to the financial statements are deemed to refer to the most recent annual financial statements furnished to the Bank pursuant to Section 6.01(e)(i) of the Standby Agreement).

Since the date of the most recent annual financial statements furnished to the Bank pursuant to Section 6.01(e)(i) of the Standby Agreement, neither the business nor the assets nor the condition, financial or otherwise, of the Authority has been adversely affected in any material manner.

Except as set forth below and except as heretofore disclosed to the Bank in a previous Compliance Certificate, there has been no change in the incumbency of the officers or the Authority whose signatures have heretofore been certified to the Bank.

The financial statements attached hereto as Schedule A are in compliance with the applicable provisions of Section 6.01(e) of the Standby Agreement.

Said financial statements have been prepared in accordance with Generally Accepted Accounting Principles consistent with those applied in the preparation of the most recent annual financial statements furnished to the Bank pursuant to Section 6.01(e) of the Standby Agreement, present fairly the information contained therein and the financial condition of the Authority, and are correct in all material respects, subject to normal year-end adjustments.

The undersigned has caused the provisions of the Standby Agreement to be reviewed and no Event of Termination or Event of Default has occurred thereunder.

Terms defined in the Standby Agreement and not otherwise expressly defined herein are used herein with the meanings so defined in the Standby Agreement.

IN WITNESS WHEREOF, the undersigned has caused the authorized officer named below to execute this Certificate on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

MASSACHUSETTS WATER RESOURCES AUTHORITY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**SCHEDULE A**

**TO COMPLIANCE CERTIFICATE**

The financial statements attached to this Schedule are submitted in compliance with Section 6.01(e) of the Standby Agreement.

**EXHIBIT F**

**FORM OF REQUEST FOR EXTENSION**

**REQUEST FOR EXTENSION**

XXXXXXXXXXXX

Address

Ladies and Gentlemen:

Reference is hereby made to that certain Standby Bond Purchase Agreement, dated as of July 1, 2005 (the "Agreement"), among Massachusetts Water Resources Authority (the "Authority"), U.S. Bank Trust National Association and XXXXXXXXXXXX, acting through its New York Branch (the "Bank"). All capitalized terms contained herein which are not specifically defined shall be deemed to have the definition set forth in the Agreement. The Authority hereby requests, pursuant to Section 8.10 of the Agreement, that the Stated Expiration Date for the Agreement be extended by [IDENTIFY APPROPRIATE PERIOD]. Pursuant to Section 8.10 of the Agreement, we have enclosed along with this request the following information:

1. The outstanding principal amount of the Bonds;

The nature of any and all Defaults, Events of Termination and Events of Default; and

Any other pertinent information previously requested by the Bank.

The Bank is requested to notify the Authority of its decision with respect to this request for extension within 60 days of the date of receipt hereof. If the Bank fails to notify the Authority of its decision within such 60-day period, the Bank shall be deemed to have rejected such request.

Very truly yours,

MASSACHUSETTS WATER RESOURCES AUTHORITY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT G**

**FORM OF OPTIONAL TERMINATION NOTICE**

[DATE]

U.S. Bank Trust National Association  
100 Wall Street  
Suite 1600  
New York, NY 10005

Attention: Jean Clarke

\$180,000,000  
Massachusetts Water Resources Authority  
Multi-Modal Subordinated  
General Revenue Refunding Bonds  
2001 Series A  
2001 Series B

(a)

(b) Ladies and Gentlemen:

Reference is made to that certain Standby Bond Purchase Agreement dated as of July 1, 2005 (the "Standby Agreement"), by and between XXXXXXXXXXXX, acting through its New York Branch (the "Bank"), the Massachusetts Water Resources Authority (the "Authority") and U.S. Bank Trust National Association. Capitalized terms used herein shall have the meanings ascribed thereto in the Standby Agreement. Please be advised that the Bank is exercising its option to terminate the Available Commitment and the obligation of the Bank to purchase Tendered Bonds pursuant to the Standby Agreement on the Optional Termination Date expressed below. In accordance with the terms of the Standby Agreement, the Purchase Period shall terminate on the Optional Termination Date (or if such day is not a Business Day, on the immediately preceding Business Day). The Bank shall have no obligation to advance funds under the Agreement for the purchase of Bonds on or after the Optional Termination Date (or if such day is not a Business Day, the immediately preceding Business Day). In accordance with the terms of the Agreement, we hereby designate [DATE] as the Optional Termination Date as defined in the Agreement.

IN WITNESS WHEREOF, the undersigned, delivered this Optional Termination Notice as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Very truly yours,

XXXXXXXXXXXXXXXXXX

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

cc: Massachusetts Water Resources Authority



