

---

**TRUST INDENTURE**

**by and between**

**BUCKEYE TOBACCO SETTLEMENT FINANCING AUTHORITY**

**and**

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

**as Trustee**

\_\_\_\_\_  
**Dated as of October 1, 2007**  
\_\_\_\_\_

---

## TABLE OF CONTENTS

### ARTICLE I

Section 1.01	Definitions.....	1
Section 1.02	Interpretation.....	19
Section 1.03	Members of the Authority and State Officials Not Liable on Bonds or Agreement; Obligations of the Bonds; Limited Liability.....	19

### ARTICLE II

#### PLEDGE

Section 2.01	Security and Pledge.....	20
Section 2.02	Defeasance.....	21
Section 2.03	Payment of Bonds; Satisfaction and Discharge of Indenture.....	24

### ARTICLE III

#### THE BONDS

Section 3.01	Bonds of the Authority.....	24
Section 3.02	Documents to be Delivered to Trustee.....	26
Section 3.03	Transfer, Conversion and Replacement of Bonds.....	26
Section 3.04	Securities Depositories.....	28
Section 3.05	Calculation Agent; Determination of the Benchmark Rate.....	29

### ARTICLE IV

#### USE OF BOND PROCEEDS

Section 4.01	Use of Bond Proceeds.....	30
--------------	---------------------------	----

### ARTICLE V

#### FLOW OF FUNDS

Section 5.01	Funds and Accounts.....	30
Section 5.02	Costs of Issuance.....	31
Section 5.03	Application of Collections.....	31
Section 5.04	Bond Service Fund.....	38
Section 5.05	Ancillary Facilities, Including Interest Rate Exchange Agreements.....	38
Section 5.06	Redemption of the Bonds.....	38
Section 5.07	Investments.....	41
Section 5.08	Unclaimed Money.....	43

## ARTICLE VI

### COVENANTS AND REPRESENTATION OF THE AUTHORITY

Section 6.01	Limitation of Rights and Remedies .....	43
Section 6.02	Contract; Obligations to Bondholders or other Beneficiaries.....	43
Section 6.03	Operating Expenses .....	44
Section 6.04	Further Assurances.....	44
Section 6.05	Tax Covenants .....	44
Section 6.06	Accounts and Reports .....	45
Section 6.07	Ratings .....	46
Section 6.08	Affirmative Covenants.....	46
Section 6.09	Negative Covenants .....	47
Section 6.10	Prior Notice.....	48
Section 6.11	Residual Certificate.....	49

## ARTICLE VII

### THE STATE

Section 7.01	Limitation of Rights and Remedies .....	49
Section 7.02	Acknowledgment by State in the 2007 Sale Agreement .....	49
Section 7.03	Pledges; Non-Impairment Covenants .....	49
Section 7.04	Important Security Provisions.....	50

## ARTICLE VIII

### THE FIDUCIARIES

Section 8.01	Limitation of Rights and Remedies .....	50
Section 8.02	Trustee's Organization, Authorization, Capacity and Responsibility. ....	50
Section 8.03	Rights and Duties of the Fiduciaries.....	52
Section 8.04	Paying Agents and Registrar.....	54
Section 8.05	Resignation or Removal of the Trustee .....	54
Section 8.06	Successor Fiduciaries.....	54
Section 8.07	Fiduciaries for Bonds Other Than Senior Bonds.....	55
Section 8.08	Reports by Trustee to Holders .....	55
Section 8.09	Nonpetition Covenant.....	56

## ARTICLE IX

### THE HOLDERS

Section 9.01	Action by Holders .....	56
Section 9.02	Registered Holders.....	57

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01	Events of Default	57
Section 10.02	Remedies	58
Section 10.03	Individual Remedies	60
Section 10.04	Venue	61
Section 10.05	Waiver	61
Section 10.06	Remedies Cumulative	61
Section 10.07	Delay or Omission Not Waiver	61

ARTICLE XI

MISCELLANEOUS

Section 11.01	Supplements and Amendments to the Trust Indenture	61
Section 11.02	Supplements and Amendments to the 2007 Sale Agreement	62
Section 11.03	Notices	63
Section 11.04	Governing Law	63
Section 11.05	Beneficiaries	64
Section 11.06	Signatures and Counterparts	64
Section 11.07	Successor and Assigns	64
Section 11.08	Severability	64
Section 11.09	Legal Holidays	64

## TRUST INDENTURE

This **TRUST INDENTURE** (the "Trust Indenture") is entered into as of October 1, 2007, by the BUCKEYE TOBACCO SETTLEMENT FINANCING AUTHORITY (the "Authority"), a body, both corporate and politic, constituting a public body, agency, and instrumentality of the State of Ohio (the "State") and performing essential functions of the State, and U.S. BANK NATIONAL ASSOCIATION, as Trustee, a national banking association (the "Trustee").

The Authority recites and represents to the Trustee for the benefit of the Beneficiaries that it has authorized this Trust Indenture.

This Trust Indenture, constituting a part of the "bond proceedings," as such term is defined in the Act (defined herein), provides for the following transactions:

- (a) the Authority's issue of the Bonds; and
- (b) the Authority's assignment and pledge to the Trustee in trust for the benefit and security of the Bondholders and, to the extent specified herein, to Benefited Parties to Ancillary Facilities, of the Collections, Pledged Accounts and assets thereof to be received and held hereunder, the rights to receive the same, and the other rights assigned and pledged herein, to the extent specified in this Trust Indenture.

## WITNESSETH

In consideration of the mutual agreements contained in this Trust Indenture and other good and valuable consideration, the receipt of which is hereby acknowledged, the Authority and the Trustee agree as set forth herein for their own benefit and for the benefit of the Bondholders and, to the extent permitted by this Trust Indenture and applicable State law, other Beneficiaries.

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

**Section 1.01 Definitions.** In addition to terms defined in the 2007 Sale Agreement or elsewhere herein, the following terms have the following meanings in this Trust Indenture, unless the context otherwise requires:

**"Accounts"** means the accounts established under the provisions of the Trust Indenture, including any subaccounts therein.

**"Accreted Value"** means, with respect to any Capital Appreciation Bond, an amount equal to the initial principal amount of such Bond, plus interest thereon from its date, compounded on each Distribution Date, commencing on the first Distribution Date after its issuance (through and including the Maturity Date or earlier redemption date of such Bond, or in the case of a Convertible Capital Appreciation Bond, through and excluding the applicable Conversion Date or earlier redemption date of such Bond) at the "original issue yield" for such

Bond, as set forth in the related Series Supplement or in an exhibit thereto; provided, however, that the Authority shall calculate or cause to be calculated the Accreted Value on any date other than a Distribution Date by straight line interpolation of the Accreted Values as of the immediately preceding and succeeding Distribution Dates. In performing such calculation, the Authority shall be entitled to engage and rely upon a firm of accountants, consultants or financial advisors with appropriate knowledge and experience. The Trustee may conclusively rely upon such calculations. The term "original issue yield" means, with respect to any particular Bond, the yield to the applicable Maturity Date of such Bond from the initial date of delivery thereof calculated on the basis of semiannual compounding on each Distribution Date.

**"Act"** means Sections 183.51 and 183.52 of the Ohio Revised Code.

**"Additional Bonds"** means any Bond issued pursuant to Section 3.01 that is not a Fully Subordinate Bond or a Refunding Bond.

**"Aggregate Bond Obligation"** means, as of any given date, the sum of (i) the principal amount of Current Interest Bonds Outstanding hereunder on such date, plus (ii) the Accreted Value of Capital Appreciation Bonds and Convertible Capital Appreciation Bonds Outstanding hereunder on such date.

**"Ancillary Facility"** means (i) any of the "credit enhancement facilities" as defined in Section 133.01(H) of the Ohio Revised Code, consisting of "letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of debt charges, for security or additional security in the event of nonpayment or default in respect of securities, or for making payment of debt charges to and at the option and on demand of securities holders or at the option of the issuer or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the securities, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement," which includes any Interest Rate Exchange or Similar Agreement, and (ii) any investment agreement or repurchase agreement that is entered into in connection with the Bonds and is consistent with the ratings on the Bonds, which includes any float agreement or forward agreement.

**"Applicable Margin"** means, on any Series of Indexed Floating Rate Bonds, the margin over the Benchmark Rate established for such Series in the applicable Series Supplement.

**"Applicable Periodic Rate"** means with respect to any Series of Indexed Floating Rate Bonds and for each Periodic Interest Accrual Period, a per annum rate equal to the sum of the Benchmark Rate plus the Applicable Margin established for such Series in the applicable Series Supplement; provided, however, the "Applicable Periodic Rate" may also include an initial rate per annum for a period of time established for such Series in the applicable Series Supplement.

**"Assumed Rate"** means on any Deposit Date, and for any future period and any Series of Indexed Floating Rate Bonds, the rate established for such Series in the applicable Series Supplement as the Assumed Rate.

**"Authority"** means the Buckeye Tobacco Settlement Financing Authority created under the Act as a body, both corporate and politic, constituting a public body, agency, and instrumentality of the State and performing essential functions of the State.

**"Authorized Denominations,"** except as may otherwise be provided in a Supplemental Indenture, means (a) with respect to a Current Interest Bond (including with respect to a Convertible Capital Appreciation Bond that has become a Current Interest Bond on and after the Conversion Date therefor), \$5,000 or any integral multiple thereof; (b) with respect to a Convertible Capital Appreciation Bond prior to the Conversion Date therefor, the amount which will accrete to \$5,000 or any integral multiple thereof at the Conversion Date; and (c) with respect to any other Capital Appreciation Bond, the amount which will accrete to \$5,000 or any integral multiple thereof at the Maturity Date thereof (such accretion being calculated in the manner described in the definition of Accreted Value).

**"Authorized Officer"** means: (i) in the case of the Authority, the Chair, the Secretary or the Treasurer or their lawful designees, and any other person authorized to act in such capacity hereunder by a resolution adopted by the Authority with appropriate Written Notice to the Trustee, and (ii) in the case of the Trustee, any officer assigned to the Corporate Trust Office, including any managing director, director, vice president, assistant vice president, associate, assistant secretary or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and having direct responsibility for the administration of this Trust Indenture, and also, with respect to a particular matter, any other officer, to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

**"Benchmark Rate"** means any percentage of a regularly established benchmark for interest rates widely accepted in the debt capital markets and published or disseminated through a means widely available to financial institutions active in such markets, as set forth for a Series of Indexed Floating Rate Bonds in the related Series Supplement.

**"Beneficiaries"** means Bondholders and, to the extent specified herein, the Benefited Parties to Ancillary Facilities.

**"Benefited Parties"** means persons, firms, or corporations that enter into Ancillary Facilities with the Authority (or the Trustee at the direction of the Authority).

**"Bond Obligation"** means, as of any given date, (i) with respect to any Outstanding Current Interest Bond, the principal amount of such Current Interest Bond as of such date, and (ii) with respect to any Outstanding Capital Appreciation Bond or Convertible Capital Appreciation Bond prior to the Conversion Date, the Accreted Value thereof as of such date.

**"Bond Service Fund"** means the Fund so designated and established pursuant to Section 5.01, which includes the Senior Debt Service Account, Partial Lump Sum Payment

Account, Senior Liquidity Reserve Account, Senior Turbo Redemption Account, First Subordinate Turbo Redemption Account, Second Subordinate Turbo Redemption Account, and Fully Subordinate Turbo Redemption Account, and shall include all subaccounts contained therein.

**"Bond Year"** means for so long as Bonds are Outstanding, the twelve-month period ending each May 31.

**"Bondholders," "Holders"** and similar terms mean the registered owners of the Bonds, including the Series 2007 Bonds, as shown on the books of the Authority, and the owners of Coupon Bonds. Unless and until the Bonds have been issued to Bondholders other than DTC, all references to "Bondholders" or "Holders" of the Bonds are qualified by reference to Section 3.04 of this Trust Indenture.

**"Bonds"** means all bonds (or notes), including the Series 2007 Bonds, issued pursuant to Section 3.01.

**"Business Day"** means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in Columbus, Ohio or New York, New York, are required or authorized by law to be closed.

**"Calculation Agent"** means the calculation agent designated by the Authority to perform the duties set forth in Section 3.05 of this Trust Indenture.

**"Capital Appreciation Bond"** means a Bond the interest on which shall be compounded periodically, shall be payable only at maturity or redemption or prepayment prior to maturity, and shall be determined by subtracting from the Accreted Value thereof the original principal amount thereof. Capital Appreciation Bonds do not include Convertible Capital Appreciation Bonds on or after the applicable Conversion Date, but do include Convertible Capital Appreciation Bonds prior to the applicable Conversion Date.

**"Capitalized Interest Subaccount"** means the subaccount of the Senior Debt Service Account held by the Trustee pursuant to Section 5.01.

**"Cash Equivalent"** means a letter of credit, insurance policy, surety, guarantee or other security arrangement that is an Eligible Investment under paragraph (i) (as provided in a Supplemental Indenture) provided by an institution to represent the deposit in the Senior Liquidity Reserve Account of all or a portion of the Senior Liquidity Reserve Requirement.

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

**"Collateral"** shall have the meaning ascribed thereto in Section 2.01 of this Trust Indenture.

**"Collection Account"** means the account so designated and established pursuant to Section 5.01.

**"Collections"** means the Pledged Tobacco Receipts and investment earnings on amounts on deposit in or credited to the Pledged Accounts.

**"Consent Decree"** means the Consent Decree and Final Judgment entered November 25, 1998, in the Court of Common Pleas of Franklin County, Ohio, as the same may be corrected, amended or modified.

**"Conversion Date"** means the date set forth in the applicable Series Supplement on and after which a Convertible Capital Appreciation Bond is deemed a Current Interest Bond and after which the Holders shall be entitled to receive current payments of interest on each Distribution Date.

**"Convertible Capital Appreciation Bond"** means a Bond the interest on which (x) prior to the Conversion Date, shall be (i) compounded periodically, (ii) payable only upon redemption or prepayment, and (iii) determined by subtracting from the Accreted Value thereof the original principal amount thereof and (y) on and after the Conversion Date, shall accrue and be payable periodically commencing on the next succeeding Distribution Date following the Conversion Date. On and after the Conversion Date, Convertible Capital Appreciation Bonds shall be Current Interest Bonds.

**"Corporate Trust Office"** means the office of the Trustee at which the corporate trust business of the Trustee related hereto shall, at any particular time, be principally administered, which office is, at the date of this Trust Indenture, located at 175 South Third Street, 4<sup>th</sup> floor, Columbus, Ohio 43215, Attention: Corporate Trust Services.

**"Costs of Issuance"** means the costs, expenses and fees directly related to the authorization and issuance of Bonds and entering into of Ancillary Facilities as follows: all costs, fees and expenses of procuring insurance, other credit enhancements, and other financing arrangements to fulfill the purposes of the Authority under the Act, including such arrangements, instruments, contracts and agreements as municipal bond insurance, liquidity facilities, interest rate agreements and letters of credit, financial advisory services, Bond underwriting services, auditors' or accountants' services, printing costs, costs of reproducing documents, filing and recording fees, escrow fees, initial fees and expenses of the Trustee, legal fees and charges, professional consultants' fees, costs of credit ratings, fees and charges for execution, transportation and safekeeping of Bonds, governmental charges, and other costs or expenses and fees of issuance of any kind directly related to the authorization and the issuance of the Bonds by the Authority or, in accordance with the 2007 Sale Agreement, by the State. Costs of Issuance shall include any financing cost referred to in the Act, except for capitalized interest.

**"Costs of Issuance Account"** means the account so designated and established pursuant to Section 5.01.

**"Counsel"** means Hawkins Delafield & Wood LLP and Squire, Sanders & Dempsey L.L.P., or another nationally recognized bond counsel or such other counsel as may be selected by the Authority for a specific purpose hereunder.

**"Coupon Bonds"** means Bonds registered to bearer, with interest coupons.

**"Current Interest Bond"** means a Bond the interest on which is payable currently on each Distribution Date (including an Indexed Floating Rate Bond, and as the context requires, a Convertible Capital Appreciation Bond on and after the applicable Conversion Date).

**"Default"** means an Event of Default without regard to any declaration, notice or lapse of time.

**"Default Rate"** means that rate of interest that will be used in determining Accreted Value for a Convertible Capital Appreciation Bond or other Capital Appreciation Bond during the occurrence of a Payment Default as set forth in the Series Supplement authorizing the issuance of such Bonds.

**"Defeasance Collateral"** means money and any of the following, provided such investments are legal under the laws of the State:

(a) direct obligations of the United States government, which are not redeemable at the option of the issuer thereof;

(b) (i) obligations, the timely payment of the principal and interest on which are unconditionally guaranteed by the United States government; (ii) certificates of deposit of banks or trust companies secured by obligations of the United States of America of a market value equal at all times to the amount of the deposit; (iii) notes, bonds, debentures, mortgages and other evidences of indebtedness, issued or guaranteed at the time of the investment by the United States Postal Service, Fannie Mae, FHLMC, FHLB, the Student Loan Marketing Association, the Federal Farm Credit System, Tennessee Valley Authority, or any other United States government sponsored agency; (iv) notes, bonds, debentures, mortgages and other evidences of indebtedness, issued or guaranteed at the time of investment by the Asian Development Bank, Bank Nederlandse Gemeenten, European Bank for Reconstruction and Development, European Investment Bank, Inter-American Development Bank and International Bank for Reconstruction and Development; or (v) bonds or other obligations of any state of the United States of America or of any agency instrumentality or local governmental unit of any such state (x) which are not callable at the option of the obligor or otherwise prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, and (y) timely payment of which is fully secured by a fund consisting only of cash or obligations of the character described in clause (i), (ii), (iii) or (iv) which fund may be applied only to the payment when due of such bonds or other obligations; provided that the above-listed investments are not redeemable at the option of the issuer thereof and which shall be rated at the time of the investment in the highest long term category by each Rating Agency;

(c) any depository receipt issued by an Eligible Bank as custodian with respect to any Defeasance Collateral which is specified in clause (a) above and held by such Eligible Bank for the account of the holder of such depository receipt, or with respect to any specific payment of principal of or interest on any such Defeasance Collateral which is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any

amount received by the custodian in respect of the Defeasance Collateral or the specific payment of principal or interest evidenced by such depository receipt;

(d) any certificate of deposit specified in the definition of "Eligible Investments" below, including certificates of deposit issued by the Trustee or by the Paying Agent or by an affiliate of the Trustee or a Paying Agent, secured by obligations specified in clause (a) above at a market value at least equal at all times to the amount of the deposit, which shall be rated at the time of the investment in the highest long-term rating category by each Rating Agency; or

(e) investment arrangements from providers whose rating, or whose parent or guarantor's rating, is not less than Aa or equivalent by each of Moody's, S&P and Fitch. Further, should the provider's rating, or parent or guarantor's rating, be downgraded below the Aa or equivalent level by any of Moody's, S&P or Fitch, the provider must be required, within ten (10) days of such downgrade, to provide notice to the Authority and the Trustee and remedy the downgrade by a pledge of collateral as described in subsection (a) or (b) of the definition of Eligible Investments to a third party, acceptable to the Authority, at margin levels equivalent to those needed to attain a AAA rating from S&P using a market value approach.

**"Defeasance Redemption Schedule"** shall have the meaning set forth therefor in Section 2.02 of this Trust Indenture.

**"Defeased Turbo Term Bonds"** means Turbo Term Bonds for which a defeasance escrow has been established pursuant to Section 2.02(b) hereof.

**"Delivery Date"** means the date on which a Series of Bonds is delivered to the original purchasers thereof.

**"Deposit Date"** means the date of actual receipt by the Trustee of any Collections.

**"Disputed Payments Account"** means any account into which the disputed portion of payments required to be made by PMs under the MSA are withheld or deposited pending resolution of the dispute.

**"Distribution Date"** means, except to the extent otherwise set forth in a Series Supplement, each June 1 and December 1, or if such date is not a Business Day, the following Business Day, each additional Distribution Date selected by the Authority or the Trustee following a Payment Default, and each Distribution Date, to the extent so characterized in a Supplemental Indenture.

**"DTC"** means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and includes any nominee of DTC in whose name any Bonds are then registered.

**"Eligible Bank"** means any (i) bank or trust company organized under the laws of any state of the United States of America (including the Trustee and any of its affiliates), (ii) national banking association, (iii) savings bank or savings and loan association chartered or

organized under the laws of any state of the United States of America, or (iv) federal branch or agency established pursuant to the International Banking Act of 1978 or any successor provisions of law, or domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America.

**"Eligible Investments"** means, with respect to the Pledged Accounts:

(a) Defeasance Collateral;

(b) demand, trust and time deposits, money market deposit accounts or certificates of deposit of, or bankers' acceptances issued by, any bank (including the Trustee and any of its affiliates) or trust company, savings and loan association, or savings bank, payable on demand or on a specified date no more than three months after the date of issuance thereof, if such deposits or instruments are rated "A-1" by S&P, "P-1" by Moody's and "F1" by Fitch;

(c) certificates, notes, warrants, bonds, obligations, or other evidences of indebtedness of a state or a political subdivision thereof rated by each Rating Agency maintaining a rating thereon in one of its three highest rating categories;

(d) commercial or finance company paper (including both noninterest-bearing discount obligations and interest bearing obligations payable on demand or on a specific date not more than 270 days after the date of issuance thereof) that is rated at least "A-1" by S&P, "P-1" by Moody's and "F1" by Fitch, if rated by Fitch;

(e) repurchase obligations with respect to any security described in paragraphs (a) or (b)(i), (ii) or (iii) of the definition of Defeasance Collateral above entered into with a financial institution, corporation, registered broker/dealer, domestic commercial bank, primary dealer, depository institution, or trust company (acting as principal) rated "A-1" by S&P, "P-1" by Moody's and "F1" by Fitch (if payable on demand or on a specified date no more than three months after the date of issuance thereof), or rated by each Rating Agency maintaining a rating thereon in one of its three highest long term rating categories, provided that (1) a specific written agreement governs the transaction, (2) the securities are held, free and clear of any lien, by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (a) a Federal Reserve Bank, or (b) a member of the Federal Deposit Insurance Corporation that has combined surplus and undivided profits of not less than \$25 million, and the Trustee will have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee, (3) the agreement has a term of 30 days or less, or the Trustee or its agent will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within five Business Days of such valuation, and (4) the fair market value of the collateral securities in relation to the amount of the obligation, including principal and interest, is at least 102%;

(f) securities bearing interest or sold at a discount (payable on demand or on a specified date no more than three months after the date of issuance thereof) that are issued by any corporation incorporated under the laws of the United States of America or any state thereof

and rated "A-1" by S&P, "P-1" by Moody's and "F1" by Fitch at the time such investment or contractual commitment providing for such investment; provided that securities issued by any such corporation will not be Eligible Investments to the extent that investment therein would cause the then-outstanding principal amount of securities issued by such corporation that are then held hereunder to exceed 20% of the aggregate principal amount of all Eligible Investments then held;

(g) units of taxable or tax-exempt money market funds which funds are regulated investment companies and seek to maintain a constant net asset value per share and have been rated by each Rating Agency in one of its three highest rating categories, including if so rated any such fund which the Trustee or an affiliate of the Trustee serves as an investment advisor, administrator, shareholder, servicing agent and/or custodian or sub-custodian, notwithstanding that (x) the Trustee or an affiliate of the Trustee charges and collects fees and expenses (not exceeding current income) from such funds for services rendered, (y) the Trustee charges and collects fees and expenses for services rendered pursuant to the Trust Indenture, and (z) services performed for such funds and pursuant to the Trust Indenture may converge at any time (the Authority specifically authorizes the Trustee or an affiliate of the Trustee to charge and collect all fees and expenses from such funds for services rendered to such funds, in addition to any fees and expenses the Trustee may charge and collect for services rendered pursuant to the Trust Indenture);

(h) investment agreements, forward purchase agreements or guaranteed investment contracts rated, or with any financial institution or corporation whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time such agreement or contract is entered into, by each Rating Agency maintaining a rating thereon in one of its three highest rating categories, if the Authority has an option to terminate such agreement in the event that such rating is downgraded below the rating on the Bonds, or if not so rated, then collateralized by securities described in paragraphs (a) or (b)(i), (ii) or (iii) of the definition of Defeasance Collateral above with any registered broker/dealer or with any domestic commercial bank whose long-term debt obligations are rated in one of the three highest rating categories by each Rating Agency; provided that (1) a specific written agreement governs the transaction, (2) the securities are held, free and clear of any lien, by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (a) a Federal Reserve Bank, or (b) a member of the Federal Deposit Insurance Corporation that has combined surplus and undivided profits of not less than \$25 million, and the Trustee will have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee, (3) the agreement has a term of 30 days or less, or the Trustee or third party custodian will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within five Business Days of such valuation, and (4) the fair market value of the collateral securities in relation to the amount of the obligation, including principal and interest, is at least 102%;

(i) a surety, guaranty, letter of credit, liquidity agreement, agreement to purchase securities of the Authority or other similar agreement provided in lieu of or in substitution for amounts in the Senior Liquidity Reserve Account by an entity with a rating in the three highest rating categories by each Rating Agency; provided that any cost related to such an

investment shall be paid either from funds released from the Senior Liquidity Reserve Account or other available funds and 15 days prior notice is given to S&P;

(j) the State Treasurer's pooled investment program under Section 135.45 of the Ohio Revised Code; and

(k) other obligations or securities that are non-callable and that are acceptable to each Rating Agency;

provided, that no Eligible Investments may (i) evidence the right to receive only interest with respect to prepayable obligations underlying such instrument, or (ii), except with as collateral for repurchase agreements described in clause (e) of this definition, be purchased at a price greater than par if such instrument may be prepaid or called at a price less than its purchase price prior to its stated maturity.

Any investment in Eligible Investments described above may be made in the form of an entry made on the records of the issuer of such Eligible Investments.

**"Enforcement Expenses"** means, as certified to the Trustee by an Officer's Certificate, any amount designated in such Officer's Certificate as being requisitioned for payment or reimbursement to the Enforcement Expense Reserve Account in connection with the costs incurred or to be incurred (including reserves for the same) by the office of the Attorney General of the State with respect to enforcement of the Master Settlement Agreement, the Qualifying Statute, the Consent Decree and related legislation.

**"Enforcement Expense Reserve Account"** means the Account so designated and established pursuant to Section 5.01.

**"Enforcement Expense Transfer Cap"** means the aggregate limitation, applicable to each Fiscal Year, on the transfer of amounts from the Collection Account pursuant to Section 5.03(b)(vi) for payment or reimbursement of Enforcement Expenses, equal to (i) \$2,500,000 for the Fiscal Years ending June 30, 2008 through (and including June 30, 2013), without inflation, (ii) \$2,000,000 for the Fiscal Years ending June 30, 2014 and thereafter, such \$2,000,000 amount to be inflated in each Fiscal Year beginning with the Fiscal Year ending June 30, 2015 by the greater of 3% or the percentage increase in the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics for December of the prior year, less (iii) with respect to both clauses (i) and (ii), the amount disbursed in such Fiscal Year for such purpose from the Operating Account pursuant to Section 5.03(b)(i).

**"Event of Default"** means an event specified in Section 10.01.

**"Fannie Mae"** means the Federal National Mortgage Association.

**"FHLB"** means any Federal Home Loan Bank.

**"FHLMC"** means the Federal Home Loan Mortgage Corporation.

**"Fiduciary"** means the Trustee, any representative of the Holders of Bonds appointed by Series Supplement, the Calculation Agent and each Paying Agent, if any.

**"First Subordinate Bonds"** means any Series 2007 Bonds and any other Bonds, in each case identified as such in the applicable Series Supplement.

**"First Subordinate Turbo Redemption Account"** means the Account established, held and maintained by the Trustee pursuant to Section 5.01 of this Trust Indenture.

**"Fiscal Year"** means the twelve (12) month period commencing July 1 of each year and ending on June 30 of the succeeding year, or such other twelve (12) month period as the Authority or the State may determine from time to time to be the Authority's Fiscal Year. In the event of a change in the Authority's Fiscal Year, the Authority shall deliver an Officer's Certificate to the Trustee stating such change.

**"Fitch"** means Fitch Inc.; references to Fitch are effective so long as Fitch is a Rating Agency.

**"Fixed Rate Bonds"** means the Current Interest Bonds which are not Indexed Floating Rate Bonds.

**"Fully Paid"** has the meaning given to such term in Section 2.03 of this Trust Indenture.

**"Fully Subordinate Bonds"** has the meaning set forth in Section 3.01(b)(iii) of this Trust Indenture.

**"Fully Subordinate Turbo Redemption Account"** means the Account established, held and maintained by the Trustee pursuant to Section 5.01 of this Trust Indenture.

**"Funds"** means the funds established under the provisions of the Trust Indenture, including any Accounts therein.

**"Indexed Floating Rate Bonds"** means a Bond, the interest on which accrues at the Applicable Periodic Rate.

**"Interest Rate Exchange Agreement"** or **"Interest Rate Exchange or Similar Agreement"** means a written contract with a counterparty to provide for an exchange of payments based upon fixed or variable interest rates, or both fixed and variable interest rates. Any such agreement may include the option to enter into or cancel the agreement or to reverse or extend the agreement.

**"Junior Payments"** means (i) principal payable under term-out provisions of Ancillary Facilities, (ii) other amounts due under Ancillary Facilities and not payable as Priority Payments or debt service or related payments with respect to Senior Bonds, First Subordinate Bonds or Second Subordinate Bonds, and (iii) Junior Payments so identified in or by reference to this Trust Indenture or any Supplemental Indenture.

**"Lump Sum Payment"** means a final payment from a PM that results in, or is due to, a release of that PM from all of its future payment obligations under the MSA. Any Lump Sum Payment shall be applied as Collections as provided in Section 5.03 of this Trust Indenture. The term "Lump Sum Payment" does not include any payments that are Partial Lump Sum Payments, Total Lump Sum Payments or any non-scheduled prepayments other than a Lump Sum Payment.

**"Majority in Interest"** means, as of any particular date of calculation, the Holders of a majority of the Aggregate Bond Obligation eligible to act on a matter.

**"Master Settlement Agreement" or "MSA"** means the master settlement agreement and related documents (including the Escrow Agreement) entered into on November 23, 1998, by the State and leading United States tobacco product manufacturers, and incorporated with the Consent Decree.

**"Maturity Date"** means, with respect to any Bond, the final date on which all remaining Principal is due and payable.

**"Maximum Rate"** means, as applicable, (i) the highest rate payable on a Bond to Holders other than parties to Ancillary Facilities, as specified by Series Supplement or (ii) the rate specified by Series Supplement as the Maximum Rate on an Interest Rate Exchange Agreement.

**"Moody's"** means Moody's Investors Service; references to Moody's are effective so long as Moody's is a Rating Agency.

**"Net Proceeds"** means the amount of proceeds remaining following the sale of Bonds which are not required by the Authority to pay Costs of Issuance or amounts required to fund reserve funds or capitalized interest, if any, Operating Expenses, if any, amounts deposited to an escrow fund and used to defease or refund Bonds, or debt service on Bonds and other reserve funds.

**"Officer's Certificate"** means a certificate signed by an Authorized Officer of the Authority or, if so specified, of the Trustee.

**"Operating Account"** means the account held by the Authority pursuant to Section 5.01 of this Trust Indenture.

**"Operating Cap"** means (i) \$250,000 in the Fiscal Year ending June 30, 2008, inflated in each following Fiscal Year by the greater of 3% or the percentage increase in the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics for December of the prior year, plus (ii) in each Fiscal Year, Tax Obligations and Priority Payments, if any, specified in an Officer's Certificate.

**"Operating Expenses"** means the reasonable operating expenses of the Authority, including without limitation, the cost of preparation of accounting and other reports, costs of maintenance of the ratings on the Bonds, insurance premiums, and costs of Authority meetings or other required activity of the Authority, counsel fees, including the fees of the

Attorney General, and fees and expenses incurred for consultants and fiduciaries, all costs and expenses incurred by the State and other amounts, if any, which are required to be reimbursed or borne by the Authority pursuant to the 2007 Sale Agreement, Enforcement Expenses, and all other costs authorized by the Act or all other Operating Expenses so identified in this Trust Indenture.

**"OPM"** means an Original Participating Manufacturer, as defined in the MSA.

**"Outstanding Bonds"** means Bonds issued under this Trust Indenture, excluding: (i) Bonds that have been exchanged or replaced, or delivered to the Trustee for credit against the Principal; (ii) Bonds that have been paid or Fully Paid; (iii) Bonds that have become due and for the payment of which money has been duly provided; (iv) Bonds for which (A) there has been irrevocably set aside sufficient Defeasance Collateral timely maturing and bearing interest, to pay or redeem them and (B) any required notice of redemption shall have been duly given in accordance with this Trust Indenture or irrevocable instructions to give notice shall have been given to the Trustee; (v) Bonds the payment of which shall have been provided for pursuant to Section 2.02; and (vi) for purposes of any consent or other action to be taken by the Holders of a Majority in Interest or specified percentage of Bonds hereunder, Bonds held by or for the account of the Authority, the State or any person controlling, controlled by or under common control with either of them. For the purposes of this definition, "control," when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether by contract, statute, governmental order or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

**"Parity Swap Payments"** means scheduled payments under an Interest Rate Exchange Agreement executed in connection with a Series of Senior Bonds, not to exceed the applicable Maximum Rate, but does not include any payments under any other Ancillary Facility.

**"Partial Lump Sum Payment"** means a payment from a PM that results in, or is due to, a release of that PM from a portion, but not all, of its future payment obligations under the MSA.

**"Partial Lump Sum Payment Account"** means that Account within the Bond Service Fund so designated and established pursuant to Section 5.01.

**"Paying Agent"** means the Trustee and any other Paying Agent designated from time to time pursuant to Section 8.04.

**"Payment Default"** means an Event of Default described in Section 10.01(a) or 10.01(b) hereof.

**"Payment Priorities"** means payment of Bonds in the following order of priority:

(a) first, the Senior Bonds are Fully Paid in chronological order of Serial Maturities, Sinking Fund Installments and Maturity Dates therefor;

- (b) second, the First Subordinate Bonds are Fully Paid;
- (c) third, the Second Subordinate Bonds are Fully Paid;
- (d) fourth, any Fully Subordinate Bonds are Fully Paid in accordance with the provisions of the applicable Series Supplement.

Each clause above is referred to in this Trust Indenture as a "Payment Priority."

**"Periodic Interest Accrual Period"** means with respect to any Indexed Floating Rate Bonds, the period commencing on the prior Periodic Interest Reset Date (or the Delivery Date thereof, if prior to the first Periodic Interest Reset Date for such Bonds) and ending on the day preceding the next succeeding Periodic Interest Reset Date.

**"Periodic Interest Amount"** means with respect to Indexed Floating Rate Bonds and any Distribution Date, the aggregate amount of interest accrued at the Applicable Periodic Rate during the related Periodic Interest Accrual Period on the Bond Obligation of such Indexed Floating Rate Bonds.

**"Periodic Interest Reset Date"** means, with respect to any Indexed Floating Rate Bonds, the date set forth in the related Series Supplement on which the Applicable Periodic Rate is recalculated and made effective for the next ensuing Periodic Interest Accrual Period.

**"Pledged Accounts"** means the Collection Account and all accounts and subaccounts, if any, of the Bond Service Fund.

**"Pledged Tobacco Receipts"** means the right, title and interest to 100% of the 2007 Sold Tobacco Receipts, which are payable to the Authority or the Trustee pursuant to the 2007 Sale Agreement and are subject to the lien of this Trust Indenture.

**"PM"** means a Participating Manufacturer, as defined in the MSA.

**"Principal"** means the amount of the principal due on the Maturity Date for any Bonds.

**"Priority Payments"** means fees payable pursuant to Ancillary Facilities that are identified hereby or by a Series Supplement as Priority Payments, which shall not include payments of or in lieu of interest, Principal, redemption price or purchase price of Bonds.

**"Pro Rata"** means, for an allocation of available amounts to any payment of interest, Accreted Value, Principal or payments under an Interest Rate Exchange Agreement to be made pursuant to this Trust Indenture, the application of a fraction of such available amounts (a) the numerator of which is equal to the amount due to the respective Holders or any party who has entered into an Interest Rate Exchange Agreement with the Authority, as applicable, to whom such payment is owing, and (b) the denominator of which is equal to the total amount due to all Holders or counterparties to whom such payment is owing, as applicable.

**"Projected Turbo Redemption"** means, for a Series of Bonds, each respective Turbo Redemption projected to be made pursuant to Section 5.06(d) of this Trust Indenture, as such projections are set forth on the Projected Turbo Schedule.

**"Projected Turbo Schedule"** means, for a Series of Bonds that includes Turbo Term Bonds, the schedule of projected redemptions of such Turbo Term Bonds set forth in the related Series Supplement or in an exhibit thereto.

**"Qualifying Statute"** means Chapter 1346, Ohio Revised Code, as amended from time to time.

**"Rating Agency"** means initially, S&P, Moody's and Fitch with respect to the Series 2007 A Bonds, and Fitch with respect to the Series 2007 B Bonds and Series 2007 C Bonds, and each nationally recognized securities rating organization that has issued, at the request of the Authority with notice to the Trustee, a rating in effect for a Series of Bonds, as set forth in the related Series Supplement.

**"Rating Confirmation"** means written evidence that no rating assigned to the Bonds by any Rating Agency, without regard to credit enhancement, if any, will be withdrawn, qualified or reduced solely as a result of an action to be taken hereunder.

**"Rebate Account"** means the Account, if any, established and maintained by the Trustee pursuant to Section 5.01 of this Trust Indenture.

**"Record Date"** means the last Business Day of the calendar month preceding a Distribution Date, or such other date as may be specified by this Trust Indenture or an Officer's Certificate; and the Authority or the Trustee may in its discretion establish special record dates for the determination of the Holders of Bonds for various purposes hereof, including giving consent or direction to the Trustee.

**"Refunding Bonds"** means any Bond issued pursuant to Section 3.01 of this Trust Indenture to pay or provide for the payment of all or a portion of any Outstanding Bond.

**"Residual Certificate"** means that certificate evidencing residual interests, substantially in the form of Appendix A to the 2007 Sale Agreement.

**"S&P"** means Standard & Poor's Ratings Services; references to S&P are effective so long as S&P is a Rating Agency.

**"Second Subordinate Bonds"** means any Series 2007 Bonds and any other Bonds, in each case identified as such in an applicable Series Supplement.

**"Second Subordinate Turbo Redemption Account"** means the Account established, held and maintained by the Trustee pursuant to Section 5.01 of this Trust Indenture.

**"Securities Depository"** means DTC or another securities depository specified by Series Supplement, or if the incumbent Securities Depository resigns from its functions as depository of the Bonds or the Authority discontinues use of the incumbent Securities

Depository, then any other securities depository selected by Officer's Certificate of the Authority.

**"Senior Bonds"** means the Series 2007 A Bonds designated as Senior Bonds in the Series Supplement relating thereto and any other Bonds designated as Senior Bonds in a Series Supplement.

**"Senior Debt Service"** means (i) interest, redemption premium and Bond Obligation due on Outstanding Senior Bonds and (ii) Parity Swap Payments.

**"Senior Debt Service Account"** means the Account within the Bond Service Fund so designated and established pursuant to Section 5.01.

**"Senior Liquidity Reserve Account"** means the Account within the Bond Service Fund so designated and established pursuant to Section 5.01.

**"Senior Liquidity Reserve Requirement"** means (x) \$389,231,603.13 and (y) from and after the date on which there are no Outstanding Senior Bonds which are Current Interest Bonds or Convertible Capital Appreciation Bonds, zero, which amount may be amended upon the issuance of Additional Bonds or Refunding Bonds.

**"Senior Turbo Redemption Account"** means the Account in the Bond Service Fund so designated and established pursuant to Section 5.01 hereof.

**"Serial Bonds"** means the Bonds so specified in a Series Supplement.

**"Series"** means all Bonds so identified in a Series Supplement, regardless of variations in class, maturity, interest rate or other provisions, and any Bonds thereafter delivered in exchange or replacement therefor.

**"Series 2007 Bonds"** means the Authority's \$5,531,594,541 Tobacco Settlement Asset-Backed Bonds, Series 2007, initially dated October 29, 2007, including any Bonds issued in exchange or replacement therefor.

**"Series Supplement"** means a Supplemental Indenture described in Section 3.01(a), or a supplement thereto.

**"Sinking Fund Installment"** means each respective principal payment to be made on Turbo Term Bonds scheduled to be made from Collections to the extent available pursuant to Section 5.03(c)(ii) of this Trust Indenture, as such schedule may be set forth in a Series Supplement.

**"Special Funds"** shall have the meaning set forth therefor in the Act and shall include the Collection Account and Bond Service Fund established pursuant to Section 5.01 and any additional Fund or Account so designated in a Series Indenture or Supplemental Indenture.

**"State"** means the State of Ohio.

**"State Treasurer"** means the State Treasurer of the State.

**"Subordinate Payment Default"** means that Principal of, premium or interest on any First Subordinate Bond or Second Subordinate Bond has not been paid when due.

**"Supplemental Indenture"** means a Series Supplement or supplement hereto adopted and becoming effective in accordance with the terms hereof. Any provision that may be included in a Series Supplement or Supplemental Indenture is also eligible for inclusion in the other subject to the provisions hereof.

**"Surplus Collections"** means all Collections that are in excess of the requirements of the Trust Indenture for the funding of Operating Expenses (including Enforcement Expenses), interest, Principal, Parity Swap Payments, Priority Payments, Tax Obligations, payments due on Ancillary Facilities, Junior Payments and maintenance of the Senior Liquidity Reserve Account.

**"Taxable Bonds"** means all Bonds so identified in the Series Supplement relating to such Bonds.

**"Tax Certificate"** means, collectively, the Authority Tax Certificate and the Tax Certificate of the State of Ohio executed and delivered by the Authority and the State with respect to the Series 2007 Bonds and each subsequent Series of Bonds consisting in whole or in part of Tax-Exempt Bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

**"Tax-Exempt Bonds"** means all Bonds so identified in the Series Supplement relating to such Bonds.

**"Tax Obligations"** means, with respect to the issuance of Tax-Exempt Bonds, if any, the rebate requirement and any penalties, fines or other payments required to be made to the United States of America under the arbitrage or rebate provisions of the Code.

**"Term Bonds"** means the Bonds, including Turbo Term Bonds, so specified in a Series Supplement.

**"Termination Payment"** means any payment made by the Authority with respect to a loss under or the termination of an Interest Rate Exchange Agreement, investment agreement or forward purchase agreement relating to a Pledged Account.

**"Termination Payment Cap"** means, with respect to Termination Payments due under any Ancillary Facility, the related limitation, if any, on payment thereof from amounts held in Pledged Accounts, as set forth in the related Supplemental Indenture.

**"Total Lump Sum Payment"** means a final payment under the MSA from all of the PMs that results in, or is due to, a release of all PMs from all of their future payment obligations under the MSA.

**"Trustee"** means U.S. Bank National Association, its successors in interest and any successor trustee under the Trust Indenture.

**"Trust Indenture"** means this Trust Indenture as amended, supplemented and in effect from time to time.

**"Turbo Redemptions"** means (i) with respect to Turbo Term Bonds that are Senior Bonds, the redemption of such Turbo Term Bonds from amounts on deposit in the Senior Turbo Redemption Account pursuant to Sections 5.03(b)(ix) and 5.06(d) of this Trust Indenture, (ii) with respect to Turbo Term Bonds that are First Subordinate Bonds, the redemption of such Turbo Term Bonds from amounts on deposit in the First Subordinate Turbo Redemption Account pursuant to Sections 5.03(b)(x) and 5.06(d) of this Trust Indenture, (iii) with respect to Turbo Term Bonds that are Second Subordinate Bonds, the redemption of such Turbo Term Bonds from amounts on deposit in the Second Subordinate Turbo Redemption Account pursuant to Sections 5.03(b)(xi) and 5.06(d) of this Trust Indenture, and (iv) with respect to Turbo Term Bonds that are Fully Subordinate Bonds, the redemption of such Turbo Term Bonds from amounts on deposit in the Fully Subordinate Turbo Redemption Account as provided in the applicable Series Supplement.

**"Turbo Term Bonds"** means such maturities of Bonds as are designated as Turbo Term Bonds in the applicable Series Supplement.

**"Turbo Term Bond Maturity"** means the payment of principal or Accreted Value required to be made upon the final maturity of any Turbo Term Bond.

**"2007 Sale Agreement"** means the Purchase and Sale Agreement, dated as of October 1, 2007, by and between the Authority and the State, as further amended, supplemented and in effect from time to time.

**"2007 Sold Tobacco Receipts"** means 100% of the following:

(i) Except as excluded pursuant to the last paragraph of this definition, all tobacco settlement payments that are required to be made by the tobacco manufacturers to or for the account of the State under the terms of the Master Settlement Agreement on and after the Delivery Date for the Series 2007 Bonds;

(ii) All lump sum or partial lump sum payments received on and after the Delivery Date for the Series 2007 Bonds that are allocable to, or in substitution for, payments required under the terms of the Master Settlement Agreement by tobacco manufacturers to or for the account of the State; and

(iii) The State's right under the Master Settlement Agreement to receive the tobacco settlement payments referred to in (i) and (ii) of this definition

2007 Sold Tobacco Receipts (x) specifically include 100% of any amounts due to the State and withheld or deposited in the Disputed Payments Account on or after the Delivery Date for the Series 2007 Bonds by the tobacco manufacturers as a result of a dispute as to the amount of a payment required to be made by them under the MSA and that are subsequently paid

by the tobacco manufacturers or released from the Disputed Payments Account, including all earnings thereon, but (y) specifically exclude any right to or interest in amounts withheld or deposited in the Disputed Payments Account before the Delivery Date for the Series 2007 Bonds, including all earnings thereon.

**"Written Notice,"** "written notice" or "notice in writing" means notice in writing which may be delivered by hand or first class mail and also means facsimile transmission.

**Section 1.02 Interpretation.** Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Trust Indenture.

(a) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(b) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons, and shall include successors and assigns.

(c) Any headings preceding the texts of the several Articles and Sections of this Trust Indenture, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference, and shall not constitute a part of this Trust Indenture, nor shall they affect its meaning, construction or effect.

(d) In the event that any provision of this Trust Indenture shall be held to be invalid in any circumstance, such invalidity shall not affect any other provisions or circumstances.

**Section 1.03 Members of the Authority and State Officials Not Liable on Bonds or Agreement; Obligations of the Bonds; Limited Liability.**

(a) As provided in the Act, the individuals who are from time to time members of the Authority, or their designees acting pursuant to Section 183.52 of the Ohio Revised Code, or the Authority's officers, staff, agents, or employees, when acting within the scope of their employment or agency, shall not be liable in their personal capacities on any Bonds or Ancillary Facilities or otherwise under the Trust Indenture, or for otherwise exercising or carrying out any purposes or powers of the Authority.

(b) All covenants, agreements and obligations of the State contained herein or in the 2007 Sale Agreement shall be deemed to be the covenants, agreements and obligations of the State and not of any officer or employee of the State in his or her individual capacity, and no recourse shall be had hereunder or under the 2007 Sale Agreement for any claim based thereon or on the 2007 Sale Agreement against any officer or employee of the State or any person executing the 2007 Sale Agreement, in his or her individual capacity. Without limiting the generality of the foregoing, Bondholders and Benefited Parties or any other persons shall have no recourse against any officer or employee of the State with respect to any covenant, agreement or obligation of the State contained herein or resulting from such person executing and delivering the 2007 Sale Agreement. Any proceeding or action instituted against the State under the 2007

Sale Agreement shall be limited to the remedies set forth in Section 3.02(c) of the 2007 Sale Agreement.

(c) Pursuant to the Act, (i) the Bonds and any Ancillary Facility are not general obligations of the State and the full faith and credit, revenue, and taxing power of the State are not be pledged to the payment of debt service on them or to any guarantee of the payment of that debt service, (ii) the Holders of Bonds and other Beneficiaries shall have no right to have any moneys obligated or pledged for the payment of debt service except as provided in the Trust Indenture in accordance with the Act, and (iii) the rights of the Holders of Bonds and Benefited Parties to payment of debt service are limited to all or that portion of the Pledged Tobacco Receipts, and the Special Funds, pledged to the payment of debt service pursuant to the Trust Indenture in accordance with the Act, and each Bond shall bear on its face a statement to that effect.

(d) Any liability of the Authority, including liability for damages, awards, settlement amounts, legal fees, costs, expenses, interest or any other form of monetary recovery, arising out of any actions or proceedings brought by the Trustee or any Beneficiary pursuant to the provisions of this Trust Indenture or the 2007 Sale Agreement or otherwise against the Authority with respect to any covenants, indemnities, obligations, representations, responsibilities, warranties, or events of default under this Trust Indenture or the 2007 Sale Agreement or otherwise shall be limited and payable solely and only from the Collections. Under no circumstances shall any person or entity have recourse to or against, or any right to receive payment (including for the purpose of paying or satisfying any judgment, debt, liability or other obligation of the Authority) from any moneys or assets of the State, including funds in the State's general fund or any special fund or other account of the State.

## ARTICLE II

### PLEDGE

#### Section 2.01 Security and Pledge.

(a) In order to secure the payment of Bonds, and, to the extent permitted by applicable State law, payments in respect of Ancillary Facilities, including Interest Rate Exchange Agreements, all with the respective priorities specified in Article V hereof, the Authority, in accordance with the Act, hereby pledges and assigns, as security, to the Trustee in trust upon the terms hereof (i) the Collections, (ii) all rights to receive the Collections and the proceeds of such rights, (iii) the Pledged Accounts and money and investments on deposit in or credited to the Pledged Accounts, (iv) subject to paragraph (c) hereof and subject to the terms and provisions of the 2007 Sale Agreement, including Sections 3.02, 6.04, 6.08 and 6.10, all rights and remedies with respect to any breach by the State of any of its covenants, obligations, representations, and warranties under the 2007 Sale Agreement or under the Act, (v) all interests in the Pledged Tobacco Receipts of the Authority under the 2007 Sale Agreement, to which the State has consented to an assignment pursuant to Section 6.09 of the 2007 Sale Agreement, subject to the terms and limitations of the 2007 Sale Agreement, and (vi) any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security hereunder. The

property described in the preceding sentence is referred to herein as the "Collateral." Upon receipt from the State of appropriate proofs that amounts received by the Trustee with respect to payments made by tobacco manufacturers do not constitute 2007 Sold Tobacco Receipts, the Trustee shall release such amounts from the lien of this Indenture and transfer such amounts in accordance with written instructions from the State.

(b) The pledge of Collateral made by the Authority in subsection (a) above shall, in accordance with the Act, be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and shall not be subject to other court judgments. Pursuant to the Act, the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the Authority, irrespective of whether such parties have notice thereof, and shall constitute a perfected security interest for all purposes of Chapter 1309 of the Ohio Revised Code and a perfected lien for purposes of any other interest, all without the necessity for separation or delivery of funds or for the filing or recording of the Trust Indenture, or proceedings relating thereto, or any certificate, statement, or other document with respect thereto.

(c) Except as specifically provided herein, this assignment and pledge of Collateral does not include: (i) the rights of the Authority pursuant to provisions for consent or other action by the Authority, notice to the Authority, indemnity or the filing of documents with the Authority, or otherwise for its benefit and not for that of the Bondholders or Benefited Parties, (ii) any other right or power reserved to the Authority pursuant to the Act or other law; nor does this Section preclude the Authority's enforcement of its rights under and pursuant to the 2007 Sale Agreement for the benefit of the Bondholders or, to the extent permitted by applicable State law, other Beneficiaries as provided herein. Unless otherwise specified in the Series Supplement applicable thereto, the proceeds of any Bonds, other than those deposited in the Senior Liquidity Reserve Account or in the Capitalized Interest Subaccount, do not constitute Collections, are not pledged to the holders of such Bonds and are not subject to the lien of the Trust Indenture.

(d) The Authority will implement, protect and defend this pledge and assignment of the Collateral by all appropriate legal action, the cost thereof to be an Operating Expense. The pledge and assignment made by this Trust Indenture and the covenants and agreements to be performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders to secure payment of any and all of the Outstanding Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of such Bonds over any other Bonds except as expressly provided herein or permitted hereby.

## **Section 2.02 Defeasance.**

(a) *Total Defeasance.* When (i) there is held by or for the account of the Trustee Defeasance Collateral in such principal amounts, bearing interest at such fixed rates and with such maturities, including any applicable redemption premiums, as will provide sufficient funds to pay, or to redeem in accordance with Section 5.06 of this Trust Indenture, all obligations to Holders in whole (to be verified by a nationally recognized firm of independent verification agents), (ii) any required notice of the deposit of Defeasance Collateral and any required notice

of redemption shall have been duly given in accordance with this Trust Indenture or irrevocable instructions to give notice shall have been given to the Trustee, (iii) all the rights hereunder of Beneficiaries (including parties to Ancillary Facilities) have been provided for and all incurred Operating Expenses have been satisfied in accordance with Section 2.03(c) of this Trust Indenture, and (iv) the Trustee shall have received an opinion of Counsel to the effect that such defeasance will not, in and of itself, cause interest on any Tax-Exempt Bond to be included in gross income for federal income tax purposes, then upon Written Notice from the Authority to the Trustee, such Beneficiaries under this Trust Indenture shall cease to be entitled to any benefit or security under this Trust Indenture, except the right to receive payment of the funds held in such defeasance escrow and other rights which by their nature cannot be satisfied prior to or simultaneously with termination of the lien hereof, this Trust Indenture, and the lien and rights created by this Trust Indenture (except in such funds and investments) shall terminate and become null and void, and the Authority and the Trustee shall execute and deliver such instruments as may be necessary to discharge the Trustee's lien and rights (except in such funds and investments) created hereunder. Upon such defeasance, the funds and investments required to pay or redeem the Bonds shall be irrevocably set aside for that purpose, subject, however, to Section 5.06 of this Trust Indenture, and money held for defeasance shall be invested only as provided above in this section and applied by the Trustee or other Paying Agents, if any, to the retirement of the Bonds. Any funds or other property held by the Trustee and not required for payment or redemption of the Bonds shall be distributed in accordance with the order of the Authority. Upon defeasance of all Outstanding Bonds, any funds or property held by the Trustee and not required for payment or redemption of such Bonds and such other obligations to Beneficiaries shall be distributed by the Trustee in accordance with Section 5.03(k) hereof. With respect to Indexed Floating Rate Bonds, for purposes of Section 2.02(a)(i), any such Bond will be assumed to bear interest from the end of the current Periodic Interest Accrual Period at its Maximum Rate to the date set for redemption.

(b) *Partial Defeasance.* The Authority may create a defeasance escrow for the retirement and defeasance of any Bonds (or portions of Bonds) (the "Bonds to be Defeased") by so directing the Trustee in an Officer's Certificate. When (i) there is held by or for the account of the Trustee Defeasance Collateral in such principal amounts, bearing interest at such fixed rates and with such maturities, including any applicable redemption premiums, as will provide sufficient funds to pay, or to redeem in accordance with Section 5.06 of this Trust Indenture, the Bonds to be Defeased (to be verified by a nationally recognized firm of independent verification agents), (ii) any required notice of redemption shall have been duly given in accordance with this Trust Indenture or irrevocable instructions to give notice shall have been given to the Trustee, along with the list identifying such Bonds to be Defeased, (iii) all the rights hereunder of the Fiduciaries and the Beneficiaries (including parties to Ancillary Facilities) applicable to the Bonds to be Defeased have been provided for and (iv) the Trustee shall have received an opinion of Counsel to the effect that such defeasance will not, in and of itself, cause interest on any Tax- Exempt Bond to be included in gross income for federal income tax purposes, then upon Written Notice from the Authority to the Trustee, the Beneficiaries under this Trust Indenture, shall cease to be entitled to any benefit or security under this Trust Indenture to the extent of such defeasance except the right to receive payment of the funds held in such defeasance escrow and other rights which by their nature cannot be satisfied prior to or simultaneously with the below-described termination of the lien and rights created by this Trust Indenture (except in such funds and investments) shall terminate with respect to such Bonds to

be Defeased. Upon such defeasance, the funds and investments required to pay or redeem the Bonds to be Defeased shall be irrevocably set aside for that purpose, subject, however, to Section 5.06 of this Trust Indenture, and money held for defeasance shall be invested only as provided above in this Section 2.02(b), and applied by the Trustee and other Paying Agents, if any, to the retirement of such Bonds, and such Bonds or portions of Bonds shall no longer be Outstanding hereunder. For purposes of clause (i) of the second sentence above, any Indexed Floating Rate Bond, if it is included as a Bond to be Defeased, will be assumed to bear interest from the end of the current Periodic Interest Accrual Period at its Maximum Rate to the date set for redemption. Upon full payment of any Indexed Floating Rate Bonds that are Defeased hereunder, the Trustee shall transfer excess amounts, if any, held in the defeasance escrow and attributable to such Indexed Floating Rate Bonds to the Collection Account to be treated as if they were Collections.

(c) *Defeasance of Turbo Term Bonds.* For each Defeased Turbo Term Bond of the same Maturity Date and Series, the Authority must determine a "Defeasance Redemption Schedule" as described in subsection (c)(i) and (c)(ii) below. In establishing the defeasance escrow, the Defeased Turbo Term Bonds may not be redeemed more slowly than the Defeasance Redemption Schedule.

(i) For a given Turbo Term Bond Maturity of a given Series, the Trustee shall determine the pro rata portion of each Projected Turbo Redemption (shown, with respect to each Series of the Series 2007 Bonds, in an exhibit to the 2007 Series Supplement) that is allocable to the Defeased Turbo Term Bonds and notify the Authority of such determination. The pro rata portion of each Projected Turbo Redemption shall be calculated as of the date of the defeasance by: (a) deducting the Turbo Redemptions which have already occurred from the earliest Projected Turbo Redemptions to arrive at a schedule of "Projected Turbo Redemptions Adjusted for Prior Payments"; (b) calculating a ratio of the Bond Obligation to be defeased of each Turbo Term Bond Maturity divided by the then Outstanding Bond Obligation of the Turbo Term Bond Maturity; and (c) applying that ratio to the Projected Turbo Redemptions Adjusted for Prior Payments, resulting in a schedule for each Turbo Term Bond Maturity defined as the "Defeasance Redemption Schedule," and each such payment referred to here as a "Defeasance Redemption."

(ii) For each Defeased Turbo Term Bond of the same Maturity Date and Series upon Written Notice from the Authority, and written direction to invest in Defeasance Collateral, the Trustee shall establish a defeasance escrow which: (a) redeems on the earliest possible date the Defeasance Redemptions which were originally projected to occur prior to the date of the defeasance, if any; and (b) thereafter, redeems the Defeasance Redemptions according to their Defeasance Redemption Schedule.

(iii) In order to establish the Projected Turbo Redemption Schedule in effect for each Turbo Term Bond Maturity of a given Series after each partial defeasance, the Trustee shall determine the schedule of Projected Turbo Redemptions Adjusted for Prior Payments then applicable, notify the Authority of such determination and permanently subtract the Defeasance Redemption Schedule from such schedule of Projected Turbo Redemptions Adjusted for Prior Payments.

(iv) The provisions of this Section 2.02(c) shall not be construed to limit the optional redemption of Bonds of a Series by the Authority pursuant to the applicable Series Supplement.

**Section 2.03 Payment of Bonds; Satisfaction and Discharge of Indenture.**

(a) Whenever all Bonds have been Fully Paid, all payments under each Ancillary Facility have been paid and all incurred Operating Expenses shall have been satisfied, then, upon Written Notice from the Authority to the Trustee (and subject to Section 2.02 of this Trust Indenture for Bonds that are deemed Fully Paid in accordance with Section 2.03(b)(iv) of this Trust Indenture), this Trust Indenture and the lien and rights created by this Trust Indenture shall terminate and become null and void, and the Authority and the Trustee shall execute and deliver such instruments as may be necessary to discharge the Trustee's lien created hereunder. Upon the discharge of the Trustee's lien created hereunder, the Trustee and the Authority shall cooperate in delivering instructions to the State to instruct the Escrow Agent under the MSA to transfer 2007 Sold Tobacco Receipts to or upon the order of the owner of the Residual Certificate.

(b) A Bond shall be deemed "Fully Paid" only if —

(i) such Bond has been canceled by the Trustee or delivered to the Trustee for cancellation, including but not limited to under the circumstances described in Section 3.03 of this Trust Indenture; or

(ii) such Bond shall have matured or been called for redemption and, on such Maturity Date or redemption date, money for the payment of the Bond Obligation, redemption premium, if any, and interest on such Bond is held by the Trustee in trust for the benefit of the person entitled thereto; or

(iii) such Bond is alleged to have been lost, stolen, destroyed, partially destroyed, or defaced and has been replaced as provided in Section 3.03(c) of this Trust Indenture; or

(iv) such Bond has been defeased as provided in subsection (a), (b) or (c) of Section 2.02 of this Trust Indenture (whether as part of a defeasance of all or less than all of the Bonds).

**ARTICLE III**

**THE BONDS**

**Section 3.01 Bonds of the Authority.**

(a) By Series Supplements complying with this Trust Indenture, the Authority may authorize, issue, sell and deliver the Series 2007 Bonds and one or more Series of Refunding Bonds, Additional Bonds or Fully Subordinate Bonds from time to time in such

principal amounts and Accreted Values at maturity as the Authority shall determine. The Bonds of each Series shall bear such dates, mature at such times, be subject to such terms of payment, bear interest at such rates, be in such form and denomination, carry such registration privileges, be executed in such manner, and be payable in such medium of payment, at such place and subject to such terms of redemption, as the Authority may provide herein and in the related Series Supplement. The proceeds of each Series of Bonds shall be applied as provided in the related Series Supplement.

(b) (i) Refunding Bonds may be issued to refund all Bonds in whole (including the funding of defeasance escrows and deposits to Accounts in connection with such issuance).

(ii) Refunding Bonds may be issued to refund Bonds in part (including the funding of defeasance escrows and deposits to Accounts in connection with such issuance) and Additional Bonds may be issued at the discretion of the Authority, but only if upon the issuance of such Refunding Bonds and/or Additional Bonds: (A) the amount on deposit in the Senior Liquidity Reserve Account immediately following the issuance of such Refunding Bonds and/or Additional Bonds will be at least equal to the Senior Liquidity Reserve Requirement; (B) no Event of Default shall have occurred and be continuing after the date of issuance of such Bonds; (C) the expected weighted average life of each Turbo Term Bond that will remain Outstanding after the date of issuance of the Refunding Bonds and/or Additional Bonds as computed on the basis of new projections on the date of sale of the Refunding Bonds and/or Additional Bonds will not exceed (x) the remaining expected weighted average life of each such Turbo Term Bond as computed by the Authority on the basis of new projections assuming that no such Refunding Bonds and/or Additional Bonds are issued, plus (y) one year; and (D) a Rating Confirmation is received for any Bonds that will remain Outstanding after the date of issuance of the Refunding Bonds and/or Additional Bonds which are then rated by a Rating Agency.

(iii) One or more Series of Bonds (the "Fully Subordinate Bonds") may be issued for any lawful purpose if there is no payment permitted for such bonds until all previously issued Bonds are Fully Paid. Fully Subordinate Bonds may be issued without satisfying the requirements of Section 3.01(b)(ii) of this Trust Indenture.

(c) The Bonds shall be executed in the name of the Authority by the signature or facsimile signature of an Authorized Officer. The authenticating certificate of the Trustee shall be manually signed at the written direction of the Authority. Coupons attached to a Coupon Bond shall be authenticated by the facsimile or manual signature of an Authorized Officer unless the Authority shall, in the Series Supplement relating to such Coupon Bond, or by resolution or otherwise, provide that such coupons shall be authenticated by the facsimile or manual signature of the Trustee. Obligations executed as set forth above shall be valid and binding obligations of the Authority when duly delivered, notwithstanding the fact that before the delivery thereof an Authorized Officer executing the same shall, on the date of execution, have been an Authorized Officer but shall have ceased holding such office or may have been designated to perform such functions on the date of delivery.

(d) The principal of, redemption premium, if any, and the interest on the Bonds shall be payable in lawful currency of the United States. The principal of and redemption premium, if any, on the Bonds shall be payable at the principal office of the Paying Agent upon presentation and surrender of the Bonds. Payments of interest on the Bonds will be mailed by the Paying Agent on each Distribution Date to the persons in whose names the Bonds are registered at the close of business on the Record Date next preceding such Distribution Date; provided, any Holder of a Bond or Bonds in an aggregate principal amount of not less than \$1,000,000 may, by prior written instructions filed with the Paying Agent (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments for any period be made by wire transfer to an account in the continental United States or other means acceptable to the Paying Agent.

**Section 3.02 Documents to be Delivered to Trustee.** The Authority may from time to time request the authentication and delivery of a Series of Bonds by providing to the Trustee (at or prior to such authentication and delivery) the following:

(a) copies of the 2007 Sale Agreement and each applicable Series Supplement, certified by an Authorized Officer of the Authority;

(b) with respect to Bonds other than the Series 2007 Bonds or any Fully Subordinate Bonds, a Rating Confirmation with respect to Outstanding Bonds;

(c) an opinion of Counsel as to the due authorization, execution and delivery by the Authority of this Trust Indenture and each relevant Series Supplement; to the effect that the Series Supplement is in full force and effect and that the Bonds being issued are valid and binding obligations of the Authority payable from the sources and in the order of priority specified in the Trust Indenture; and to the effect that the Trust Indenture creates a valid and binding pledge and assignment in the Collateral as security to the Trustee pursuant to Section 2.01 of the Trust Indenture;

(d) such other documents as may be required by the applicable Series Supplements;

(e) an Officer's Certificate of the Authority to the effect that the applicable conditions to the issuance of Bonds set forth in this Section 3.02 and, with respect to Refunding Bonds, set forth in Section 3.01(b), and in each applicable Series Supplement, have been met; and

(f) a written order of an Authorized Officer of the Authority to authenticate the Bonds.

**Section 3.03 Transfer, Conversion and Replacement of Bonds.** (a) *Transfer.* A registered Bond shall be transferable upon presentation to the Trustee with a written transfer of title of the registered owner. Such transfer shall be dated, and signed by such registered owner, or his legal representatives, and shall be duly acknowledged or proved, or the signature certified as to its genuineness by an officer of a securities dealer, bank or trust company. The name of the transferee shall be entered in the books kept by the Trustee and:

(i) the transferee shall be provided with a new Bond, of substantially the same form and tenor as the Bond presented, except as provided below;

(ii) the new Bond shall be signed and attested, either (a) by manual or facsimile signature by the appropriate persons in office at the time of delivery to the transferee, or (b) by facsimile signature of the appropriate persons in office at the time of issuance;

(iii) the new Bond shall be executed as of the date of the Bond presented and shall be authenticated as of the date of delivery of the new Bond;

(iv) the Bond presented shall be cancelled and destroyed by standard means used by the Trustee and a certificate of destruction shall be filed with the Authority and the Trustee;

(v) no interest shall be paid on a Bond issued in registered form until the name of the payee has been inserted therein and such Bond has been registered as provided herein; and

(vi) the principal of, redemption premium, if any, and interest on a Bond which has been registered shall be payable only to the registered owner, his legal representatives, successors or transferees.

(b) *Conversion.* The Authority may provide by Series Supplement for conversion of registered Bonds into Coupon Bonds, conversion of Coupon Bonds into registered Bonds, and such other matters as it may deem necessary in connection with the issuance of Coupon Bonds.

(c) *Replacement.* The Authority may issue, and the Trustee shall authenticate at the written direction of an Authorized Officer of the Authority, a new Bond or coupon to replace one lost, destroyed, partially destroyed or defaced, in accordance with the following:

(1) If the Bond or coupon is claimed to be lost or destroyed, the owner shall furnish:

(A) Proof of ownership.

(B) Proof of loss or destruction.

(C) In the case of a coupon, and in the case of a Bond if such Bond was payable to bearer, security to be approved by the Authority and the Trustee, sufficient to indemnify the Authority and the Trustee against any loss or damage that may be incurred by it on account of the Bond or coupon so claimed to be lost or destroyed. Such security, when the approval of the Authority and the Trustee has been indicated thereon, shall be filed in the office of the Authority and the Trustee.

(D) Payment of the cost of preparing, issuing, mailing, shipping or insuring the new Bond or coupon.

(2) If the Bond or coupon is defaced or partially destroyed, the owner shall surrender such Bond or coupon and pay the cost of preparing and issuing the new Bond or coupon.

(3) The new Bond or coupon shall be of substantially the same form and tenor as the one originally issued, except that it shall be signed either by (i) the manual or facsimile signature of the appropriate person or persons in the office at the time of the reissuance, or (ii) the facsimile signature of the appropriate person or persons in office at the time of the original issuance or any time between original issuance and reissuance. The new Bond shall be authenticated in the manner provided herein. If the Bond or coupon is issued in the place of one claimed to be lost or destroyed, it shall in addition state upon the back thereof that it is issued in the place of such Bond or coupon claimed to have been lost or destroyed, and, where applicable, that security or indemnity satisfactory to it for its payment in full at maturity is filed with the Authority and the Trustee. The Trustee shall make an appropriate entry in its records of any new Bond or coupon issued pursuant to this Section.

Neither the Trustee nor the Registrar shall have any responsibility to monitor or restrict the transfer of beneficial ownership in any Bond registered in the name of DTC or its nominee, an interest in which is transferable through DTC.

**Section 3.04 Securities Depositories.** (a) *Immobilized Bonds.* Unless otherwise provided by a Series Supplement, the Bonds, upon original issuance, will be issued in the form of typewritten Bonds, to be delivered to the order of DTC by or on behalf of the Authority. Such Bonds shall initially be registered in the name of DTC (in its nominee name of Cede & Co.) and no beneficial owner will receive a certificate representing an interest in any Bond, except as provided in Section 3.04(b). Unless and until Bonds of a Series have been issued to Holders other than DTC:

(i) the Authority and each Fiduciary, except to the extent specifically provided in Ancillary Facilities, shall be entitled to deal with DTC for all purposes of this Trust Indenture (including the payment of Bond Obligations of and interest on such Bonds and the giving of notices, instructions or directions hereunder) as the sole Holder of such Bonds, and neither the Authority nor any Fiduciary shall have any responsibility or obligation to any participant in DTC, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other person which is not shown on the register as being a registered owner, with respect to any of (i) the Bonds, (ii) the accuracy of any records maintained by DTC or any such participant, (iii) any consent given or other action taken by DTC as registered owner, or (iv) any selection by DTC of any participant or other person to receive payment of principal, premium, interest or redemption price of the Bonds;

(ii) the rights of beneficial owners shall be exercised only through DTC; and

(iii) to the extent that the provisions of this Section 3.04(a) conflict with any other provisions of this Trust Indenture except express terms of a Series Supplement, the provisions of this Section shall control; to the extent that the provisions of this Section conflict with the express terms of a Series Supplement, such Series Supplement shall control.

(b) *Withdrawal from DTC.* If (i) the Authority advises the Trustee in writing that DTC is no longer willing or able to properly discharge its responsibilities with respect to the Bonds or a Series or other portion thereof, and the Authority is unable to locate a qualified successor Securities Depository, (ii) the Authority at its option advises the Trustee in writing that it elects to terminate the book-entry system through DTC or (iii) after the occurrence of any Event of Default, beneficial owners representing a Majority in Interest of Aggregate Bond Obligation of the Bonds held by DTC advise DTC in writing that the continuation of a book-entry system through DTC is no longer in the best interests of the beneficial owners, then DTC shall notify its Participants (as defined in its rules and regulations) and the Trustee of the occurrence of any such event and of the availability of Bonds to registered owners requesting the same. Upon surrender to the Trustee of the typewritten Bonds by DTC, accompanied by registration instructions, the Authority shall execute and provide to the Trustee, and the Trustee shall authenticate, Bonds in accordance with the instructions of DTC. None of the Authority, the State or the Trustee shall be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be fully protected in relying on, such instructions.

#### **Section 3.05 Calculation Agent; Determination of the Benchmark Rate.**

(a) The Authority hereby agrees that for so long as any of the Indexed Floating Rate Bonds remain Outstanding, there will at all times be a Calculation Agent appointed to calculate the Benchmark Rate for each Periodic Interest Accrual Period and for the Assumed Rate with respect to the Indexed Floating Rate Bonds. The Trustee shall serve as agent with respect to the determination of the Benchmark Rate, unless the Authority appoints a successor Calculation Agent. The Calculation Agent may be removed by the Authority at any time for or without cause. If the Calculation Agent is unable or unwilling to act as such or is removed by the Authority, or if the Calculation Agent fails to determine the Benchmark Rate for a Periodic Interest Accrual Period or for the Assumed Rate, the Authority will promptly appoint as a replacement Calculation Agent a leading bank which is engaged in transactions in U.S. dollar deposits in the international U.S. dollar market and which does not control or is not controlled by or under common control with the Authority. The Calculation Agent may not resign or be removed from its respective duties without a successor having been duly appointed.

(b) The Calculation Agent shall determine the Benchmark Rate for each Periodic Interest Accrual Period in accordance with the provisions set forth in a Series Supplement.

## ARTICLE IV

### USE OF BOND PROCEEDS

**Section 4.01 Use of Bond Proceeds.** Subject to a Series Supplement, the proceeds of Bonds net of underwriters' discount may be used as follows:

- (a) To pay Costs of Issuance;
- (b) To establish and fund reserve funds, capitalized operating expenses or capitalized interest, if any, or debt service on Bonds;
- (c) To pay or provide for the payment of Bonds consistent with the provisions of Section 2.02 hereof; and
- (d) Net Proceeds are to be used as specified in a Series Supplement.

## ARTICLE V

### FLOW OF FUNDS

**Section 5.01 Funds and Accounts.** The following Funds and Accounts are hereby established and shall be held and maintained by the Trustee, the Collection Account and the Bond Service Fund constituting "Special Funds" under the Act:

Collection Account

Bond Service Fund:

Senior Debt Service Account and within the Senior Debt Service Account,  
the Capitalized Interest Subaccount;

Senior Liquidity Reserve Account;

Senior Turbo Redemption Account;

Partial Lump Sum Payment Account;

First Subordinate Turbo Redemption Account, Second Subordinate Turbo  
Redemption Account, and Fully Subordinate Turbo Redemption Account

The following accounts shall be held and maintained by the Trustee on behalf of the Authority and are not Pledged Accounts nor are such accounts subject to the lien of the pledge and assignment described in Section 2.01 of this Trust Indenture:

Costs of Issuance Account

## Operating Account

The following account shall be held and maintained by the Authority and is not a Pledged Account nor is such account subject to the lien of the pledge and assignment described in Section 2.01 of this Trust Indenture:

### Enforcement Expense Reserve Account

An Authorized Officer of the Authority may direct the Trustee to, and the Trustee shall establish a Rebate Account, which shall not be a Pledged Account, to account for and act as a repository for any penalties, fines or other payments (including, but not limited to, arbitrage and yield reduction payments) required to be made to the United States of America pursuant to the arbitrage or rebate provisions of the Code, relating to Tax-Exempt Bonds. Moneys in the Rebate Account shall be disbursed as directed by an Authorized Officer of the Authority, in accordance with the Tax Certificate. The Authority may by Supplemental Indenture establish additional Pledged Accounts hereunder.

Moneys in the Pledged Accounts shall be invested in accordance with Section 5.07 of this Trust Indenture. In the event funds transfer instructions are given (other than in writing at the time of the execution of the Trust Indenture), whether in writing, by telecopier or otherwise, the Trustee is authorized to seek confirmation of such instructions by telephone call-back to the person or persons designated by an Authorized Officer of the Authority, and the Trustee may rely upon the confirmations of anyone purporting to be the person or persons so designated. The persons and telephone numbers of call-backs may be changed only in writing actually received and acknowledged by the Trustee.

**Section 5.02 Costs of Issuance.** Upon issuance of a Series of Bonds, the amount of proceeds thereof specified in or pursuant to the Series Supplement relating to such Bonds shall be deposited in the Costs of Issuance Account for payment of the Costs of Issuance. Payments of the Costs of Issuance not paid at the time a Series of Bonds is issued shall be made by the Trustee from the proceeds of such Series of Bonds on deposit in the Costs of Issuance Account upon receipt of an Officer's Certificate stating with respect to each payment the name of each payee, the amount payable to each payee and that each payment constitutes Costs of Issuance. Any money or investments held in the Costs of Issuance Account in excess of the amount required to pay any Costs of Issuance then unpaid, as determined in accordance with an Officer's Certificate shall be transferred to the Operating Account and used by the Authority to pay Operating Expenses.

### **Section 5.03 Application of Collections.**

(a) All Pledged Tobacco Receipts received by the Trustee shall be promptly deposited by the Trustee into the Collection Account. All Collections that have been identified by an Officer's Certificate as consisting of Partial Lump Sum Payments received by the Trustee shall be promptly (and in any event, no later than the Business Day immediately preceding the next Distribution Date) transferred to the Partial Lump Sum Payment Account, in accordance with the instructions received by the Trustee pursuant to an Officer's Certificate. All Collections

that have been identified by an Officer's Certificate as consisting of Total Lump Sum Payments received by the Trustee shall be promptly (and in any event, no later than the Business Day immediately preceding the next Distribution Date) applied as described in subsection (e) of this Section 5.03 in accordance with the instructions received by the Trustee pursuant to an Officer's Certificate. Not later than on each Distribution Date, the Trustee shall deposit in the Collection Account and apply as described in the following paragraph, all Collections consisting of investment earnings on amounts on deposit with the Trustee in the Pledged Accounts (excluding amounts in the Partial Lump Sum Payment Account), except that unless otherwise specified in a Series Supplement relating to a Series of Bonds, all amounts in the Senior Liquidity Reserve Account in excess of the Senior Liquidity Reserve Requirement determined to exist pursuant to the valuation procedure described in Section 5.07(b) of this Trust Indenture shall be transferred to the Senior Debt Service Account (except as otherwise provided in Section 5.06(j) of this Trust Indenture).

(b) As soon as is practicable, but in any event no later than the earlier of (x) the fifth Business Day following each Deposit Date, or (y) the Distribution Date following each Deposit Date, the Trustee shall withdraw the funds on deposit in the Collection Account and transfer such amounts as follows in the following order of priority:

(i) to the Operating Account, an amount sufficient to cause the amount therein to equal the amount specified by the Officer's Certificate most recently delivered or deemed delivered pursuant to Section 6.03(b) of this Trust Indenture in order to pay, for the twelve-month period applicable to such Officer's Certificate, (x) the Operating Expenses to the extent that the amount thereof does not exceed the Operating Cap (provided, that any such Operating Expenses consisting of Enforcement Expenses must be identified in such Officer's Certificate as to be paid in accordance with this Section 5.03(b)(i)), (y) the Tax Obligations, and (z) Priority Payments;

(ii) to the Senior Debt Service Account, an amount sufficient to cause the amount therein (taking into account any amounts already on deposit in the Capitalized Interest Subaccount or the Senior Debt Service Account) to equal the sum of (x) interest at the stated rate on Outstanding Fixed Rate Bonds which are Senior Bonds, plus (y) interest at the Applicable Periodic Rate on Outstanding Indexed Floating Rate Bonds which are Senior Bonds through the next Distribution Date (after the current Periodic Interest Accrual Period, at the Assumed Rate to the next succeeding Distribution Date), and all Parity Swap Payments that will come due (i) in the next succeeding Bond Year, if the Deposit Date is on or after December 1 and on or before May 31 of any Bond Year, or (ii) in the then-current Bond Year, if the Deposit Date is on or after June 1 and on or before November 30 of any Bond Year, plus (z) any such unpaid interest on the Outstanding Current Interest Bonds which are Senior Bonds and all Parity Swap Payments from prior Distribution Dates (including interest at the stated rate or Applicable Periodic Rate on such unpaid interest, to the extent legally permissible); and the amounts to be deposited pursuant to this Section shall be calculated assuming that the Bond Obligation on the Outstanding Current Interest Bonds which are Senior Bonds will have been paid as described in clauses (ii), (iii), (iv) and (v) of Section 5.03(c) of this Trust Indenture;

(iii) to the Senior Debt Service Account, an amount sufficient to cause the amount therein to equal the amount specified in clause (ii) above plus the sum of (a) if the Deposit Date is on or after December 1 and on or before May 31 of any Bond Year, the Serial Bond maturities, Sinking Fund Installment or Term Bond maturities (including Turbo Term Bond Maturities) due for Senior Bonds in or scheduled for the next succeeding Bond Year, plus (b) any such Serial Bond maturities, Sinking Fund Installment or Term Bond maturities (including Turbo Term Bond Maturities) unpaid from prior Distribution Dates, but the amount of each Sinking Fund Installment shall first be adjusted as described in Section 5.06(e) of this Trust Indenture;

(iv) unless a Payment Default has occurred, to the Senior Liquidity Reserve Account an amount sufficient to cause the amount on deposit therein to equal the Senior Liquidity Reserve Requirement; provided that on any Distribution Date on which the amount in the Senior Liquidity Reserve Account (less any amount necessary to be paid in connection with the liquidation of the investment of amounts in the Senior Liquidity Reserve Account, including a Termination Payment) equals or exceeds the Bond Obligation and interest on all Outstanding Senior Bonds, the amount on deposit in the Senior Liquidity Reserve Account (less any amounts necessary to be paid in connection with liquidating investments in the Senior Liquidity Reserve Account including a Termination Payment) shall first be transferred to the Senior Turbo Redemption Account and applied to the Turbo Redemption of all Outstanding Senior Bonds, and if all Senior Bonds are no longer Outstanding, second, will be transferred to the First Subordinate Turbo Redemption Account and applied to the Turbo Redemption of Outstanding First Subordinate Bonds, and if all Senior Bonds and First Subordinate Bonds are no longer Outstanding, and third, will be transferred to the Second Subordinate Turbo Redemption Account and applied to the Turbo Redemption of Outstanding Second Subordinate Bonds, and if all Senior Bonds, First Subordinate Bonds and Second Subordinate Bonds are no longer Outstanding;

(v) to the Operating Account, the amount, if any, necessary to make the amount therein equal to the amount specified by the Officer's Certificate most recently delivered or deemed delivered pursuant to Section 6.03(b) of this Trust Indenture in order to pay, for the twelve-month period applicable to such Officer's Certificate, the Operating Expenses (other than Enforcement Expenses), if any, in excess of the Operating Cap;

(vi) to the Authority for payment or reimbursement of Enforcement Expenses, the amount as specified in an Officer's Certificate (provided, that any such Enforcement Expenses must be identified in such Officer's Certificate as to be paid in accordance with this Section 5.03(b)(vi)), provided that such amount and all prior such transfers for Enforcement Expenses for the current Fiscal Year shall not exceed the Enforcement Expense Transfer Cap;

(vii) in the amounts and to the Funds and Accounts established by the Series Supplement for Junior Payments;

(viii) to or at the direction of the Authority, to pay any Termination Amount due under an Ancillary Facility executed in connection with Senior Bonds, not to exceed the related Termination Payment Cap (if any);

(ix) to the Senior Turbo Redemption Account, all amounts remaining in the Collection Account until no Senior Bonds are Outstanding;

(x) to the First Subordinate Turbo Redemption Account, all amounts remaining in the Collection Account until no First Subordinate Bonds are Outstanding;

(xi) to the Second Subordinate Turbo Redemption Account, all amounts remaining in the Collection Account, until no Second Subordinate Bonds are Outstanding; and

(xii) to the Fully Subordinate Turbo Redemption Account, all amounts remaining in the Collection Account until no Fully Subordinate Bonds are Outstanding.

(c) Unless a Payment Default has occurred and continues, on each Distribution Date the Trustee shall apply amounts in the various Accounts in the following order of priority:

(i) from the Capitalized Interest Subaccount, the Senior Debt Service Account, the Partial Lump Sum Payment Account, and the Senior Liquidity Reserve Account, in that order, to pay interest at the stated rate on Outstanding Fixed Rate Bonds which are Senior Bonds, interest at the Applicable Periodic Rate on Outstanding Indexed Floating Rate Bonds which are Senior Bonds and all Parity Swap Payments due on such Distribution Date;

(ii) from the Senior Debt Service Account and the Partial Lump Sum Payment Account, in that order, to pay, in the following order, the Serial Bond maturities, if any, Sinking Fund Installments and Term Bond maturities (including Turbo Term Bond Maturities) (subject to Section 5.06(e)(iii)) for Senior Bonds first, for such Senior Bonds unpaid from prior Distribution Dates and second, for such Senior Bonds due on or scheduled for such Distribution Date, provided (A) that the amount of such Sinking Fund Installment shall first have been adjusted as described in Section 5.06(e) of this Trust Indenture, (B) the Trustee shall not pay a Sinking Fund Installment or a Term Bond maturity (including Turbo Term Bond Maturities) pursuant to this subsection unless the Senior Debt Service Account will contain, after giving effect to such payment, sufficient funds to pay interest due on Senior Bonds on the next succeeding Distribution Date, such interest to be calculated at the stated rate on Outstanding Fixed Rate Bonds and at the Periodic Interest Amount for the current Period Interest Accrual Period and then at the Assumed Rate on Outstanding Indexed Floating Rate Bonds through the next succeeding Distribution Date, and (C) all Senior Bonds shall be paid in accordance with clause (a) of the Payment Priorities;

(iii) from the Senior Liquidity Reserve Account to pay in the following order, the Serial Bond maturities, if any, and Term Bond maturities (including Turbo Term Bond Maturities) for Senior Bonds due on or scheduled for such Distribution Date or

unpaid from prior Distribution Dates (subject to Section 5.06(e)(iii)), and then to reimburse the provider of any Eligible Investment referred to in (i) of the definition of "Eligible Investment" for any payment under or draw on such investment for a purpose for which the Senior Liquidity Reserve Account is otherwise available, provided (A) that the amount of such Turbo Term Bond Maturities shall first have been adjusted as described in Section 5.06(e) and (B) the Trustee shall not pay a Serial Bond maturity or Term Bond maturity (including a Turbo Term Bond Maturity) pursuant to this subsection unless the Senior Debt Service Account and the Senior Liquidity Reserve Account in the aggregate will, after giving effect to such payment, contain sufficient funds to pay interest due on the next succeeding Distribution Date, such interest to be calculated at the stated rate on Outstanding Fixed Rate Bonds and at the Periodic Interest Amount for the current Period Interest Accrual Period and then at the Assumed Rate on Outstanding Indexed Floating Rate Senior Bonds through the next succeeding Distribution Date, and (C) all Senior Bonds shall be paid in accordance with clause (a) of the Payment Priorities;

(iv) from the Senior Turbo Redemption Account, to redeem Senior Bonds which are Turbo Term Bonds on such Distribution Date or a special redemption date established pursuant to Section 5.06(c) of this Trust Indenture in accordance with Section 5.06(d) of this Trust Indenture; provided that all Senior Bonds shall be redeemed in accordance with clause (a) of the Payment Priorities;

(v) from the Partial Lump Sum Payment Account, but only as directed in an Officer's Certificate delivered by the Authority and accompanied by Rating Confirmation, to redeem Turbo Term Bonds on such Distribution Date or a special redemption date established pursuant to Section 5.06(c) of this Trust Indenture in accordance with Section 5.06(d) of this Trust Indenture, provided that any redemptions shall redeem Bonds in accordance with the Payment Priorities;

(vi) from the First Subordinate Turbo Redemption Account, to redeem First Subordinate Bonds on such Distribution Date (or a special redemption date established pursuant to Section 5.06(c) of this Trust Indenture) in accordance with Section 5.06(d) of this Trust Indenture;

(vii) from the Second Subordinate Turbo Redemption Account, to redeem Second Subordinate Bonds on such Distribution Date (or a special redemption date established pursuant to Section 5.06(c) of this Trust Indenture) in accordance with Section 5.06(d) of this Trust Indenture; and

(viii) from the Fully Subordinate Turbo Redemption Account, to redeem Fully Subordinate Bonds as provided in the applicable Series Supplement.

(d) Upon the occurrence of any Payment Default and continuing on each succeeding Distribution Date commencing with the Distribution Date following a Payment Default:

(i) until the Senior Bonds are no longer Outstanding, the Trustee shall apply all funds in the Senior Debt Service Account, the Senior Liquidity Reserve Account, the

Partial Lump Sum Payment Account and the Senior Turbo Redemption Account to pay Pro Rata, first, the accrued interest on the Current Interest Bonds which are Senior Bonds (including Senior Convertible Capital Appreciation Bonds on and after the Conversion Date) and all Parity Swap Payments (including, in each case, interest at the stated rate or the Applicable Periodic Rate, as the case may be, on any unpaid interest, to the extent legally permissible) and, second, to pay and prepay the Bond Obligation on all Senior Bonds then Outstanding;

(ii) until the First Subordinate Bonds are no longer Outstanding, the Trustee shall apply all funds in the Partial Lump Sum Payment Account and the First Subordinate Turbo Redemption Account (but only if no Senior Bonds are Outstanding) to pay and prepay, Pro Rata, the Bond Obligation and interest, if any, on all First Subordinate Bonds then Outstanding;

(iii) until the Second Subordinate Bonds are no longer Outstanding, the Trustee shall apply all funds in the Partial Lump Sum Payment Account and the Second Subordinate Turbo Redemption Account (but only if no Senior Bonds or First Subordinate Bonds are Outstanding) to pay and prepay, Pro Rata, the Bond Obligation and interest, if any, on all Second Subordinate Bonds then Outstanding;

(iv) the application of funds with respect to Fully Subordinate Bonds shall be in accordance with the provisions of the applicable Series Supplement; and

(v) notwithstanding anything to the contrary in this Trust Indenture, the value of any Capital Appreciation Bonds shall continue to accrete at the Default Rate (including accretion on any unpaid Accreted Value), to the extent legally permissible, after the Maturity Date for such Bonds if not Fully Paid on the Maturity Date.

(e) Upon the receipt of a sum that has been identified by an Officer's Certificate as a Total Lump Sum Payment, the Trustee shall, after making provision for the amounts required to be deposited pursuant to subsection (b)(i) of this Section 5.03 and giving the notices required by Sections 5.06(b) and 6.10 of this Trust Indenture, use all remaining proceeds of such Total Lump Sum Payments to make the following payments and prepayments, each Pro Rata, in the following order of priority:

(i) pay the accrued interest on the Current Interest Senior Bonds (including Convertible Capital Appreciation Senior Bonds on and after the Conversion Date) which are Senior Bonds (including interest at the stated rate or the Applicable Periodic Rate, as the case may be, on any unpaid interest, to the extent legally permissible);

(ii) pay and prepay the Bond Obligation on all Senior Bonds then Outstanding;

(iii) pay and prepay the Bond Obligation and interest, if any, on all First Subordinate Bonds then Outstanding;

(iv) pay and prepay the Bond Obligation and interest, if any, on all Second Subordinate Bonds then Outstanding; and

(v) pay and prepay Fully Subordinate Bonds in accordance with the provisions of the applicable Series Supplement.

(vi) After making all deposits and payments set forth above, and provided that there are no Outstanding Bonds and no obligations to make payments under any Ancillary Facility, the Trustee shall deliver any amounts remaining from such Total Lump Sum Payment to the holder of the Residual Certificate.

(f) Funds in the Operating Account shall be applied by the Authority or by the Trustee at the request of the Authority at any time, in accordance with directions in an Officer's Certificate pursuant to Section 6.03(b), to pay Operating Expenses, Tax Obligations and Priority Payments.

(g) On or prior to any Deposit Date, the Authority may by an Officer's Certificate treat anticipated receipts on an Interest Rate Exchange Agreement as offsets to interest or Bond Obligation if the counterparty is limited to entities (i) the debt securities of which are rated at least "A1" by Moody's and in one of the three highest long-term debt rating categories by S&P and Fitch (if rated by Fitch) or (ii) the obligations of which under the Interest Rate Exchange Agreement are either so rated or guaranteed or insured by an entity the debt securities or insurance policies of which are so rated or (iii) the debt securities of which are rated in the three highest long-term debt rating category by Moody's, S&P and Fitch (if rated by Fitch) or whose obligations are guaranteed or insured by an entity so rated, in either case the obligations of which under the contract are continuously and fully secured by Eligible Investments meeting criteria provided by the Rating Agencies to the Authority and then in effect.

(h) The Authority may determine at any time to (i) deposit Cash Equivalents in the Senior Liquidity Reserve Account upon issuance of a Series of Bonds, or (ii) substitute Cash Equivalents for amounts on deposit in the Senior Liquidity Reserve Account, any such substitution to be made with a Rating Confirmation and, if there are Tax-Exempt Bonds Outstanding, an opinion of Counsel to the effect that such action shall not impair the exemption from federal income tax of interest on the Tax-Exempt Bonds, if any, in which event the Trustee shall release to the Authority, free and clear of the lien of the Trust Indenture, the cash amounts and investments replaced by the Cash Equivalents.

(i) The transfer and payments to be made under this Article shall be appropriately adjusted by Series Supplement or Officer's Certificate of the Authority delivered to the Trustee to reflect the date of issue of Bonds, any accrued or capitalized interest deposited in the Bond Service Fund, actual rates of interest, any amount needed or held in the Accounts for Senior Debt Service, and any purchase or redemption of Bonds, so that there will be available on each Distribution Date the amount necessary to pay Senior Debt Service and so that accrued or capitalized interest will be applied to the installments of interest to which it is applicable.

(j) Notwithstanding anything in this Trust Indenture to the contrary, moneys in the Senior Liquidity Reserve Account shall (i) prior to a Payment Default, be available at the times, in the amounts, and in the manner as described in this Section 5.03, to pay principal of and interest on Senior Bonds which are Current Interest Bonds and (ii) after a Payment Default, be available at the times, in the amounts and in the manner described in this Section 5.03, to pay

and prepay the Bond Obligation and interest on all Senior Bonds, including Capital Appreciation Bonds and Convertible Capital Appreciation Bonds.

(k) After making all deposits and payments set forth in this Section 5.03, and provided that there are no Outstanding Bonds and no obligations to make payments under any Ancillary Facility or incurred but unpaid Operating Expenses, the Trustee shall deliver any amounts remaining in any Pledged Account to the registered owner of the Residual Certificate upon presentation of the Residual Certificate to the Trustee.

**Section 5.04 Bond Service Fund.** Money shall be deposited in the Bond Service Fund from the Collection Account as provided in this Trust Indenture. The money in the Bond Service Fund shall be held in trust and, except as otherwise provided in this Trust Indenture, shall be applied solely to the payment of Senior Debt Service on Senior Bonds and Turbo Redemptions on Bonds at the times and in the priority specified in this Trust Indenture. The Bond Service Fund includes the Capitalized Interest Subaccount, Senior Debt Service Account, Partial Lump Sum Payment Account, Senior Liquidity Reserve Account, Senior Turbo Redemption Account, First Subordinate Turbo Redemption Account, Second Subordinate Turbo Redemption Account, and Fully Subordinate Turbo Redemption Account, and such other Accounts as may be established in the Bond Service Fund by Series Supplement or Supplemental Indenture.

**Section 5.05 Ancillary Facilities, Including Interest Rate Exchange Agreements.** The Authority may enter into, amend or terminate, as it determines to be necessary or appropriate, Ancillary Facilities, including Interest Rate Exchange Agreements, and may by Series Supplement provide for the payment of amounts due thereunder as Junior Payments or, to the extent permitted hereunder, as Parity Swap Payments or Priority Payments.

**Section 5.06 Redemption of the Bonds.** (a) *Generally.* When Bonds are called for redemption, the accrued interest thereon shall be due on the date fixed for redemption. With respect to any optional redemptions pursuant to subsection (g) of this Section 5.06, the Authority shall deposit with the Trustee on or prior to the date fixed for redemption a sufficient sum to pay the Bond Obligation, redemption premium, if any, and accrued interest on, the Bonds to be redeemed on the date fixed for redemption. If notice of redemption has been duly given as herein provided and money for the payment of the redemption price of the Bonds called for redemption is held by the Trustee, then on the redemption date designated in such notice, Bonds so called for redemption shall become due and payable, and from and after the date so designated, interest on such Bonds shall cease to accrue or such Bond shall cease to accrete in value, as applicable, and the Holder of such Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

(b) *Notice of Redemption.* Except as otherwise provided in a Series Supplement, when a Bond is to be redeemed prior to its stated maturity date, the Trustee shall give notice to the Holder thereof and each Rating Agency as required by Section 6.10 of this Trust Indenture in the name of the Authority, which notice shall identify the Bond to be redeemed, state the date fixed for redemption, state any conditions for the redemption of such Bond, and state that such Bond will be redeemed at the Corporate Trust Office of the Trustee or a Paying Agent. The notice shall further state that on such date, if any conditions to such redemption shall have been satisfied, there shall become due and payable upon each Bond to be

redeemed the redemption price thereof, together with interest accrued or accreted to the redemption date, and upon money therefor having been deposited with the Trustee or Paying Agent, from and after such date, interest thereon shall cease to accrue on Current Interest Bonds or accrete on Capital Appreciation Bonds, in each case that are the subject of such notice. The Trustee shall give at least 15 days notice by mail, or otherwise transmit the redemption notice in accordance with any appropriate provisions hereof, to the registered owners of any Bonds which are to be redeemed, at their addresses shown on the registration books of the Authority. Such notice may be waived by any Holders holding Bonds to be redeemed. Failure by a particular Holder to receive notice, or any defect in the notice to such Holder, shall not affect the proceedings for the redemption of any Bond. Any notice of redemption given pursuant to this Trust Indenture may be rescinded by Written Notice to the Trustee by the Authority no later than 5 days prior to the date specified for redemption if any conditions to redemption stated in the redemption notice shall not have been satisfied. The Trustee shall give notice of such rescission as soon thereafter as practicable in the same manner and to the same persons, as notice of such redemption was given as described in this subsection (b). In making the determination as to how much money will be available in a Turbo Redemption Account on any Distribution Date for the purpose of giving notice of redemption under this subsection (b), the Trustee shall take into account investment earnings which it reasonably expects to be available for application pursuant to Section 5.03 hereof.

(c) *Sinking Fund Installments and Turbo Term Bond Maturity.* The Turbo Term Bonds shall be redeemed in whole or in part prior to their stated maturity, to the extent funds are available, on any Distribution Date, following notice of such redemption in accordance with Section 5.06(b) hereof, in accordance with the schedule of Sinking Fund Installments and Turbo Term Bond Maturities set forth in the applicable Series Supplement. Sinking Fund Installments shall be credited as described in subsection (e) of this Section 5.06. If less than all of the Turbo Term Bonds of a particular Series, interest rate (or "original issue yield" for Capital Appreciation Bonds) and Maturity Date are to be redeemed pursuant to this subsection, the Holders of the Turbo Term Bonds shall be paid in accordance with subsection (h) of this Section 5.06. The Trustee may specify a special redemption date, for purposes of redeeming Turbo Term Bonds if amounts are available therefor pursuant to Sections 5.03(c)(iv), (v), (vi) and (vii) and if the Trustee is instructed to do so by the Authority in an Officer's Certificate.

(d) *Turbo Redemptions.* The Turbo Term Bonds which are Senior Bonds shall be redeemed, selected in the manner described in Section 5.06(e), in whole or in part prior to their Maturity Dates from amounts on deposit in the Senior Turbo Redemption Account on any Distribution Date (or on a special redemption date established pursuant to subsection (c) of this Section 5.06), following notice of such redemption in accordance with subsection (b) above, at the principal amount or Accreted Value thereof, together with accrued interest, without premium. The Turbo Term Bonds which are First Subordinate Bonds shall be redeemed, selected in the manner described in Section 5.06(e), in whole or in part prior to their Maturity Date from amounts on deposit in the First Subordinate Turbo Redemption Account on any Distribution Date (or on a special redemption date established pursuant to subsection (c) above), following notice of such redemption in accordance with subsection (b) above, at the principal amount or Accreted Value thereof, together with accrued interest, without premium. The Turbo Term Bonds which are Second Subordinate Bonds shall be redeemed, selected in the manner described in Section 5.06(e), in whole or in part prior to their Maturity Date from amounts on

deposit in the Second Subordinate Turbo Redemption Account on any Distribution Date (or on a special redemption date established pursuant to subsection (c) above), following notice of such redemption in accordance with subsection (b) above, at the principal amount or Accreted Value thereof, together with accrued interest, without premium.

(e) *Application of Redemptions with Respect to Sinking Fund Installments and Turbo Term Bond Maturities.* For all purposes of this Trust Indenture, including without limitation calculating the deposits required by Section 5.03(b)(iii) hereof, calculating the payments required by Section 5.03(c)(ii) hereof, and determining whether an Event of Default has occurred pursuant to Section 10.01(c) hereof, all redemptions made hereunder from Collections shall be paid and credited as follows:

(i) the amount of any Turbo Redemption shall be paid, and credited against both Sinking Fund Installments and Turbo Term Bond Maturities, in accordance with the Payment Priorities, within a priority in direct chronological order, and as set forth in clause (iii) of this Section 5.06(e), unless otherwise set forth in the applicable Series Supplement;

(ii) the amount of any Sinking Fund Installments shall be paid, and credited against Turbo Term Bond Maturities, in accordance with the Payment Priorities, within a priority in direct chronological order, and as set forth in clause (iii) of this Section 5.06(e), unless otherwise set forth in the applicable Series Supplement; and

(iii) with respect to Bonds within the same Payment Priority for which Sinking Fund Installments and/or Turbo Term Bond Maturities are scheduled to be paid on the same date, the amount of any Turbo Redemption shall be paid, and credited against such Sinking Fund Installments and/or Turbo Term Bond Maturities, and the amount of any Sinking Fund Installments shall be paid, and credited against such Turbo Term Bond Maturities, on a Pro Rata basis from among all such Sinking Fund Installments and Turbo Term Bond Maturities scheduled to be paid on such date, regardless of Maturity Date.

(f) *Prohibition on Open Market Purchases.* Moneys in any Pledged Account shall not be used to make open market purchases of Bonds.

(g) *Optional Redemption.* The Bonds shall be subject to optional redemption as set forth in the applicable Series Supplement.

All redemptions made pursuant to this subsection (g) shall be credited as described in subsection (e) of this Section 5.06. If less than all of the Bonds of any maturity are to be redeemed pursuant to this subsection, the Holders of the Bonds of such maturity shall be paid in accordance with subsection (h) of this Section 5.06.

(h) *Partial Redemption.* If less than all of the Taxable Bonds of any specific maturity are to be redeemed pursuant to subsections (c), (d) or (e) of this Section 5.06, the Holders of the Bonds of that maturity shall be paid on a Pro Rata basis.

If less than all of the Tax-Exempt Bonds of a specific Series, interest (or "original issue yield" for Capital Appreciation Bonds) and Maturity Date are to be redeemed pursuant to

subsections (c), (d) or (e) of this Section 5.06, the Holders of the Tax-Exempt Bonds of such Maturity Date to be redeemed shall be selected in accordance with DTC's standard procedures, or if such Bonds are not then held by DTC or another Securities Depository, on such basis as the Trustee shall deem fair and appropriate, including by lot, and the Trustee may provide for the selection for redemption of portions (equal to any Authorized Denominations) of the principal of Bonds of a denomination larger than the minimum authorized denomination.

(i) *Mandatory Clean-Up Calls.* The Outstanding Senior Bonds are subject to mandatory redemption in whole at redemption price equal to one hundred percent (100%) of the Bond Obligation being redeemed plus interest accrued, if any, to the redemption date, at any time, to the extent of the transfer to the Senior Turbo Redemption Account of amounts in the Senior Liquidity Reserve Account pursuant to Section 5.03(b)(iv). The Bonds are subject to mandatory redemption in whole at a redemption price equal to one hundred percent (100%) of the Bond Obligation being redeemed plus interest accrued to the date fixed for redemption at any time that the available amounts on deposit in the Pledged Accounts equal or exceed the Bond Obligation, and accrued interest on all Outstanding Bonds and Parity Swap Payments.

(j) *Redemption From Moneys In Senior Liquidity Reserve Account.* Money in the Senior Liquidity Reserve Account shall be applied to the redemption of Outstanding Senior Bonds in accordance with paragraph (i) of Section 5.06. Any money remaining in the Senior Liquidity Reserve Account after its application pursuant to Section 5.06(i) shall be transferred to the First Subordinate Redemption Account or, but only if there shall be no Senior Bonds and First Subordinate Bonds then Outstanding, to the Second Subordinate Turbo Redemption Account, to be applied on the succeeding Distribution Date in accordance with paragraph (d) of this Section 5.06.

#### **Section 5.07 Investments.**

(a) Pending its use under this Trust Indenture, money in the Pledged Accounts held by the Trustee shall be invested by the Trustee in Eligible Investments pursuant to written direction of the Authority if there is not then an Event of Default actually known to an Authorized Officer of the Trustee. The Trustee may, if no such written direction is provided, invest money in the Pledged Accounts in investments identified in subsection (h) of the definition of "Eligible Investments." Specifically, Eligible Investments shall mature or be redeemable at the option of the Trustee on or before the Business Day preceding each next succeeding Distribution Date, except to the extent that other Eligible Investments timely mature or are so redeemable in an amount sufficient to make payments under clauses (i) through (ix) of Section 5.03(b) on the next succeeding Distribution Date. Investments shall be held by the Trustee in the respective Pledged Accounts and shall be sold or redeemed to the extent necessary to make payments or transfers from each Pledged Account. The Trustee shall not be liable for any losses on investments made in accordance with this Section unless such losses were caused by the Trustee's negligence, willful misconduct, bad faith or failure to follow instructions of the Authority properly given hereunder.

In computing the amount in a Pledged Account, the value of Eligible Investments shall be determined by the Trustee at each Distribution Date or as otherwise requested by the Authority and shall be calculated as follows:

(i) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(ii) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing as to investments the bid and asked prices of which are not published on a service;

(iii) As to investments described in subsections (b), (d), (e) or (g) of Eligible Investments: the face amount thereof, plus accrued interest; and

(iv) As to any investment not specified above: the value thereof established by prior agreement between the Authority and the Trustee (with written notice to each Rating Agency of such agreement).

(b) *Senior Liquidity Reserve Account.* No later than May 15 of each year commencing May 15, 2008, the Trustee shall value the money and investments in the Senior Liquidity Reserve Account according to the methods set forth in this Section 5.07 and shall promptly notify the Authority of such valuation. Any amounts in the Senior Liquidity Reserve Account in excess of the Senior Liquidity Reserve Requirement shall be applied as provided in Section 5.03(a) of this Trust Indenture. If, after receipt of any Pledged Tobacco Receipts, the Trustee determines that a withdrawal from the Senior Liquidity Reserve Account will be required on a Distribution Date in any year, the Trustee shall as soon as practicable notify the provider under any Ancillary Facility or Eligible Investment relating to the Senior Liquidity Reserve Account of the estimated amount of the withdrawal and the projected date of the withdrawal. In no event shall such notice be given later than ten (10) Business Days prior to the applicable Distribution Date. In the event no Event of Default has occurred and an investment meeting the requirements of (i) of the definition of Eligible Investments is deposited into the Senior Liquidity Reserve Account such that the cash and the value of such Eligible Investment exceed the Senior Liquidity Reserve Requirement, such excess cash shall be applied as provided in Section 5.03(a) of this Trust Indenture.

(c) The Trustee may hold undivided interests in Eligible Investments for more than one Fund or Account (for which they are eligible) and may make interfund transfers in kind.

(d) In respect of Defeasance Collateral held for Defeased Bonds, this Section 5.07 shall be effective only to the extent it is consistent with other applicable provisions of this Trust Indenture or any separate escrow agreement.

(e) Money in funds and accounts held by the Authority, or by the Trustee on behalf of the Authority, that are not Collateral may be invested as the Authority shall determine.

**Section 5.08 Unclaimed Money.** Except as may otherwise be required by applicable law, in case any money deposited with the Trustee or a Paying Agent for the payment of the Bond Obligation, or interest or premium, if any, on any Bond remain unclaimed for five (5) years after such Bond Obligation, interest or premium has become due and payable, the Fiduciary may and upon receipt of a written request of the Authority will pay over to the Authority the amount so deposited and thereupon the Fiduciary and the Authority shall be released from any further liability hereunder with respect to the payment of Bond Obligation, interest or premium and the owner of such Bond shall be entitled (subject to any applicable statute of limitations) to look only to the Authority as an unsecured creditor for the payment thereof.

## ARTICLE VI

### COVENANTS AND REPRESENTATION OF THE AUTHORITY

**Section 6.01 Limitation of Rights and Remedies.** The parties acknowledge and agree that all of the covenants, agreements, representations, warranties and obligations of the Authority made under or pursuant to this Article VI are subject in all respects to the provisions of Section 1.03 of this Trust Indenture and Sections 3.02, 6.04, 6.08 and 6.10 of the 2007 Sale Agreement.

**Section 6.02 Contract; Obligations to Bondholders or other Beneficiaries.** (a) In consideration of the purchase of any or all of the Bonds and, to the extent permitted by applicable law, execution of Ancillary Facilities, including Interest Rate Exchange Agreements, by those who shall hold the same from time to time, the provisions of this Trust Indenture shall be a part of the contract of the Authority with Bondholders and, to the extent permitted by applicable law, other Beneficiaries. The pledge of the Collateral made in this Trust Indenture and the covenant herein set forth to be performed by the Authority shall be for the equal benefit, protection and security of the Bondholders as such rights are described in this Trust Indenture or, to the extent permitted by applicable law, other Beneficiaries, if any, of the same priority. All of the Bonds or payments on Ancillary Facilities, including Interest Rate Exchange Agreements, of the same priority, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any thereof over any other except as expressly provided pursuant hereto.

(b) The Authority covenants to pay when due all sums payable on the Bonds, but only from the Collections and other moneys constituting Collateral designated herein, subject only to (i) this Trust Indenture, and (ii) to the extent permitted hereby, (x) agreements with Holders of Bonds pledging particular collateral for the payment thereof and (y) the rights of Beneficiaries under Ancillary Facilities, including Interest Rate Exchange Agreements. The obligation of the Authority to pay the Bond Obligation, interest and redemption premium, if any, to the Holders of Bonds from the Collections and other moneys constituting Collateral described herein, shall be absolute and unconditional, shall be binding and enforceable in all circumstances whatsoever, and shall not be subject to setoff, recoupment or counterclaim.

(c) The Authority represents that it is duly authorized pursuant to the Act to create and issue the Bonds, to enter into this Trust Indenture and to pledge the Collateral as security in accordance with the Act. The Collateral so pledged is and will be free and clear of

any pledge, lien, security interest, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created hereby, and all action legally required on the part of the Authority to that end has been duly and validly taken. The Bonds and the provisions hereof are and will be the valid and binding obligations of the Authority in accordance with their terms.

**Section 6.03 Operating Expenses.** (a) *Covenant to Pay.* The Authority shall pay its Operating Expenses to the parties entitled thereto, to the extent the funds are available therefor, but solely from funds available therefor in the Operating Account (and, with respect to Enforcement Expenses, also from the Collection Account in accordance with Section 5.03(b)(vi)) , and only to the extent provided herein. In addition, the Authority shall also pay from funds available in the Operating Account all Tax Obligations and Priority Payments.

(b) *Officer's Certificate with respect to Operating Expenses.* On or before July 1 of each year during which Bonds are Outstanding, the Authority shall deliver an Officer's Certificate to the Trustee estimating the Operating Expenses (and separately stating the Enforcement Expenses), the Tax Obligations and the Priority Payments that will be incurred or paid by the Authority during the next succeeding twelve-month period commencing on July 1. The Officer's Certificate may also set forth Operating Expenses (including Enforcement Expenses) that have already been incurred by the Authority but that have not yet been paid, provided that the Operating Cap shall nonetheless continue to apply to such amounts. The Authority may at any time also submit a supplemental Officer's Certificate setting forth Operating Expenses (including Enforcement Expenses), Tax Obligations, and Priority Payments in excess of the Operating Cap. Such excess (other than Enforcement Expenses) shall be deposited in the Operating Account pursuant to Section 5.03(b)(v), and such Enforcement Expenses shall be transferred to the Authority pursuant to Section 5.03(b)(vi) if, but only if, all of the deposits required by Section 5.03(b)(i) through (iv) have been fully funded. In the event that the Authority fails to deliver an Officer's Certificate on or prior to any July 1, the Authority will be deemed to have delivered an Officer's Certificate certifying that the amount of the Operating Expenses (including Enforcement Expenses) and the Tax Obligations for the next succeeding Fiscal Year will be the same as in the then-current Fiscal Year.

**Section 6.04 Further Assurances.** At any and all times the Authority shall, so far as it may be authorized or permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning, confirming and effecting the security interest in the Collateral hereby pledged or assigned as security, or intended so to be, or which the Authority may hereafter become bound to pledge or assign as security.

**Section 6.05 Tax Covenants.** The Authority shall, at or prior to the issuance thereof, execute the Tax Certificates and at all times do and perform all acts and things permitted by law and necessary or desirable to assure that interest paid by the Authority on Tax-Exempt Bonds shall be excludable from gross income for federal income tax purposes pursuant to § 103(a) of the Code; and no funds of the Authority shall at any time be used directly or indirectly to acquire securities, obligations or other investment property the acquisition or holding of which would cause any Tax-Exempt Bond to be an arbitrage bond as defined in the Code, including but not limited to actions relating to the rebate of arbitrage earnings and the expenditure and investment

of proceeds and moneys deemed to be proceeds of Tax-Exempt Bonds, as more fully set forth in the Tax Certificate. If and to the extent required by the Code, the Authority shall periodically, at such times as may be required to comply with the Code, pay as an Operating Expense the amount, if any, required by the Code to be rebated or paid as a related penalty. Notwithstanding any other provisions hereof, the requirements of this Section 6.05 shall survive the defeasance or other payment of the Tax Exempt Bonds.

**Section 6.06 Accounts and Reports.** The Authority shall:

(a) cause to be kept books of account in which complete and accurate entries shall be made of its transactions relating to all Funds and Accounts hereunder, which books shall, at all reasonable times and at the expense of the Authority, be subject to the inspection of the Trustee and the Holders of an aggregate of not less than 25% in Aggregate Bond Obligation then Outstanding or their representatives duly authorized in writing;

(b) annually, within 180 days after the close of the Fiscal Year ending June 30, 2008 and of each Fiscal Year thereafter, deliver to the Trustee and each Rating Agency, a copy of its financial statements for such Fiscal Year, as audited by State auditors, if so provided by law, or, otherwise, by an independent certified public accountant or accountants;

(c) keep in effect at all times by Officer's Certificate an accurate and current schedule of all debt service to be payable during the life of then Outstanding Bonds, Ancillary Facilities, including Interest Rate Exchange Agreements; certifying for the purpose such estimates as may be necessary; and

(d) for each Distribution Date, direct the Trustee to provide to each Rating Agency a written statement indicating:

(i) the Outstanding Bonds of each Series;

(ii) the amount of Bond Obligation to be paid to the Holders of the Bonds of each Series on such Distribution Date;

(iii) the amount of interest to be paid to the Holders of the Bonds of each Series on such Distribution Date;

(iv) the Turbo Redemptions to be made for each Series as of that Distribution Date;

(v) the amount on deposit in each Fund and Account as of that Distribution Date;

(vi) the Senior Liquidity Reserve Requirement as of that Distribution Date;

(vii) whether or not a Lump Sum Payment, Partial Lump Sum Payment or Total Lump Sum Payment has been received; and

(viii) the amount of Priority Payments, Parity Swap Payments and Junior Payments paid or to be paid to Beneficiaries under each Ancillary Facility, including an Interest Rate Exchange Agreement, on such Distribution Date.

(ix) The Authority is responsible for providing to the Trustee the information set forth above in subsection (vii) of this Section 6.06(d). The Trustee's responsibility for delivering the information described in subsection (vii) of this Section 6.06(d) is limited to the extent such information is provided by the Authority.

**Section 6.07 Ratings.** Unless otherwise specified by Series Supplement, the Authority shall pay such reasonable fees and provide such available information as may be necessary to obtain and keep in effect on each Series of Bonds the number of ratings from nationally recognized rating organizations, if any, originally assigned to each such Series.

**Section 6.08 Affirmative Covenants.** The Authority hereby covenants and agrees as follows:

(a) *Protection of Collateral.* The Authority shall from time to time execute and deliver all documents and instruments, and will take such other action, as is necessary or advisable to: (i) maintain or preserve the lien and pledge and assignment (and the priority thereof) of the Trust Indenture; (ii) perfect, publish notice of or protect the validity of any pledge and assignment made or to be made by this Trust Indenture; (iii) preserve and defend title to the Collateral pledged under this Trust Indenture and the rights of the Trustee and the Bondholders in such Collateral against the claims of all persons and parties, including the challenge by any party to the validity or enforceability of this Trust Indenture or the Act; (iv) enforce the 2007 Sale Agreement; (v) pay any and all taxes lawfully levied or assessed upon all or any part of the Collateral pledged hereunder; or (vi) carry out more effectively the purposes of this Trust Indenture.

(b) *Performance of Obligations.* The Authority (i) shall diligently pursue any and all actions to enforce its rights under each instrument or agreement included in the Collateral pledged hereunder and (ii) shall not take any action and will use its best efforts not to permit any action to be taken by others that would release the State from any of its covenants or obligations under the 2007 Sale Agreement, or the Authority from any of its obligations under this Trust Indenture or the 2007 Sale Agreement, or that would result in the amendment, hypothecation, subordination, termination or discharge of, or impair the validity or effectiveness of, the Trust Indenture or the 2007 Sale Agreement, except, in each case, as expressly provided in the Act, this Trust Indenture or the 2007 Sale Agreement.

(c) *Notice of Events of Default.* The Authority shall give the Trustee and the Rating Agencies prompt written notice of each Default or Event of Default under this Trust Indenture.

(d) *Payment of Operating Expenses and Priority Payments.* The Authority covenants to pay its Operating Expenses and make Priority Payments to the parties entitled thereto, which covenant is solely for the benefit of the Bondholders and is not intended to be, and

shall not be, for the benefit of any party to which the Authority may be obligated to make a payment as either an Operating Expense or a Priority Payment.

**Section 6.09 Negative Covenants.** The Authority hereby covenants and agrees as follows:

(a) *Maintenance of Existence.* The Authority shall not take any action that shall impair its existence and rights as a body, both corporate and politic, constituting a public body, agency, and instrumentality of the State and performing essential functions of the State.

(b) *Sale of Assets.* Except as expressly permitted by the Trust Indenture, the Authority shall not sell, transfer, exchange or otherwise dispose of any of the Collateral.

(c) *No Setoff.* The Authority shall not claim any credit on, or make any deduction from the Principal or premium, if any, or interest due in respect of, the Bonds or assert any claim against any present or former Bondholder by reason of the payment of taxes levied or assessed upon any part of the Collateral.

(d) *Liquidation.* The Authority shall not take any action with the intention of terminating its existence or dissolving or liquidating in whole or in part.

(e) *Limitation of Liens.* The Authority shall not (i) permit the validity or effectiveness of the Trust Indenture or the 2007 Sale Agreement to be impaired, or permit the lien of this Trust Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit the Authority to be released from any covenants or obligations with respect to the Bonds under this Trust Indenture except as may be expressly permitted hereby, (ii) except as otherwise permitted hereby, permit, on a parity basis, any lien, charge, excise, claim, security interest, mortgage or other encumbrance (other than the lien of this Trust Indenture) to be created on or extend to or otherwise arise upon or burden the Collateral or any part thereof or any interest therein or the proceeds thereof or (iii) permit the lien of this Trust Indenture not to constitute a valid pledge in the Collateral.

(f) *Limitations on Consolidation, Merger, Sale of Assets, etc.* Except as otherwise provided in the Trust Indenture, the Authority shall not affirmatively take action to consolidate or merge with or into any other person, or be succeeded by another entity, unless:

(i) the person surviving such consolidation or merger or succession (if other than the Authority) is organized or established and existing under the laws of the United States, the State or any state and expressly assumes the due and punctual payment of the Bond Obligation of and premium, if any, and interest on all Bonds and the performance or observance of every agreement and covenant of the Authority in this Trust Indenture;

(ii) immediately after giving effect to such transaction, no Default has occurred and is continuing under this Trust Indenture;

(iii) the Authority has received a Rating Confirmation;

(iv) the Authority has received and delivered to the Trustee an opinion of Counsel to the effect that such transaction will not have material adverse tax consequence to the Authority and will not adversely affect the exclusion of interest on any Tax-Exempt Bond from gross income for federal income tax purposes;

(v) any action as is necessary to maintain the lien and pledge and assignment by this Trust Indenture has been taken; and

(vi) the Authority has delivered to the Trustee an Officer's Certificate and an opinion of Counsel to the effect that such transaction complies with this Trust Indenture and that all conditions precedent to such transaction have been complied with.

(g) *Restricted Payments.* The Authority shall not direct the Trustee to make payments to or distributions from the Collection Account except in accordance with this Trust Indenture.

(h) *Amendment of Agreement.* The Authority covenants and agrees that it will not amend the 2007 Sale Agreement except as permitted by this Section 6.09(h). The Authority may amend the 2007 Sale Agreement without prior notice to or the consent of the Trustee or any of the Bondholders: (a) to amend Section 6.02 of the 2007 Sale Agreement; (b) to cure any ambiguity; (c) to correct or supplement any provisions in the 2007 Sale Agreement; (d) to correct or amplify the description of the 2007 Sold Tobacco Receipts; (e) to add additional covenants for the benefit of the Authority, the Trustee, the State or the Bondholders; or (f) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions in the 2007 Sale Agreement that shall not, as evidenced by a Rating Confirmation delivered to the Trustee, adversely affect in any material respect the Bondholders. The Authority shall provide a copy of any such amendment to the Trustee.

Except as otherwise provided in the preceding paragraph, the 2007 Sale Agreement may also be amended from time to time by the Authority with the written consent of a Majority in Interest of the Holders of the Aggregate Bond Obligation of Senior Bonds, or of First Subordinate Bonds when there are no Senior Bonds Outstanding, or of Second Subordinate Bonds when there are no Senior Bonds and First Subordinate Bonds Outstanding.

It shall not be necessary for the consent of Holders pursuant to this Section to approve the particular form of any proposed amendment or consent, but it shall be sufficient if such consent shall approve the substance thereof.

Without the prior written consent of the Trustee, no amendment, supplement or other modification of the 2007 Sale Agreement shall be entered into or be effective if such amendment, supplement or modification affects the Trustee's, as applicable, own rights, duties or immunities under the 2007 Sale Agreement or otherwise.

**Section 6.10 Prior Notice.** The Authority shall give each Rating Agency fifteen (15) days' prior Written Notice of each issue of Bonds, with a copy of the proposed Series Supplement, and of each Supplemental Indenture, amendment to the 2007 Sale Agreement, Ancillary Facility or defeasance or redemption of Bonds.

**Section 6.11 Residual Certificate.** Payments under or in respect of the Residual Certificate shall be payable only from the sources provided therefor under this Trust Indenture and only upon the terms of this Trust Indenture. Notwithstanding anything to the contrary in this Trust Indenture or the Residual Certificate, no amounts shall be due and payable through or in respect of the Residual Certificate, and the registered owner of the Residual Certificate shall have no right to, or interest of any kind in, the payment of any such amount, unless and until the Trustee shall determine that funds are available therefor in accordance with Article V of this Trust Indenture and the Trustee shall in fact withdraw funds from the Funds and Accounts for such payment and transfer the same to the registered owner of the Residual Certificate. On the Delivery Date for the Series 2007 Bonds, the Residual Certificate shall be delivered to the State and paid to the State, in furtherance of the 2007 Sale Agreement, and registered on the books of the Authority kept by the Trustee.

## ARTICLE VII

### THE STATE

**Section 7.01 Limitation of Rights and Remedies.** All of the provisions and sections of this Article VII are subject in all respects to the provisions of Section 1.03 of this Trust Indenture and Sections 3.02, 6.04, 6.08 and 6.10 of the 2007 Sale Agreement. This Article VII recites certain representations, acknowledgments, consents, warranties, covenants and other obligations made by the State in the 2007 Sale Agreement with the Authority. Nothing in this Article VII or this Trust Indenture is intended or shall be construed to make the State a party to this Trust Indenture or to otherwise create any contractual promise, liability or obligation of the State under this Trust Indenture; provided, however, that this shall not preclude the Trustee from pursuing certain rights and remedies of the Authority arising under the 2007 Sale Agreement against the State that have been assigned by the Authority to the Trustee hereunder, subject to the limitations and provisions of the 2007 Sale Agreement and this Trust Indenture.

**Section 7.02 Acknowledgment by State in the 2007 Sale Agreement.** Section 6.09 of the 2007 Sale Agreement provides that the State acknowledges and consents to any assignment and pledge by the Authority to the Trustee pursuant to the Trust Indenture for the benefit of the Bondholders and Benefited Parties of any or all right, title and interest of the Authority in, to and under the Pledged Tobacco Receipts or the assignment of any or all of the Authority's rights and obligations under the 2007 Sale Agreement to the Trustee.

**Section 7.03 Pledges; Non-Impairment Covenants.** (a) Under the 2007 Sale Agreement, the State has covenanted and agreed with the Authority that the Authority can include in this Trust Indenture the pledges made by the State that the State will: (i) maintain statutory authority for, and cause to be collected and paid directly to the Authority or its assignee, the Pledged Tobacco Receipts, (ii) enforce the rights of the Authority to receive the 2007 Sold Tobacco Receipts, (iii) not materially impair the rights of the Authority to fulfill the terms of its agreements with the Holders of Outstanding Bonds and Benefited Parties under the Trust Indenture, (iv) not materially impair the rights and remedies of the Holders of Outstanding Bonds and Benefited Parties or materially impair the security for those Outstanding Bonds and Benefited Parties, and (v) enforce the MSA and the Consent Decree and diligently enforce the Qualifying Statute to effectuate the collection of the Pledged Tobacco Receipts, (vi) cause the

Attorney General of the State to irrevocably instruct the escrow agent under the MSA to transfer all Pledged Tobacco Receipts directly to the Trustee as assignee of the Authority, and (vii) not amend the MSA, or amend or repeal the Qualifying Statute, in any manner that would materially impair the rights of the Beneficiaries, until the Bonds, together with the interest thereon, all Ancillary Facilities, and all costs and expenses in connection with any action or proceeding by or on behalf of Bondholders, are fully paid and discharged pursuant to the terms of the Trust Indenture. As stated in Section 183.51 of the Ohio Revised Code, (a) nothing in said subsection or the bond proceedings shall preclude or limit, or be construed to preclude or limit, the State from regulating the sale of cigarettes or other tobacco products, or from defending or prosecuting cases or other actions relating to the sale or use of cigarettes or other tobacco products, and (b) except as otherwise may be agreed in writing by the State Attorney General, nothing in said subsection or the bond proceedings shall modify or limit, or be construed to modify or limit, the responsibility, power, judgment, and discretion of the State Attorney General to protect and discharge the duties, rights and obligations of the State under the MSA, the Consent Decree, or the Qualifying Statute.

(b) Pursuant to the Act, the Authority hereby covenants that it shall not be authorized to and shall not file a voluntary petition under the Federal Bankruptcy Code or voluntarily commence any similar bankruptcy proceeding under State law including, without limitation, consenting to the appointment of a receiver or trustee or making a general or specific assignment for the benefit of creditors, and neither any public officer or any organization, entity, or other person shall authorize the Authority to be or become a debtor under the Federal Bankruptcy Code or take any of those actions under the Federal Bankruptcy Code. Pursuant to the Act, the State covenants, and pursuant to the Act authorizes the Authority to include such covenant in this Trust Indenture, not to permit the Authority, or permit any public officer or organization, entity, or other person to authorize the Authority, prior to the date which is one year and one day after which the Authority no longer has any Bonds Outstanding, (1) to file a voluntary petition under the Federal Bankruptcy Code, or (2) to voluntarily commence any similar bankruptcy proceeding under state law including, without limitation, consenting to the appointment of a receiver or trustee or making a general or specific assignment for the benefit of creditors.

**Section 7.04 Important Security Provisions.** The Authority acknowledges that the 2007 Sale Agreement constitutes an important security provision of the Bonds and waives any right to assert any claim to the contrary.

## ARTICLE VIII

### THE FIDUCIARIES

**Section 8.01 Limitation of Rights and Remedies.** The Authority and the Trustee covenant, represent and agree that all of the provisions and sections of this Article VIII are subject in all respects to the provisions of Section 1.03 of this Trust Indenture and Sections 3.02, 6.04, 6.08 and 6.10 of the 2007 Sale Agreement.

**Section 8.02 Trustee's Organization, Authorization, Capacity and Responsibility.**

(a) The Trustee represents and warrants as of the Delivery Date for the Series 2007 Bonds that it is duly organized and validly existing as a national banking association, with the capacity to exercise the powers and duties of the Trustee hereunder, and that by proper corporate action it has duly authorized the execution and delivery of this Trust Indenture.

(b) The duties and responsibilities of the Trustee shall be as provided by law and as expressly set forth herein and in any other agreement as may be entered into by the Authority and the Trustee. Notwithstanding the foregoing, no provision of this Trust Indenture shall require the Trustee to expend or risk its own funds in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, unless it receives indemnity satisfactory to it against any loss, liability or expense. Whether or not therein expressly so provided, every provision of this Trust Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article. The Trustee shall not be under any obligation to take any action at the request or direction of the Bondholders unless and until the requisite amount of Bondholders shall request or direct the Trustee to take such action in writing and furnish the Trustee reasonable security and indemnity against any expected expense or liability.

(c) As Trustee hereunder:

(i) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any Officer's Certificate, Written Notice, opinion of Counsel (or all), resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document reasonably believed by it to be genuine and to have been signed or presented by an Authorized Officer of the proper person or persons. The Trustee need not investigate any fact or matter stated in any document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(ii) before the Trustee acts or refrains from acting, it may require an Officer's Certificate and/or an opinion of counsel. The Trustee shall not be liable for any action it takes or omits to take in accordance with such certificate or opinion. Whenever in the administration of the trusts of this Trust Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate or Written Notice of the Authority delivered to the Trustee, and such certificate or Written Notice, in the absence of negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Trust Indenture upon the faith thereof;

(iii) any request, direction, order or demand of the Authority mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Authority resolution may be

evidenced to the Trustee by a copy thereof certified by the secretary or an assistant secretary of the Authority;

(iv) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, Officer's Certificate, Written Notice, opinion of Counsel, Authority resolution, statement, instrument, opinion, report, notice, request, consent, order, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested or directed in writing so to do by a Majority in Interest of the Senior Bonds affected and then Outstanding; and, that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Trust Indenture, the Trustee may require indemnity satisfactory to it against such expenses or liabilities as a condition to proceeding.

**Section 8.03 Rights and Duties of the Fiduciaries.** (a) All money and investments received by the Fiduciaries under this Trust Indenture shall be held in trust, in a segregated trust account in the trust department of such Fiduciary, not commingled with any other funds, and applied solely pursuant to the provisions hereof.

(b) The Fiduciaries shall keep accurate and complete books of account and records (separate from its other accounts), of all of their transactions hereunder, including with respect to all Funds and Accounts. The Fiduciaries shall permit the Authority and the State and their authorized representatives to access, examine, audit, excerpt and transcribe such books of accounts and other records relating to transactions hereunder. Such books and records shall be made available to the Authority, the State, and their representatives at reasonable times and at no cost during the time any time Bonds are outstanding for a period of three (3) years following the complete payment and satisfaction of the Bonds and all other obligations under this Trust Indenture.

(c) The Fiduciaries shall not be required to monitor the financial condition of the Authority and, unless otherwise expressly provided, shall not have any responsibility with respect to reports, notices, certificates or other documents filed with them hereunder, except to make them available for inspection by the Bondholders.

(d) Each Fiduciary shall be entitled to the advice of counsel (who may be counsel for any party) and shall not be liable for any action taken or omitted in good faith in reliance on such advice. Each Fiduciary may rely conclusively on any notice, certificate or other document furnished to it under this Trust Indenture and reasonably believed by it to be genuine. A Fiduciary shall not be liable for any action taken or omitted to be taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed under this Trust Indenture or omitted to be taken by it by reason of the lack of direction or instruction required for such action, or be responsible for the consequences of any error of judgment reasonably made by it. When any payment or consent or other action by a Fiduciary is called for by this Trust Indenture, the Fiduciary may defer such action pending receipt of such evidence, if any, as it may reasonably

require in support thereof. A permissive right or power to act shall not be construed as a requirement to act.

(e) The Fiduciaries shall in no event be liable for the application or misapplication of funds, or for other acts or failures to act, by any person, firm or corporation except by their respective members, directors, officers, agents, appointees and employees. No recourse shall be had for any claim based on this Trust Indenture, the Bonds or any Ancillary Facilities against any director, officer, agent or employee of any Fiduciary.

(f) Nothing in this Trust Indenture shall obligate any Fiduciary to pay any debt or meet any financial obligations to any person in relation to the Bonds, the Ancillary Facilities except from money received for such purposes under the provisions hereof or from the exercise of the Trustee's rights hereunder.

(g) The Fiduciaries may be or become the owner of or trade in the Bonds or enter into Ancillary Facilities with the same rights as if they were not the Fiduciaries.

(h) Unless otherwise specified by Series Supplement or required by State law, rules or regulations or procedures, the Fiduciaries shall not be required to furnish any bond or surety. The Authority covenants and agrees to pay, as and only as an Operating Expense, to the Fiduciaries from time to time, and the Fiduciaries shall be entitled to, the fees and expenses agreed in writing in a separate fee agreement, and will further pay or reimburse the Fiduciaries upon request for all reasonable expenses, disbursements and advances incurred or made by the Fiduciaries in accordance with any of the provisions of the separate fee agreement (including the reasonable compensation and the reasonable expenses and disbursements of their counsel and of all persons not regularly in their employ).

(i) The Authority shall, only to the extent consistent with and permitted by applicable law, pay the Trustee's and Paying Agent's expenses, claims, obligations, losses, damages, injuries, actions, suits, judgments, reasonable costs and liabilities (including reasonable legal fees and expenses) that each may incur in the exercise of its duties hereunder and that are not due to its negligence, willful misconduct or bad faith; provided, however, that the Authority's obligations under this Section (i) shall be payable solely as an Operating Expense and only from Pledged Tobacco Receipts available to pay Operating Expenses. The provisions of this Section shall survive the termination of this Trust Indenture or the earlier resignation or removal of any Fiduciary.

(j) The Fiduciaries may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians and nominees appointed with due care, and shall be responsible for any negligence, willful misconduct and bad faith on the part of any agent, attorney, custodian or nominee so appointed.

(1) Notwithstanding anything herein to the contrary, each Fiduciary shall be responsible for its negligence, willful misconduct, or bad faith. The Trustee shall have no responsibility with respect to any information in any offering circular or other disclosure material distributed with respect to the Bonds or for compliance with any securities laws in connection with the issuance, sale, or remarketing of the Bonds. Except to the extent

and as may be required by an investment agreement or repurchase agreement to which the Trustee may be a party with respect to accounts or funds under this Trust Indenture, the Trustee makes no representations as to, and shall have no responsibility for, the value, condition, validity, adequacy or sufficiency of the Collateral, of any assets pledged or assigned by the Trust Indenture or the other transaction documents as security for the Bonds, an Ancillary Facility, or the right, title or interest of the Authority therein. The Trustee shall have no duty or obligation to record or file, and shall not be responsible for the validity, priority, recording, rerecording, filing or refiling of the Trust Indenture, any instrument or document of further assurance or collateral assignment, any financing statements, amendments or modifications thereto, or continuation statements, and shall have no duty to collect, preserve, exercise or enforce rights in the Collateral (against prior parties or otherwise), except as expressly provided herein.

**Section 8.04 Paying Agents and Registrar.** The Authority designates the Trustee a Paying Agent and as registrar for the Bonds. The Authority may appoint additional Paying Agents, generally or for specific purposes, may discharge a Paying Agent from time to time and may appoint a successor, in each case with written notice to each of the Rating Agencies. The Authority shall designate a successor if the Trustee ceases to serve as Paying Agent. Each Paying Agent shall be a bank or trust company eligible under the laws of the State, and unless otherwise provided by Series Supplement shall have a capital and surplus of not less than \$50,000,000 and be registered as a transfer agent with the Securities and Exchange Commission. The Authority shall give notice of the appointment of a successor to the Trustee as Paying Agent in writing to each Beneficiary shown on the books of the Trustee. A Paying Agent may but need not be the same person as the Trustee. Unless otherwise provided by the Authority, the Trustee as Paying Agent shall act as registrar and transfer agent, in accordance with Sections 3.03 and 3.04.

**Section 8.05 Resignation or Removal of the Trustee.** The Trustee may resign at any time on not less than 30 days' written notice to the Authority, the Holders and each of the Rating Agencies then rating the Bonds. The Trustee will promptly certify to the Authority that it has sent written notice to all Holders and such certificate will be conclusive evidence that such notice was mailed as required hereby. Upon receiving such notice of resignation, the Authority shall take action to appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Trustee from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the Holders, the resigning Trustee and the successor Trustee. The Trustee may be removed by the Authority or by a Majority in Interest of Outstanding Senior Bonds, upon written notice to the Trustee, if rated below investment grade by Moody's and each successor Trustee will have an investment grade rating from Moody's. The Trustee may also be removed by written notice from the Authority if no Default is then continuing or from a Majority in Interest of the Outstanding Senior Bonds to the Trustee and the Authority. No such resignation or removal shall take effect until a successor has been appointed and has accepted the duties of Trustee.

**Section 8.06 Successor Fiduciaries.**

(a) Any corporation or association which succeeds to the municipal corporate trust business of a Fiduciary as a whole or substantially as a whole, whether by sale, merger,

consolidation or otherwise, shall thereby become vested with all the property, rights, powers and duties thereof under this Trust Indenture, without any further act or conveyance and without the execution or filing of any paper with any party hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

(b) In case a Fiduciary resigns or is removed or becomes incapable of acting, or becomes bankrupt or insolvent, or if a receiver, liquidator or conservator of a Fiduciary or of its property is appointed, or if a public officer takes charge or control of a Fiduciary, or of its property or affairs, then such Fiduciary shall with due care terminate its activities hereunder and a successor may, or in the case of the Trustee shall, be appointed by the Authority. The Authority shall notify the Holders and the Rating Agencies of the appointment of a successor Trustee in writing within 20 days from the appointment. The Authority will promptly certify to the successor Trustee that it has given such notice to all Holders and such certificate will be conclusive evidence that such notice was given as required hereby. If no appointment of a successor Trustee is made within 45 days after the giving of written notice in accordance with Section 8.05 or after the occurrence of any other event requiring or authorizing such appointment, the outgoing Trustee or any Holder may apply to any court of competent jurisdiction for the appointment of such a successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor Trustee appointed under this section shall be a trust company or a bank having the powers of a trust company, located in the State, having a capital and surplus of not less than \$50,000,000. Any such successor Trustee shall notify the Authority of its acceptance of the appointment and, upon giving such notice, shall become Trustee, vested with all the property, rights, powers and duties of the Trustee hereunder, without any further act or conveyance. Such successor Trustee shall execute, deliver, record and file such instruments as are required to confirm or perfect its succession hereunder and any predecessor Trustee shall from time to time execute, deliver, record and file such instruments as the incumbent Trustee may reasonably require to confirm or perfect any succession hereunder.

**Section 8.07 Fiduciaries for Bonds Other Than Senior Bonds.** The Authority may by Series Supplement provide for the appointment of a Fiduciary (which may be the Trustee) to represent the Holders of all Bonds other than Senior Bonds, having powers and duties not inconsistent herewith.

**Section 8.08 Reports by Trustee to Holders.** (a) The Trustee, on or prior to each Distribution Date for a Series of Bonds, shall deliver to the Holders of such Bonds and to each Rating Agency a statement prepared by the Trustee setting forth as of such Distribution Date or for the period since the preceding Distribution Date, as applicable, the following information and such other information as maybe specified in the Series Supplement relating to such Bonds:

- (1) the Bond Obligation paid to Holders expressed in dollars per thousand;
- (2) the interest paid to Holders expressed in dollars per thousand;
- (3) the actual Turbo Redemptions paid on and prior to such Distribution Date versus the projected Turbo Redemptions;

(4) the amount on deposit in each Fund and Account, including the face value of investments described in subsections (c), (e), (f) and (h) of Eligible Investments;

(5) the Senior Liquidity Reserve Requirement; and

(6) whether or not a Lump Sum Payment, Partial Lump Sum Payment or Total Lump Sum Payment has been received.

(b) The Trustee's responsibility for delivering the information described in paragraph (a)(6) above is limited to the availability, timeliness and accuracy of the information provided by the Authority pursuant to Section 6.06.

#### **Section 8.09 Nonpetition Covenant.**

(a) Notwithstanding any prior termination of this Trust Indenture, no Fiduciary shall, prior to the date which is one year and one day after the termination of this Trust Indenture, acquiesce, petition or otherwise invoke or cause the Authority to invoke the process of any court or government authority for the purpose of commencing or sustaining a case against the Authority under any federal or State bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Authority or any substantial part of its property, or ordering the winding up or liquidation of the affairs of the Authority.

### **ARTICLE IX**

#### **THE HOLDERS**

**Section 9.01 Action by Holders.** Any request, authorization, direction, notice, consent, waiver or other action provided by this Trust Indenture to be given or taken by Holders of Bonds may be contained in and evidenced by one or more writings of substantially the same tenor signed by the requisite number of Holders or their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Trust Indenture (except as otherwise herein expressly provided) if made in the following manner, but the Authority or the Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the certificate or signature guarantee, which need not be acknowledged or verified, of an officer of a bank, trust company or securities dealer satisfactory to the Authority or to the Trustee; or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof; or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Holder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its clerk or secretary or an assistant clerk or secretary. Any action of the owner of any Bond shall be irrevocable and bind all future record and beneficial owners thereof.

**Section 9.02 Registered Holders.** The enumeration in Section 3.04(a) of certain provisions applicable to DTC as Holder of immobilized Bonds shall not be construed in limitation of the rights of the Authority and each Fiduciary to rely upon the registration books in all circumstances and to treat the registered owners of Bonds as the owners thereof for all purposes not otherwise specifically provided for by law or in this Trust Indenture. Notwithstanding any other provisions hereof, any payment to the registered owner of a Bond shall satisfy the Authority's obligations thereon to the extent of such payment.

## **ARTICLE X DEFAULT AND REMEDIES**

### **Section 10.01 Events of Default.**

"Event of Default" in this Trust Indenture means any one of the following:

(a) Principal of, premium or interest on any Senior Bond has not been paid, when due;

(b) failure to pay when due payments (other than Termination Payments) constituting Parity Swap Payments;

(c) failure to pay Sinking Fund Installments or Turbo Redemptions with respect to Senior Bonds when due in accordance with this Trust Indenture, but only if, and to the extent moneys are available therefor.

(d) the Authority fails to observe or perform any other provision of this Trust Indenture related to the Senior Bonds, which failure is not remedied within 60 days after written notice thereof is given to the Authority by the Trustee or to the Authority, the State and the Trustee by the Holders of at least 25% of the Aggregate Bond Obligation of the Senior Bonds Outstanding, except as specified in Section 10.01(c), failure to make any Turbo Redemption because of insufficiency of Surplus Collections pursuant to Article V shall not constitute a Default or an Event of Default. In the case of a default specified in this subsection, if the default cannot be corrected within the said 60-day period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within said 60-day period and diligently pursued until the default is corrected.

(e) bankruptcy, reorganization, arrangement or insolvency proceedings, or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors (including without limitation the appointment of a receiver or trustee or the making of a general or specific assignment for the benefit of creditors) are instituted by or against the Authority and, if instituted against the Authority, are not dismissed within 60 days after such institution;

(f) a material breach by the Authority of its covenants contained in Section 7.03(b) hereof, which breach is not remedied within 60 days after written notice thereof is given to the Authority and the State by the Trustee or to the Authority and the Trustee by the Holders of at least 25% of the Aggregate Bond Obligation of the Senior Bonds Outstanding. In the case of a default specified in this subsection, if the default cannot be corrected within the said 60-day

period, it shall not constitute an Event of Default if corrective action is instituted by the State or the Authority within said 60-day period and diligently pursued until the default is corrected.

(g) the State fails to pay to the Authority or the Trustee any Pledged Tobacco Receipts received by it promptly in accordance with the 2007 Sale Agreement; or

(h) (i) the State fails to comply with its covenants contained in Section 7.03(a) or 7.03(c) hereof, if, in any and each such case, the effect thereof would be materially adverse to the Authority's ability to receive the Pledged Tobacco Receipts (any such action by the State shall be conclusively deemed not material or adverse upon delivery to the Trustee of a Rating Confirmation); or

(ii) except as may be authorized and provided for in Sections 6.09(h) or 11.02 hereof, the 2007 Sale Agreement is amended, superceded, suspended, revoked or otherwise altered by the Authority in a manner that would materially impair the rights of the Beneficiaries; and

(iii) the action constituting an "event of default" under paragraphs (i) or (ii) of this subsection (h) is not remedied within 60 days after Written Notice, specifying such default and requiring the same to be remedied, shall have been given to the Authority and the State by the Trustee or by the Holders of at least 25% of the Aggregate Bond Obligation of the Senior Bonds Outstanding. In the case of a default specified in this subsection (h), if the default cannot be corrected within the said 60-day period, it shall not constitute an Event of Default if corrective action is instituted by the State or the Authority within said 60-day period and diligently pursued until the default is corrected.

Notwithstanding anything in this Trust Indenture to the contrary, a Subordinate Payment Default is not an Event of Default hereunder, provided that in the event of a Subordinate Payment Default, Holders of First Subordinate Bonds, Second Subordinate Bonds, and Fully Subordinate Bonds shall have the remedies set forth in Section 10.02(a)(v) hereof.

Notwithstanding anything in this Trust Indenture to the contrary, the failure to pay a Sinking Fund Installment or Turbo Redemption on Series 2007 Bonds shall not constitute an Event of Default under this Trust Indenture, if such failure is due to the insufficiency of funds available therefor.

#### **Section 10.02 Remedies.**

(a) *Remedies of the Trustee.* If an Event of Default occurs:

(i) The Trustee may, and upon written request of the Holders of at least 25% of the Aggregate Bond Obligation of Senior Bonds Outstanding shall, in its own name by action or proceeding in accordance with law:

(A) enforce all rights of the Holders and require the Authority to carry out its agreements with Holders or, to the extent permitted by law and subject to the terms, provisions and limitations in the 2007 Sale Agreement, require the State to perform its duties under the 2007 Sale Agreement;

- (B) sue upon such Bonds;
- (C) require the Authority to account as if it were the trustee on an express trust of such Holders;
- (D) enjoin any acts or things which may be unlawful or in violation of the rights of such Holders;

(ii) The Trustee shall, in addition to the other provisions of this Section 10.02, have and possess all the powers necessary or appropriate for the exercise of any functions incident to the general representation of Holders in the enforcement and protection of their rights under this Trust Indenture.

(iii) Upon an Event of Default under Section 10.01(a) or 10.01(b), or a failure to make any other payment required under this Trust Indenture within 7 days after the same becomes due and payable, the Trustee shall give Written Notice thereof to the Authority. The Trustee shall give notice under subsections (c) through (h) of Section 10.01 when instructed to do so by the written direction of the Holders of at least 25% of the Aggregate Bond Obligation of Senior Bonds Outstanding. Upon the occurrence of an Event of Default, the Trustee shall proceed under Section 10.02 for the benefit of the Holders in accordance with the written direction of a Majority in Interest of the Outstanding Senior Bonds. The Trustee shall not be required to take any remedial action (other than the giving of notice) unless reasonable indemnity is furnished for any expense or liability to be incurred therein. Upon receipt of Written Notice, direction, and indemnity, and after making such investigation, if any, as it deems appropriate to verify the occurrence of any Event of Default of which it is notified as aforesaid, the Trustee shall promptly pursue the remedies provided by this Trust Indenture or any such remedies (not contrary to any such direction) as it deems appropriate for the protection of the Holders, and shall act for the protection of the Holders of the Senior Bonds with the same promptness and prudence as would be expected of a prudent person in the conduct of such person's own affairs.

(iv) Upon the occurrence of a Payment Default, the Bonds and payments under Interest Rate Exchange Agreements shall be paid and prepaid on a Pro Rata basis as described in Section 5.03(d) of this Trust Indenture.

(v) Only if the Senior Bonds are no longer Outstanding, in the event of a Subordinate Payment Default the Holders of First Subordinate Bonds, Second Subordinate Bonds, and Fully Subordinate Bonds may enforce the provisions of this Trust Indenture for their benefit by appropriate legal proceedings in accordance with clauses (b), (c) and (d) of the definition of the Payment Priorities and shall be paid and prepaid on a Pro Rata basis as described in Section 5.03(d) of this Trust Indenture.

(b) *Subordinate Remedies.*

(i) *First Subordinate Bonds.* The Principal, premium, if any, and interest on First Subordinate Bonds will be subordinated in right of payment to Accreted Value, Principal, premium, if any, and interest payments on the Senior Bonds. If any Event of

Default shall have occurred and be continuing, Holders of Senior Bonds will be entitled to receive payment thereof in full before the Holders of the First Subordinate Bonds are entitled to receive payment thereof; and any payment or distribution of assets otherwise payable to Holders of the First Subordinate Bonds will be paid to Holders of Senior Bonds until all Senior Bonds have been Fully Paid, and the Holders of the First Subordinate Bonds will be subrogated to the rights of such Holders of Senior Bonds to receive payments or distributions of assets with respect thereto.

(ii) *Second Subordinate Bonds.* The Principal, premium, if any, and interest on Second Subordinate Bonds will be subordinated in right of payment to Accreted Value, Principal, premium, if any, and interest payments on the Senior Bonds and First Subordinate Bonds. If any Subordinate Payment Default shall have occurred and be continuing, Holders of Senior Bonds and First Subordinate Bonds will be entitled to receive payment thereof in full before the Holders of the Second Subordinate Bonds are entitled to receive payment thereof; and any payment or distribution of assets otherwise payable to Holders of the Second Subordinate Bonds will be paid to Holders of Senior Bonds and First Subordinate Bonds until all Senior Bonds and First Subordinate Bonds have been Fully Paid, and the Holders of the Second Subordinate Bonds will be subrogated to the rights of such Holders of Senior Bonds and First Subordinate Bonds to receive payments or distributions of assets with respect thereto.

(iii) *Fully Subordinate Bonds.* The Principal, premium, if any, and interest on Fully Subordinate Bonds will be subordinated in right of payment to Accreted Value, Principal, premium, if any, and interest payments on the Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds. If any Subordinate Payment Default shall have occurred and be continuing, Holders of Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds will be entitled to receive payment thereof in full before the Holders of the Fully Subordinate Bonds are entitled to receive payment thereof; and any payment or distribution of assets otherwise payable to Holders of the Fully Subordinate Bonds will be paid to Holders of Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds until all Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds have been Fully Paid, and the Holders of the Fully Subordinate Bonds will be subrogated to the rights of such Holders of Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds to receive payments or distributions of assets with respect thereto.

**Section 10.03 Individual Remedies.** Subject to the provisions of the next succeeding sentence, no one or more Holders shall by his or their action affect, disturb or prejudice the pledge and assignment created by this Trust Indenture, or enforce any right under this Trust Indenture, except in the manner herein provided; and all proceedings at law or in equity to enforce any provision of this Trust Indenture shall be instituted, had and maintained solely by the Trustee in the manner provided herein and for the equal and ratable benefit of all Holders of the same class. Nothing in this Trust Indenture shall affect or impair the right of any Holder of any Bond to enforce payment of the Accreted Value, Principal of, premium, if any, or interest thereon at and after the same comes due pursuant to this Trust Indenture, or the obligation of the Authority to pay such principal, premium, if any, and interest on each of the Bonds to the

respective Holders thereof at the time, place, from the source and in the manner expressed herein and in the Bonds.

**Section 10.04 Venue.** Except as otherwise provided in this Section, and unless otherwise provided in Article IV of the Ohio Constitution, any legal action against the Authority shall be brought in the Ohio Court of Claims under chapter 2743 of the Ohio Revised Code. Any special proceeding brought against the Authority or the State in which the Ohio Court of Appeals has original jurisdiction shall be filed and determined in the Court of Appeals of Franklin County. Pursuant to the Act, any such action or proceeding to which the Authority or the State is a party shall be preferred over all other civil causes of action or cases, except election causes of action or cases, irrespective of position on the calendar.

**Section 10.05 Waiver.** If the Trustee determines that a Default has been cured before becoming an Event of Default and before the entry of any final judgment or decree with respect to it, the Trustee may waive the Default and its consequences, by written notice to the Authority, and shall do so upon written instruction of the Holders of at least 25% of the Aggregate Bond Obligation of the Senior Bonds.

**Section 10.06 Remedies Cumulative.** The rights and remedies under this Trust Indenture shall be cumulative and shall not exclude any other rights and remedies allowed by law, provided there is no duplication of recovery. The failure to insist upon a strict performance of any of the obligations of the State or the Authority or to exercise any remedy for any violation thereof shall not be taken as a waiver for the future of the right to insist upon strict performance by the State or the Authority or of the right to exercise any remedy for the violation.

**Section 10.07 Delay or Omission Not Waiver.** No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given hereby or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

## ARTICLE XI

### MISCELLANEOUS

#### **Section 11.01 Supplements and Amendments to the Trust Indenture.**

(a) This Trust Indenture may be:

(i) supplemented by delivery to the Trustee of an instrument certified by an Authorized Officer of the Authority to (A) provide for earlier or greater deposits into the Bond Service Fund, (B) upon direction of an Authorized Officer of the Authority, accompanied by an opinion of Counsel as to the validity thereof under the Act, subject any property to the lien hereof subject to the consent of the State or as authorized by law, (C) add to the covenants and agreements of the Authority or surrender or limit any right or power of the Authority to the extent permitted by the Act or other applicable law, (D) identify particular Bonds for purposes not inconsistent herewith, including credit or

liquidity support, remarketing, serialization and defeasance, (E) cure any ambiguity or defect, (F) protect the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, or the exemption from registration of the Bonds under the Securities Act of 1933, as amended, or of this Trust Indenture under the Trust Indenture Act of 1939, as amended, (G) authorize Bonds of a Series and in connection therewith determine the matters referred to herein, including Sections 3.01, and any other things relative to such Bonds that are not materially adverse to the Holders of Outstanding Bonds, or to modify or rescind any such authorization or determination at any time prior to the first authentication and delivery of such Series of Bonds, (H) make any other changes to this Trust Indenture that, as evidenced by a Rating Confirmation, are not materially adverse to the Holders of Outstanding Bonds, or (I) provide for the issuance of the Series 2007 Bonds, Refunding Bonds, Additional Bonds and Fully Subordinate Bonds in compliance with Article III of this Trust Indenture; or

(ii) amended in any other respect by the Authority and the Trustee, (A) to add provisions that are not materially adverse to the Holders, or (B) to adopt amendments that do not take effect unless and until (1) no Bonds Outstanding prior to the adoption of such amendment remain Outstanding or (2) such amendment is consented to by the Holders of such Bonds in accordance with the further provisions hereof; or

(iii) amended only with prior written notice to the Rating Agencies and the written consent of a Majority in Interest of the Aggregate Bond Obligation of Senior Bonds (or First Subordinate Bonds when there are no Senior Bonds Outstanding, or Second Subordinate Bonds when there are no Senior Bonds and no First Subordinate Bonds Outstanding); provided, however, this Trust Indenture shall not be amended so as to (A) extend the maturity of any Bond, (B) reduce the Principal amount or Accreted Value of any Bond, applicable premium or interest rate of any Bond, (C) make any Bond redeemable other than in accordance with its terms, (D) create a preference or priority of any Bond over any other Bond of the same class or (E) reduce the percentage of the Bonds required to be represented by the Holders giving their consent to any amendment unless the Holders of the Bonds affected thereby have consented thereto in writing.

(b) Any amendment of this Trust Indenture shall be accompanied by a Counsel's opinion addressed to the Trustee to the effect that the amendment is permitted by law and by this Trust Indenture and, if there are Tax-Exempt Bonds Outstanding, does not adversely affect the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes.

(c) When the Authority determines that the requisite number of consents have been obtained for an amendment hereto or to the 2007 Sale Agreement which requires consents, it shall file a certificate to that effect in its records and give written notice to the Trustee and the Holders. The Trustee will promptly certify to the Authority that it has given such notice to all Holders and such certificate will be conclusive evidence that such notice was given in the manner required hereby.

**Section 11.02 Supplements and Amendments to the 2007 Sale Agreement.** In the event that the Trustee receives a request from the Authority for a consent or other action with

respect to an amendment to the 2007 Sale Agreement pursuant to Section 6.09(h) hereof, the Trustee shall transmit a notice of such request to each Holder and request directions with respect thereto.

**Section 11.03 Notices.** Unless otherwise expressly provided, all notices under this Trust Indenture shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided by proper notice hereunder. The effective date for any notice under this Trust Indenture shall be the date of delivery of such notice (not the date of mailing) which may be effected by personal delivery, certified U.S. mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS. Failure to accept "receipt" shall constitute delivery.

If to the Trustee:

U.S. Bank National Association  
175 South Third Street, 4<sup>th</sup> Floor  
Columbus, Ohio 43215  
Attention: Corporate Trust Services

If to the Authority:

Buckeye Tobacco Settlement Financing  
Authority  
c/o Office of Budget and Management  
30 East Broad Street, 34<sup>th</sup> Floor  
Columbus, Ohio 43215  
Attn: Chairperson

All notices to a Holder shall be in writing and (without limitation) shall be deemed sufficiently given if sent by mail, postage prepaid, to the Holder at the address shown on the registration books. A Holder may direct the registrar to change such Holder's address as shown on the registration books by written notice to the registrar.

Notice hereunder may be waived prospectively or retrospectively by the person entitled to the notice, but no waiver shall affect any notice requirement as to other persons.

**Section 11.04 Governing Law.** This Trust Indenture shall be governed by State law, without reference to its conflict of law provisions, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws. Any and all litigation or

actions commenced in connection with this Trust Indenture and the Bonds shall be brought in the venues designated in Section 10.04 of this Trust Indenture.

**Section 11.05 Beneficiaries.** This Trust Indenture is not intended for the benefit of and shall not be construed to create rights in parties other than the Authority, the Fiduciaries, the Holders of Senior Bonds, and the other Beneficiaries to the extent specified herein.

**Section 11.06 Signatures and Counterparts.** This Trust Indenture and each Supplemental Indenture may be executed and delivered in any number of counterparts, each of which shall be deemed to be an original, but such counterparts together shall constitute one and the same instrument.

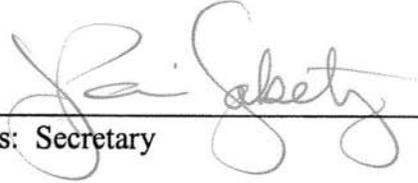
**Section 11.07 Successor and Assigns.** All covenants and agreements of the parties in this Trust Indenture shall bind the parties' successors and assigns, whether so expressed or not.

**Section 11.08 Severability.** In case any provision in this Trust Indenture or in the Bonds shall be held by court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

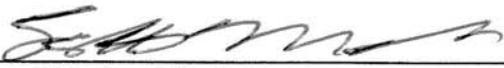
**Section 11.09 Legal Holidays.** In any case where the date on which any payment is due shall not be a Business Day, then (notwithstanding any other provision of the Bonds or this Trust Indenture) payment need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date on which nominally due, and no interest shall accrue for the period from and after any such nominal date.

IN WITNESS WHEREOF, the parties have caused this Trust Indenture to be duly executed all as of the date first above written.

**BUCKEYE TOBACCO SETTLEMENT  
FINANCING AUTHORITY**

By:   
Its: Secretary

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

By:   
Its: Vice President