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FIRST SUPPLEMENTAL TRUST INDENTURE

among

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

TREASURER OF THE STATE OF CALIFORNIA, as TRUSTEE

and

U.S. BANK, N.A., as CO-TRUSTEE

authorizing

POWER SUPPLY REVENUE BONDS  
SERIES 2002B      SERIES 2002C      SERIES 2002D

Dated as of October 1, 2002

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# FIRST SUPPLEMENTAL TRUST INDENTURE

authorizing

## POWER SUPPLY REVENUE BONDS SERIES 2002B      SERIES 2002C      SERIES 2002D

This FIRST SUPPLEMENTAL TRUST INDENTURE (the “First Supplemental Indenture”) is dated as of October 1, 2002, among the STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES (the “Department”), existing pursuant to Article 1 (commencing with Section 120) of Chapter 2 of Division 1 of the California Water Code, the TREASURER OF THE STATE OF CALIFORNIA, as Trustee (the “Trustee”), and U.S. BANK, N.A., as Co-Trustee (the “Co-Trustee”).

In consideration of the mutual agreements contained in this First Supplemental Indenture and other good and valuable consideration, the receipt of which is hereby acknowledged, the Department, the Trustee and the Co-Trustee agree as set forth herein.

### ARTICLE I

#### DEFINITIONS AND STATUTORY AUTHORITY

1.01. **Supplemental Indenture; Department.** This First Supplemental Indenture supplements the Trust Indenture dated as of October 1, 2002, among the Department, the Trustee and the Co-Trustee (as the same may be amended, the “Master Indenture”), and is entered into pursuant to and in accordance with Article VIII of the Master Indenture and the Act.

1.02. **Definitions.** (a) Except as set forth in subsection (b) of this Section, all terms which are defined in Section 101 of the Master Indenture shall have the same meanings for purposes of this First Supplemental Indenture.

(b) In this First Supplemental Indenture:

“**Administrative Agent**” has the meaning set forth in a Credit Facility or Liquidity Facility, as the case may be.

“**Alternate Rate**” means, as of any interest rate determination date, 100% of the BMA Index or, if the BMA Index is no longer published, an index or a rate agreed upon by the Department and the Remarketing Agents, but in no event in excess of the Maximum Rate.

“**Ambac**” means Ambac Assurance Corporation, a stock insurance corporation, or any successor thereto or assignee thereof.

“**Applicable Principal and Interest Coverage**” means the aggregate principal amount of Bonds of a Series supported by a Liquidity Facility or Credit Facility, as the case may be, plus the minimum number of days of interest, calculated at the rate, that in the judgment (evidenced by a written rating confirmation) of each Rating Agency shall be required to maintain the applicable rating on the Bonds of such Series.

“**Auction**” has the meaning set forth in **Appendix A** hereto.

“**Auction Agreement**” has the meaning set forth in **Appendix A** hereto.

“**Auction Period**” has the meaning set forth in **Appendix A** hereto.

“**Auction Period Rate**” has the meaning set forth in **Appendix A** hereto.

“**Auction Rate Mode**” has the meaning set forth in **Appendix A** hereto.

“**Authorized Denominations**” means, with respect to Bonds of a Series (i) during an Auction Rate Mode, \$25,000 and any integral multiple thereof, (ii) during a Daily Rate Mode, Weekly Rate Mode or Flexible Rate Mode, \$100,000 and any integral multiple of \$5,000 in excess thereof and (iii) during a Term Rate Mode and the Fixed Rate Mode, \$5,000 and any integral multiple thereof; provided, however, that if as a result of a change in the Interest Rate Mode from a Term Rate Mode to an Auction Rate Mode, Daily Rate Mode, Weekly Rate Mode or Flexible Rate Mode, it is not possible to deliver all the Bonds of a Series required or permitted to be Outstanding in a denomination permitted above, Bonds of a Series may be delivered, to the extent necessary, in different denominations.

“**Bank Bond**” means any Bond of a Series purchased with the proceeds of a drawing on a Liquidity Facility supporting such Bond, which Bank Bond shall be registered in accordance with Section 2.10(g) hereof.

“**Beneficial Owner**” means, for any Bond which is held by a nominee, the beneficial owner of such Bond.

“**BMA Index**” means The Bond Market Association<sup>®</sup> Municipal Swap Index as released to subscribers thereof.

“**Bonds**” or “**Bonds of a Series**” and words of like import shall mean the Series 2002B Bonds, the Series 2002C Bonds, the Series 2002D Bonds, or all three (3) Series, collectively, as the context may require.

“**Broker-Dealer**” has the meaning set forth in **Appendix A** hereto.

“**Broker-Dealer Agreement**” has the meaning set forth in **Appendix A** hereto.

“**Business Day**” means any day of the year other than (i) a Saturday and Sunday, (ii) a State legal holiday, (iii) any day which shall be in Sacramento, California,

or the city in which the Principal Office of the Trustee, the Co-Trustee or the relevant office of any Paying Agent or Registrar is located a legal holiday or a day on which Banks are authorized or required by law or other government action to close, or (iv) with respect to the Bonds of a Series, any day which shall be in the city in which the relevant office of the Tender Agent, the Auction Agent, any Broker-Dealer, the Remarketing Agent, the Administrative Agent, any Credit Facility Provider or any Liquidity Facility Provider, if any, for the Bonds of such Series is located a legal holiday or a day on which Banks are authorized or required by law or other government action to close.

“**Closing Date**” when used with respect to the Bonds of a Series means the date on which the Bonds of such Series are first issued and delivered.

“**Code**” means the Internal Revenue Code of 1986 (Title 26 of the United States Code) and any applicable regulations thereunder, as amended.

“**Credit Facility**” means the Enhancement Facility which guarantees, insures or secures the payment of principal of and interest on the Bonds of any Series which may be obtained by the Department pursuant to Section 6.01 hereof, any agreement providing for the issuance thereof and any extensions or renewals thereof, and after the Expiration or Termination of any Credit Facility shall mean a Substitute Credit Facility therefor, all as the same may be amended and supplemented.

“**Credit Facility Drawings Account**” means the account in the Debt Service Payment Fund established pursuant to Section 2.13 hereof.

“**Credit Facility Provider**” means, with respect to each Credit Facility, the issuer thereof.

“**Daily Period**” means each Interest Period during which a Daily Rate is in effect.

“**Daily Rate**” means the interest rate on the Bonds of a Series established in accordance with Section 2.06(a)(i) hereof.

“**Daily Rate Mode**” means the Interest Rate Mode during which the Bonds of a Series bear interest at a Daily Rate.

“**Debt Service Payment Fund**” means the fund established and held by the Paying Agent pursuant to Section 2.13 hereof.

“**Direct-Pay Credit Facility**” means a Credit Facility issued in the form of a letter of credit and designated by the issuer thereof as a “Direct Pay Letter of Credit.”

“**DTC**” means The Depository Trust Company, New York, New York, or its successors.

“**Electronic Means**” means telecopy, facsimile transmission, e-mail transmission or other similar electronic means of communication.

**“Expiration”** (and other forms of “expire”) means, when used with respect to a Credit Facility or a Liquidity Facility, the expiration of such Credit Facility or Liquidity Facility in accordance with its terms.

**“Fixed Period”** means each Interest Period during which a Fixed Rate is in effect.

**“Fixed Rate”** means the interest rate on the Bonds of a Series established in accordance with Section 2.06(a)(iv) hereof.

**“Fixed Rate Mode”** means the Interest Rate Mode during which the Bonds of a Series bear interest at a Fixed Rate.

**“Flexible Auction Period”** has the meaning set forth in **Appendix A** hereto.

**“Flexible Period”** means each Interest Period during which a Flexible Rate is in effect.

**“Flexible Rate”** means the interest rate on the Bonds of a Series established in accordance with Section 2.06(a)(iii) hereof.

**“Flexible Rate Mode”** means the Interest Rate Mode during which the Bonds of a Series bear interest at Flexible Rates for Flexible Periods established in accordance with this First Supplemental Indenture.

**“FSA”** means Financial Security Assurance Inc., a stock insurance corporation, or any successor thereto or assignee thereof.

**“Indenture”** has the meaning specified in the Master Indenture.

**“Information Services”** mean the national information services that disseminate securities redemption notices or provide information with respect to called bonds, or any other such services as the Department may designate in writing to the Trustee, the Co-Trustee and the Registrar. Such Information Services currently include: Financial Information, Inc. “Daily Called Bond Service”, 30 Montgomery Street, 10th Floor, Jersey City, New Jersey, 07302, Attention: Editor; Kenny Information Services, “Called Bond Service”, 65 Broadway, 16th Floor, New York, New York 10004; Mergent, 60 Madison Avenue, 6<sup>th</sup> Floor, New York, New York 10010, Attention: Municipal News Reports; and Standard and Poor’s Ratings Group “Called Bond Record,” 55 Water Street, New York, New York 10004.

**“Initial Interest Period”** means, with respect to Bonds of a Series, the period commencing on the Closing Date and ending on the date specified in Section 2.04(b) hereof.

**“Insurers”** means Ambac, FSA and XL Capital, collectively.

“**Interest Payment Date**” means (i) with respect to Bonds of a Series bearing interest at a Daily Rate or a Weekly Rate, the first Business Day of each calendar month, (ii) with respect to Bonds of a Series bearing interest at a Flexible Rate, the first Business Day following the end of each Flexible Period, (iii) with respect to Bonds of a Series bearing interest at a Term Rate or the Fixed Rate, the first day of May or November occurring not less than three months after the first day of the Interest Period and thereafter semiannually on the first day of each May and November, (iv) with respect to Bonds of a Series bearing interest at an Auction Period Rate, on such dates as set forth in **Appendix A** to this First Supplemental Indenture, and (v) in each such case, each mandatory Purchase Date and the Maturity Date thereof. Notwithstanding the foregoing, the Interest Payment Date with respect to Bonds of a Series during the Initial Interest Period shall be as prescribed in Section 2.04(b) hereof.

“**Interest Period**” means the period during which the Bonds of a Series shall bear interest at a Daily Rate, Weekly Rate, Flexible Rate, Term Rate, Auction Period Rate or Fixed Rate determined as follows:

(i) each Daily Period shall commence on a Business Day and end on the day preceding the next succeeding Business Day;

(ii) each Weekly Period shall be a period of seven calendar days and shall commence on a Business Day, selected by the Department, of a calendar week (the “Weekly Period Commencement Day”) and end on the next preceding calendar day of the next calendar week, provided that the first Weekly Period following the Initial Interest Period or a change in the Interest Rate Mode to a Weekly Rate Mode shall commence on the Business Day immediately following the last day of the preceding Interest Period (including the Initial Interest Period), shall not be longer than seven calendar days and shall end on day before the next Weekly Period Commencement Day;

(iii) each Flexible Period shall commence on the effective date of a change in the Interest Rate Mode to a Flexible Rate Mode for such Bonds or on the day immediately succeeding the last day of the immediately preceding Flexible Period for such Bonds, and shall end on a day preceding a Business Day, and shall be from one (1) to two hundred seventy (270) days as determined by the Remarketing Agent;

(iv) each Term Period shall commence on the effective date of a change in the Interest Rate Mode to a Term Rate Mode or on the day immediately succeeding the last day of the immediately preceding Interest Period and shall end on the date specified by the Department pursuant to Section 2.06(b)(ii) hereof, which date so specified shall be succeeded by a Business Day and shall be a day that is at least one year after the first day of such Term Period and that is not after the Maturity Date;

(v) each Auction Period shall be determined as set forth in **Appendix A** hereto; and

(vi) the Fixed Period shall commence on the effective date of a change in the Interest Rate Mode to a Fixed Rate Mode and end on the earlier of the day next preceding the effective date of a change in the Interest Rate Mode from such Fixed Rate Mode to another Interest Rate Mode and the Maturity Date of the Bonds of such Series.

Notwithstanding the foregoing, the Initial Interest Period for Bonds of a Series shall be as prescribed by Section 2.04(b) hereof.

**“Interest Rate Mode”** means, with respect to any Bond of a Series, the method by which the interest rate thereon shall be determined pursuant to Section 2.06 hereof and in particular shall mean the method for determining a Daily Rate, Weekly Rate, Flexible Rate or Term Rate, Auction Period Rate or the Fixed Rate, as the case may be.

**“Liquidity Facility”** means the Enhancement Facility which provides liquidity for the Bonds of any Series which may be obtained by the Department pursuant to Section 6.01 hereof, any agreement providing for the issuance thereof and any extensions or renewals thereof, and after the Expiration or Termination of any Liquidity Facility shall mean a Substitute Liquidity Facility, all as the same may be amended and supplemented.

**“Liquidity Facility Provider”** means, with respect to each Liquidity Facility, the issuer thereof.

**“Market Rate”** means any interest rate determined in accordance with the procedures set forth in Section 2.06(a)(vi) hereof.

**“Master Credit and Liquidity Agreement”** means the Master Credit, Liquidity and Participation Agreement dated as of October 30, 2002, among the State acting through the Department, various fronting banks, various participating banks, JPMorgan Chase Bank, as administrative agent, Bayerische Landesbank, acting through its New York Branch, Dexia Crédit Local, acting through its New York Agency, and The Bank of New York, as co-syndication agents, and BNP Paribas, acting through its San Francisco Branch, as documentation agent.

**“Maturity Date”** means May 1, 2022, with respect to the Bonds of each Series.

**“Maximum Interest Rate”** has the meaning set forth in **Appendix A** hereto.

**“Maximum Rate”** means, with respect to Bonds of a Series other than Bank Bonds, the lesser of (a) the highest interest rate which may be borne by such Bonds under State law, if any, (b) while any Credit Facility (other than a bond insurance policy) agreed to by the Department is in effect with respect to such Bonds, the interest rate used to calculate the amount of the interest component of the Applicable Principal and Interest Coverage for such Bonds and (c) while any Liquidity Facility agreed to by the

Department is in effect with respect to such Bonds, the interest rate used to calculate the amount of the interest component of the Applicable Principal and Interest Coverage for such Bonds. Notwithstanding the foregoing, the Maximum Rate applicable to Bonds bearing interest at an Auction Period Rate shall be the Maximum Interest Rate prescribed by **Appendix A** hereto.

**“Nationally Recognized Bond Counsel”** means, with respect to the Bonds of a Series, Hawkins, Delafield & Wood or other counsel acceptable to the Department, and the Credit Facility Provider and Liquidity Facility Provider for such Bonds, if any, experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

**“Notice of Mandatory Tender”** means that notice required to be delivered by the Paying Agent pursuant to Section 2.09 hereof.

**“Notice Parties”** means, with respect to Bonds of a Series, the Department, the Trustee, the Co-Trustee, the Paying Agent, the Remarketing Agent, the Tender Agent, the Auction Agent, all Broker-Dealers, the Credit Facility Provider and the Liquidity Facility Provider, if any, relating to such Bonds.

**“Outstanding Notes”** means, at any time, the Department’s \$2,000,000,000 of “Tax-Exempt Bonds” and \$2,300,000,000 of “Taxable Bonds” issued under the Credit and Security Agreement that are outstanding under such Agreement at such time.

**“Payment and Reimbursement Account”** means the account in the Debt Service Payment Fund that is established pursuant to Section 2.13 hereof.

**“Policy”** or **“Policies”** means the insurance policy or policies issued by the Insurers, as specified in Section 3.01 hereof, guaranteeing the scheduled payment of principal of and interest on the Series 2002C-2 Bonds, the Series 2002C-3 Bonds, the Series 2002C-6 Bonds, the Series 2002C-7 Bonds, the Series 2002C-13 Bonds, the Series 2002D-1 Bonds, the Series 2002D-2 Bonds, the Series 2002D-3 Bonds, the Series 2002D-4 Bonds and the Series 2002D-5 Bonds when due.

**“Principal Payment Date”** means any date upon which the principal amount of Bonds of a Series is due hereunder at maturity or on any Redemption Date.

**“Purchase and Reimbursement Account”** means the account that may be established pursuant to Section 2.12 hereof.

**“Purchase Date”** means each date on which the Bonds of a Series shall be tendered or deemed tendered for purchase pursuant to Sections 2.08 and 2.09 hereof.

**“Purchase Price”** means an amount equal to the principal amount of any Bond of a Series tendered or deemed tendered pursuant to this First Supplemental Indenture, plus the accrued and unpaid interest thereon to, but not including, the Purchase Date, plus, in the event Bonds of a Series in a Term Rate Mode or Fixed Rate Mode are

subject to mandatory tender for purchase pursuant to Section 2.09(c) hereof, any premium which would have been required to be paid as part of the Redemption Price on any Purchase Date as if such Bonds were redeemed pursuant to Section 2.07(a)(iii) hereof on such Purchase Date.

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

**“Record Date”** means (a) with respect to Bonds of a Series bearing interest at the Daily Rate, Weekly Rate or Flexible Rate, the close of business on the Business Day immediately preceding the Interest Payment Date therefor, (b) with respect to Bonds of a Series bearing interest at a Term Rate or the Fixed Rate, the fifteenth day (whether or not a Business Day) preceding the Interest Payment Date therefor, and (c) with respect to Bonds of a Series bearing interest at an Auction Period Rate, the Business Day immediately preceding the Interest Payment Date therefor. Notwithstanding the foregoing, the Record Date with respect to Bonds of a Series in the Initial Interest Period shall be as prescribed in Section 2.04 hereof.

**“Redemption Date”** means the date fixed for redemption of Bonds of a Series subject to redemption in any notice of redemption given in accordance with the terms of the Indenture.

**“Redemption Price”** means, with respect to any Bond or a portion thereof, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or this First Supplemental Indenture.

**“Remarketing Agent”** means the remarketing agent or agents at the time serving as such for the Bonds of a Series pursuant to Section 5.01 hereof.

**“Remarketing Agreement”** means, with respect to the Bonds of a Series, an agreement between the Department and the Remarketing Agent pursuant to which the Remarketing Agent agrees to perform the duties thereof specified in this First Supplemental Indenture with respect to such Bonds.

**“Securities Depository”** means DTC as the Securities Depository (as defined in the Master Indenture) appointed pursuant to Section 2.03(g) hereof, or any substitute Securities Depository appointed pursuant to Section 2.03(g) hereof, or any successor to DTC or any substitute Securities Depository.

**“Series 2002B Bonds”** means the Power Supply Revenue Bonds, Series 2002 B, authorized by Section 2.01 hereof.

**“Series 2002C Bonds”** means the Power Supply Revenue Bonds, Series 2002 C, authorized by Section 2.01 hereof.

“**Series 2002D Bonds**” means the Power Supply Revenue Bonds, Series 2002 D, authorized by Section 2.01 hereof.

“**Standby Credit Facility**” means a Credit Facility issued in the form of a letter of credit and designated by the issuer thereof as a “Standby Letter of Credit.”

“**Substitute Credit Facility**” and “**Substitute Liquidity Facility**” means any substitute or replacement Credit Facility or Liquidity Facility, respectively, delivered in accordance with Section 6.01 hereof, and any extensions or renewals thereof, as the same may be amended and supplemented.

“**Substitution Date**” means:

(i) with respect to a Bond of a Series that is subject to mandatory tender for purchase pursuant to Section 2.09(d) hereof as a result of a substitution of the then-existing Credit Facility or Liquidity Facility supporting such Bond with a Substitute Credit Facility or Substitute Liquidity Facility, the effective date of such Substitute Credit Facility or Substitute Liquidity Facility, as the case may be; and

(ii) with respect to a Bond of a Series that is not subject to mandatory tender for purchase pursuant to Section 2.09(d) hereof as a result of a substitution of the then-existing Credit Facility or Liquidity Facility supporting such Bond with a Substitute Credit Facility or Substitute Liquidity Facility, the date that is the later of (a) the effective date of such Substitute Credit Facility or Substitute Liquidity Facility, as the case may be, and (b) the following date(s):

(1) while such Bond is in a Daily Rate Mode or a Weekly Rate Mode, the fifteenth (15<sup>th</sup>) day immediately succeeding the day on which the Paying Agent gives notice of such substitution or replacement to the Owner of such Bond and each Rating Agency then rating such Bond;

(2) while such Bond is in the applicable Initial Interest Period, the later of (x) the fifteenth (15<sup>th</sup>) day immediately succeeding the day on which the Paying Agent gives notice of such substitution or replacement to the Owner of such Bond and each Rating Agency then rating such Bond, and (y) the seventh (7<sup>th</sup>) day immediately succeeding the last day of such Initial Interest Period; and

(3) while such Bond is in a Flexible Rate Mode or a Term Rate Mode, the applicable Purchase Date for such Bond.

“**Tender Agency Agreement**” means, with respect to the Bonds of a Series, an agreement between the Department and the Tender Agent pursuant to which the Tender Agent agrees to perform the duties thereof specified in this First Supplemental Indenture with respect to such Bonds.

“**Tender Agent**” means the tender agent appointed for the Bonds of a Series pursuant to Section 4.01 hereof.

“**Termination**” (and other forms of “terminate”) means, when used with respect to any Credit Facility or Liquidity Facility, the replacement, removal, surrender or other termination of such Credit Facility or Liquidity Facility in accordance with its terms, other than an Expiration or an extension or renewal thereof.

“**Term Period**” means each Interest Period during which a Term Rate is in effect.

“**Term Rate**” means the interest rate on Bonds of a Series established in accordance with Section 2.06(a)(iv) hereof.

“**Term Rate Mode**” means the Interest Rate Mode during which the Bonds of a Series bear interest at a Term Rate.

“**Treasury Rate**” means the interest rate applicable to 13-week United States Treasury bills determined by the Remarketing Agent on the basis of the average per annum discount rate which such 13-week Treasury bills shall have been sold at the most recent Treasury auction.

“**Weekly Period**” means each Interest Period during which a Weekly Rate is in effect.

“**Weekly Period Commencement Day**” has the meaning set forth in the definition of Interest Period above.

“**Weekly Rate**” means the interest rate on Bonds of a Series established weekly in accordance with Section 2.06(a)(ii) hereof.

“**Weekly Rate Mode**” means the Interest Rate Mode during which the Bonds of a Series bear interest at a Weekly Rate.

“**XL Capital**” means XL Capital Assurance Inc., a stock insurance corporation, or any successor thereto or assignee thereof.

### 1.03. **Rules of Construction.**

(a) To the extent that the Bonds of a Series are re-designated into two or more subseries, any reference in this First Supplemental Indenture to the Bonds of a Series or to a Series of Bonds shall be deemed to refer to Bonds of such subseries or to each subseries of Bonds, respectively.

(b) Unless otherwise provided in this First Supplemental Indenture, any reference in this First Supplemental Indenture to a particular time of day shall be deemed to refer to New York City time.

(c) Any reference in this First Supplemental Indenture to a “Liquidity Facility” or “Credit Facility”, as the case may be, when used in connection with any reference to “Bonds” shall be deemed to refer to the Liquidity Facility or Credit Facility supporting such Bonds.

(d) Any reference in this First Supplemental Indenture to “Liquidity Facility Provider” or “Credit Facility Provider”, as the case may be, when used in connection with any reference to “Bonds” shall be deemed to refer to all the banks or financial institutions which issued a Liquidity Facility or Credit Facility supporting such Bonds and that are obligated pursuant to such Liquidity Facility or Credit Facility to honor draws or make purchases thereunder.

(e) Any reference in this First Supplemental Indenture to a “Remarketing Agent” or “Broker-Dealer(s)”, as the case may be, when used in connection with any reference to “Bonds” shall be deemed to refer to the Remarketing Agent or Broker-Dealer(s) for such Bonds.

(f) Any reference in this First Supplemental Indenture to a “Remarketing Agreement” or “Broker-Dealer Agreement(s)”, as the case may be, when used in connection with any reference to “Bonds” shall be deemed to refer to the Remarketing Agreement or Broker-Dealer Agreement(s) for such Bonds.

## ARTICLE II

### AUTHORIZATION AND DETAILS OF SERIES OF POWER SUPPLY REVENUE BONDS

2.01. **Principal Amount, Designation and Series.** Pursuant to the provisions of the Master Indenture, three (3) Series of Bonds, and multiple subseries within such Series, entitled to the benefit, protection and security of such provisions are hereby authorized in the aggregate principal amount of \$4,250,000,000, and with the respective aggregate principal amounts and designations, as follows:

1. \$1,000,000,000 Power Supply Revenue Bonds, Series 2002 B.
  - a. \$300,000,000 Power Supply Revenue Bonds, Series 2002B-1
  - b. \$300,000,000 Power Supply Revenue Bonds, Series 2002B-2
  - c. \$100,000,000 Power Supply Revenue Bonds, Series 2002B-3
  - d. \$100,000,000 Power Supply Revenue Bonds, Series 2002B-4
  - e. \$100,000,000 Power Supply Revenue Bonds, Series 2002B-5
  - f. \$100,000,000 Power Supply Revenue Bonds, Series 2002B-6

2. \$2,750,000,000 Power Supply Revenue Bonds, Series 2002 C.
  - a. \$250,000,000 Power Supply Revenue Bonds, Series 2002C-1
  - b. \$200,000,000 Power Supply Revenue Bonds, Series 2002C-2
  - c. \$100,000,000 Power Supply Revenue Bonds, Series 2002C-3
  - d. \$400,000,000 Power Supply Revenue Bonds, Series 2002C-4
  - e. \$50,000,000 Power Supply Revenue Bonds, Series 2002C-5
  - f. \$100,000,000 Power Supply Revenue Bonds, Series 2002C-6
  - g. \$350,000,000 Power Supply Revenue Bonds, Series 2002C-7
  - h. \$150,000,000 Power Supply Revenue Bonds, Series 2002C-8
  - i. \$250,000,000 Power Supply Revenue Bonds, Series 2002C-9
  - j. \$225,000,000 Power Supply Revenue Bonds, Series 2002C-10
  - k. \$100,000,000 Power Supply Revenue Bonds, Series 2002C-11
  - l. \$50,000,000 Power Supply Revenue Bonds, Series 2002C-12
  - m. \$250,000,000 Power Supply Revenue Bonds, Series 2002C-13
  - n. \$100,000,000 Power Supply Revenue Bonds, Series 2002C-14
  - o. \$100,000,000 Power Supply Revenue Bonds, Series 2002C-15
  - p. \$25,000,000 Power Supply Revenue Bonds, Series 2002C-16
  - q. \$25,000,000 Power Supply Revenue Bonds, Series 2002C-17
  - r. \$25,000,000 Power Supply Revenue Bonds, Series 2002C-18
3. \$500,000,000 Power Supply Revenue Bonds, Series 2002 D.
  - a. \$100,000,000 Power Supply Revenue Bonds, Series 2002D-1
  - b. \$100,000,000 Power Supply Revenue Bonds, Series 2002D-2
  - c. \$100,000,000 Power Supply Revenue Bonds, Series 2002D-3
  - d. \$100,000,000 Power Supply Revenue Bonds, Series 2002D-4
  - e. \$100,000,000 Power Supply Revenue Bonds, Series 2002D-5

Portions of the Bonds of a Series may bear such additional designations, if any, as an Authorized Officer may direct the Trustee and Co-Trustee in connection with a redesignation into subseries pursuant to Section 2.06(e) hereof or otherwise.

2.02. **Purposes.** The purposes for which the Bonds are issued are, together with other moneys available therefor, to pay Costs of the Department as provided by Section 2.03 hereof.

2.03. **Application of Proceeds of Bonds and Other Available Moneys.** Proceeds of the Bonds and other available moneys shall be applied as follows:

(i) The amount of \$3,480,174,950.28, derived from proceeds of the Bonds, shall be applied as directed by an Authorized Officer to pay principal of and interest on Outstanding Notes upon prepayment.

(ii) The amount of \$163,825,315.96, derived from proceeds of the Bonds, shall be deposited in the General Fund of the State to repay the General Fund of the State for advances made to the Department from amounts appropriated to the Electric Power Fund and moneys expended by the Department from the General Fund pursuant to the 2001 Emergency Measures.

(iii) The amount of \$1,173,745,274.33 being the amount equal to the Minimum Operating Expense Available Balance, derived from amounts in deposit in the Electric Power Fund, shall be deposited in the Operating Account.

(iv) The amount of \$777,376,200.46, being the amount necessary to cause the amount on deposit in the Operating Reserve Account to at least equal the Operating Reserve Account Requirement calculated immediately after the delivery of the Bonds, derived from amounts in deposit in the Electric Power Fund, shall be deposited in the Operating Reserve Account.

(v) No amount shall be deposited in the Priority Contract Account.

(vi) The amount of \$16,634,999.99, derived from proceeds of the Bonds, shall be deposited in the Bond Charge Collection Account.

(vii) The amount of \$67,771,046.02, derived from the proceeds of the Bonds, shall be deposited in the Bond Charge Payment Account.

(viii) The amount of \$425,000,000.00, being the amount necessary to cause the amount on deposit in the Debt Service Reserve Account to at least equal the Debt Service Reserve Requirement calculated immediately after the delivery of the Bonds, derived from the proceeds of the Bonds, shall be deposited in the Debt Service Reserve Account.

(ix) The balance of the proceeds of the Bonds shall be deposited in the Operating Account, or otherwise if directed by an Authorized Officer, to pay Costs of the Department not provided for above.

2.04. **Details of Bonds.** (a) Date and Maturities. The Bonds of each Series shall be dated and shall bear interest from the Closing Date, and shall mature on the Maturity Date therefor.

The Bonds of any or all Series (including subseries) shall be term Bonds (“Term Bonds”) and shall be retired from Sinking Fund Installments which shall be established by a written determination (the “Determination”) executed by an Authorized Officer and filed with the Trustee and the Co-Trustee with respect to the Bonds of each Series no later than forty-five (45) days prior to the last day of the shortest Initial Interest Period, upon which filing such Determination shall be effective without the consent of any Owner or any other Person. Such Sinking Fund Installments shall result in compliance by the Department with the covenant of Section 612 of the Master Indenture, and the Determination shall so certify. The Determination also shall specify the mandatory Sinking Fund Installment redemption dates and amounts consistent with Section 2.07(b) hereof. A notice describing such Determination shall be sent to the Owners of the affected Bonds by first class mail, postage prepaid.

(b) Interest. The Series 2002B Bonds, the Series 2002C Bonds and the Series 2002D Bonds shall initially bear interest from and including the Closing Date to and including the last day of the respective Initial Interest Period applicable thereto. Such interest shall be calculated on the basis of a 365-day year for the actual number of days elapsed. Such interest shall be paid with respect to each Initial Interest Period on the first Business Day immediately following the end of the respective Initial Interest Period. The Record Date for the payment of such interest shall be the close of business on the first Business Day immediately preceding the Interest Payment Date. The last day of the Initial Interest Period applicable to each subseries of the Series 2002B Bonds, the Series 2002C Bonds and the Series 2002D Bonds, and the interest rate per annum to be borne by the Bonds of each subseries during the Initial Interest Period, shall be as set forth in the applicable table below.

| Series 2002B Bonds |  |                              |
|--------------------|--|------------------------------|
| <u>Subseries</u>   | <u>Last Day of<br/>Initial Interest Period</u> | <u>Initial Interest Rate</u> |
| 2002B-1            | 03/12/03                                       | 1.80%                        |
| 2002B-2            | 02/12/03                                       | 1.80                         |
| 2002B-3            | 03/12/03                                       | 1.80                         |
| 2002B-4            | 02/12/03                                       | 1.80                         |
| 2002B-5            | 01/15/03                                       | 1.80                         |
| 2002B-6            | 01/15/03                                       | 1.80                         |

On the day immediately following the last day of the applicable Initial Interest Period, each respective subseries of the Series 2002B Bonds shall be changed to the Daily Rate Mode. For any Daily Period, the Daily Rate for such Bonds for each Daily Period shall be the rate of interest determined in accordance with this First Supplemental Indenture.

Series 2002C Bonds

| <u>Subseries</u> | <u>Last Day of<br/>Initial Interest Period</u> | <u>Initial Interest Rate</u> |
|------------------|--|------------------------------|
| 2002C-1          | 03/12/03                                       | 1.80%                        |
| 2002C-2          | 02/12/03                                       | 1.80                         |
| 2002C-3          | 03/12/03                                       | 1.80                         |
| 2002C-4          | 03/12/03                                       | 1.80                         |
| 2002C-5          | 01/15/03                                       | 1.80                         |
| 2002C-6          | 02/12/03                                       | 1.80                         |
| 2002C-7          | 02/12/03                                       | 1.80                         |
| 2002C-8          | 01/15/03                                       | 1.80                         |
| 2002C-9          | 03/12/03                                       | 1.80                         |
| 2002C-10         | 01/15/03                                       | 1.80                         |
| 2002C-11         | 02/12/03                                       | 1.80                         |
| 2002C-12         | 02/12/03                                       | 1.80                         |
| 2002C-13         | 01/15/03                                       | 1.80                         |
| 2002C-14         | 02/12/03                                       | 1.80                         |
| 2002C-15         | 02/12/03                                       | 1.80                         |
| 2002C-16         | 01/15/03                                       | 1.80                         |
| 2002C-17         | 01/15/03                                       | 1.80                         |
| 2002C-18         | 01/15/03                                       | 1.80                         |

On the day immediately following the last day of the applicable Initial Interest Period, each respective subseries of the Series 2002C Bonds shall be changed to the Weekly Rate Mode. Each Weekly Period for each such subseries shall commence on a Thursday and end on the Wednesday of the following calendar week. For any Weekly Period, the Weekly Rate for such Bonds for each such Weekly Period shall be the rate of interest determined in accordance with this First Supplemental Indenture.

Series 2002D Bonds

| <u>Subseries</u> | <u>Last Day of<br/>Initial Interest Period</u> | <u>Initial Interest Rate</u> |
|------------------|--|------------------------------|
| 2002D-1          | 01/28/03                                       | 1.80%                        |
| 2002D-2          | 02/04/03                                       | 1.80                         |
| 2002D-3          | 02/11/03                                       | 1.80                         |
| 2002D-4          | 02/18/03                                       | 1.80                         |
| 2002D-5          | 02/25/03                                       | 1.80                         |

On the day immediately following the last day of the applicable Initial Interest Period, each respective subseries of the Series 2002D Bonds shall be changed to the Auction Rate Mode. The initial Auction Date for each subseries of the Series 2002D Bonds shall be the last day of the applicable Initial Interest Period, and each Auction Period for such subseries of Series 2002D Bonds shall be a 35-day Auction Period with Auctions generally conducted on Tuesdays, in each case unless the length of such Auction Period is adjusted or changed to a different Auction Period in accordance with **Appendix A** hereto. For any Auction Period, such Bonds shall bear interest at an

Auction Period Rate determined in accordance with this First Supplemental Indenture and **Appendix A** hereto.

Except as otherwise provided above and notwithstanding anything in the Indenture to the contrary, the terms of this First Supplemental Indenture that are applicable to the Bonds of a Series during the Interest Rate Mode that immediately succeeds an Initial Interest Period shall also be applicable to the Bonds of such Series during such Initial Interest Period; provided, however that (i) the changes from the Initial Interest Period to the Daily Period, Weekly Period and Auction Period as described above shall occur automatically without any notice, consent, action or opinion, (ii) no Bond of a Series to which an Initial Interest Period applies may be tendered for purchase at the option of the Owner thereof during such Initial Interest Period, (iii) no mandatory tender for purchase shall occur upon the change from any Initial Interest Period to the Daily Period, Weekly Period or Auction Period, and (iv) no Bond of a Series to which an Initial Interest Period applies may be redeemed at the option of the Department during such Initial Interest Period.

(c) Denominations and Numbering. The Bonds shall be issued in the form of fully registered Bonds in Authorized Denominations. Unless an Authorized Officer shall otherwise direct, the Bonds of each Series shall be numbered consecutively from one upward and shall bear a prefix indicating the Series designation.

(d) Payment of Principal and Interest. Principal and Redemption Price of each Bond shall be payable at the office of the Paying Agent designated for such purpose, upon presentation and surrender of such Bond.

The Registrar shall indicate on the Bonds of each Series the date of their authentication as provided in Section 2.05 hereof. Interest on the Bonds of such Series shall be payable from the Interest Payment Date next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is an Interest Payment Date, in which case from such date if interest has been paid to such date; provided, however, that interest shall be payable on such Bonds from the Closing Date if the date of authentication is prior to the first Interest Payment Date therefor.

Interest on the Bonds of a Series shall be payable to the Owner of record on the Record Date (i) by check mailed by the Paying Agent to the registered Owner at such Owner's address as it appears on the books of registry required to be kept by the Registrar pursuant to the Indenture or (ii) by wire transfer of immediately available funds to the account specified by the Owner of at least \$1,000,000 in aggregate principal amount of Bonds of a Series in a written direction received by the Paying Agent at its office designated for such purpose on or prior to a Record Date; provided, however, that upon redemption of any Bond on a date other than a Redemption Date, the accrued interest payable upon redemption shall be payable at the office of the Paying Agent designated for such purpose, upon presentation and surrender of such Bond, unless the Redemption Date is an Interest Payment Date, in which event the interest on such Bond so redeemed shall be paid by the Paying Agent as aforesaid. Any such direction or

request shall remain in effect until revoked or revised by such Owner by an instrument in writing delivered to the Paying Agent.

Each Bond of a Series shall bear interest as provided in this Article II. Interest at the rate determined for any particular Interest Period shall accrue from and including the commencement date of such Interest Period through and including the last day thereof, subject to adjustment to a different Interest Period pursuant to this First Supplemental Indenture, and shall be payable on each Interest Payment Date to the Owner of record on the Record Date relating thereto. Except as may be set forth in **Appendix A** hereto with respect to Bonds of a Series in an Auction Rate Mode, interest on overdue principal of and, to the extent lawful, on overdue premium and interest on the Bonds of a Series will be payable at the rate on such Bonds on the day immediately preceding the default in the payment thereof. Payment of defaulted interest will be made to the Owners of record on the fifth (5<sup>th</sup>) day (or if such day is not a Business Day, then the next preceding Business Day) immediately preceding the payment thereof.

Interest on Bonds of a Series payable during a Daily Rate Mode, Weekly Rate Mode or Flexible Rate Mode shall be calculated on the basis of a 365-day or 366-day year, as applicable, for the actual number of days elapsed. Interest on Bonds of a Series payable during a Term Rate Mode or a Fixed Rate Mode, shall be calculated on the basis of a 360-day year comprised of twelve 30-day months. Interest on Bonds of a Series payable during an Auction Rate Mode with an Auction Period of 180 days or less shall be calculated on the basis of a 360-day year for the actual number of days elapsed, and interest on Bonds of a Series payable during an Auction Rate Mode with an Auction Period of more than 180 days shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

No Bond of a Series (other than Bank Bonds) may bear interest at an interest rate higher than the Maximum Rate.

Except as provided in Section 2.08(b) hereof, the principal or Redemption Price of and interest on the Bonds of a Series shall also be payable at any other place which may be provided for such payment by the appointment of any other paying agent or paying agents as permitted by the Master Indenture.

The foregoing provisions of this subsection (d) shall be subject to the provisions of subsection (f) of this Section.

The principal of and premium, if any, and interest on the Bonds of a Series shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts. Except with respect to the Bonds of a Series in a Fixed Rate Mode, the principal, Redemption Price and Purchase Price of, and premium, if any, and interest on, Bonds of a Series shall be payable in immediately available funds unless such method of payment is changed to a different method of payment pursuant to Section 2.06(b)(vi) hereof.

Notwithstanding anything to the contrary in this First Supplemental Indenture, the interest rate on Bank Bonds of a Series shall be determined, and interest on such Bank Bonds shall be payable and calculated, at the times and in accordance with the terms of the Liquidity Facility relating to such Bonds. Notwithstanding anything to the contrary in this First Supplemental Indenture, the principal, Redemption Price and Purchase Price of, and interest on, Bank Bonds of a Series shall be payable pursuant to the method of payment that is provided in the Liquidity Facility relating to such Bonds. No Bank Bond may bear interest at an interest rate higher than the lesser of (i) the maximum rate provided for in the Liquidity Facility relating to such Bond, or (ii) the highest interest rate which may be borne by such Bond under State law, if any.

(e) Registrar, and Paying Agent. The Co-Trustee is hereby appointed as the initial Registrar and initial Paying Agent for the Bonds. The Department may appoint additional or different Paying Agents and a different Registrar for the Bonds as provided in the Master Indenture and, if so, references herein to the Paying Agent and Registrar shall be deemed also to include such additional Paying Agents or Registrar, as the case may be.

(f) Securities Depository. The Bonds of each Series when initially issued shall be registered in the name of Cede & Co., as nominee of DTC, in the form of one or more fully registered Bonds for each maturity of the Bonds of each Series. DTC is hereby appointed initial Securities Depository for the Bonds, subject to the provisions of subsection (g) of this Section. So long as DTC or its nominee, as Securities Depository, is the registered owner of Bonds, individual purchases of beneficial ownership interests in such Bonds may be made only in book-entry form by or through DTC participants, and purchasers of such beneficial ownership interest in such Bonds will not receive physical delivery of bond certificates representing the beneficial ownership interests purchased.

So long as DTC or its nominee, as Securities Depository, is the registered owner of Bonds of a Series, payments of principal of and premium, if any, and interest on such Bonds will be made by wire transfer to DTC or its nominee, or otherwise as may be agreed upon by the Department, the Co-Trustee, the Paying Agent and DTC. Transfers of principal, premium, if any, and interest payments to DTC participants will be the responsibility of DTC. Transfers of such payments to Beneficial Owners of such Bonds by DTC participants will be the responsibility of such participants and other nominees of such Beneficial Owners.

So long as DTC or its nominee, as Securities Depository, is the registered owner of Bonds of a Series, the Department shall send, or cause the Registrar to send, or take timely action to permit the Registrar to send, to DTC notice of redemption of such Bonds and any other notice required to be given to registered owners of such Bonds pursuant to the Indenture, in the manner and at the times prescribed by the Indenture, except as may be agreed upon by the Department, DTC, the Registrar and, if applicable, the Co-Trustee.

Neither the Department nor any Fiduciary shall have any responsibility or obligation to the DTC participants, Beneficial Owners or other nominees of such

Beneficial Owners for (1) sending transaction statements; (2) maintaining, supervising or reviewing, or the accuracy of, any records maintained by DTC or any DTC participant or other nominees of such Beneficial Owners; (3) payment or the timeliness of payment by DTC to any DTC participant, or by any DTC participant or other nominees of Beneficial Owners to any Beneficial Owner, of any amount due in respect of the principal of or redemption premium, if any, or interest on Bonds; (4) delivery or timely delivery by DTC to any DTC participant, or by any DTC participant or other nominees of Beneficial Owners to any Beneficial Owners, of any notice (including notice of redemption) or other communication which is required or permitted under the terms of the Indenture to be given to Owners of Bonds; (5) the selection of the Beneficial Owners to receive payment in the event of any partial redemption of Bonds; or (6) any action taken by DTC or its nominee as the registered owner of the Bonds.

Notwithstanding any other provisions of this First Supplemental Indenture to the contrary, the Department, the Registrar, any Paying Agent, the Trustee and the Co-Trustee shall be entitled to treat and consider the person in whose name each Bond is registered in the books of registry as the absolute owner of such Bond for the purpose of payment of principal, Redemption Price, Purchase Price and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal and Redemption Price of and interest on the Bonds only to or upon the order of the respective Owners, as shown in the books of registry as provided in this First Supplemental Indenture, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Department's obligations with respect to payment of principal and Redemption Price and interest on the Bonds to the extent of the sum or sums so paid.

Notwithstanding any other provisions of this First Supplemental Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, procedures with respect to the transfer of ownership of, redemption of, optional or mandatory tender for purchase of and payment of principal of, Purchase Price of, Redemption Price of, premium, if any, and interest on such Bond shall be in accordance with arrangements among the Department, the Co-Trustee, the Paying Agent and DTC.

Payments by the DTC participants to Beneficial Owners will be governed by standing instructions and customary practices, as is now the case with municipal securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such DTC participant and not of DTC, the Trustee, the Co-Trustee, the Registrar, the Paying Agent or the Department, subject to any statutory and regulatory requirements as may be in effect from time to time.

The Department may establish a record date for purposes of notification of and consents from participants of DTC in connection with any amendment or proposed amendment of the Indenture or otherwise.

Provisions similar to those contained in this subsection (f) may be made by the Department in connection with the appointment by the Department of a substitute Securities Depository, or in the event of a successor to any Securities Depository.

Authorized Officers are hereby authorized to enter into such representations and agreements as they deem necessary and appropriate in furtherance of the provisions of this subsection (f).

(g) Replacement Bonds. The Department shall issue Bond certificates (the “Replacement Bonds”) directly to the Beneficial Owners of the Bonds of a Series, or their nominees, in the event that DTC determines to discontinue providing its services with respect to such Bonds, at any time by giving notice to the Department, and the Department fails to appoint another qualified Securities Depository to replace DTC. In addition, the Department also shall issue Replacement Bonds directly to the Beneficial Owners of the Bonds of a Series, or their nominees, in the event the Department discontinues use of DTC as Securities Depository at any time upon determination by the Department, in its sole discretion and without the consent of any other person, that Beneficial Owners of such Bonds shall be able to obtain certificated Bonds of such Series.

**2.05. Form of Bonds and Registrar’s Authentication Certificate.** Subject to the provisions of the Master Indenture, the form of the Bonds, form of assignment, and the Registrar’s Certificate of Authentication shall be in substantially the form set forth in **Appendix D** hereto, with necessary or appropriate variations, omissions and insertions as are incidental to their series, numbers, denominations, maturities, interest rate or rates, registration provisions, redemption provisions, status of interest to owners thereof for federal income tax purposes, and other details thereof and of their form or as are otherwise permitted or required by law or by the Indenture, including this First Supplemental Indenture. Any portion of the text of any Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of such Bond. Bonds may be typewritten, printed, engraved, lithographed or otherwise reproduced.

**2.06. Interest Rate Modes.**

(a) Determination of Interest Rates.

(i) Daily Rate. By 10:00 a.m., New York City time, on each Business Day for the Remarketing Agent, the Remarketing Agent shall determine the Daily Rate for the Bonds of a Series in a Daily Rate Mode by determining, in the manner described in paragraph (vi) of this subsection (a), the Market Rate therefor on such day, which Daily Rate shall be effective for the Interest Period beginning on such Business Day and ending on the day preceding the next succeeding Business Day.

(ii) Weekly Rate. By 4:00 p.m., New York City time, on the Business Day immediately preceding the first day of each Interest Period for each Bond of a Series which is in a Weekly Rate Mode (or such other day as may be specified by the Remarketing Agent after notice to the Trustee, the Co-Trustee, the Paying Agent, the

Tender Agent and the Owners of the Bonds of a Series affected), the Remarketing Agent shall determine the Weekly Rate for the Bonds of a Series by determining, in the manner described in paragraph (vi) of this subsection (a), the Market Rate therefor on such day, which Weekly Rate shall be effective for such Interest Period.

(iii) Flexible Rate. By not later than 12:00 noon, New York City time, on or before the first Business Day of each Interest Period for each Bond of a Series which is in a Flexible Rate Mode, the Remarketing Agent shall determine the Flexible Period and the Flexible Rate for such Bond, in the latter case by determining, in the manner described in paragraph (vi) of this subsection (a), the Market Rate therefor on such day, which Flexible Rate shall be effective for such Interest Period. The Flexible Period shall be the period which, in the judgment of the Remarketing Agent, will produce the greatest likelihood of the lowest overall debt service cost on the Bonds of a Series prior to the maturity thereof, given prevailing market conditions.

No Flexible Period shall be established, with respect to a Bond of a Series, which would extend beyond the day immediately preceding a Purchase Date resulting from a mandatory tender for purchase pursuant to Section 2.09(c), (d) or (f) hereof if such Purchase Date is known at the time when such Flexible Period is established. To the extent that a Liquidity Facility and/or Credit Facility is in place with respect to the Bonds of a Series in a Flexible Rate Mode, notwithstanding anything in this First Supplemental Indenture to the contrary, (i) no Flexible Period shall be implemented if it would cause the number of calendar days in such Flexible Period plus five (5) calendar days (or, in the case of a Direct-Pay Credit Facility, ten (10) calendar days) to exceed the number of days used to calculate the maximum amount that shall then be available to be drawn under such Liquidity Facility and/or Credit Facility for the payment of interest on such Bonds, and (ii) no Flexible Period shall be implemented and no interest rate for such Flexible Period shall be determined if it would cause the amount of interest payable on such Bonds to be Outstanding immediately thereafter to be in excess of the amount that shall then be available to be drawn under such Liquidity Facility and/or Credit Facility for the payment of interest on such Bonds. No remarketing of Bonds of such Series shall be given effect if it would cause the limitations in the preceding two sentences to be exceeded.

(iv) Term Rate; Fixed Rate. On any date designated by the Remarketing Agent which is not more than fifteen (15) days preceding, nor later than 4:00 p.m., New York City time, on the Business Day immediately preceding, each Interest Period for Bonds of a Series in a Term Rate Mode or a Fixed Rate Mode, the Remarketing Agent shall determine the Term Rate or the Fixed Rate, as the case may be, for the Bonds of such Series by determining, in the manner described in paragraph (vi) of this subsection (a), the Market Rate therefor on such day, which Term Rate or Fixed Rate, as the case may be, shall be effective for such Interest Period.

(v) Auction Period Rate. During each Auction Period the Auction Period Rate to be in effect from time to time shall be determined and notice thereof shall be given in the manner provided in **Appendix A** hereto, and each such

Auction Period Rate shall be effective for the Auction Period to which such Auction Period Rate relates.

(vi) Procedure for Market Rate Determination; Effect of Failure to Determine Rate. The Remarketing Agent shall make each determination of the Market Rate for any Bond of a Series, other than any Bond of a Series in an Auction Rate Mode, by determining in its judgment the minimum interest rate necessary to be borne by such Bond for the relevant Interest Period to enable the Remarketing Agent to remarket such Bond on the date the Bonds of such Series are changed to a different Interest Rate Mode, or continued in successive Interest Periods within the Daily Rate Mode, the Weekly Rate Mode, the Flexible Rate Mode or the Term Rate Mode, as the case may be, at a price (without regard to accrued interest) equal to the principal amount thereof; provided, however, that in no event shall any rate so determined exceed the Maximum Rate.

If for any reason the Remarketing Agent fails to determine the Market Rate or the Flexible Period for any such Bond on a rate determination date, or any Market Rate or Flexible Period for any such Bond determined by the Remarketing Agent on a rate determination date is determined by a court of competent jurisdiction to be invalid or unenforceable, then, effective on the first day of the Interest Period following such rate determination date or the date with respect to which such court's determination shall be effective, as the case may be, (1) in the case of a Bond in a Weekly Rate Mode, such Bond shall bear interest at a rate equal to the Alternate Rate until the Market Rate is determined or redetermined, as the case may be, and (2) in the case of a Bond in a Daily Rate Mode, Flexible Rate Mode or Term Rate Mode, the Interest Rate Mode applicable to such Bond shall be automatically changed to a Weekly Rate Mode and, except with respect to a change from a Daily Rate Mode that is effective on the first Business Day of a month, such Bond shall be subject to mandatory tender for purchase on the effective date of such change; provided, however, that if there has been a failure to pay the Purchase Price of a Bond of a Series in a Term Rate Mode on the effective date of such change from a Term Rate Mode, such automatic change to a Weekly Rate Mode shall not be effective and all of the Bonds of such Series shall continue to bear interest at the then-existing Term Rate until such Purchase Price for all of such Bonds has been paid.

(b) Change in the Interest Rate Modes and Continuation of Term Rate Mode.

(i) Change to a Daily Rate Mode, a Weekly Rate Mode or a Flexible Rate Mode. The Department, by written direction of an Authorized Officer to the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent and the Remarketing Agent for the Bonds of a Series, may elect at any time that the Interest Rate Mode applicable to all or any portion of the Bonds of such Series shall be changed to a Daily Rate Mode, a Weekly Rate Mode or a Flexible Rate Mode. Such direction shall:

(1) specify the effective date of such change to a Daily Rate Mode, a Weekly Rate Mode or a Flexible Rate Mode, which effective date shall be (A) a Business Day not earlier than the twentieth (20<sup>th</sup>) day following the date of receipt by the Co-Trustee and the Paying Agent of

such direction, (B) in the case of a change from a Term Rate Mode, on the day immediately following the last day of the then current Term Period or on a date on which the Bonds of such Series may be redeemed at the option of the Department pursuant to Section 2.07(a)(iv) hereof, and (C) in the case of a change from a Fixed Rate Mode, on a date on which the Bonds of such Series may be redeemed at the option of the Department pursuant to Section 2.07(a)(iv) hereof (provided, however, that if, prior to the making of such election, any Bond shall have been called for redemption and such redemption shall not have theretofore been accomplished, the effective date of any such change to a Daily Rate Mode, a Weekly Rate Mode or a Flexible Rate Mode shall not precede such Redemption Date); and

(2) specify the date on which Owners of Bonds of such Series are required to deliver their Bonds for mandatory tender for purchase on such effective date, and that Owners of such Bonds shall have no right to retain their Bonds after such date.

(ii) Change to or Continuation of Term Rate Mode. The Department, by written direction of an Authorized Officer to the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent and the Remarketing Agent for the Bonds of such Series, may elect at any time that the Interest Rate Mode applicable to all or any portion of the Bonds of a Series shall be changed to, or continue to be, a Term Rate Mode, and if the Department shall so elect, shall determine the duration of the Term Period or Periods during which the Bonds of such Series shall be in such Term Rate Mode. Such direction shall:

(1) specify the effective date of each such Term Period, which shall be (A) a Business Day (x) not earlier than the twentieth (20<sup>th</sup>) day following the date of receipt by the Co-Trustee and the Paying Agent of such direction and (y) which is, except with respect to the continuation of the Term Rate Mode, the first Business Day of a calendar month, (B) in the case of a continuation of a Term Rate Mode, the day immediately following the last day of the then current Term Period, and (C) in the case of a change from a Fixed Rate Mode, a date on which the Bonds of such Series may be redeemed at the option of the Department pursuant to Section 2.07(a)(iv) hereof (provided, however, that if prior to the making of such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of each such Term Period shall not precede such Redemption Date);

(2) specify the last day of such Term Period; and

(3) specify the date on which Owners of Bonds of such Series are required to deliver their Bonds for mandatory tender on such effective date, and that Owners of such Bonds shall have no right to retain their Bonds after such date.

At the time the Department so elects a change to a Term Rate Mode, the Department may specify one or more consecutive Term Periods and, if the Department so specifies, shall specify the duration of each such Term Period as provided in this Section 2.06(b)(ii).

If, at least three Business Days prior to the ninth day before the last day of any Term Period with respect to the Bonds of a Series, the Department has not elected that the Bonds of such Series shall bear interest at a Daily Rate, Weekly Rate, Flexible Rate, an Auction Period Rate or a Term Rate for another Term Period, the Bonds of such Series shall continue to be in a Term Rate Mode and the next succeeding Term Period shall be a Term Period of the same duration as the immediately preceding Term Period and no opinion of Nationally Recognized Bond Counsel shall be required pursuant to Section 2.06(b)(vii) hereof.

(iii) Change to and from Auction Rate Mode. The Department, by written direction of an Authorized Officer to the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent, the Auction Agent and the Remarketing Agent, if any, for the Bonds of a Series may elect at any time that the Interest Rate Mode applicable to all or any portion of the Bonds of such Series shall be changed to an Auction Rate Mode. Such direction shall:

(1) specify the effective date of such change to the Auction Rate Mode which shall be (A) a Business Day not earlier than the twentieth (20<sup>th</sup>) day following the date of receipt by the Co-Trustee and the Paying Agent of such direction, (B) in the case of a change from a Term Rate Mode, on the day immediately following the last day of the then current Term Period or on a date on which the Bonds of such Series may be redeemed at the option of the Department pursuant to Section 2.07(a)(iv) hereof, and (C) in the case of a change from a Fixed Rate Mode, on a date on which the Bonds of such Series may be redeemed at the option of the Department pursuant to Section 2.07(a)(iv) hereof (provided, however, that if prior to the making of such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of any such change to an Auction Rate Mode, a Weekly Rate Mode, a Daily Rate Mode, a Flexible Rate Mode, a Term Rate Mode or a Fixed Rate Mode shall not precede such Redemption Date); and

(2) specify the date on which Owners of Bonds of such Series are required to deliver their Bonds for mandatory tender on such effective date, and that Owners of such Bonds shall have no right to retain their Bonds after such date.

In the event of a change in the Interest Rate Mode applicable to the Bonds of a Series to the Auction Rate Mode, the Auction Period commencing on the effective date of such change shall expire on and include the initial Auction Date (or, if such initial Auction Date is not followed by a Business Day, the next succeeding day that is followed

by a Business Day). The initial Auction Date (which shall be the day of the week on which Auctions will generally be conducted) shall be determined by the Department on or prior to the effective date of such change to the Auction Rate Mode. The Auction Period Rate for the initial Auction Period shall be determined by the Broker-Dealer for the Bonds of such Series (which, in the case of multiple Broker-Dealers for the Bonds of a Series, shall be the Broker-Dealer designated by the Department) on or prior to the effective date of such change to the Auction Rate Mode as the lowest rate which, in the judgment of such Broker-Dealer, is necessary to enable the Bonds of such Series to be remarketed on such effective date at a price (without regard to accrued interest) equal to the principal amount thereof. After the initial Auction Period, each Auction Period shall be an Auction Period determined by the Department on or prior to the effective date of such change to the Auction Rate Mode, unless the length of such Auction Period is adjusted or changed to a daily, 7-day, 28-day, 35-day, three-month, six-month or a Flexible Auction Period in accordance with **Appendix A** hereto. For any other Auction Period that is not an initial Auction Period, the Auction Period Rate shall be the rate of interest determined in accordance with **Appendix A** hereto.

Any change in the Interest Rate Mode applicable to the Bonds of a Series from an Auction Rate Mode to a Daily Rate Mode, Weekly Rate Mode, Flexible Rate Mode, Term Rate Mode or Fixed Rate Mode shall comply with the additional conditions set forth in **Appendix A** hereto.

(iv) Change to a Fixed Rate Mode. The Department, by written direction of an Authorized Officer to the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent and the Remarketing Agent for the Bonds of a Series may elect at any time that the Interest Rate Mode applicable to all or any portion of the Bonds of such Series shall be changed to a Fixed Rate Mode. Such direction shall:

(1) specify the effective date of such Fixed Rate Mode, which shall be (A) a Business Day (a) not earlier than the twentieth (20<sup>th</sup>) day following the date of receipt by the Co-Trustee and the Paying Agent of such direction and (b) which is, except with respect to change from a Term Rate Mode, the first Business Day of a calendar month, and (B) in the case of a change from a Term Rate Mode, on the day immediately following the last day of the then current Term Period or on a date on which the Bonds of such Series may be redeemed at the option of the Department pursuant to Section 2.07(a)(iv) hereof (provided, however, that if prior to the making of such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Fixed Rate Mode shall not precede such Redemption Date);

(2) specify the Maturity Date as the last day of such Fixed Period; and

(3) specify the date on which Owners of Bonds of such Series are required to deliver their Bonds for mandatory tender on such effective

date, and that Owners of such Bonds shall have no right to retain their Bonds after such date.

(v) [Reserved].

(vi) General Provisions Relating to Changes in Interest Rate Modes. Except as provided in the third paragraph of this Section 2.06(b)(vi) or in the last paragraph of Section 2.06(b)(ii) above, the Interest Rate Mode shall not be changed to a different Interest Rate Mode for Bonds of a Series unless: (i) the Liquidity Facility, if any, then in effect for the Bonds of such Series permits a draw thereunder in an amount up to the Applicable Principal and Interest Coverage applicable to the new Interest Rate Mode, (ii) the Credit Facility, if any, then in effect for the Bonds of such Series permits a draw, borrowing or payment thereunder in an amount up to the Applicable Principal and Interest Coverage applicable to the new Interest Rate Mode, (iii) the Department shall specify in a written direction given pursuant to this Section 2.06 (x) the new Interest Rate Mode, and (y) the principal amount of Bonds of such Series currently having a particular Interest Rate Mode to be so changed, (iv) a Tender Agency Agreement and a Remarketing Agreement is in effect on the effective date of a change in the Interest Rate Mode, (v) an Auction Agreement and one or more Broker-Dealer Agreements are in effect on the effective date of a change in the Interest Rate Mode to an Auction Rate Mode and (vi) the conditions of the next paragraph and Section 2.06(b)(vii) hereof have been satisfied.

No change shall be made from one Interest Rate Mode to another Interest Rate Mode pursuant to this Section 2.06(b) if (1) the Department, the Trustee, the Co-Trustee and the Paying Agent shall receive written notice prior to such change that the opinion of Nationally Recognized Bond Counsel required under this Section 2.06(b)(vii) has been rescinded or will not be delivered or (2) any other condition to any such change required under this Section 2.06(b) has not been satisfied or (3) less than all of the Bonds of a Series subject to mandatory tender for purchase upon such change shall have been remarketed or (4) interest due on all of the Bonds of a Series has not been paid or (5) applicable premium, if any, for the Bonds of a Series has not been paid.

In the event that any condition to a change in the Interest Rate Mode required pursuant to this Section 2.06(b) with respect to Bonds of a Series has not been satisfied, the effective Interest Rate Mode shall be as set forth in the Paying Agent's notice described in the following sentence. The Department shall prepare and the Paying Agent shall promptly send a notice to all Owners to whom the Paying Agent had sent notice of the change under Section 2.06(c) hereof, by first class mail, postage prepaid, as soon as practicable but in any event not later than the next succeeding Business Day after the day by which any such condition had to be satisfied pursuant to this First Supplemental Indenture, stating that the proposed change in the Interest Rate Mode will not become effective and that (1) at any time during a Fixed Rate Mode, the applicable Bonds will not be subject to mandatory tender for purchase and that such Bonds will continue to bear interest at the then-existing Fixed Rate, (2) at any time during a Weekly Rate Mode, the applicable Bonds will not be subject to mandatory tender for purchase and that the applicable Bonds will continue to bear interest at a Weekly Rate, (3) at any

time during a Daily Rate Mode, the applicable Bonds will not be subject to mandatory tender for purchase and that the applicable Bonds will continue to bear interest at a Daily Rate, (4) at any time during a Flexible Rate Mode or Term Rate Mode, the Interest Rate Mode will, subject to the last sentence of this paragraph, be automatically changed to a Weekly Rate Mode and the applicable Bonds will be subject to mandatory tender for purchase on the effective date of such change, (5) at any time during an Auction Rate Mode, the Auction Period commencing on such failed effective date of the change in the Interest Rate Mode and each Auction Period thereafter for the Bonds of such Series will be a seven-day Auction Period until the length of such Auction Period is changed as provided in **Appendix A** hereto, and the Bonds of such Series will bear interest at a Maximum Auction Rate for the Auction Period commencing on such failed effective date of the change in the Interest Rate Mode and at an Auction Period Rate determined as provided in **Appendix A** hereto for each Auction Period thereafter and (6) notwithstanding the foregoing, the Interest Rate Mode applicable to the Bonds of a Series will be automatically changed from a Term Rate Mode to a Weekly Rate Mode only to the extent that the Purchase Price of all of the Bonds of such Series shall have been paid on the effective date of such change, and that if the Purchase Price of all of the Bonds of a Series in a Term Rate Mode has not been paid on the effective date of such automatic change in the Interest Rate Mode, such automatic change shall not be effective and the Bonds of such Series shall continue to bear interest at the then-existing Term Rate until such Purchase Price is paid.

If, in the judgment of the Remarketing Agent and with the written consent of the Department, the method of payment of principal, interest and Purchase Price of Bonds of a Series should be changed from immediately available funds to some other type of funds in connection with a change in the Interest Rate Mode, the Remarketing Agent shall designate such other type of funds in writing to the Department, the Trustee, the Co-Trustee and the Paying Agent at least fifteen (15) days prior to the effective date of such change. The Paying Agent shall give a written notice of such change in the method of payment to the Owners of the Bonds of such Series by first class mail, postage prepaid, at least ten (10) days prior to the effective date of such change.

(vii) Opinion of Bond Counsel. Except as provided in the third paragraph of Section 2.06(b)(vi) or in the last paragraph of Section 2.06(b)(ii) above, the Bonds of a Series shall not be changed to an alternate Interest Rate Mode and a new Term Period shall not be established unless the Trustee, the Co-Trustee, the Paying Agent, the Remarketing Agent, the Credit Facility Provider, if any, and the Liquidity Facility Provider, if any, for the Bonds of such Series is furnished with an opinion of Nationally Recognized Bond Counsel to the effect that such change in the Interest Rate Mode or the establishment of a new Term Period, as the case may be, (1) is lawful under the Act and is authorized or permitted by this First Supplemental Indenture, and (2) will not, in and of itself, adversely affect the exclusion of interest on such Bonds from gross income for Federal income tax purposes, nor adversely affect the validity of the Bonds of such Series.

(c) Notice to Bondholders of Change in Interest Rate Mode. When a change in the Interest Rate Mode applicable to the Bonds of a Series is to be made, the

Department will prepare and the Paying Agent will send a notice to the Trustee, the Bondowners of such Series and the Remarketing Agent, Auction Agent, Broker-Dealers, Credit Facility Provider, if any, and Liquidity Facility Provider, if any, for the Bonds of such Series, by first-class mail, postage prepaid, at least fifteen (15) days, but not more than sixty (60) days, before the effective date of the change. The notice will be accompanied by the form of opinion that a Nationally Recognized Bond Counsel expects to be able to give on the proposed effective date of such change in the Interest Rate Mode pursuant to Section 2.06(b)(vii) above.

(d) Notification and Conclusiveness of Interest Rates. Except as set forth below with respect to Bonds of a Series in a Daily Rate Mode or Weekly Rate Mode, the Remarketing Agent for the Bonds of a Series will give notice of its determination of the interest rate applicable to the Bonds of such Series to the Department, the Trustee, the Co-Trustee and the Paying Agent in writing or by Electronic Means by the close of business, New York City time, on the date of determination thereof.

With respect to Bonds of a Series in a Daily Rate Mode, the Remarketing Agent for Bonds of such Series shall make the interest rates determined on each day of the week available to the Department, the Trustee, the Co-Trustee and the Paying Agent in writing or by Electronic Means (i) at least weekly, (ii) by 10:30 a.m. (New York City time) on each Purchase Date and (iii) by 10:30 a.m. (New York City time) on the Business Day immediately preceding each Interest Payment Date.

With respect to Bonds of a Series in a Weekly Rate Mode, the Remarketing Agent for Bonds of such Series will give notice of its determination of the interest rate applicable to such Bonds to the Department, the Trustee, the Co-Trustee and the Paying Agent in writing or by Electronic Means by the close of business, New York City time, on the Business Day immediately succeeding the date of determination thereof.

The Paying Agent shall make such interest rates available to any Owner of the Bonds of such Series or any Liquidity Facility Provider or Credit Facility Provider for the Bonds of such Series requesting the same.

The interest rate determined by the Remarketing Agent or otherwise determined as provided in this First Supplemental Indenture and contained in the records of the Paying Agent will be conclusive and binding on the Notice Parties, Registrar and Owners of the Bonds of a Series, absent manifest error.

(e) Partial Interest Rate Modes within Series; Subseries Designations.

(i) Less than all of the Bonds of a Series then subject to a particular Interest Rate Mode may be converted to another Interest Rate Mode pursuant to this Section 2.06; provided, however, that in such event (a) such Series shall be re-designated into one or more subseries for each separate Interest Rate Mode with a new CUSIP number for each subseries, (b) the particular Bonds of a Series or portions thereof which are to be converted to a new Interest Rate Mode shall be selected by the Registrar

in such manner in its discretion as it shall deem appropriate and fair, subject to the provisions hereof regarding Authorized Denominations of Bonds of a Series subject to such Interest Rate Mode, and (c) references herein to Bonds of a Series so re-designated shall be deemed to refer to Bonds of each such subseries. All Bonds of any such subseries shall be subject to the same Interest Rate Mode. Except as provided above, all Bonds of a Series shall be subject to the same Interest Rate Mode.

(ii) Less than all of the Bonds of a Series then subject to a particular Auction Period may be converted to another Auction Period in accordance with **Appendix A** hereto; provided, however, that in such event (a) such Series shall be re-designated into one or more subseries, (b) the particular Bonds of a Series or portions thereof which are to be converted to a new Auction Period shall be selected by the Auction Agent in such manner in its discretion as it shall deem appropriate and fair, subject to the provisions hereof regarding Authorized Denominations of Bonds of a Series subject to such Auction Period, and (c) all references herein to Bonds of a Series so re-designated shall be deemed to refer to Bonds of each such subseries. All Bonds of any such subseries shall be in the same Auction Period. Except as provided above, all Bonds of any Series bearing interest at an Auction Period Rate shall be in the same Auction Period.

#### 2.07. **Redemption of Bonds.**

##### (a) General Optional Redemption.

(i) Daily Rate Mode. When interest on the Bonds of a Series is payable at a Daily Rate, the Bonds of such Series may be redeemed at the Redemption Price equal to the principal amount thereof with interest accrued to, but excluding, the Redemption Date, in whole or in part, at the option of the Department on any Business Day.

(ii) Weekly Rate Mode. When interest on the Bonds of a Series is payable at a Weekly Rate, the Bonds of such Series may be redeemed at a Redemption Price equal to the principal amount thereof with interest accrued to, but excluding, the Redemption Date, in whole or in part, at the option of the Department on any Business Day.

(iii) Flexible Rate Mode. When interest on a Bond of a Series is payable at a Flexible Rate, the Bond of such Series may be redeemed at a Redemption Price equal to the principal amount thereof, at the option of the Department on any Interest Payment Date.

(iv) Term Rate Mode; Fixed Rate Mode. When the interest on the Bonds of a Series is payable at a Term Rate during an Interest Period greater than seven (7) years, or at a Fixed Rate, the Bonds of such Series may be redeemed on any date (each, a Redemption Date) following the “No Call Period” set forth below at the Redemption Price set forth below, together with interest accrued to,

but excluding, the Redemption Date, in whole or in part, at the option of the Department, as follows:

| <u>Duration of Interest Period</u>                       | <u>No Call Period (commencing on the date of commencement of such Interest Period)</u> | <u>Redemption Price</u> |
|--|--|-------------------------|
| Greater than 13 years                                    | 10 years   | 100%                    |
| Less than or equal to 13 years and greater than 10 years | 7 years  | 100                     |
| Less than or equal to 10 years and greater than 7 years  | 5 years  | 100                     |
| Less than or equal to 7 years                            | None   | Non-callable            |

provided, however, that any such Bonds may be subject to redemption, during any Interest Period therefor, on any alternate dates and at any alternate prices stated in a written certificate of an Authorized Officer of the Department delivered to the Co-Trustee, the Trustee, the Paying Agent, the Remarketing Agent, Credit Facility Provider and Liquidity Facility Provider, if any, for the Bonds of such Series prior to the interest rate determination date for such Interest Period and accompanied by an opinion of Nationally Recognized Bond Counsel to the effect that such modification, in and of itself, will not adversely affect the exclusion of interest on such Bonds from gross income for Federal income tax purposes.

(v) Auction Rate Mode. When interest on the Bonds of a Series is payable at an Auction Period Rate, the Bonds of such Series may be redeemed at the principal amount thereof together with accrued interest, if any, to the Redemption Date, on the Business Day following any Auction Period; provided, however, that in the event of a partial redemption of Bonds bearing interest at an Auction Period Rate, the aggregate principal amount not so redeemed shall be in an integral multiple of an Authorized Denomination.

(b) Mandatory Sinking Fund Installment Redemption. Subject to the provisions of Section 404 of the Master Indenture, the Term Bonds of each Series are subject to redemption in part by lot on such dates as shall correspond to the Sinking Fund Installment due dates established by the Determination, at the Redemption Price equal to the principal amount to be redeemed, plus accrued interest to the Redemption Date, from the respective Sinking Fund Installments established by the Determination, in amounts sufficient to redeem on each such date the principal amount of such Bonds equal to the respective Sinking Fund Installment specified by the Department for such date.

(c) Redemption of Bank Bonds. Bank Bonds of a Series may be redeemed at a Redemption Price equal to the principal amount thereof with interest

accrued to, but excluding, the Redemption Date, in whole or in part, at the option of the Department on any Business Day.

Bank Bonds of a Series shall also be subject to mandatory redemption at the times provided in and in accordance with the terms of the Liquidity Facility relating to such Bonds.

(d) Bank Bonds To Be Redeemed First; Redemption in Part. In the event of redemption of less than all the Bonds of a Series pursuant to subsection (a) or (b), as the case may be, and subject to Section 404 of the Master Indenture, the Registrar shall first select for redemption all then Outstanding Bank Bonds so subject to redemption prior to selecting for redemption any Bonds of such Series which are not Bank Bonds. The Registrar shall promptly give the Liquidity Facility Provider and the Remarketing Agent notice by Electronic Means of the selection of any Bank Bonds for redemption pursuant to the foregoing provision. New Bonds of a Series representing the unredeemed balance of the principal amount thereof shall be issued in Authorized Denominations to the Owner thereof, without charge therefor. Any new Bond of a Series issued pursuant to this Section shall be executed by the Department and authenticated by the Registrar pursuant to Section 303 of the Master Indenture and shall be in an aggregate principal amount equal to the unredeemed portion of such Bonds surrendered.

(e) Notice of Redemption. Notice of redemption of Bonds of a Series shall be given pursuant to Section 405 of the Master Indenture; provided, however, that notice shall be given (i) with respect to Bonds of such Series in a Daily Rate Mode, a Weekly Rate Mode or an Auction Rate Mode and a daily Auction Period or seven day Auction Period, not more than twenty-five (25) days nor less than fifteen (15) days prior to the Redemption Date, and (ii) with respect to Bonds of such Series in a Flexible Rate Mode, a Term Rate Mode, a Fixed Rate Mode or an Auction Rate Mode with a Flexible Auction Period, 28-day Auction Period, 35-day Auction Period, three-month Auction Period or semi-annual Auction Period, not more than forty-five (45) nor less than thirty (30) days prior to the Redemption Date.

In connection with any notice of redemption provided in accordance with Section 405 of the Master Indenture, notice of such redemption shall also be sent by the Registrar by (i) Electronic Means to the Paying Agent and Auction Agent (if any), and (ii) first class mail, overnight delivery service or other secure overnight means, postage prepaid, to each Rating Agency and to at least two (2) of the Information Services, in each case not later than the mailing of notice required by the Indenture.

## **2.08. Optional Tender for Purchase.**

### **(a) Notice Requirements and Purchase Dates.**

(i) During a Daily Rate Mode. When interest on the Bonds of a Series is payable at a Daily Rate, an Owner of Bonds of such Series may irrevocably tender such Bonds for purchase by giving telephonic notice to the Remarketing Agent for the Bonds of such Series, confirmed in writing to the Remarketing

Agent and the Tender Agent, or notice in writing or by Electronic Means to the Remarketing Agent and the Tender Agent, by 11:00 a.m., New York City time, on any Business Day stating the principal amount of the Bond of such Series, the CUSIP number and the date (which must be a Business Day) on which such Bond is to be purchased. The Tender Agent shall promptly inform the Paying Agent of such notice. In the case of a Bond to be purchased prior to an Interest Payment Date and after the Record Date in respect thereof, if the Owner is other than a Securities Depository or its nominee, the Owner shall deliver a due bill, in form satisfactory to the Paying Agent, for interest due on such Purchase Date.

(ii) During a Weekly Rate Mode. When interest on the Bonds of a Series is payable at a Weekly Rate, an Owner of Bonds of such Series may irrevocably tender such Bonds for purchase by giving telephonic notice to the Remarketing Agent for the Bonds of such Series, confirmed in writing to the Remarketing Agent and the Tender Agent, or notice in writing or by Electronic Means to the Remarketing Agent and the Tender Agent, by 4:00 p.m., New York City time, on any Business Day stating the principal amount of the Bond of such Series, the CUSIP number and the date (which must be a Business Day at least seven (7) days after the notice is given) on which such Bond is to be purchased. The Tender Agent shall promptly inform the Paying Agent of such notice. In the case of a Bond to be purchased prior to an Interest Payment Date and after the Record Date in respect thereof, if the Owner is other than a Securities Depository or its nominee, the Owner shall deliver a due bill, in form satisfactory to the Paying Agent, for interest due on such Purchase Date.

(b) Payment of Purchase Price. Except as otherwise required or permitted by book-entry-only system of the Securities Depository, the Purchase Price for a Bond tendered to the Tender Agent for purchase will be paid in immediately available funds by 4:00 p.m., New York City time, on the Purchase Date.

(c) Additional Requirements. All Bonds tendered for purchase must be accompanied by an instrument of transfer satisfactory to the Tender Agent, executed in blank by the registered owner with the signature guaranteed.

## 2.09. **Mandatory Tender for Purchase.**

(a) Notice of Mandatory Tender. Except as may be set forth in **Appendix A** hereto with respect to Bonds of a Series in an Auction Rate Mode, and except in the case of mandatory tender for purchase pursuant to Section 2.09(b) hereof, the Paying Agent shall prepare and send to the Owners of Bonds of such Series and to the Remarketing Agent for such Bonds, the Tender Agent, the Trustee and the Department, a Notice of Mandatory Tender not more than forty-five (45) nor less than fifteen (15) days before the date on which such Bonds shall be subject to mandatory tender for purchase (or such lesser notice as may be permitted in Section 2.09(d), 2.09(e) or 2.09(f) hereof in the event of a mandatory tender pursuant to such Section 2.09(d), 2.09(e) or 2.09(f) hereof). Any Notice of Mandatory Tender will be given to the aforementioned parties by

first-class mail, postage prepaid, and will be substantially in the form attached as **Appendix B** hereto.

(b) On the first Business Day Following the End of each Interest Period. When the Bonds of a Series are in a Flexible Rate Mode or a Term Rate Mode, the Bonds of such Series shall be subject to mandatory tender for purchase on the first Business Day following the end of each Interest Period. No Notice of Mandatory Tender shall be required in connection with such mandatory tender for purchase.

(c) Upon a Change in the Interest Rate Mode. Except in the case of a change in the Interest Rate Mode applicable to the Bonds of a Series from a Daily Rate Mode to a Weekly Rate Mode and from a Weekly Rate Mode to a Daily Rate Mode that is effective on the first Business Day of a month, the Bonds of such Series shall be subject to mandatory tender for purchase on the effective date of a change in the Interest Rate Mode applicable to the Bonds of a Series pursuant to Section 2.06(b) hereof at the Purchase Price equal to the principal amount thereof, plus any premium which would have been required to be paid as part of the Redemption Price on the effective date of such change in the Interest Rate Mode as if such Bonds were redeemed pursuant to Section 2.07(a)(iv) hereof on such effective date. If such mandatory tender for purchase is required, the Notice of Mandatory Tender shall include the applicable information required by Section 2.06(c) hereof.

(d) Upon Expiration, Termination, Substitution or Assignment of a Credit Facility or Liquidity Facility. All Bonds of a Series secured or supported by a Credit Facility or Liquidity Facility shall be subject to mandatory tender for purchase on the earlier of (i) the fifth (5<sup>th</sup>) Business Day immediately prior to the Expiration thereof, (ii) the fifth (5<sup>th</sup>) Business Day immediately prior to the Termination thereof, (iii) the effective date of a Substitute Credit Facility (other than a Substitute Credit Facility delivered in substitution for or replacement of a bond insurance policy) or Substitute Liquidity Facility, as the case may be, or (iv) the fifth (5<sup>th</sup>) Business Day immediately prior to the effective date of the assignment of the obligation of the Credit Facility Provider or the Liquidity Facility Provider under such Credit Facility or Liquidity Facility, as the case may be; provided, however, that such Bonds shall not be subject to mandatory tender for purchase if (x) in the case of a Termination, such Credit Facility or Liquidity Facility does not permit a draw or borrowing thereunder in connection with such Termination, (y) in the case of the delivery of a Substitute Credit Facility or Substitute Liquidity Facility, the Paying Agent shall have received at least fifteen (15) days prior to the effective date of such Substitute Credit Facility or Substitute Liquidity Facility a written confirmation from each Rating Agency then rating the Bonds of such Series to the effect that such substitution will not, by itself, result in a reduction or withdrawal of the short-term rating or the long-term rating, if any, of such Bonds below the rating of such Rating Agency then in effect with respect to such Bonds, and (z) in the case of the assignment of the obligation of the Credit Facility Provider or Liquidity Facility Provider under such Credit Facility or Liquidity Facility, as the case may be, the Paying Agent shall have received at least fifteen (15) days prior to the fifth (5<sup>th</sup>) Business Day immediately prior to the effective date of such assignment a written confirmation from each Rating Agency then rating the Bonds of such Series to the effect that such

assignment will not, by itself, result in a reduction or withdrawal of the short-term rating or the long-term rating, if any, of such Bonds below the rating of such Rating Agency then in effect with respect to such Bonds. If such mandatory tender for purchase is required, the Paying Agent shall immediately prepare and send a notice substantially in the form of **Appendix B** attached hereto to all Owners of Bonds of such Series and the other Notice Parties for such Bonds by first class mail, postage prepaid, which notice shall (i) state the effective date of the Expiration, Termination, substitution or assignment, as the case may be, and the Purchase Date, (ii) state that upon such Purchase Date all Bonds of such Series shall be purchased in whole at a Purchase Price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the Purchase Date, and (iii) state that Owners of the Bonds of such Series shall have no right to retain their Bonds after the Purchase Date so specified.

(e) Upon an Event of Default under a Credit Facility or Liquidity Facility. Except in the case of a Termination of a Liquidity Facility or Credit Facility, the Bonds of a Series supported by a Liquidity Facility or Credit Facility, as the case may be, shall be subject to mandatory tender for purchase on the fifteenth (15<sup>th</sup>) Business Day immediately following the receipt by the Paying Agent of a written direction by or on behalf of the Liquidity Facility Provider or Credit Facility Provider, as the case may be, in accordance with the terms of such Liquidity Facility or Credit Facility, to cause the mandatory tender for purchase of such Bonds as a result of the occurrence of an event of default under the Credit Facility or Liquidity Facility, as the case may be. Upon the receipt of such written direction, the Paying Agent will immediately prepare and send a notice in the form of **Appendix B** attached hereto to all Owners of Bonds of such Series and the other Notice Parties for such Bonds by first class mail, postage prepaid, that such mandatory tender will occur on the fifteenth (15<sup>th</sup>) Business Day following the receipt by the Paying Agent of a written notice described in the preceding sentence, that Owners of the Bonds of such Series shall have no right to retain their Bonds after such mandatory tender date and upon such date all Bonds of such Series shall be purchased in whole at a Purchase Price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the Purchase Date. The Bonds of such Series shall remain subject to mandatory tender for purchase as provided above notwithstanding the receipt by the Paying Agent of a subsequent notice from the issuer of a Credit Facility or Liquidity Facility, as the case may be, to the effect that the event of default thereunder has been cured.

(f) Upon Non-Reinstatement of Interest Component under a Direct-Pay Credit Facility. The Bonds of a Series secured by a Direct-Pay Credit Facility shall be subject to mandatory tender for purchase on the first (1<sup>st</sup>) Business Day following the receipt by the Paying Agent of a written notice from the issuer of the Direct-Pay Credit Facility that such Direct-Pay Credit Facility will not be reinstated (in respect of interest) to an amount equal to the interest component of the Applicable Principal and Interest Coverage required with respect to the Bonds of such Series. Upon the receipt of such written notice, the Paying Agent will immediately prepare and send a notice in the form of **Appendix B** attached hereto to all Owners of Bonds of such Series and the other Notice Parties for such Bonds by first class mail, postage prepaid, that such mandatory tender will occur on the first (1<sup>st</sup>) Business Day following the receipt by the Paying Agent

of a written notice described in the preceding sentence, that Owners of the Bonds of such Series shall have no right to retain their Bonds after such mandatory tender date and upon such date all Bonds of such Series shall be purchased in whole at a Purchase Price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the Purchase Date. The Bonds of such Series shall remain subject to mandatory tender for purchase as provided above notwithstanding the receipt by the Paying Agent of a subsequent notice from the issuer of the Direct-Pay Credit Facility to the effect that such Direct-Pay Credit Facility has been reinstated to an amount equal to the Applicable Principal and Interest Coverage.

(g) With respect to any Bonds of such Series to be purchased which have not been presented to the Tender Agent for purchase within sixty (60) days after the Purchase Date, the Paying Agent, at the expense of the Department, shall give a second notice of the purchase to the Owner of any such Bonds which have not been presented for purchase, by first-class mail, postage prepaid, within thirty (30) days of the end of such 60-day period.

(h) All purchases will be made by the Tender Agent in funds immediately available on the Purchase Date and will be at a Purchase Price of 100% of the principal amount of the Bond being purchased plus interest accrued to, but excluding, the Purchase Date. No mandatory purchase of Bonds of a Series shall be deemed to be a payment or redemption of the Bonds or of any portion thereof, and such purchase will not operate to extinguish or discharge the indebtedness evidenced by such Bonds, unless the Department otherwise directs the Registrar in writing.

#### 2.10. **Tender, Purchase and Remarketing of Bonds.**

(a) Bonds To Be Remarketed. Except as may be set forth in **Appendix A** hereto with respect to Bonds of a Series in an Auction Rate Mode, Bonds of such Series purchased pursuant to an optional or a mandatory tender for purchase as provided herein and will be offered for sale by the Remarketing Agent for the Bonds of such Series as provided in this Section, except as follows:

(i) Bonds of a Series purchased pursuant to an optional or a mandatory tender for purchase after having been called for redemption under a provision in the Bonds of such Series will be canceled.

(ii) Bonds purchased by the Tender Agent with funds drawn under a Liquidity Facility shall be deemed to constitute Bank Bonds and to remain Outstanding. The Tender Agent shall promptly register such Bank Bonds in accordance with Section 2.10(g) hereof.

To the extent the Remarketing Agent has remarketed Bank Bonds and has received funds representing a payment for such Bonds (the “Bank Bonds Remarketing Proceeds”) from the purchasers thereof, the Remarketing Agent shall promptly forward the Bank Bonds Remarketing Proceeds in immediately available funds by wire transfer (or in such other manner as is acceptable to the

Remarketing Agent and the Tender Agent) to the Tender Agent. The Tender Agent shall hold such Bank Bonds Remarketing Proceeds in the Purchase and Reimbursement Account in trust for the benefit of the Liquidity Facility Provider, except that if the Liquidity Facility is not reinstated in accordance with its terms by an amount not less than the Bank Bonds Remarketing Proceeds, then the Tender Agent shall hold such funds for the benefit of the purchasers which provided such Bank Bonds Remarketing Proceeds.

When any Bank Bonds of a Series are remarketed, the Tender Agent shall promptly take any action that is necessary to be taken in accordance with the terms of the Liquidity Facility relating to such Bonds in order for such Liquidity Facility to be reinstated by an amount not less than the Bank Bonds Remarketing Proceeds. The Tender Agent shall not release the Bonds so remarketed to the Remarketing Agent until the Tender Agent has received the Bank Bonds Remarketing Proceeds as provided above and the Liquidity Facility shall be reinstated by an amount equal to such Bank Bonds Remarketing Proceeds in accordance with its terms.

(iii) The Remarketing Agent shall not be required to offer Bonds for sale under this Section 2.10 during the continuation of an Event of Default as described in Section 1001 of the Master Indenture, or as may otherwise provided in the Remarketing Agreement. The Remarketing Agent shall not offer Bonds for sale under this Section 2.10 when instructed not to do so in accordance with the terms of the Liquidity Facility supporting such Bonds.

(b) Remarketing Effort. Subject to Section 2.10(a) above, the Remarketing Agent for the Bonds of a Series will offer for sale and use its best efforts to sell all Bonds of such Series to be sold, including, without limitation, Bank Bonds. Any sale will be at the best obtainable price; provided, however, the Purchase Price may not be lower than the principal amount of the Bonds being sold plus accrued interest, if any, to but excluding the Purchase Date. The Department may direct the Remarketing Agent from time to time to cease and to resume sales efforts with respect to some or all of the Bonds of a Series. The Remarketing Agent may buy as principal any Bonds of such Series to be offered under this Section. To the extent a Liquidity Facility is in effect, no Bonds of a Series supported by such Liquidity Facility shall be remarketed to the Department, the State or any of its other agencies or departments, nor shall any Bank Bonds be remarketed unless the Liquidity Facility has been or will be, immediately upon such remarketing, reinstated by the amount of the reduction that occurred when such Bonds became Bank Bonds.

(c) Notices in Respect of Remarketing Proceeds. As early as practicable but not later than 12:15 p.m., New York City time, on each Purchase Date, the Remarketing Agent for the Bonds of a Series will notify the Paying Agent, the Tender Agent, the Department and the Liquidity Facility Provider, if any, for the Bonds of such Series by telephone, promptly confirmed in writing or by Electronic Means, of the principal amount of Bonds of such Series for which remarketing proceeds are not on hand.

(d) Liquidity Drawing. Promptly upon receipt of notice from the Remarketing Agent for the Bonds of a Series set forth in Section 2.10(c) above, and in any event not later than 12:30 p.m., New York City time, on such Purchase Date, the Paying Agent shall draw on a Liquidity Facility, if any, for the Bonds of such Series in order to receive proceeds thereunder no later than 2:30 p.m., New York City time, on such Purchase Date in immediately available funds in an amount equal to the principal amount of the tendered Bonds of such Series, plus accrued interest thereon to the Purchase Date, for which remarketing proceeds are not on hand with the Remarketing Agent as set forth in such notice. In the event that no such notice is received by the Paying Agent, the Paying Agent shall draw on a Liquidity Facility for the full Purchase Price of Bonds of a Series to be tendered or deemed tendered on such date and deliver the proceeds of any such drawing to the Tender Agent. The proceeds of such draw shall be held in the Purchase and Reimbursement Account in trust for the benefit of the Liquidity Facility Provider until used to pay the Purchase Price of Bonds pursuant to Section 2.10(i) below.

Notwithstanding the next preceding paragraph, the Paying Agent shall not draw on a Liquidity Facility with respect to the Purchase Price of Bank Bonds or Bonds of a Series registered in the name of the Department, the State or any of its other agencies or departments.

(e) Delivery of Remarketing Proceeds. The Remarketing Agent for the Bonds of a Series shall deliver to the Tender Agent by no later than 12:15 p.m., New York City time, on each Purchase Date, in immediately available funds, an amount equal to all proceeds of the remarketing of Bonds of such Series received by that time pursuant to Section 2.10(b) above. Such remarketing proceeds shall be held in the Purchase and Reimbursement Account in trust for the benefit of the purchasers which provided such proceeds until used to pay the Purchase Price of Bonds pursuant to Section 2.10(i) below.

The Remarketing Agent shall promptly deliver to the Tender Agent any remarketing proceeds received after 12:15 p.m., New York City time, on each Purchase Date, and the Tender Agent shall promptly upon receipt thereof transfer such remarketing proceeds to the Liquidity Facility Provider, if any, for the Bonds of such Series to be applied against the Department's reimbursement obligation to the Liquidity Facility Provider with respect to Liquidity Facility drawings.

(f) Delivery of Remarketed Bonds. Except as otherwise provided in Section 2.10(g) below, the Tender Agent will not later than 3:00 p.m., New York City time, on the Purchase Date make Bonds of a Series available to the Remarketing Agent for the Bonds of such Series or its designee for redelivery to the purchasers against payment therefor in immediately available funds. The Remarketing Agent will provide the Tender Agent with the registration information not later than 2:00 p.m., New York City time, on the Purchase Date, and the Tender Agent shall be entitled to rely on such directions until otherwise directed (verbally or in writing) by the Remarketing Agent.

(g) Registration and Transfer of Bank Bonds. Bonds of a Series purchased from the proceeds of a drawing on or other realization upon a Liquidity

Facility shall be deemed to constitute Bank Bonds and shall be registered in the name of the Liquidity Facility Provider or, if directed in writing by the Liquidity Facility Provider, its nominee or designee on the registry books on or before the close of business on the Purchase Date. The Tender Agent shall promptly deliver such Bank Bonds to the custodian, if any, provided for in the Liquidity Facility or as the Liquidity Facility Provider may otherwise direct in writing, and prior to such delivery shall hold such Bank Bonds in trust for the benefit of the Liquidity Facility Provider.

To the extent that less than all Bonds of a Series become Bank Bonds, the Bonds of such Series shall be re-designated into two subseries in order to permit the registration of Bank Bonds pursuant to the immediately preceding paragraph.

(h) Delivery of Tendered Bonds. All Bonds subject to optional or mandatory tender for purchase shall be delivered to the Tender Agent. Such delivery shall be effected by physical delivery of such Bond to the Tender Agent at its office designated for such purpose, by 12:00 noon, New York City time, on the Purchase Date, accompanied by an instrument of transfer thereof in a form satisfactory to the Tender Agent, executed in blank by the Owner thereof with the signature of such Owner guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

(i) Payment of Purchase Price. The Tender Agent shall pay the Purchase Price for each tendered Bond at or prior to 4:00 p.m., New York City time, on a Purchase Date only if the Owner thereof shall have delivered said Bond to the Tender Agent as required by subsection (h) of this Section 2.10, on such Purchase Date, properly endorsed in blank, and funds are available therefor. If an Owner of a tendered Bond shall have delivered said Bond to the Tender Agent after 12:00 noon, New York City time, the Tender Agent shall pay the Purchase Price of such Bond at or prior to 4:00 p.m., New York City time, on the Business Day immediately following the date on which such Bond was delivered to the Tender Agent. Payment of the Purchase Price shall be made by wire transfer of immediately available funds to the account specified by the Owner in a written direction received by the Tender Agent on or prior to the Purchase Date or, if no such account is specified, by check mailed by the Tender Agent to the Owner at the address appearing on the books required to be kept by the Tender Agent pursuant to the First Supplemental Indenture.

(j) Payment of Purchase Price. Effect of Failure to Deliver Tendered Bonds. If the Purchase Price with respect to each tendered Bond of a Series has been delivered to the Tender Agent, Bonds of such Series that have not been delivered to the Tender Agent shall be deemed tendered, interest thereon shall cease to accrue on the Purchase Date, and the Tender Agent shall hold the Purchase Price thereof in the Purchase and Reimbursement Account for the benefit of such registered Owner pending such delivery for a period of thirty (30) days after the Purchase Date, after which time any such moneys still held by the Tender Agent shall be transferred to the Paying Agent and held by the Paying Agent for the benefit of such former Owner without liability for interest thereon, and the former Owner of such Bond shall look solely to such amounts held by the Paying Agent as an unsecured creditor for payment therefor. Any moneys so

held by the Tender Agent or by the Paying Agent shall be held in trust for the Owners of the Bonds entitled thereto, and shall not be invested.

If a Bond of a Series is subject to tender on a Purchase Date, and if such Bond is not delivered to the Tender Agent for purchase, a new Bond of such Series in replacement thereof will be authenticated and delivered to the new registered Owner on the applicable Purchase Date, and the undelivered Bond will cease to bear interest and will be deemed to be no longer Outstanding, and, from that date, the registered Owner thereof will be entitled only to the payment of the Purchase Price, including interest accrued to, but excluding, such Purchase Date.

2.11. **Sources of Funds for Payment of Purchase Price.** Funds for the payment of the Purchase Price of tendered Bonds shall be derived from the following sources and in the following order of priority:

- (1) immediately available funds transferred by the Remarketing Agent to the Tender Agent derived from the remarketing of such Bonds; and
- (2) immediately available funds drawn by the Paying Agent under the Liquidity Facility, if any, applicable to such Bonds.

None of the Department, the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent or the Remarketing Agent shall have any liability or, except from the sources identified above, obligation to pay or make available such Purchase Price, including under circumstances where the applicable Liquidity Facility terminates and does not permit a draw thereunder in connection with such Termination or where the issuer of such Liquidity Facility is in default under such Liquidity Facility. The failure to pay the Purchase Price of Bonds of a Series that have been tendered or deemed tendered for purchase from any of the sources identified above shall not constitute an Event of Default under the Indenture.

2.12. **Purchase and Reimbursement Account.** A Purchase and Reimbursement Account is hereby established and shall be held by the Tender Agent in trust for the purpose of depositing money obtained from (i) the remarketing of Bonds of a Series, (ii) draws under a Liquidity Facility and (iii) the Department or the Trustee, and such deposited moneys shall be used solely to pay the Purchase Price of Bonds of a Series or to reimburse a Liquidity Facility Provider. The Tender Agent shall maintain separate subaccounts in the Purchase and Reimbursement Account for moneys drawn on any Liquidity Facility, moneys constituting remarketing proceeds and other available moneys for each Series (and, pursuant to Section 1.03(a) hereof, each subseries within a Series) of Bonds. The Purchase and Reimbursement Account shall not constitute part of the Trust Estate. Amounts on deposit in the Purchase and Reimbursement Account shall be held uninvested by the Tender Agent.

2.13. **Debt Service Payment Fund.** (1) General. There is hereby created and established a fund for the Bonds to be held by the Paying Agent and to be known as the “Series 2002 Debt Service Payment Fund” (the “**Debt Service Payment**

**Fund**”). The Debt Service Payment Fund shall consist of the following accounts therein: the “Payment and Reimbursement Account” (the “**Payment and Reimbursement Account**”) and the “Credit Facility Drawings Account” (the “**Credit Facility Drawings Account**”). The Debt Service Payment Fund shall be held separate and apart from all other funds and accounts under the Indenture. The Payment and Reimbursement Account shall be held separate and apart from all other accounts under the Indenture, including the Credit Facility Drawings Account. The Credit Facility Drawings Account shall be held separate and apart from all other accounts under the Indenture, including the Payment and Reimbursement Account. The Paying Agent shall maintain separate subaccounts in the Payment and Reimbursement Account and the Credit Facility Drawings Account for the Bonds of each Series. Amounts on deposit in any subaccount in the Credit Facility Drawings Account shall not be commingled with the amounts held in any other fund, account or subaccount under the Indenture, including any other subaccount in the Credit Facility Drawings Account.

(2) Payment and Reimbursement Account. The Paying Agent shall immediately deposit all amounts that are transferred to it from the Bond Charge Payment Account pursuant to the Master Indenture for the purpose of the payment of the principal or Redemption Price of and interest on the Bonds of a Series in the related subaccount of the Payment and Reimbursement Account.

(3) Credit Facility Drawings Account. In the event that a Direct-Pay Credit Facility is in place with respect to the Bonds of a Series, the Paying Agent shall draw under such Direct-Pay Credit Facility by no later than the time provided in the Direct-Pay Credit Facility for presentation of documents in order to receive payment in immediate available funds by 2:30 p.m., New York City time, on each Principal Installment due date, Redemption Date and Interest Payment Date, as the case may be, an amount sufficient to pay the principal or Redemption Price of and interest due on such Principal Installment due date, Redemption Date and Interest Payment Date, as the case may be, and shall immediately deposit the proceeds of such draw in the related subaccount in the Credit Facility Drawings Account.

In the event that a Standby Credit Facility is in place with respect to the Bonds of a Series, the Paying Agent shall draw under such Standby Credit Facility by no later than the time provided in the Standby Credit Facility for presentation of documents in order to receive payment in immediately available funds by 2:30 p.m., New York City time, on each Principal Installment due date, Redemption Date and Interest Payment Date, as the case may be, an amount which together with other moneys available in the Payment and Reimbursement Account is sufficient to pay the principal or Redemption Price of and interest due on such Principal Installment due date, Redemption Date and Interest Payment Date, as the case may be, and shall immediately deposit the proceeds of such draw in the related subaccount in the Credit Facility Drawings Account.

Notwithstanding the two next preceding paragraphs, the Paying Agent shall not draw on a Credit Facility to pay the principal or Redemption Price of, and interest on, Bonds of a Series registered in the name of the Department, the State or any of its other agencies or departments.

(4) Application of Moneys in the Payment and Reimbursement Account and the Credit Facility Drawings Account. Subject to the immediately succeeding paragraph, on each Principal Installment due date or Redemption Date, as the case may be, and Interest Payment Date, the Paying Agent shall make payments of principal or Redemption Price of and interest on the Bonds of each Series to their Owners from the related subaccount of the Payment and Reimbursement Account in accordance with the Master Indenture.

In the event that a Direct-Pay Credit Facility is in place with respect to the Bonds of a Series, notwithstanding the immediately preceding paragraph, the Paying Agent shall make payments of principal or Redemption Price of and interest on the Bonds of such Series to their Owners in the manner provided for in the Indenture from the moneys deposited in the related subaccount in the Credit Facility Drawings Account pursuant to the first paragraph of subsection (3) of this Section 2.13. If sufficient funds are not available in the related subaccount in the Credit Facility Drawings Account, the Paying Agent shall apply moneys, if any, available in the related subaccount of the Payment and Reimbursement Account, to the extent necessary to make such payment. If the principal or Redemption Price of and interest on the Bonds of such Series has been paid in full when due and all payments required to be made under the related Credit Facility have been made, the Paying Agent shall apply remaining moneys, if any, available in the related subaccount of the Payment and Reimbursement Account to reimburse the issuer of the related Direct-Pay Credit Facility for such draw or borrowing in a timely manner to avoid, to the extent practicable, increased costs under such Direct-Pay Credit Facility and after such draw or borrowing has been honored by the issuer of the related Direct-Pay Credit Facility.

In the event that a Standby Credit Facility is in place with respect to the Bonds of a Series and to the extent that sufficient funds are not available in the Payment and Reimbursement Account for the payment of principal of, Redemption Price of or interest due on the Bonds of such Series on the Principal Installment due date, Redemption Date or Interest Payment Date, as the case may be, the Paying Agent shall make payments of principal or Redemption Price of and interest on the Bonds of such Series to their Owners in an amount equal to the deficiency in the Payment and Reimbursement Account and in the manner provided for in the Indenture from the moneys deposited in the related subaccount in the Credit Facility Drawings Account pursuant to the second paragraph of subsection (3) of this Section 2.13.

(5) Moneys Held in Trust. All moneys deposited in the Payment and Reimbursement Account and the Credit Facility Drawings Account shall be held in trust by the Paying Agent and applied only in accordance with the provisions of this First Supplemental Indenture, and the Payment and Reimbursement Account and the Credit Facility Drawings Account shall be a trust fund for the purposes thereof. All amounts on deposit in the related subaccount of the Payment and Reimbursement Account and the Credit Facility Drawings Account are hereby pledged to the payment of the principal or Redemption Price of and interest on the Bonds of a Series to which such subaccount relates and in accordance with the terms hereof consistent with the terms of the Indenture. The moneys and securities herein pledged shall immediately be subject to the lien of this

pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Department irrespective of whether such parties have notice thereof.

(6) Investment. Amounts on deposit in the Debt Service Payment Fund shall be held uninvested by the Paying Agent; provided, however, that if any amounts are deposited in the related subaccount of the Payment and Reimbursement Account for the payment of the principal or Redemption Price of and interest on the Bonds of a Series prior to the Principal Installment due date, Redemption Date or Interest Payment Date, as the case may be, for the Bonds of such Series, such amounts may be invested by the Paying Agent, at the direction of the Department, in Authorized Investments that mature on or prior to such Principal Installment due date, Redemption Date or Interest Payment Date, as the case may be.

2.14. **Fee Payment Fund.** (1) General. There is hereby created and established a fund to be held by the Paying Agent and to be known as the “Series 2002 Fee Payment Fund” (the “**Fee Payment Fund**”). The Paying Agent shall immediately deposit all amounts that are transferred to it for the payment of any fees that are required to be paid by the Department in accordance with any Liquidity Facility, Credit Facility, Remarketing Agreement, Tender Agency Agreement or Auction Agreement in the Fee Payment Fund. The Paying Agent shall make withdrawals and payments from the Fee Payment Account (i) in such amounts and at such times as are necessary in order to comply with the terms of the applicable Liquidity Facility, Credit Facility, Remarketing Agreement, Tender Agency Agreement or Auction Agreement relating to the payment of applicable fees and (ii) in accordance with any written direction of an Authorized Officer.

(2) Trust Fund. All moneys deposited in the Fee Payment Fund shall be held in trust by the Paying Agent and applied only in accordance with subsection (1) of this Section 2.14, and the Fee Payment Fund shall be a trust fund for the purposes thereof. All amounts on deposit in the Fee Payment Fund are hereby pledged to the payment of the principal or Redemption Price of and interest on the Bonds in accordance with the terms hereof consistent with the terms of the Indenture until such moneys are withdrawn and paid in accordance with subsection (1) of this Section 2.14. The moneys and securities herein pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Department irrespective of whether such parties have notice thereof.

(3) Investment. Amounts on deposit in the Fee Payment Fund may be invested by the Paying Agent, at the direction of the Department, in Authorized Investments.

## ARTICLE III

### BOND INSURANCE

3.01. **Bond Insurance.** (a) Ambac has committed to issue a Policy guaranteeing the scheduled payment of principal of and interest on the Series 2002C-2 Bonds, the Series 2002C-3 Bonds, the Series 2002C-6 Bonds, the Series 2002D-1 Bonds, the Series 2002D-2 Bonds and the Series 2002D-3 Bonds, as provided in the related Policy. FSA has committed to issue a Policy guaranteeing the scheduled payment of principal of and interest on the Series 2002C-7 Bonds and the Series 2002C-13 Bonds as provided in the related Policy. XL Capital has committed to issue a Policy guaranteeing the scheduled payment of principal of and interest on the Series 2002D-4 Bonds and the Series 2002D-5 Bonds as provided in the related Policy (each such commitment, a “Commitment”). Each Policy constitutes an Enhancement Facility, and payments by the Department under the Commitment constitute Bond Related Costs, under the Indenture.

(b) In order to comply with the conditions precedent to the Insurers’ commitment to issue the Policies under the Commitments, the provisions of **Appendix C-1** hereto shall be in effect with respect to the Series 2002C-2 Bonds, the Series 2002C-3 Bonds, the Series 2002C-6 Bonds, the Series 2002D-1 Bonds, the Series 2002D-2 Bonds and the Series 2002D-3 Bonds, the provisions of **Appendix C-2** hereto shall be in effect with respect to Series 2002C-7 Bonds and the Series 2002C-13 Bonds, and the provisions of **Appendix C-3** hereto shall be in effect with respect to the Series 2002D-4 Bonds and the Series 2002D-5 Bonds, respectively, and shall be binding upon the Owners of such respective Bonds, the Trustee, the Co-Trustee and the Paying Agent.

(c) Any of the foregoing provisions in this Section 3.01 or in **Appendix C** hereto may be waived by the Insurer affected thereby, or amended by agreement between such Insurer and the Department and, if applicable, the Trustee, the Co-Trustee or the Paying Agent, without notice to or consent of any Owner of any Bonds, except to the extent provided by **Appendix C-1, C-2 or C-3**.

## ARTICLE IV

### TENDER AGENT, AUCTION AGENT AND BROKER DEALERS

4.01. **Tender Agent - Appointment, Acceptance and Successors.** (a) The Department shall appoint and employ a Tender Agent for Bonds of a Series in a Daily Rate Mode, a Weekly Rate Mode, a Flexible Rate Mode and a Term Rate Mode. U.S. Bank, N.A., is hereby appointed the initial Tender Agent. The Department shall appoint a Tender Agent on or prior to the effective date of a change in the Interest Rate Mode applicable to Bonds of a Series from an Auction Rate Mode or a Fixed Rate Mode to a Daily Rate Mode, a Weekly Rate Mode, a Flexible Rate Mode or a Term Rate Mode. The Tender Agent shall signify its acceptance of the duties and obligations imposed on it hereunder by a written instrument of acceptance delivered to the other Notice Parties. One or more additional Tender Agents may be appointed by the Department to the extent

necessary to effectuate the rights of the Owners pursuant to Article II hereof. Each Tender Agent shall be either (i) the Treasurer of the State, (ii) the Paying Agent or (iii) a commercial bank with trust power or trust company organized under the laws of the United States of America or of any state thereof and doing business and having an office in New York, New York.

(b) The Tender Agent may at any time resign and be discharged of the duties and obligations created by this First Supplemental Indenture by giving at least thirty (30) days written notice to the Department, the Liquidity Facility Provider, the Remarketing Agent, the Trustee, the Co-Trustee and the Paying Agent, except that such resignation shall not take effect until the appointment of a successor Tender Agent hereunder. The Tender Agent may be removed at any time by the Department by a written instrument filed with the Liquidity Facility Provider, the Remarketing Agent, the Trustee, the Co-Trustee and the Paying Agent, except that such removal shall not take effect until the appointment of a successor Tender Agent hereunder. Upon the resignation or removal of the Tender Agent, the Tender Agent shall pay over, deliver and assign any moneys and Bonds held by it in such capacity to its successor.

(c) If the position of Tender Agent shall become vacant for any reason while Bonds are in the Daily Rate, the Weekly Rate, the Flexible Rate or the Term Rate, or if any bankruptcy, insolvency or similar proceeding shall be commenced by or against the Tender Agent, the Department shall appoint a successor Tender Agent to fill the vacancy. Any successor Tender Agent shall be a national banking association, bank or trust company, in each case with trust powers and duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least \$100,000,000 and authorized by law to perform all of the duties imposed on it by this First Supplemental Indenture.

(d) In the event of any such vacancy and if a successor Tender Agent shall not have been appointed within sixty (60) days of such vacancy, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding in the Daily Rate, the Weekly Rate, the Flexible Rate and the Term Rate, by an instrument or concurrent instruments in writing, signed by such Owners or their attorneys-in-fact thereunto duly authorized and filed with the Department, may appoint a successor Tender Agent which shall, immediately upon its acceptance of such office, and without further act, supersede the predecessor Tender Agent. If no appointment of a successor Tender Agent shall have been made pursuant to the foregoing provisions of this Section 4.01 within ninety (90) days of such vacancy, the Owner of any Bond then Outstanding in the Daily Rate, the Weekly Rate, the Flexible Rate and the Term Rate, the Department or the Co-Trustee may apply to any court of competent jurisdiction to appoint a successor Tender Agent. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Tender Agent.

(e) Every successor Tender Agent shall execute, acknowledge and deliver to its predecessor, and also to the Department, the Trustee, the Co-Trustee and the Paying Agent, an instrument in writing accepting such appointment, and shall enter into any custodial arrangements relating to Bank Bonds in accordance with the terms of the

Liquidity Facility relating to such Bonds, and thereupon such successor Tender Agent, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor, with like effect as if originally named as such Tender Agent; but such predecessor shall, nevertheless, on the written request of its successor or of the Department, execute and deliver an instrument transferring to such successor Tender Agent all the estate, properties, rights, immunities, powers and trusts of such predecessor; and every predecessor Tender Agent shall deliver all property and moneys held by it under this First Supplemental Indenture, together with a full accounting thereof, to its successor. Should any instrument in writing from the Department be required by any successor Tender Agent for more fully and certainly vesting in such Tender Agent the estate, properties, rights, immunities, powers and trusts vested or intended to be vested in the predecessor Tender Agent, any such instrument in writing shall, on request, be executed, acknowledged and delivered by the Department.

(f) Any company into which the Tender Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Tender Agent may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Tender Agent without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a national banking association, a bank or trust company duly organized under the laws of the United States of America or any State or territory of the United States and shall be authorized by law and its charter to perform all the duties imposed upon it by this First Supplemental Indenture. Any successor to the Tender Agent pursuant to this Section 4.01(f) must also be eligible to be a successor Tender Agent under Section 4.01(c) hereof.

**4.02. Tender Agent - General Responsibilities.** (a) The Tender Agent shall perform the duties and obligations set forth in this First Supplemental Indenture, and in particular shall:

(1) hold all Bonds delivered to it for purchase hereunder as agent and bailee of, and in escrow for the benefit of, the respective Owners which have so delivered such Bonds, until moneys representing the purchase price of such Bonds shall have been delivered to or for the account of or to the order of such Owners, provided that the Tender Agent may deliver any of such Bonds to the Remarketing Agent to be held as provided in Article V hereof;

(2) hold all moneys delivered to it hereunder for the purchase of Bonds as agent and bailee of, and in escrow for the benefit of, the person or entity which shall have so delivered such moneys, until the Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity; and

(3) keep such books and records as shall be consistent with customary industry practice, and make such books and records available for inspection by the other Notice Parties.

(b) In performing its duties and obligations hereunder, the Tender Agent shall use a reasonable degree of care and skill as used in the ordinary course of business under the same circumstances in the conduct of its own affairs. The Tender Agent shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

(c) The Tender Agent may deal in Bonds and with the Department to the same extent and with the same effect as provided with respect to the Co-Trustee and Paying Agent in Section 7.07 of the Master Indenture.

(d) The Trustee, the Co-Trustee, the Registrar, the Paying Agent, the Remarketing Agent and the Tender Agent shall each cooperate to cause the necessary arrangements to be made and to be thereafter continued whereby funds from the sources specified herein will be made available for the purchase of Bonds presented at the principal office of the Tender Agent designated to the Paying Agent, and to otherwise enable the Tender Agent to carry out its duties hereunder.

(e) The Trustee, the Co-Trustee, the Registrar, the Paying Agent, the Remarketing Agent and the Tender Agent shall cooperate to the extent necessary to permit the timely receipt by the Registrar of tendered Bonds and the preparation, execution, issuance, authentication and delivery by the Registrar of replacement Bonds in connection with the tender and remarketing of Bonds hereunder.

(f) The Tender Agent hereby waives any rights to, or liens on, any funds or obligations held by or owing to it pursuant to this First Supplemental Indenture. The Tender Agent shall be reimbursed and compensated for its fees and expenses for acting under and pursuant to this First Supplemental Indenture only from payments to be made by the Department.

**4.03. Tender Agent - Procedures for Optional Tender of Bonds.** (a) Upon receipt by the Tender Agent of any written tender notice pursuant to Section 2.08 hereof and the Bonds delivered pursuant to it for purchase in accordance with this Section, the Tender Agent shall deliver to the person delivering such tender notice and such Bonds written evidence of the Tender Agent's receipt of such materials.

(b) The Tender Agent shall promptly return any tender notice (together with the Bonds submitted in connection therewith) that is incomplete or improperly completed or not delivered in accordance with Section 2.08 hereof to the person submitting the notice upon surrender of the receipt, if any, issued therefor.

(c) The Tender Agent's determination of whether a tender notice is properly given or delivered on a timely basis shall be binding on the Remarketing Agent, the Department and the Owner of the Bonds submitting such notice.

(d) By 11:15 a.m., New York City time, on the Business Day following receipt of a tender notice given pursuant to Section 2.08 hereof (or in the case of Bonds of a Series in a Daily Rate Mode, on the day of receipt of such tender notice), the Tender Agent shall give notice by telecommunication or facsimile, promptly confirmed in writing, to the Department, the Liquidity Facility Provider, the Trustee, the Co-Trustee and the Paying Agent, specifying the principal amount and CUSIP number of the Bonds to be delivered to it for purchase pursuant to Section 2.08 hereof, the Purchase Date indicated in the tender notice, and the funds, if any, necessary under Section 4.04 for the purchase of tendered Bonds.

**4.04. Tender Agent - Sources of Funds for the Purchase of Tendered Bonds.** On each Purchase Date, the Tender Agent shall purchase Bonds delivered to it for purchase in accordance with Sections 2.08 and 2.09 hereof, at the Purchase Price thereof. Funds for the payment of such Purchase Price shall be derived from the sources, and in the order of priority with respect thereto, as set forth in Section 2.11 hereof, and in no event from the Tender Agent's own funds.

**4.05. Tender Agent - Preparation and Delivery of Replacement Bonds.** (a) On each Purchase Date, all Bonds shall be delivered or deemed delivered by the Owners thereof to the Tender Agent in accordance with Section 2.10 hereof.

Bonds to be purchased hereunder which are not delivered to the Tender Agent on a Purchase Date shall be deemed to have been purchased, and interest accruing on and after such Purchase Date shall no longer be payable to the former Owners thereof but shall be paid to the purchaser of such Bonds. Interest payable on a Purchase Date shall be paid to the Owners of such Bonds in the same manner as if such Bonds had not been purchased hereunder.

(b) To the extent requested by the Remarketing Agent, the Tender Agent shall deliver replacement Bonds to the Remarketing Agent pursuant to this Section, registered in the name or otherwise at the direction of the Remarketing Agent, upon receipt of the proceeds of the sale of such Bonds pursuant to Section 2.10 hereof.

(c) The Co-Trustee, the Paying Agent and the Registrar shall take all steps necessary in accordance with Article III of the Master Indenture to facilitate the timely preparation, execution, authentication and registration of replacement Bonds for delivery pursuant to this Section by the Tender Agent to or upon the order of the Remarketing Agent.

(d) If less than all of the principal amount of any Bond shall have been delivered or deemed delivered to the Tender Agent for purchase pursuant to Section 2.08 hereof, the Tender Agent shall deliver or cause the delivery to the Owner of such Bond, upon surrender thereof, a replacement Bond for the balance not delivered for purchase.

(e) Bank Bonds shall be registered in accordance with Section 2.10(g) hereof.

4.06. **Auction Agent.** The Department shall appoint and employ an Auction Agent for Bonds of a Series in an Auction Rate Mode in accordance with the provisions of **Appendix A** hereto. The duties of the Auction Agent shall be governed by the provisions of **Appendix A** hereto.

4.07. **Broker-Dealers.** The Department shall appoint and employ the services of one or more Broker-Dealers for Bonds of a Series in an Auction Rate Mode in accordance with the provisions of **Appendix A** hereto. The duties of the Broker-Dealers shall be governed by the provisions of **Appendix A** hereto.

4.08. **Paying Agent.** The Paying Agent hereby waives any rights to, or liens on, any funds or obligations held by or owing to it pursuant to this First Supplemental Indenture. The Paying Agent shall be reimbursed and compensated for its fees and expenses for acting under and pursuant to this First Supplemental Indenture only from payments to be made by the Department.

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## ARTICLE V

### REMARKETING AGENTS

5.01. **Remarketing Agents - Appointment, Acceptance and Successors.** (a) A Remarketing Agent shall be appointed for Bonds of a Series in a Daily Rate Mode, a Weekly Rate Mode, a Flexible Rate Mode and a Term Rate Mode. The initial Remarketing Agents for the Bonds shall be as follows:

| <u>Series</u> | <u>Remarketing Agent</u>                   |
|---------------|--|
| 2002B-1       | J.P. Morgan Securities Inc.                |
| 2002B-2       | Lehman Brothers Inc.                       |
| 2002B-3       | Bear, Stearns & Co. Inc.                   |
| 2002B-4       | Morgan Stanley & Co. Incorporated          |
| 2002B-5       | Salomon Smith Barney Inc.                  |
| 2002B-6       | UBS PaineWebber Inc.                       |
| 2002C-1       | J.P. Morgan Securities Inc.                |
| 2002C-2       | J.P. Morgan Securities Inc.                |
| 2002C-3       | J.P. Morgan Securities Inc.                |
| 2002C-4       | Lehman Brothers Inc.                       |
| 2002C-5       | Lehman Brothers Inc.                       |
| 2002C-6       | Lehman Brothers Inc.                       |
| 2002C-7       | E. J. De La Rosa & Co., Inc.               |
| 2002C-8       | Morgan Stanley & Co. Incorporated          |
| 2002C-9       | Bear, Stearns & Co. Inc.                   |
| 2002C-10      | Merrill Lynch, Pierce, Fenner & Smith Inc. |
| 2002C-11      | UBS PaineWebber Inc.                       |
| 2002C-12      | UBS PaineWebber Inc.                       |
| 2002C-13      | Salomon Smith Barney Inc.                  |
| 2002C-14      | Banc of America Securities LLC             |
| 2002C-15      | Goldman, Sachs & Co.                       |
| 2002C-16      | Loop Capital Markets LLC                   |
| 2002C-17      | Ramirez & Co. Inc.                         |
| 2002C-18      | Prager, McCarthy & Sealy, LLC              |

The Department shall appoint a Remarketing Agent on or prior to the effective date of a change in the Interest Rate Mode applicable to Bonds of a Series from an Auction Rate Mode or a Fixed Rate Mode to a Daily Rate Mode, a Weekly Rate Mode, a Flexible Rate Mode or a Term Rate Mode. The Remarketing Agent shall signify its acceptance of the duties and obligations imposed on it hereunder by a written instrument of acceptance delivered to the Notice Parties.

(b) Except as otherwise provided in the related Remarketing Agreement, (i) the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this First Supplemental Indenture by giving such notice to the Notice Parties as may be agreed to between the Department and the Remarketing Agent, except that such resignation shall not take effect until the appointment of a

successor Remarketing Agent hereunder; and (ii) the Remarketing Agent may be removed at any time by the Department, by giving such notice to the Notice Parties, except that such removal shall not take effect until the appointment of a successor Remarketing Agent hereunder. Upon the resignation or removal of the Remarketing Agent, the Remarketing Agent shall pay over, deliver and assign any moneys and Bonds held by it in such capacity to its successor.

(c) If the position of Remarketing Agent shall become vacant for any reason while Bonds bear interest at the Daily Rate, the Weekly Rate, the Flexible Rate or the Term Rate, or if any bankruptcy, insolvency or similar proceeding shall be commenced by or against the Remarketing Agent, the Department shall appoint a successor Remarketing Agent to fill the vacancy. A written acceptance of office shall be filed by the successor Remarketing Agent in the manner set forth in Section 5.01(a) hereof. Any successor Remarketing Agent shall be a bank, trust company, national banking association or a member of the National Association of Securities Dealers, Inc., and authorized by law to perform all of the duties imposed on it under this First Supplemental Indenture.

(d) The Department shall, upon a written direction of the Credit Facility Provider for the Bonds of a Series, remove the Remarketing Agent for the Bonds of such Series if the Remarketing Agent fails to comply with its obligations under the Remarketing Agreement and this First Supplemental Indenture.

**5.02. Remarketing Agent - General Responsibilities.** (a) The Remarketing Agent shall perform the duties and obligations set forth in this First Supplemental Indenture, and in particular shall:

(1) hold any Bonds delivered to it hereunder by the Tender Agent in trust for the benefit of the Liquidity Facility Provider or the respective Owners which shall have delivered or shall be deemed to have delivered such Bonds to the Tender Agent, as the case may be, until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Owners or the Liquidity Facility Provider or deposited with the Tender Agent, as the case may be, and to redeliver such Bonds to the Tender Agent upon its request;

(2) use its best efforts to solicit purchases of Bonds from investors able to purchase municipal bonds, effectuate and process such purchases, bill and receive payment for Bonds purchased, and perform related functions in connection with the remarketing of Bonds hereunder;

(3) hold all moneys delivered to it hereunder for the purchase of Bonds as agent and bailee of, and in escrow for the benefit of, the person or entity which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity, provided that such moneys shall be delivered to the Tender Agent upon its request;

(4) keep such books and records as shall be consistent with prudent industry practice and which will document its action taken hereunder, and make such books and records available for inspection by the Notice Parties; and

(5) comply at all times with all applicable state and federal securities laws and other statutes, rules and regulations applicable to the offering and sale of the Bonds.

(b) In performing its duties and obligations hereunder, the Remarketing Agent shall use the same degree of care and skill as a prudent person would exercise under the same circumstances in the conduct of his own affairs. The Remarketing Agent shall not be liable in connection with the performance of its duties hereunder except for its own willful misconduct, gross negligence or bad faith.

(c) The Remarketing Agent may deal in Bonds and with the Department to the same extent and with the same effect as provided with respect to the Trustee, Co-Trustee and Paying Agent in Section 707 of the Master Indenture.

(d) The Trustee, the Co-Trustee, the Tender Agent, the Remarketing Agent and the Registrar shall each cooperate to cause the necessary arrangements to be made and thereafter continued whereby Bonds prepared, executed, authenticated and issued hereunder shall be made available to the Remarketing Agent to the extent necessary for delivery pursuant to Section 2.10 hereof, and to otherwise enable the Remarketing Agent to carry out its duties hereunder.

(e) The Remarketing Agent hereby waives any right to, or lien on, any funds or obligations held by or owing to it pursuant to this First Supplemental Indenture. The Remarketing Agent shall be reimbursed and compensated for its fees and expenses for acting under and pursuant to this First Supplemental Indenture only from payments to be made by the Department.

**5.03. Duties of Remarketing Agent.** The Remarketing Agent will, in accordance with the Remarketing Agreement, establish the interest rates on the Bonds and perform the other duties provided for it to be done by it in Sections 2.06 and 2.10 hereof. The Remarketing Agent shall have no duty to act hereunder to the extent the Remarketing Agent is not required to perform its obligations under the Remarketing Agreement.

## ARTICLE VI

### CREDIT AND LIQUIDITY FACILITIES

**6.01. Credit and Liquidity Facilities.** (a) In addition to the Policies obtained for certain of the Bonds as described in Section 3.01 hereof, the Department has obtained initial Credit Facilities and initial Liquidity Facilities as follows:

| <u>Series</u> | <u>Credit/Liquidity Facility</u> <sup>1</sup> | <u>Provider</u>   |
|---------------|---|---|
| 2002B-1       | Direct-Pay Letter of Credit                   | The Bank of New York (75%)/<br>California State Teachers'<br>Retirement System (25%) <sup>2</sup> |
| 2002B-2       | Direct-Pay Letter of Credit                   | BNP Paribas   |
| 2002B-3       | Direct-Pay Letter of Credit                   | The Bank of New York  |
| 2002B-4       | Direct-Pay Letter of Credit                   | Bayerische Landesbank   |
| 2002B-5       | Direct – Pay Letter of Credit                 | Bayerische Landesbank (50%)/WestLB<br>AG (50%) <sup>2</sup>                                       |
| 2002B-6       | Direct-Pay Letter of Credit                   | State Street Bank and Trust Company   |
| 2002C-1       | Direct-Pay Letter of Credit                   | Dexia Crédit Local  |
| 2002C-2       | Liquidity Facility <sup>3</sup>               | WestLB AG   |
| 2002C-3       | Liquidity Facility <sup>3</sup>               | JPMorgan Chase Bank   |
| 2002C-4       | Direct-Pay Letter of Credit                   | JPMorgan Chase Bank (75%)/<br>California State Teachers'<br>Retirement System (25%) <sup>2</sup>  |
| 2002C-5       | Direct-Pay Letter of Credit                   | Dexia Crédit Local  |
| 2002C-6       | Liquidity Facility <sup>3</sup>               | Landesbank Baden-Württemberg  |
| 2002C-7       | Liquidity Facility <sup>3</sup>               | Dexia Crédit Local  |
| 2002C-8       | Direct-Pay Letter of Credit                   | Bayerische Landesbank   |
| 2002C-9       | Direct-Pay Letter of Credit                   | Citibank, N.A.  |
| 2002C-10      | Direct-Pay Letter of Credit                   | Landesbank Hessen-Thüringen<br>Girozentrale   |
| 2002C-11      | Direct-Pay Letter of Credit                   | KBC Bank N.V. (75%)/The Bank of<br>Nova Scotia (25%) <sup>2</sup>                                 |
| 2002C-12      | Direct-Pay Letter of Credit                   | Landesbank Hessen-Thüringen<br>Girozentrale   |
| 2002C-13      | Liquidity Facility <sup>3</sup>               | Dexia Crédit Local  |
| 2002C-14      | Direct-Pay Letter of Credit                   | WestLB AG   |
| 2002C-15      | Direct-Pay Letter of Credit                   | The Bank of Nova Scotia   |
| 2002C-16      | Direct-Pay Letter of Credit                   | The Bank of New York  |
| 2002C-17      | Direct-Pay Letter of Credit                   | The Bank of New York  |
| 2002C-18      | Direct-Pay Letter of Credit                   | The Bank of New York  |

<sup>1</sup> Each Direct-Pay Letter of Credit provides both credit and liquidity support and constitutes both a Direct-Pay Credit Facility and a Liquidity Facility under the Indenture. Each Liquidity Facility provides a standby bond purchase arrangement only and constitutes a Liquidity Facility under the Indenture.

<sup>2</sup> Percentages reflect the pro rata obligations of multiple fronting banks to make payments under a single direct-pay letter of credit. Such obligations are several, not joint, and no fronting bank is liable for the obligations of any other fronting bank.

<sup>3</sup> An insurance policy has been obtained for this subseries. See Section 3.01 hereof.

At any time, the Department may obtain or provide for the delivery to the Paying Agent of an initial Credit Facility or Liquidity Facility with respect to any other Series of Bonds, or a Substitute Credit Facility or Substitute Liquidity Facility with respect to any Series of Bonds. The Department shall not obtain or provide for the delivery of a Liquidity Facility for the Bonds of a Series to the Paying Agent without the prior written consent of the Credit Facility Provider, if any, for the Bonds of such Series. To the extent provided in Section 2.09(d) hereof, all Outstanding Bonds of the Series to which a terminating

Liquidity Facility or Credit Facility relates will become subject to mandatory tender for purchase if such Liquidity Facility or Credit Facility permits a draw thereon or borrowing thereunder prior to such Termination.

On or prior to the date on which a Credit Facility or Liquidity Facility is obtained and delivered to the Paying Agent, except upon initial issuance of the Bonds, the Department shall furnish to the Trustee, the Co-Trustee, the Paying Agent, the Credit Facility Provider and the Liquidity Facility Provider an opinion of Nationally Recognized Bond Counsel to the effect that the delivery thereof, by itself, (1) is lawful under the Act and is authorized or permitted by this First Supplemental Indenture, and (2) will not adversely affect the exclusion of interest on the Bonds from gross income for Federal income tax purposes, nor adversely affect the validity of the Bonds of such Series.

(b) The Department shall deliver to the Trustee, the Co-Trustee, the Paying Agent, the Remarketing Agent and the Tender Agent a copy of each Credit Facility and Liquidity Facility obtained pursuant to this Article VI on the effective date of such Credit Facility or Liquidity Facility, as the case may be. In the event of an extension of the Expiration date, the Department shall give the Trustee, the Co-Trustee, the Paying Agent and the Tender Agent a written notice of the new Expiration date at least thirty (30) days prior to the Expiration date then in effect. In the event of a substitution of a Credit Facility or Liquidity Facility with a Substitute Credit Facility or Substitute Liquidity Facility, as the case may be, or the assignment of the obligation of an issuer of the then-existing Credit Facility or Liquidity Facility thereunder, (i) the Department shall give the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent and the Remarketing Agent a written notice of such substitution or assignment at least thirty (30) days prior to the effective date of such Substitute Credit Facility or Substitute Liquidity Facility or such assignment, and (ii) to the extent that the Bonds of a Series supported by such Credit Facility or Liquidity Facility are not subject to mandatory tender for purchase pursuant to Section 2.09(d) hereof as a result of such substitution or assignment, the Paying Agent shall give the Owners of the Bonds of such Series and each Rating Agency then rating the Bonds of such Series a written notice of such substitution or assignment at least fifteen (15) days prior to the effective date of such Substitute Credit Facility or Substitute Liquidity Facility or assignment. To the extent that the Bonds of a Series supported by a Credit Facility or Liquidity Facility are not subject to mandatory tender for purchase pursuant to Section 2.09(d) hereof as a result of the assignment of the obligation of the issuer of such Credit Facility or Liquidity Facility thereunder, the Department or the Paying Agent, as the case may be, shall not consent to such assignment unless a notice thereof was given to the Owners of Bonds of such Series and each Rating Agency then rating such Bonds in accordance with the next preceding sentence.

(c) The Paying Agent shall release any then-existing Credit Facility or Liquidity Facility supporting Bonds of a Series only upon (i) the Substitution Date (or, in the case of a Flexible Rate Mode, the last Substitution Date) therefor and following the honor of any draws on the then-existing Credit Facility or the making of advances under the then-existing Liquidity Facility to pay the Purchase Price of Bonds that have been tendered for purchase on or prior to such Substitution Date and that have not been

remarketed on or prior to such Substitution Date, (ii) the effective date of a change in the Interest Rate Mode to an Auction Rate Mode or a Fixed Rate Mode, or (iii) the date on which all Bonds of such Series cease to be Outstanding (whether by defeasance of the Bonds secured thereby in accordance with Section 1101 of the Master Indenture or otherwise).

(d) Each Credit Facility for the Bonds of a Series shall provide for draws thereon or borrowings therefrom, in the aggregate, in an amount at least equal to the Applicable Principal and Interest Coverage for all of the Bonds of such Series. Each Liquidity Facility for the Bonds of a Series shall provide for draws thereon or borrowings therefrom, in the aggregate, in an amount at least equal to the Applicable Principal and Interest Coverage for the Bonds of such Series.

(e) If at any time there shall have been delivered to the Paying Agent a Substitute Credit Facility or Substitute Liquidity Facility, in substitution for or replacement of the then existing Credit Facility or Liquidity Facility, the Paying Agent shall accept such Substitute Credit Facility or Substitute Liquidity Facility and promptly surrender the previously held Credit Facility or Liquidity Facility to the respective Credit Facility Provider or Liquidity Facility Provider; provided, however, that no such surrender shall be permitted unless provisions of Section 6.01(c)(i) above have been complied with. If at any time there shall cease to be Bonds of a Series Outstanding hereunder secured by a Credit Facility or Liquidity Facility, the Paying Agent shall promptly surrender such Credit Facility or Liquidity Facility to the respective Credit Facility Provider or Liquidity Facility Provider.

(f) On or prior to a Substitution Date relating to a Bond of a Series, no drawing under a Substitute Credit Facility or Substitute Liquidity Facility, as the case may be, shall be made by the Paying Agent with respect to such Bond if the predecessor Credit Facility or Liquidity Facility shall be effective and available to make drawings thereunder on the date of such drawing. After a Substitution Date relating to a Bond of a Series, no drawing under a predecessor Credit Facility or Liquidity Facility shall be made by the Paying Agent with respect to such Bond if such Substitute Credit Facility or Substitute Liquidity Facility, as the case may be, shall be effective and available to make drawings thereunder on the date of such drawing.

(g) If at any time during the term of a Credit Facility or Liquidity Facility any successor Paying Agent shall be appointed and qualified under the Indenture, the Paying Agent shall request that the Credit Facility Provider or Liquidity Facility Provider transfer (or reissue) the Credit Facility or Liquidity Facility, as the case may be, to such successor Paying Agent. If the Paying Agent fails to make such request, the successor Paying Agent shall do so before accepting its appointment. The Department shall pay all costs associated with such a transfer.

(h) Neither the Department nor the Paying Agent shall permit, or consent to, the delivery of a Substitute Credit Facility in substitution for or replacement of a then-existing Credit Facility securing the Bonds of a Series that is a bond insurance policy without the written confirmation from each Rating Agency then rating the Bonds

of such Series to the effect that such substitution will not, by itself, result in a reduction or withdrawal of the short-term rating, if any, or the long-term rating of such Bonds below the rating of such Rating Agency then in effect with respect to such Bonds.

**6.02. Rights of Credit Facility and Liquidity Facility Providers. (a)**

To the extent any provision in this First Supplemental Indenture requires the Trustee or Co-Trustee to obtain or procure the consent, direction, approval or request of a Credit Facility Provider or Liquidity Facility Provider, the Trustee or Co-Trustee, as the case may be, shall obtain or procure such consent, direction, approval or request in all instances, except during any time in which (i) such Credit Facility Provider or Liquidity Facility Provider, as the case may be, has failed to pay a properly presented conforming draw or notice of presentment under its respective Credit Facility or Liquidity Facility, which failure is continuing, (ii) such Credit Facility or Liquidity Facility, as the case may be, shall at any time for any reason be finally determined under applicable law, by a court of competent jurisdiction, to be null and void and not valid and binding on the respective Credit Facility Provider or Liquidity Facility Provider, or the validity or enforceability thereof is being contested by such Credit Facility Provider or Liquidity Facility Provider or by any governmental agency or authority which has taken control of the assets of the Credit Facility Provider or Liquidity Facility Provider in any bankruptcy, insolvency or similar proceedings and which shall be authorized under applicable law to act on behalf of such Credit Facility Provider or Liquidity Facility Provider, or (iii) the Credit Facility or Liquidity Facility is no longer in effect and any and all of the Department's obligations under the respective Credit Facility or the Liquidity Facility have been paid in full.

(b) (1) So long as any Credit Facility issued pursuant to the Master Credit and Liquidity Agreement is in full force and effect, and there has not been a failure to pay a properly presented conforming draw under such Credit Facility, then, in all such events, subject to subsection (b)(3) below, (i) the issuer of such Credit Facility shall be deemed to be the sole Owner of the Outstanding Bonds of a Series the payment of which such Credit Facility secures or secured when the approval, consent or action of the Owners of such Bonds is required or may be exercised under the Indenture except for purposes of the second sentence of Section 902 of the Master Indenture with respect to modifications and amendments only with the consent of particular Owners of such Bonds and (ii) with respect to such modifications and amendments, the consent of the issuer of such Credit Facility shall be required in addition to the consent of the Owners of such Bonds.

(2) In the event that the principal, sinking fund installments, if any, Purchase Price and Redemption Price, if applicable, or interest due on any Outstanding Bonds of a Series shall be paid under the provisions of an Enhancement Facility that secures or secured the Bonds of such Series and that is issued pursuant to the Master Credit and Liquidity Agreement, all covenants, agreements and other obligations of the Department to the Owners of such Bonds shall continue to exist, and the issuer of such Enhancement Facility shall be subrogated to the rights of such Owners.

(3) The term “issuer” of an Enhancement Facility issued or executed and delivered pursuant to the Master Credit and Liquidity Agreement shall mean, for purposes of subsections (b)(1) and (2) above, the Administrative Agent under the Master Credit and Liquidity Agreement acting in accordance with the Master Credit and Liquidity Agreement. The Trustee and Co-Trustee in seeking the consent or approval of the “issuer” of the Enhancement Facility for any matter shall be entitled to rely, without further investigation, upon the response of the Administrative Agent.

## ARTICLE VII

### AMENDMENTS

1. **Modifications or Amendments to the Indenture.** (a) Notwithstanding Section 903 and 904 of the Master Indenture, the provisions of the Indenture, including, without limitation, the provisions of this First Supplemental Indenture, may be modified or amended, with respect to Bonds of a Series, with the consent of the Credit Facility Provider for the Bonds of such Series, pursuant to the Master Indenture by obtaining, when required by the Master Indenture, the consent of the Owners all Outstanding Bonds of such Series as follows:

(1) during a Weekly Rate Mode or Daily Rate Mode, if on the 30<sup>th</sup> day (or, if such day is not a Business Day, on the next succeeding Business Day) after the date on which the Department mailed notice of such proposed modification or amendment to Owners of the Outstanding Bonds of a Series there is delivered to the Trustee, the Co-Trustee and the Department (a) a certificate of the Tender Agent to the effect that all Bonds that have been tendered for purchase by their Owners pursuant to Section 2.08 hereof after the date on which the Department mailed such notice of the proposed modification or amendment have been purchased at a price equal to the Purchase Price thereof, (b) a written consent of the Remarketing Agent to the proposed modification or amendment and (c) an opinion of Nationally Recognized Bond Counsel to the effect that the proposed modification or amendment is lawful under the Act, will not adversely affect the validity of the Bonds of such Series and will not adversely affect the exclusion of interest on such Bonds from gross income for Federal income tax purposes, the proposed modification or amendment shall be deemed to have been consented by the Owners of the Bonds of such Series;

(2) during any Interest Rate Mode, if on any date on which the Bonds of such Series are subject to mandatory tender for purchase pursuant to Section 2.09 hereof there is delivered to the Trustee, the Co-Trustee and the Department (a) a certificate of the Tender Agent to the effect that all Bonds of such Series have been purchased at a price equal to the Purchase Price thereof, (b) a written consent of the Remarketing Agent to the proposed modification or amendment, and (c) an opinion of Nationally Recognized Bond Counsel to the effect that the proposed modification or amendment is lawful under the Act, will not adversely affect the validity of the Bonds of such Series and will not adversely

affect the exclusion of interest on such Bonds from gross income for Federal income tax purposes, the proposed modification or amendment shall be deemed to have been consented by the Owners of the Bonds of such Series; and

(3) during an Auction Rate Mode, in accordance with Section 2.07(b) of **Appendix A** hereto.

(b) Notwithstanding Sections 903 and 904 of the Master Indenture, the Insurers shall have certain additional consent rights with respect to modifications and amendments requiring the consent or approval of particular Owners of Bonds, as set forth in **Appendix C** hereto.

## ARTICLE VIII

### COVENANTS

8.01. **Tax Covenant.** (a) The Department shall not take or omit to take any action which would cause interest on any Tax-Exempt Bond to be included in the gross income of any Owner thereof for Federal income tax purposes by reason of subsection (b) of Section 103 of the Code. Without limiting the generality of the foregoing, no part of the proceeds of the Tax-Exempt Bonds or any other funds of the Department shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Tax-Exempt Bond to be an “arbitrage bond” as defined in Section 148 of the Code and to be subject to treatment under subsection (b)(2) of Section 103 of the Code as an obligation not described in subsection (a) of said section. The Department shall pay to the United States any amounts that are necessary for the purpose of compliance with the provisions of Section 148 of the Code. The provisions of this subsection (a) shall survive the defeasance and payment of the Tax-Exempt Bonds.

(b) Notwithstanding any other provision of the Indenture to the contrary, upon the Department’s failure to observe, or refusal to comply with, the above covenant in paragraph (a), the Owners, or the Trustee or Co-Trustee acting on their behalf, shall be entitled only to the right of specific performance of such covenant, to the extent permitted under Article X of the Master Indenture, and shall not be entitled to any of the other rights and remedies provided under Article X of the Master Indenture.

## ARTICLE IX

### MISCELLANEOUS

9.01. **Notices.** (a) Notices to Owners. All notices required to be given to Owners of Bonds of a Series under this First Supplemental Indenture, unless otherwise expressly provided in this First Supplemental Indenture, shall be given by first class mail, postage prepaid.

(b) Notices to Rating Agencies. The Department shall give prior written notice to the Rating Agencies of any of the following events:

(1) Any change of Co-Trustee, and the appointment and any change of Tender Agent, Paying Agent or Remarketing Agent;

(2) Any material changes to the Indenture, including this First Supplemental Indenture, that affect the Bonds;

(3) Any changes to the Credit Facility, Liquidity Facility, or any agreement with the Credit Facility Provider or Liquidity Facility Provider, Remarketing Agent or Tender Agent pertaining to the Bonds;

(4) Any Expiration, Termination or extension of any Liquidity Facility or Credit Facility or the obtaining of a Substitute Liquidity Facility or Substitute Credit Facility pertaining to the Bonds;

(5) Any action in connection with a change to a Term Rate Mode or Fixed Rate Mode or the establishment of a new Term Period; and

(6) Any redemption, defeasance or mandatory tender of all the Outstanding Bonds.

9.02. **Certain Findings, Determinations and Representations.** The Department hereby finds, determines and represents:

(a) The Master Indenture has not been amended, supplemented, or repealed since the adoption thereof except by this First Supplemental Indenture. This First Supplemental Indenture supplements the Master Indenture as heretofore supplemented, constitutes and is a “Supplemental Indenture” within the meaning of such quoted term as defined and used in the Master Indenture, and is adopted under and pursuant to the Master Indenture.

(b) The Bonds constitute and are “Bonds” within the meaning of the quoted word as defined and used in the Indenture.

(c) The Trust Estate is not encumbered by any lien or charge thereon or pledge thereof, other than the lien and charge thereon and pledge thereof (i) securing the existing Outstanding Notes and the related Credit and Security Agreement and (ii) described in Section 501 of the Master Indenture.

(d) There does not exist an “Event of Default” within the meaning of such quoted term as defined in Section 1001 of the Master Indenture, nor does there exist any condition which, after the giving of notice or the passage of time, or both, would constitute such an “Event of Default.”

(e) The Obligations (as defined in the Master Credit and Liquidity Agreement) of the Department under the Master Credit and Liquidity Agreement are

Parity Obligations of the Department and shall not be payable from any income, receipts or revenues of the Department other than those included in the Trust Estate, nor shall the Obligations constitute legal or equitable pledge, charge, lien, or encumbrance upon any of the property or upon any of the income, receipts, or revenues of the Department, except the Trust Estate.

9.03. **Third Party Beneficiaries.** Each Credit Facility Provider and each Liquidity Facility Provider of an Enhancement Facility issued pursuant to the Master Credit and Liquidity Agreement shall be a third party beneficiary of the Indenture.

9.04. **Authorized Officers.** The Authorized Officers are hereby authorized to execute and deliver such documents and certifications as may be necessary to give effect to this First Supplemental Indenture and the transactions contemplated hereby.

9.05. **Effective Date.** This First Supplemental Indenture shall be fully effective in accordance with its terms upon its execution and delivery by the Department, the Trustee and the Co-Trustee.

9.06. **Determination of Department.** This First Supplemental Indenture shall constitute a written determination of the Department under and pursuant to the Act.

[Signature Page Follows]

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

CALIFORNIA DEPARTMENT OF  
WATER RESOURCES

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

TREASURER OF THE STATE OF  
CALIFORNIA, as Trustee

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

U.S. BANK, N.A., as Co-Trustee

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

[Signature Page of First Supplemental Indenture]

**APPENDIX A**

to

FIRST SUPPLEMENTAL TRUST INDENTURE

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Auction Procedures

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## APPENDIX A

### Auction Procedures

**This Appendix A contains Auction Rate Provisions relating to the State of California Department of Water Resources Power Supply Revenue Bonds, Series 2002 B, Series 2002C Bonds and Series 2002D Bonds (the “Bonds”) in an Auction Rate Mode, and references in this Appendix A to Bonds shall be deemed to refer only to the Bonds of a Series and, with respect to the Bonds of a particular Series, only to such Bonds in an Auction Rate Mode.**

#### Article I Definitions

##### Section 1.01. Definitions

In addition to the words and terms elsewhere defined in this First Supplemental Indenture, the following words and terms as used in this **Appendix A** and elsewhere in this First Supplemental Indenture have the following meanings with respect to Bonds in an Auction Rate Mode unless the context or use indicates another or different meaning or intent:

“Agent Member” means a member of, or participant in, the Securities Depository who will act on behalf of a Bidder.

“All Hold Rate” means, as of any Auction Date, 55% of the Index in effect on such Auction Date.

“Auction” means each periodic implementation of the Auction Procedures.

“Auction Agent” means the auctioneer appointed in accordance with the provisions of this First Supplemental Indenture and will initially be The Bank of New York.

“Auction Agreement” means an agreement between the Department, the Auction Agent and the Paying Agent pursuant to which the Auction Agent agrees to follow the procedures specified in this First Supplemental Indenture, with respect to the Bonds while bearing interest at an Auction Period Rate, as such agreement may from time to time be amended or supplemented.

“Auction Date” means, with respect to Bonds of a Series, during any period in which the Auction Procedures are not suspended in accordance with the provisions of this First Supplemental Indenture, (i) if the Bonds of such Series are in a daily Auction Period, each Business Day, (ii) if the Bonds of such Series are in a Flexible Auction Period, the last Business Day of the Flexible Auction Period, and (iii) if the Bonds of such Series are in any other Auction Period, the Business Day next preceding each Interest Payment Date for such Bonds (whether or not an Auction will be conducted

on such date); provided, however, that the last Auction Date with respect to the Bonds of such Series in an Auction Period other than a daily Auction Period or a Flexible Auction Period will be the earlier of (a) the Business Day next preceding the Interest Payment Date next preceding the effective date of a change in the Interest Rate Mode from an Auction Rate Mode to a different Interest Rate Mode for such Bonds and (b) the Business Day next preceding the Interest Payment Date next preceding the Maturity Date for such Bonds; and provided further, however, that if such Bonds of such Series are in a daily Auction Period, the last Auction Date will be the earlier of (x) the Business Day next preceding the effective date of a change in the Interest Rate Mode applicable to such Bonds from an Auction Rate Mode to a different Interest Rate Mode and (y) the Business Day next preceding the final maturity date for such Bonds; and provided further, however, that the last Business Day of a Flexible Auction Period shall be the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any. On the Business Day preceding the conversion from a daily Auction Period to another Auction Period, there will be two Auctions, one for the last daily Auction Period and one for the first Auction Period following the conversion.

“Auction Multiple” means, as of any Auction Date, the Percentage of Index (in effect on such Auction Date) determined as set forth below, based on the Prevailing Rating of the Bonds in effect at the close of business on the Business Day immediately preceding such Auction Date:

| <u>Prevailing Rating</u> | <u>Percentage of Index</u> |
|--------------------------|----------------------------|
| AAA/Aaa                  | 150%                       |
| AA/Aa                    | 175                        |
| A/A                      | 200                        |
| BBB/Baa                  | 250                        |
| Below BBB/Baa            | 275                        |

“Auction Period” means

- (a) a Flexible Auction Period;
- (b) with respect to Bonds of a Series in a daily Auction Period, a period beginning on each Business Day and extending to but not including the next succeeding Business Day;
- (c) with respect to Bonds of a Series in a seven day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally seven days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally seven days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the Monday thereafter (unless such Monday is not followed by a Business Day, in

which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally seven days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally seven days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally seven days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(d) with respect to Bonds of a Series in a 28-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 28 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the fourth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 28 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the fourth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 28 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 28 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the fourth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 28 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day).

(e) with respect to Bonds of a Series in a 35-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 35 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on Sunday) and ending on the fifth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 35 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Monday) and ending on the fifth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day

which is followed by a Business Day), (iii) Tuesdays, a period of generally 35 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 35 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on Wednesday) and ending on the fifth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 35 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(f) with respect to Bonds of a Series in a three-month Auction Period, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period (unless such first day of the month is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day); and

(g) with respect to Bonds of a Series in a six-month Auction Period, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the next succeeding April 30 or October 31;

provided, however, that

(a) if there is a conversion of Bonds of a Series with Auctions generally to be conducted on Fridays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(b) if there is a conversion of Bonds of a Series with Auctions generally to be conducted on Mondays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(c) if there is a conversion of Bonds of a Series with Auctions generally to be conducted on Tuesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(d) if there is a conversion of Bonds of a Series with Auctions generally to be conducted on Wednesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period)

and shall end on Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion; and

(e) if there is a conversion of Bonds of a Series with Auctions generally to be conducted on Thursdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

provided further, however, that any Auction Period that is greater than 35 days may be extended as provided in paragraph (d) of Section 2.03 of this **Appendix A**.

“Auction Period Rate” means the rate of interest to be borne by the Bonds of a Series during each Auction Period determined in accordance with Section 2.03 of this **Appendix A**; provided, however, in no event may the Auction Period Rate exceed the Maximum Interest Rate.

“Auction Procedures” means the procedures for conducting Auctions for Bonds of a Series during an Auction Rate Mode set forth in this **Appendix A**.

“Auction Rate” means, for each Series of Bonds for each Auction Period, (i) if Sufficient Clearing Bids exist, the Winning Bid Rate; provided, however, if all of the Bonds of such Series are the subject of Submitted Hold Orders, the All Hold Rate with regard to such Bonds, and (ii) if Sufficient Clearing Bids do not exist, the Maximum Auction Rate with regard to such Bonds.

“Auction Rate Mode” means the Interest Rate Mode during which the Bonds of a Series bear interest at an Auction Period Rate.

“Available Bonds” means for each Series of Bonds on each Auction Date, the aggregate principal amount of the Bonds of such Series that are not the subject of Submitted Hold Orders.

“Bid” has the meaning specified in subsection (a) of Section 2.01 of this **Appendix A**.

“Bidder” means each Existing Owner and Potential Owner who places an Order.

“Broker-Dealer” means any entity that is permitted by law to perform the function required of a Broker-Dealer described in this First Supplemental Indenture, that is a member of, or a direct participant in, the Securities Depository, that has been selected by the Department, and that is a party to a Broker-Dealer Agreement with the Auction Agent and the Department.

“Broker-Dealer Agreement” means an agreement between the Department, the Auction Agent and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the procedures described in the Indenture, as such agreement may from time to time be amended or supplemented.

“Default Rate” means, in respect of any Auction Period other than a daily Auction Period, a per annum rate equal to three hundred percent (300%) of the Index determined on the Auction Date next preceding the first day of such Auction Period or, in the case of Bonds of a Series in a daily Auction Period, three hundred percent (300%) of the Index determined on the Auction Date which was the first day of such Auction Period; provided, however, the Default Rate will not exceed the Maximum Interest Rate.

“Existing Owner” means a Person who is listed as the beneficial owner of Bonds in the records of the Auction Agent.

“Flexible Auction Period” means any period of not less than seven nor more than 364 days which is not another Auction Period and which begins on an Interest Payment Date and ends on (i) in the case of Bonds of a Series with Auctions generally conducted on Fridays, on a Sunday unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (ii) in the case of Bonds of a Series with Auctions generally conducted on Mondays, on a Monday unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iii) in the case of Bonds of a Series with Auctions generally conducted on Tuesdays, on a Tuesday unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iv) in the case of Bonds of a Series with Auctions generally conducted on Wednesdays, on a Wednesday unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, and (v) in the case of Bonds of a Series with Auctions generally conducted on Thursdays, on a Thursday unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day.

“Hold Order” has the meaning specified in subsection (a) of Section 2.01 of this **Appendix A**.

“Index” will have the meaning specified in Section 2.06 of this **Appendix A**.

“Interest Payment Date” means

(a) when used with respect to any Auction Period (including the initial Auction Period commencing on and including the effective date of a change in the Interest Rate Mode to an Auction Rate Mode and expiring on and including the initial Auction Date (or, if such initial Auction Date is not followed by a Business Day, the next succeeding day that is followed by a Business Day) determined by the Department in connection with a change in the Interest Rate Mode to an Auction Rate Mode) other than a daily Auction Period or a Flexible Auction Period, the Business Day immediately following such Auction Period,

(b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period,

(c) when used with respect to a Flexible Auction Period of (i) seven or more but fewer than 92 days, the Business Day immediately following such Flexible Auction Period, or (ii) 92 or more days, (A) in the case of Bonds of a Series with Auctions generally conducted on Fridays, each thirteenth Monday after the first day of such Flexible Auction Period or the next Business Day if such Monday is not a Business Day and on the Business Day immediately following such Flexible Auction Period, (B) in the case of Bonds of a Series with Auctions generally conducted on Mondays, each thirteenth Tuesday after the first day of such Flexible Auction Period or the next Business Day if such Tuesday is not a Business Day and on the Business Day immediately following such Flexible Auction Period, (C) in the case of Bonds of a Series with Auctions generally conducted on Tuesdays, each thirteenth Wednesday after the first day of such Flexible Auction Period or the next Business Day if such Wednesday is not a Business Day and on the Business Day immediately following such Flexible Auction Period, (D) in the case of Bonds of a Series with Auctions conducted on Wednesdays, each thirteenth Thursday after the first day of such Flexible Auction Period or the next Business Day if such Thursday is not a Business Day and on the Business Day immediately following such Flexible Auction Period and (E) in the case of Bonds of a Series with Auctions generally conducted on Thursdays, each thirteenth Friday after the first day of such Flexible Auction Period or the next Business Day if such Friday is not a Business Day and on the Business Day immediately following such Flexible Auction Period.

“Maximum Auction Rate” means, as of any Auction Date, the product of the Index multiplied by the Auction Multiple; provided, however, that the Maximum Auction Rate will not exceed the Maximum Interest Rate.

“Maximum Interest Rate” means the lesser of fifteen percent (15%) per annum or the highest interest rate which may be borne by the Bonds under State law.

“Moody’s” means Moody’s Investors Service, or its successor.

“Order” means a Hold Order, Bid or Sell Order.

“Potential Owner” means any Person, including any Existing Owner, who may be interested in acquiring a beneficial interest in the Bonds of a Series, in addition to the Bonds currently owned by such Person, if any.

“Prevailing Rating” means (a) AAA/Aaa, if the Bonds will have a rating of AAA by S&P and a rating of Aaa by Moody’s, (b) if not AAA/Aaa, AA/Aa if the Bonds will have a rating of AA- or better by S&P and a rating of Aa3 or better by Moody’s, (c) if not AAA/Aaa or AA/Aa, A/A if the Bonds will have a rating of A- or better by S&P and a rating of A3 or better by Moody’s, and (d) if not AAA/Aaa, AA/Aa or A/A, then below A/A, whether or not the Bonds are rated by any securities rating agency. For purposes of this definition, S&P’s rating categories of “AAA,” “AA,” and “A-” and Moody’s rating categories of “Aaa,” “Aa3” and “A3,” will be deemed to refer to and include the respective rating categories correlative thereto in the event that any such Rating Agencies will have changed or modified their generic rating categories or if any successor thereto appointed in accordance with the definitions thereof will use different rating categories. If the Bonds are not rated by a Rating Agency, the requirement of a rating by such Rating Agency will be disregarded. If the ratings for the Bonds are split between two of the foregoing categories, the lower rating will determine the Prevailing Rating. If there is no rating, then the Auction Period Rate will be the Maximum Auction Rate.

“Principal Office” means, with respect to the Auction Agent, the office thereof designated in writing to the Co-Trustee, the Paying Agent and each Broker-Dealer.

“S&P” means Standard & Poor’s Ratings Group, a Division of The McGraw-Hill Companies, Inc., or its successor.

“Securities Depository” means The Depository Trust Company and its successors and assigns or any other securities depository selected by the Department which agrees to follow the procedures required to be followed by such securities depository in connection with the Bonds.

“Sell Order” has the meaning specified in subsection (a) of Section 2.01 of this **Appendix A**.

“Submission Deadline” means 1:00 p.m., New York City time, on each Auction Date not in a daily Auction Period and 11:00 a.m., New York City time, on each Auction Date in a daily Auction Period, or such other time on such date as will be specified from time to time by the Auction Agent pursuant to the Auction Agreement as the time by which Broker-Dealers are required to submit Orders to the Auction Agent.

“Submitted Bid” has the meaning specified in subsection (b) of Section 2.03 of this **Appendix A**.

“Submitted Hold Order” has the meaning specified in subsection (b) of Section 2.03 of this **Appendix A**.

“Submitted Order” has the meaning specified in subsection (b) of Section 2.03 of this **Appendix A**.

“Submitted Sell Order” has the meaning specified in subsection (b) of Section 2.03 of this **Appendix A**.

“Sufficient Clearing Bids” means with respect to Bonds of a Series, an Auction for which the aggregate principal amount of Bonds of such Series that are the subject of Submitted Bids by Potential Owners specifying one or more rates not higher than the Maximum Auction Rate is not less than the aggregate principal amount of Bonds of such Series that are the subject of Submitted Sell Orders and of Submitted Bids by Existing Owners specifying rates higher than the Maximum Auction Rate.

“Winning Bid Rate” means with respect to Bonds of a Series, the lowest rate specified in any Submitted Bid which if selected by the Auction Agent as the Auction Period Rate would cause the aggregate principal amount of Bonds of such Series that are the subject of Submitted Bids specifying a rate not greater than such rate to be not less than the aggregate principal amount of Available Bonds of such Series.

## **Article II**

### **Auction Procedures**

#### **Section 2.01. Orders by Existing Owners and Potential Owners**

(a) Prior to the Submission Deadline on each Auction Date:

(i) each Existing Owner may submit to a Broker-Dealer, in writing or by such other method as will be reasonably acceptable to such Broker-Dealer, information as to:

(A) the principal amount of Bonds, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period without regard to the rate determined by the Auction Procedures for such Auction Period,

(B) the principal amount of Bonds, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period if the rate determined by the Auction Procedures for such Auction Period will not be less than the rate per annum then specified by such Existing Owner (and which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or the same day in the case of a daily Auction Period) if the rate determined by the Auction Procedures for the next succeeding Auction Period will be less than the rate per annum then specified by such Existing Owner), and/or

(C) the principal amount of Bonds, if any, held by such Existing Owner which such Existing Owner irrevocably offers to sell on

the next succeeding Interest Payment Date (or on the same day in the case of a daily Auction Period) without regard to the rate determined by the Auction Procedures for the next succeeding Auction Period; and

(ii) for the purpose of implementing the Auctions and thereby to achieve the lowest possible interest rate on the Bonds, the Broker-Dealers will contact Potential Owners, including Persons that are Existing Owners, to determine the principal amount of Bonds, if any, which each such Potential Owner irrevocably offers to purchase if the rate determined by the Auction Procedures for the next succeeding Auction Period is not less than the rate per annum then specified by such Potential Owner.

For the purposes hereof an Order containing the information referred to in clause (i)(A) above is herein referred to as a “Hold Order”, an Order containing the information referred to in clause (i)(B) or (ii) above is herein referred to as a “Bid”, and an Order containing the information referred to in clause (i)(C) above is herein referred to as a “Sell Order.”

(b) (i) A Bid by an Existing Owner will constitute an irrevocable offer to sell:

(A) the principal amount of Bonds specified in such Bid if the rate determined by the Auction Procedures on such Auction Date will be less than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Bonds to be determined as described in subsection (a)(v) of Section 2.04 hereof if the rate determined by the Auction Procedures on such Auction Date will be equal to such specified rate; or

(C) a lesser principal amount of Bonds to be determined as described in subsection (b)(iv) of Section 2.04 hereof if such specified rate will be higher than the Maximum Auction Rate, and Sufficient Clearing Bids do not exist.

(ii) A Sell Order by an Existing Owner will constitute an irrevocable offer to sell:

(A) the principal amount of Bonds specified in such Sell Order;  
or

(B) such principal amount or a lesser principal amount of Bonds as described in subsection (b)(iv) of Section 2.04 hereof if Sufficient Clearing Bids do not exist.

(iii) A Bid by a Potential Owner will constitute an irrevocable offer to purchase:

(A) the principal amount of Bonds specified in such Bid if the rate determined by the Auction Procedures on such Auction Date will be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Bonds as described in subsection (a)(vi) of Section 2.04 hereof if the rate determined by the Auction Procedures on such Auction Date will be equal to such specified rate.

(c) Anything herein to the contrary notwithstanding:

(i) for purposes of any Auction, any Order which specifies Bonds to be held, purchased or sold in a principal amount which is not \$25,000 or an integral multiple thereof will be rounded down to the nearest \$25,000, and the Auction Agent will conduct the Auction Procedures as if such Order had been submitted in such lower amount;

(ii) for purposes of any Auction other than during a daily Auction Period, any portion of an Order of an Existing Owner which relates to a Bond which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction will be invalid with respect to such portion and the Auction Agent will conduct the Auction Procedures as if such portion of such Order had not been submitted;

(iii) for purposes of any Auction other than during a daily Auction Period, no portion of a Bond which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction will be included in the calculation of Available Bonds for such Auction; and

(iv) the Auction Procedures will be suspended during the period commencing on the date of the Auction Agent's receipt of notice from the Paying Agent or the Department of the occurrence of an Event of Default resulting from a failure to pay principal, premium or interest on any Bond when due (provided, however, that for purposes of this provision only, payment by a Credit Facility Provider will be deemed to cure such Event of Default and no suspension of the Auction Procedures will occur) but will resume two Business Days after the date on which the Auction Agent receives notice from the Paying Agent that such Event of Default has been waived or cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter.

## **Section 2.02. Submission of Orders by Broker-Dealers to Auction Agent**

(a) Each Broker-Dealer will submit to the Auction Agent in writing or by such other method as will be reasonably acceptable to the Auction Agent, including such electronic communication acceptable to the parties, prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer and specifying, if requested, with respect to each Order:

- (i) the name of the Bidder placing such Order;
  - (ii) the aggregate principal amount of Bonds of each Series, if any, that are the subject of such Order;
  - (iii) to the extent that such Bidder is an Existing Owner:
    - (A) the principal amount of Bonds of each Series, if any, subject to any Hold Order placed by such Existing Owner;
    - (B) the principal amount of Bonds of each Series, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid; and
    - (C) the principal amount of Bonds of each Series, if any, subject to any Sell Order placed by such Existing Owner; and
  - (iv) to the extent such Bidder is a Potential Owner, the rate specified in such Bid.
- (b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent will round such rate up to the next highest one thousandth of one percent (0.001%).
- (c) If an Order or Orders covering all of the Bonds of a particular Series held by an Existing Owner is or are not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent will deem a Hold Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such series held by such Existing Owner and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a conversion from one Auction Period to another Auction Period and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Bonds of such series to be converted held by such Existing Owner, the Auction Agent will deem a Sell Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such Series to be converted held by such Existing Owner not subject to Orders submitted to the Auction Agent.
- (d) If one or more Orders covering in the aggregate more than the principal amount of Outstanding Bonds of a series held by any Existing Owner are submitted to the Auction Agent, such Orders will be considered valid as follows:
- (i) all Hold Orders will be considered Hold Orders, but only up to and including in the aggregate the principal amount of Bonds of a particular Series held by such Existing Owner;
  - (ii) (A) any Bid of an Existing Owner will be considered valid as a Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such Series held by such Existing Owner over the principal amount of

the Bonds of such Series subject to Hold Orders referred to in paragraph (i) above;

(B) subject to clause (A) above, all Bids of an Existing Owner with the same rate will be aggregated and considered a single Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such Series held by such Existing Owner over the principal amount of Bonds of such Series held by such Existing Owner subject to Hold Orders referred to in paragraph (i) above;

(C) subject to clause (A) above, if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids will be considered Bids of an Existing Owner in the ascending order of their respective rates up to the amount of the excess of the principal amount of Bonds of such Series held by such Existing Owner over the principal amount of Bonds of such Series held by such Existing Owner subject to Hold Orders referred to in paragraph (i) above; and

(D) the principal amount, if any, of such Bonds of such Series subject to Bids not considered to be Bids of an Existing Owner under this paragraph (ii) will be treated as the subject of a Bid by a Potential Owner; and

(iii) all Sell Orders will be considered Sell Orders, but only up to and including a principal amount of Bonds equal to the excess of the principal amount of Bonds of such Series held by such Existing Owner over the sum of the principal amount of the Bonds of such Series considered to be subject to Hold Orders pursuant to paragraph (i) above and the principal amount of Bonds of such Series considered to be subject to Bids of such Existing Owner pursuant to paragraph (ii) above.

(e) If more than one Bid is submitted on behalf of any Potential Owner, each Bid submitted with the same rate will be aggregated and considered a single Bid and each Bid submitted with a different rate will be considered a separate Bid with the rate and the principal amount of Bonds of such series specified therein.

(f) Neither the Department, the Co-Trustee, the Paying Agent nor the Auction Agent will be responsible for the failure of any Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner or Potential Owner.

### **Section 2.03. Determination of Auction Period Rate**

(a) Not later than 9:30 a.m., New York City time, on each Auction Date for each Series of Bonds, the Auction Agent will advise the Broker-Dealers and the Trustee by telephone or other electronic communication acceptable to them of the All Hold Rate, the Maximum Auction Rate and the Index for the Bonds of such Series.

(b) Promptly after the Submission Deadline on each Auction Date for each series of Bonds, the Auction Agent will assemble all Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a “Submitted Hold Order,” a “Submitted Bid” or a “Submitted Sell Order,” as the case may be, and collectively as a “Submitted Order”) and will determine (i) the Available Bonds, (ii) whether there are Sufficient Clearing Bids, and (iii) the Auction Rate.

(c) Promptly after the Auction Agent has made the determinations pursuant to subsection (b) above the Auction Agent will advise the Co-Trustee and the Paying Agent by telephone (promptly confirmed in writing), telex or facsimile transmission or other electronic communication acceptable to the parties of the Auction Rate for the next succeeding Auction Period and the Paying Agent will promptly notify DTC of such Auction Rate.

(d) In the event the Auction Agent fails to calculate or, for any reason, fails to timely provide the Auction Rate for any Auction Period, (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period shall be the same as the preceding Auction Period and the Auction Period Rate for the new Auction Period shall be the same as the Auction Period Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period shall be extended to the seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the Auction Period Rate in effect for the preceding Auction Period will continue in effect for the Auction Period as so extended. In the event an Auction Period is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended to take effect for an Auction Period beginning on the Business Day immediately following the last day of the Auction Period as extended which Auction Period will end on the date it would otherwise have ended on had the prior Auction Period not been extended.

(e) In the event that the Auction Procedures are suspended pursuant to paragraph (iv) of subsection (c) of Section 2.01 hereof due to the failure to pay principal of or premium or interest on any Bond of such Series, the Auction Period Rate for the next succeeding Auction Period will be the Default Rate.

(f) In the event of a failed conversion with respect to the Bonds of a Series to a Daily Rate, a Weekly Rate, a Flexible Rate, a Term Rate or a Fixed Rate, or in the event of a failure to change the length of the current Auction Period due to the lack of Sufficient Clearing Bids at the Auction on the Auction Date for the first new Auction Period, the Auction Period Rate for the next Auction Period will be the Maximum Auction Rate and the Auction Period will be a seven-day Auction Period.

(g) If the Bonds are not rated or if the Bonds are no longer registered in the name of the Securities Depository, then the Auction Period Rate will be the Maximum Auction Rate.

## **Section 2.04. Allocation of Bonds**

(a) In the event of Sufficient Clearing Bids for a Series of Bonds, subject to the further provisions of subsections (c) and (d) below, Submitted Orders for such Series will be accepted or rejected as follows in the following order of priority:

(i) the Submitted Hold Order of each Existing Owner will be accepted, thus requiring each such Existing Owner to continue to hold the Bonds that are the subject of such Submitted Hold Order;

(ii) the Submitted Sell Order of each Existing Owner will be accepted and the Submitted Bid of each Existing Owner specifying any rate that is higher than the Winning Bid Rate will be rejected, thus requiring each such Existing Owner to sell the Bonds that are the subject of such Submitted Sell Order or Submitted Bid;

(iii) the Submitted Bid of each Existing Owner specifying any rate that is lower than the Winning Bid Rate will be accepted, thus requiring each such Existing Owner to continue to hold the Bonds that are the subject of such Submitted Bid;

(iv) the Submitted Bid of each Potential Owner specifying any rate that is lower than the Winning Bid Rate will be accepted, thus requiring each such Potential Owner to purchase the Bonds that are the subject of such Submitted Bid;

(v) the Submitted Bid of each Existing Owner specifying a rate that is equal to the Winning Bid Rate will be accepted, thus requiring each such Existing Owner to continue to hold the Bonds that are the subject of such Submitted Bid, but only up to and including the principal amount of Bonds obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds which are not the subject of Submitted Hold Orders described in paragraph (i) above or of Submitted Bids described in paragraphs (iii) or (iv) above by (B) a fraction the numerator of which will be the principal amount of Outstanding Bonds held by such Existing Owner subject to such Submitted Bid and the denominator of which will be the aggregate principal amount of Outstanding Bonds subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate, and the remainder, if any, of such Submitted Bid will be rejected, thus requiring each such Existing Owner to sell any excess amount of Bonds;

(vi) the Submitted Bid of each Potential Owner specifying a rate that is equal to the Winning Bid Rate will be accepted, thus requiring each such Potential Owner to purchase the Bonds that are the subject of such Submitted Bid, but only in an amount equal to the principal amount of Bonds obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds which are not the subject of Submitted Hold Orders described in paragraph (i) above or of Submitted Bids described in paragraphs (iii), (iv) or (v) above by (B) a fraction the numerator of

which will be the principal amount of Outstanding Bonds subject to such Submitted Bid and the denominator of which will be the sum of the aggregate principal amount of Outstanding Bonds subject to such Submitted Bids made by all such Potential Owners that specified a rate equal to the Winning Bid Rate, and the remainder of such Submitted Bid will be rejected; and

(vii) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Winning Bid Rate will be rejected.

(b) In the event there are not Sufficient Clearing Bids for a Series of Bonds, subject to the further provisions of subsections (c) and (d) below, Submitted Orders for each Series of Bonds will be accepted or rejected as follows in the following order of priority:

(i) the Submitted Hold Order of each Existing Owner will be accepted, thus requiring each such Existing Owner to continue to hold the Bonds that are the subject of such Submitted Hold Order;

(ii) the Submitted Bid of each Existing Owner specifying any rate that is not higher than the Maximum Auction Rate will be accepted, thus requiring each such Existing Owner to continue to hold the Bonds that are the subject of such Submitted Bid;

(iii) the Submitted Bid of each Potential Owner specifying any rate that is not higher than the Maximum Auction Rate will be accepted, thus requiring each such Potential Owner to purchase the Bonds that are the subject of such Submitted Bid;

(iv) the Submitted Sell Orders of each Existing Owner will be accepted as Submitted Sell Orders and the Submitted Bids of each Existing Owner specifying any rate that is higher than the Maximum Auction Rate with respect to the Bonds will be deemed to be and will be accepted as Submitted Sell Orders, in both cases only up to and including the principal amount of Bonds obtained by multiplying (A) the aggregate principal amount of Bonds subject to Submitted Bids described in paragraph (iii) of this subsection (b) by (B) a fraction the numerator of which will be the principal amount of Outstanding Bonds held by such Existing Owner subject to such Submitted Sell Order, or such Submitted Bid deemed to be a Submitted Sell Order, and the denominator of which will be the principal amount of Outstanding Bonds subject to all such Submitted Sell Orders and such Submitted Bids deemed to be Submitted Sell Orders, and the remainder of each such Submitted Sell Order or Submitted Bid will be deemed to be and will be accepted as a Hold Order and each such Existing Owner will be required to continue to hold such excess amount of Bonds; and

(v) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Maximum Auction Rate with respect to the Bonds will be rejected.

(c) If, as a result of the procedures described in subsection (a) or (b) above, any Existing Owner or Potential Owner would be required to purchase or sell an aggregate principal amount of Bonds which is not an Authorized Denomination for Bonds on any Auction Date, the Auction Agent will by lot, in such manner as it will determine in its sole discretion, round up or down the principal amount of Bonds to be purchased or sold by any Existing Owner or Potential Owner on such Auction Date so that the aggregate principal amount of Bonds purchased or sold by each Existing Owner or Potential Owner on such Auction Date will be an Authorized Denomination for Bonds, even if such allocation results in one or more of such Existing Owners or Potential Owners not purchasing or selling any Bonds on such Auction Date.

(d) If, as a result of the procedures described in subsection (a) above, any Potential Owner would be required to purchase an Authorized Denomination of a principal amount of Bonds that is less than an Authorized Denomination for Bonds on any Auction Date, the Auction Agent will by lot, in such manner as it will determine in its sole discretion, allocate Bonds for purchase among Potential Owners so that the principal amount of Bonds purchased on such Auction Date by any Potential Owner will be an Authorized Denomination for Bonds, even if such allocation results in one or more of such Potential Owners not purchasing Bonds on such Auction Date.

#### **Section 2.05. Notice of Auction Period Rate**

(a) On each Auction Date, the Auction Agent will notify by telephone or other telecommunication device or other electronic communication acceptable to the parties or in writing each Broker-Dealer that participated in the Auction held on such Auction Date of the following with respect to each Series of Bonds for which an Auction was held on such Auction Date:

(i) the Auction Period Rate determined on such Auction Date for the succeeding Auction Period;

(ii) whether Sufficient Clearing Bids existed for the determination of the Winning Bid Rate;

(iii) if such Broker-Dealer submitted a Bid or a Sell Order on behalf of an Existing Owner, whether such Bid or Sell Order was accepted or rejected and the principal amount of Bonds, if any, to be sold by such Existing Owner;

(iv) if such Broker-Dealer submitted a Bid on behalf of a Potential Owner, whether such Bid was accepted or rejected and the principal amount of Bonds, if any, to be purchased by such Potential Owner;

(v) if the aggregate principal amount of the Bonds to be sold by all Existing Owners on whose behalf such Broker-Dealer submitted Bids or Sell Orders is different from the aggregate principal amount of Bonds to be purchased by all Potential Owners on whose behalf such Broker-Dealer submitted a Bid, the name or names of one or more Broker-Dealers (and the Agent Member, if any, of

each such other Broker-Dealer) and the principal amount of Bonds to be (A) purchased from one or more Existing Owners on whose behalf such other Broker-Dealers submitted Bids or Sell Orders or (B) sold to one or more Potential Owners on whose behalf such Broker-Dealer submitted Bids; and

(vi) the immediately succeeding Auction Date.

(b) On each Auction Date with respect to each Series of Bonds for which an Auction was held on such Auction Date, each Broker-Dealer that submitted an Order on behalf of any Existing Owner or Potential Owner will: (i) advise each Existing Owner and Potential Owner on whose behalf such Broker-Dealer submitted an Order as to (A) the Auction Period Rate determined on such Auction Date, (B) whether any Bid or Sell Order submitted on behalf of each such Owner was accepted or rejected and (C) the immediately succeeding Auction Date; (ii) instruct each Potential Owner on whose behalf such Broker-Dealer submitted a Bid that was accepted, in whole or in part, to instruct such Existing Owner's Agent Member to pay to such Broker-Dealer (or its Agent Member) through the Securities Depository the amount necessary to purchase the principal amount of Bonds to be purchased pursuant to such Bid (including, with respect to the Bonds in a daily Auction Period, accrued interest if the purchase date is not an Interest Payment Date for such Bond) against receipt of such Bonds; and (iii) instruct each Existing Owner on whose behalf such Broker-Dealer submitted a Sell Order that was accepted or a Bid that was rejected in whole or in part, to instruct such Existing Owner's Agent Member to deliver to such Broker-Dealer (or its Agent Member) through the Securities Depository the principal amount of Bonds to be sold pursuant to such Bid or Sell Order against payment therefor.

## **Section 2.06. Index**

(a) The Index on any Auction Date with respect to Bonds in any Auction Period of 35 days or less will be the One Month LIBOR Rate on such date. The Index with respect to Bonds in any Auction Period greater than 35 days but less than 365 days shall be the rate on the most recently auctioned United States Treasury Securities ("on-the-run") having a maturity which most closely approximates the length of the Auction Period, as last published in The Wall Street Journal. If either rate is unavailable, the Index will be an index or rate agreed to by all Broker-Dealers and consented to by the Department.

"One Month LIBOR Rate" means, as of any date of determination, the offered rate for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

(b) If for any reason on any Auction Date the Index will not be determined as hereinabove provided in this Section, the Index will be the Index for the Auction Period ending on such Auction Date.

(c) The determination of the Index as provided herein will be conclusive and binding upon the Department, the Trustee, the Co-Trustee, the Paying Agent, the Broker-Dealers, the Auction Agent and the Owners of the Bonds.

## **Section 2.07. Miscellaneous Provisions Regarding Auctions**

(a) In this **Appendix A**, each reference to the purchase, sale or holding of Bonds will refer to beneficial interests in Bonds, unless the context clearly requires otherwise.

(b) During an Auction Rate Mode, the provisions of the Indenture, including without limitation this First Supplemental Indenture and the definitions contained therein and described in this **Appendix A**, including without limitation the definitions of Auction Multiple, Auction Period Rate, Default Rate, Index, Maximum Auction Rate, Maximum Interest Rate, and All Hold Rate, may be amended pursuant to the Indenture by obtaining the consent of the Owners of all Outstanding Bonds bearing interest at an Auction Period Rate as follows. If on the first Auction Date occurring at least 20 days after the date on which the Department mailed notice of such proposed amendment to the Owners of the Outstanding Bonds as required by the Indenture, (i) the Auction Period Rate which is determined on such date is the Winning Bid Rate and (ii) there is delivered to the Department, the Trustee and the Co-Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment is lawful under the Act, will not adversely affect the validity of the Bonds of such Series and will not adversely affect the exclusion of interest on such Bonds from gross income for Federal income tax purposes, the proposed amendment will be deemed to have been consented to by the Owners of all affected Outstanding Bonds bearing interest at an Auction Period Rate.

(c) If the Securities Depository notifies the Department that it is unwilling or unable to continue as Owner of the Bonds or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation and a successor to the Securities Depository is not appointed by the Department within 90 days after the Department receives notice or becomes aware of such condition, as the case may be, the Department shall execute and the Registrar shall authenticate and deliver certificates representing the Bonds. Such Bonds shall be registered in such names and authorized denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the Department and the Registrar.

During an Auction Rate Mode, so long as the ownership of the Bonds is maintained in book-entry form by the Securities Depository, an Existing Owner or a Beneficial Owner may sell, transfer or otherwise dispose of a Bond only pursuant to a Bid or Sell Order in accordance with the Auction Procedures or to or through a Broker-Dealer, provided that (i) in the case of all transfers other than pursuant to Auctions such Existing Owner or its Broker-Dealer or its Agent Member advises the Auction Agent of such transfer and (ii) a sale, transfer or other disposition of Bonds from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such

Bonds to that Broker-Dealer or another customer of that Broker-Dealer will not be deemed to be a sale, transfer or other disposition for purposes of this paragraph if such Broker-Dealer remains the Existing Owner of the Bonds so sold, transferred or disposed of immediately after such sale, transfer or disposition.

**Section 2.08. Changes in Auction Period or Auction Date**

(a) Changes in Auction Period. (i) During any Auction Rate Mode, the Department may, from time to time on any Interest Payment Date, change the length of the Auction Period with respect to all of the Bonds of a Series among daily, seven-days, 28-days, 35-days, three months, six months and a Flexible Auction Period in order to accommodate economic and financial factors that may affect or be relevant to the length of the Auction Period and the interest rate borne by such Bonds. The Department will initiate the change in the length of the Auction Period by giving written notice to the Co-Trustee, the Paying Agent, the Credit Facility Provider, the Auction Agent, the Broker-Dealers and the Securities Depository that the Auction Period will change if the conditions described herein are satisfied and the proposed effective date of the change, at least 10 Business Days prior to the Auction Date for such Auction Period.

(ii) Any such changed Auction Period will be for a period of one day, seven-days, 28-days, 35-days, three months, six months or a Flexible Auction Period and will be for all of the Bonds of a Series in an Auction Rate Mode.

(iii) The change in the length of the Auction Period for any Series of Bonds will not be allowed unless Sufficient Clearing Bids existed at both the Auction before the date on which the notice of the proposed change was given as provided in this subsection (a) and the Auction immediately preceding the proposed change.

(iv) The change in length of the Auction Period for any Series of Bonds will take effect only if (A) the Co-Trustee, the Paying Agent and the Auction Agent receive, by 11:00 a.m., New York City time, on the Business Day before the Auction Date for the first such Auction Period, written notice from the Department specifying the change in the length of the Auction Period and (B) Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Auction Period. For purposes of the Auction for such first Auction Period only, each Existing Owner will be deemed to have submitted Sell Orders with respect to all of its Bonds of such Series except to the extent such Existing Owner submits an Order with respect to such Bonds. If the condition referred to in (A) above is not met, the Auction Period Rate for the next Auction Period will be determined pursuant to the Auction Procedures and the Auction Period will be the Auction Period determined without reference to the proposed change. If the condition referred to in (A) is met but the condition referred to in (B) above is not met, the Auction Period Rate for the next Auction Period will be the Maximum Auction Rate, and the Auction Period will be a seven-day Auction Period.

(v) On the conversion date for Bonds selected for conversion from one Auction Period to another, any Bonds which are not the subject of a specific Hold Order or Bid will be deemed to be subject to a Sell Order.

(b) Changes in Auction Date. During any Auction Rate Mode, the Auction Agent, with the written consent of the Department, may specify an earlier Auction Date for any Series of Bonds (but in no event more than five Business Days earlier) than the Auction Date that would otherwise be determined in accordance with the definition of “Auction Date” in order to conform with then current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date and the interest rate borne on the Bonds. The Auction Agent will provide notice of its determination to specify an earlier Auction Date for an Auction Period by means of a written notice delivered at least 45 days prior to the proposed changed Auction Date to the Co-Trustee, the Paying Agent, the Department, the Broker-Dealers and the Securities Depository.

### **Section 2.09. Conversions from an Auction Rate Mode**

At the option of the Department, the Interest Rate Mode applicable to all or a portion of the Bonds of a Series may be converted from an Auction Rate Mode to a Daily Rate Mode, a Weekly Rate Mode, a Flexible Rate Mode, a Term Rate Mode or a Fixed Rate Mode in accordance with Section 2.06 of this First Supplemental Indenture and, except in the case of such change to a Fixed Rate Mode, the following additional requirements:

(i) If the Bonds of such Series are in an Auction Period other than a daily Auction Period, the effective date of the change in the Interest Rate Mode will be the Interest Payment Date following the final Auction Date. If the Bonds of such Series are in a daily Auction Period, the effective date of the change in the Interest Rate Mode will be the next regularly scheduled Interest Payment Date.

(ii) The Department will give written notice of any such change in the Interest Rate Mode to the Credit Facility Provider, the Co-Trustee, the Paying Agent, the Remarketing Agent, if any, the Auction Agent and the Broker-Dealer not less than seven (7) Business Days prior to the date on which the Paying Agent is required to notify the Owners of Bonds of the conversion pursuant to Section 2.06 of this First Supplemental Indenture. Such notice will specify the proposed effective date of the change in the Interest Rate Mode and the Interest Rate Mode to which such change will be made (and the length of any Term Period).

(iii) If on the effective date of a change in the Interest Rate Mode for the Bonds of such Series any condition precedent to such change required under this First Supplemental Indenture is not satisfied, notice thereof required by Section 2.06(b)(vi) of this First Supplemental Indenture also shall confirm that the Auction Agent will continue to implement the Auction Procedures on the Auction Dates with respect to such Bonds which otherwise would have been converted

excluding, however, the Auction Date falling on the Business Day next preceding the failed effective date of such change in the Interest Rate Mode, and that the interest rate will continue to be the Auction Period Rate; provided, however, that the interest rate borne by the Bonds of such Series during the Auction Period commencing on such failed effective date of the change in the Interest Rate Mode will be the Maximum Auction Rate and the Auction Period will be the seven-day Auction Period.

### **Article III Auction Agent**

#### **Section 3.01. Auction Agent**

(a) The Auction Agent shall be appointed by the Paying Agent at the written direction of the Department, to perform the functions specified in this First Supplemental Indenture. The Auction Agent will signify its acceptance of the duties and obligations imposed upon it under this First Supplemental Indenture by entering into an Auction Agreement which will set forth such procedural and other matters relating to the implementation of the Auction Procedures as will be satisfactory to the Department and the Paying Agent.

(b) Subject to any applicable governmental restrictions, the Auction Agent may be or become the owner of or trade in Bonds with the same rights as if such entity were not the Auction Agent.

#### **Section 3.02. Qualifications of Auction Agent; Resignation; Removal**

The Auction Agent will be (a) a bank or trust company organized under the laws of the United States or any state or territory thereof, or (b) a member of NASD having a capitalization of at least \$30,000,000 and, in either case, authorized by law to perform all the duties imposed upon it by the Indenture and a member of or a participant in, the Securities Depository. The Auction Agent may at any time resign and be discharged of the duties and obligations created by the Indenture by giving such notice to the Department, the Credit Facility Provider, the Paying Agent and the Co-Trustee as may be agreed to between the Auction Agent and the Department. The Auction Agent may be removed by the Department by such notice, delivered to the Auction Agent, the Credit Facility Provider, the Paying Agent and the Co-Trustee as may be agreed to between the Auction Agent and the Department. Upon any such resignation or removal, the Paying Agent shall at the written direction of the Department appoint a successor Auction Agent meeting the requirements of this First Supplemental Indenture. In the event of the resignation or removal of the Auction Agent, the Auction Agent will pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor. Except as may be otherwise provided in the Auction Agreement, the Auction Agent will continue to perform its duties until its successor has been appointed by the Department.

## **Article IV Broker-Dealers**

### **Section 4.01. Broker-Dealers**

One or more Broker-Dealers will be appointed by the Department to perform the functions specified in this First Supplemental Indenture with respect to each Series of Bonds that is initially issued in an Auction Rate Mode. One or more Broker-Dealers shall be appointed by the Department with respect to the Bonds of a Series on or prior to the effective date of a change in the Interest Rate Mode applicable to the Bonds of such Series to an Auction Rate Mode. Each Broker-Dealer will signify its acceptance of the duties and obligations imposed upon it under this First Supplemental Indenture by entering into a Broker-Dealer Agreement, which will set forth such procedural and other matters relating to the performance of its functions as will be satisfactory to the Department and the Paying Agent.

### **Section 4.02. Resignation; Removal**

Any Broker-Dealer may at any time resign and be discharged of the duties and obligations created by the Indenture by giving such notice to the Department, the Co-Trustee and the Paying Agent as may be agreed to between the Broker-Dealer and the Department. Any Broker-Dealer may be removed by the Department by such notice, delivered to the Department, the Co-Trustee and the Paying Agent, as may be agreed to between the Broker-Dealer and the Department. Upon any such resignation or removal, the Department will appoint a successor Broker-Dealer. In the event of the resignation or removal of any Broker-Dealer, such Broker-Dealer will pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor.

## APPENDIX B

### Form of Notice of Mandatory Tender

To the owners of  
State of California  
Department of Water Resources  
Power Supply Revenue Bonds  
Series 2002 \_\_\_\_\_

NOTICE IS HEREBY GIVEN pursuant to Section 2.09 of the First Supplemental Indenture dated as of \_\_\_\_\_, 2002 (the “First Supplemental Indenture”) among the State of California Department of Water Resources (the “Department”), the Treasurer of the State of California, as Trustee, and U.S. Bank, N.A., as Co-Trustee (the “Co-Trustee”), that the above-referenced Bonds are subject to mandatory tender for purchase on \_\_\_\_\_.

[INSERT CAUSE FOR MANDATORY TENDER FOR PURCHASE]

[INSERT IF MANDATORY TENDER FOR PURCHASE IS A RESULT OF A CHANGE IN THE INTEREST RATE MODE]

[The Department] [REMARKETING AGENT] (the “Remarketing Agent”)] has elected pursuant to Section 2.06(b) of the First Supplemental Indenture to adjust on the effective date of [INSERT DATE] (the “Conversion Date”) the Interest Rate Mode on the captioned Bonds from a [TYPE OF RATE] Rate Mode to a [TYPE OF RATE] Rate Mode.

[INSERT IF MANDATORY TENDER FOR PURCHASE IS A RESULT OF EXPIRATION, TERMINATION, SUBSTITUTION OR ASSIGNMENT OF THE CREDIT FACILITY OR THE LIQUIDITY FACILITY]

[The Liquidity Facility currently in effect is [DESCRIPTION OF LIQUIDITY FACILITY]]. [The Credit Facility currently in effect is [DESCRIPTION OF CREDIT FACILITY]]. [Such Liquidity Facility will [expire/be terminated]][be substituted or replaced with [DESCRIPTION OF SUBSTITUTE LIQUIDITY FACILITY] on [EFFECTIVE DATE]]. [Such Credit Facility will [expire/be terminated]][be substituted or replaced with [DESCRIPTION OF SUBSTITUTE LIQUIDITY FACILITY] on [EFFECTIVE DATE]]. [The obligation of the Liquidity Facility Provider under such Liquidity Facility will be assigned to [NAME OF ASSIGNEE] on [EFFECTIVE DATE]. [The obligation of the Credit Facility Provider under such Credit Facility will be assigned to [NAME OF ASSIGNEE] on [EFFECTIVE DATE]].

[INSERT NAME OF LIQUIDITY FACILITY PROVIDER] has delivered notice of the occurrence of an “event of default” under the Liquidity Facility.

[INSERT IF MANDATORY TENDER FOR PURCHASE IS A RESULT OF NON-REINSTATEMENT OF INTEREST COMPONENT UNDER A DIRECT-PAY CREDIT FACILITY]

[INSERT NAME OF ISSUER OF CREDIT FACILITY PROVIDER] has delivered a written notice that the Direct-Pay Credit Facility will not be reinstated (in respect of interest) to an amount equal to the interest component of the Applicable Principal and Interest Coverage required with respect to the Bonds.

[INSERT FOLLOWING TWO PARAGRAPHS IN ALL NOTICES OF MANDATORY PURCHASE] The Bonds are subject to mandatory tender for purchase on the [PURCHASE DATE]. The owners shall tender their Bonds to U.S. Bank, N.A., as Tender Agent, properly endorsed to the Tender Agent. All purchases will be made in [immediately available funds/next-day funds on] the [PURCHASE DATE] and will be at a purchase price of 100% of the principal amount of Bonds being purchased [plus any applicable premium] plus interest accrued to, but excluding, the [PURCHASE DATE].

All terms used herein which are not defined herein shall have the meanings assigned to them by the First Supplemental Indenture.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Paying Agent

## APPENDIX C-1

### SPECIAL PROVISIONS RELATING TO AMBAC INSURANCE

Pursuant and subject to Section 3.01 of the First Supplemental Indenture, the following provisions are hereby made applicable with respect to the Series 2002C-2 Bonds, the Series 2002C-3 Bonds, the Series 2002C-6 Bonds, the Series 2002D-1 Bonds, the Series 2002D-2 Bonds and the Series 2002D-3 Bonds insured by Ambac (the “Ambac Insured Bonds”) pursuant to the Policy issued by Ambac insuring the Ambac Insured Bonds (the “Ambac Policy”).

1. So long as the Ambac Policy is in full force and effect and payment on the Ambac Policy is not in default, then

(i) Ambac shall be deemed to be the sole Owner of the Ambac Insured Bonds when the approval, consent or action of the Owners of such Ambac Insured Bonds is required or may be exercised under the Indenture, except for purpose of the second sentence of Section 902 of the Master Indenture with respect to modifications and amendments only with the consent of particular Owners of Bonds, and (b) with respect to such modifications and amendments, the consent of Ambac shall be required in addition to the consent of the Owners of applicable Ambac Insured Bonds, and

(ii) any amendment or modification of the Indenture, the Rate Agreement, the Servicing Arrangements or the Master Credit and Liquidity Agreement which would require the consent of the Owners of the Bonds under Section 902 of the Master Indenture shall also require the consent of (a) Ambac if such amendment or modification would have an adverse affect on the rights or interests of Ambac but not on the rights or interests of all Insurers or (b) a majority of the Outstanding Bonds insured by the Insurers, as exercised by the Insurers pursuant to clause (i) of this paragraph.

Pursuant to Section 3.01(c) of the First Supplemental Indenture, the provisions of clause (i) of the immediately preceding sentence requiring the consent of particular Owners of Ambac Insured Bonds in addition to the consent of Ambac may not be waived by Ambac or amended by agreement between Ambac and the Department and, if applicable, the Trustee, the Co-Trustee or the Paying Agent. No provision of this First Supplemental Indenture expressly recognizing or granting rights in or to Ambac may be amended without the prior written consent of Ambac.

2. In the event that the principal, Sinking Fund Installments, if any, and Redemption Price, if applicable, and/or interest due on any Ambac Insured Bonds shall be paid by Ambac under the provisions of the Ambac Policy, such Ambac Insured Bonds shall continue to be Outstanding under the Indenture for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Department; the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the Department to the Owners of such Ambac Insured Bonds shall

continue to exist and the Indenture shall remain in full force and effect; and Ambac shall be subrogated to the rights of such Owners.

3. Ambac shall be a third party beneficiary of the Indenture.

4. In determining whether the Owners of Ambac Insured Bonds will be adversely affected by any action taken pursuant to the terms of the Indenture, the Department, the Trustee and the Co-Trustee, shall consider the effect on the Owners as if there were no Ambac Policy.

5. The rights granted to Ambac under the Indenture to request, consent to or direct any action are rights granted to Ambac in consideration of the issuance of the Ambac Policy. Any exercise by Ambac of such rights is merely an exercise of Ambac's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Owners, nor does such action evidence any position of Ambac, positive or negative, as to whether Owner consent is required in addition to consent of Ambac.

6. Payment under Ambac Policy. (a) At least one (1) day prior to all Interest Payment Dates, the Trustee will determine whether there will be sufficient funds to pay the principal of or interest on the Ambac Insured Bonds on such Interest Payment Date. If the Trustee determines that there will be insufficient funds, the Trustee shall so notify Ambac. Such notice shall specify the amount of the anticipated deficiency, the Ambac Insured Bonds to which such deficiency is applicable and whether such Ambac Insured Bonds will be deficient as to principal or interest, or both. If the Trustee has not so notified Ambac at least one (1) day prior to an Interest Payment Date, Ambac will make payments of principal or interest due on the Ambac Insured Bonds on or before the first day next following the date on which Ambac shall have received notice of nonpayment from the Trustee.

(b) The Trustee shall, after giving notice to Ambac as provided in (a) above, make available, or cause the Ambac Insured Bonds Paying Agent or Ambac Insured Bonds Registrar to make available, to Ambac and, at Ambac's direction, to The Bank of New York, in New York, New York, as insurance trustee for Ambac or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Department maintained by the Registrar and all records relating to the funds and accounts maintained under the Indenture.

(c) The Trustee shall provide, or cause the Ambac Insured Bonds Paying Agent or Ambac Insured Bonds Registrar to make available, Ambac and the Insurance Trustee with a list of Owners of Ambac Insured Bonds entitled to receive principal or interest payments from Ambac under the terms of the Ambac Policy, and shall make arrangements, or cause the Ambac Insured Bonds Paying Agent or Ambac Insured Bonds Registrar to make arrangements, with the Insurance Trustee (i) to mail checks or drafts to the Owners of Ambac Insured Bonds entitled to receive full or partial interest payments from Ambac and (ii) to pay principal upon Ambac Insured Bonds

surrendered to the Insurance Trustee by the Owners of Ambac Insured Bonds entitled to receive full or partial principal payments from Ambac.

(d) The Trustee shall, at the time it provides notice to Ambac pursuant to (a) above, notify, or cause the Ambac Insured Bonds Paying Agent or Ambac Insured Bonds Registrar to notify, Owners of Ambac Insured Bonds entitled to receive the payment of principal or interest thereon from Ambac (i) as to the fact of such entitlement, (ii) that Ambac will remit to them all or a part of the interest payments next coming due upon proof of Owner entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the Owner's right to payment, (iii) that should they be entitled to receive full payment of principal from Ambac, they must surrender their Ambac Insured Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Ambac Insured Bonds to be registered in the name of Ambac) for payment to the Insurance Trustee, and not to the Ambac Insured Bonds Paying Agent, and (iv) that should they be entitled to receive partial payment of principal from Ambac, they must surrender their Ambac Insured Bonds for payment thereon first to the Ambac Insured Bonds Paying Agent, who shall note on such Ambac Insured Bonds the portion of the principal paid by the Ambac Insured Bonds Paying Agent, and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(e) In the event that the Trustee has notice that any payment of principal of or interest on an Ambac Insured Bond which has become Due for Payment and which is made to an Owner by or on behalf of the Department has been deemed a preferential transfer and theretofore recovered from such Owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, at the time Ambac is notified, notify all Owners that in the event that any Owner's payment is so recovered, such Owner will be entitled to payment from Ambac to the extent of such recovery if sufficient funds are not otherwise available, and the Trustee shall furnish, or cause the Ambac Insured Bonds Paying Agent to furnish, to Ambac its records evidencing the payments of principal of and interest on the Ambac Insured Bonds which have been made by the Ambac Insured Bonds Paying Agent and subsequently recovered from registered owners and the dates on which such payments were made.

7. Only cash (insured at all times by the Federal Deposit Insurance Corporation) and the following securities shall be authorized to be used to effect defeasance of the Ambac Insured Bonds pursuant to Section 1101 of the Master Indenture:

(i) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – “SLGs”);

(ii) the following obligations backed by the full faith and credit of the United States and issued by one of the following agencies:

- (a) obligations of the Farmers Home Administration (FmHA);
- (b) obligations of the Government National Mortgage Association (GNMA);
- (c) participation certificates issued by the General Services Administration; and
- (d) guaranteed Title XI financing of the U.S. Maritime Administration; and
- (e) the obligations issued by one of the following agencies:
- (f) debt obligations of the Federal Home Loan Mortgage Corp. (FHLMC);
- (g) obligations of the Farm Credit System (formerly Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperatives);
- (h) obligations of the Federal Home Loan Banks (FHL Banks);
- (i) debt obligations of the Federal National Mortgage Association (FNMA);
- (j) debt obligations of the Financing Corp. (FICO);
- (k) debt obligations of the Resolution Funding Corp. (REFCORP); and
- (l) notes guaranteed by the U.S. Agency for International Development (U.S.A.I.D.).

8. To accomplish legal defeasance of Ambac Insured Bonds, the Department shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to Ambac (“Accountant”) verifying the sufficiency of the escrow established to pay the Ambac Insured Bonds in full on the maturity or redemption date (“Verification”), (ii) an escrow agreement (which shall be acceptable in form and substance to Ambac), (iii) an opinion of nationally recognized bond counsel to the effect that the Ambac Insured Bonds are no longer “Outstanding” under the Indenture and (iv) if there is a Trustee for the Ambac Insured Bonds, a certification of discharge of the Trustee with respect to the Ambac Insured Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Department, the Trustee, the Co-Trustee and Ambac. Ambac shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow, or such shorter period as shall be acceptable to Ambac. Ambac Insured Bonds shall be deemed “Outstanding” under the Indenture unless and until they are in fact paid and retired or the above criteria are met and any additional requirements of Section 1101 of the Master Indenture have been satisfied.

9. The Trustee shall invest amounts on deposit in any fund, account or subaccount under the Indenture in Authorized Investments described in clause (iii) or (iv) of such definition only if such Authorized Investments are rated “A” or better (without regard to ratings modifiers) by at least two Rating Agencies.

10. The Trustee or the Co-Trustee shall furnish to Ambac (to the attention of the General Counsel’s office), as soon as practicable, notice of (i) the failure of the Department to give or make any of the certificates, notices, reports or filings it is required to give or make pursuant to the Indenture, (ii) the insufficiency of amounts on deposit with the Trustee and available to make any payments of principal or interest on the Ambac Insured Bonds when due, and (iii) the occurrence of any Event of Default actually known to it.

11. The notice address of Ambac is: Ambac Assurance Corporation, One State Street Plaza, New York, New York 10004, Attention: Surveillance (except in the case of notices given pursuant to paragraph 10, which shall be marked “Attention: General Counsel’s Office”), Telephone: (212) 208-3283; Telecopier: (212) 208-3558.

## APPENDIX C-2

### SPECIAL PROVISIONS RELATING TO FSA INSURANCE

Pursuant and subject to Section 3.01 of the First Supplemental Indenture, the following provisions are hereby made applicable with respect to the Series 2002C-7 Bonds and the Series 2002C-13 Bonds insured by FSA (the “FSA Insured Bonds”) pursuant to the Policy issued by FSA insuring the FSA Insured Bonds (the “FSA Policy”).

1. So long as the FSA Policy is in full force and effect and payment on the FSA Policy is not in default, then

(i) (a) FSA shall be deemed to be the sole Owner of the FSA Insured Bonds when the approval, consent or action of the Owners of such FSA Insured Bonds is required or may be exercised under the Indenture, except for purposes of the second sentence of Section 902 of the Master Indenture with respect to modifications and amendments only with the consent of particular Owners of Bonds, and (b) with respect to such modifications and amendments, the consent of FSA shall be required in addition to the consent of Owners of applicable FSA Insured Bonds, and

(ii) any amendment or modification of the Indenture, the Rate Agreement, the Servicing Arrangements or the Master Credit and Liquidity Agreement which would require the consent of the Owners of the Bonds under Section 902 of the Master Indenture shall also require the consent of (a) FSA if such amendment or modification would have an adverse affect on the rights or interests of FSA but not on the rights or interests of all Insurers or (b) a majority of the Outstanding Bonds insured by the Insurers, as exercised by the Insurers pursuant to clause (i) of this paragraph.

Pursuant to Section 3.01(c) of the First Supplemental Indenture, the provisions of clause (i) of the immediately preceding sentence requiring the consent of particular Owners of FSA Insured Bonds in addition to the consent of FSA may not be waived by FSA or amended by agreement between FSA and the Department and, if applicable, the Trustee, the Co-Trustee or the Paying Agent. No provision of this First Supplemental Indenture expressly recognizing or granting rights in or to FSA may be amended without the prior written consent of FSA.

2. In the event that the principal, Sinking Fund Installments, if any, and Redemption Price, if applicable, and interest due on any FSA Insured Bonds shall be paid under the provisions of the FSA Policy, such FSA Insured Bonds shall continue to be Outstanding under the Indenture; all covenants, agreements and other obligations of the Department to the Owners of such FSA Insured Bonds shall continue to exist; and FSA shall be subrogated to the rights of such Owners.

3. FSA shall be a third party beneficiary of the Indenture.

4. In determining whether the Owners of FSA Insured Bonds will be adversely affected by any action taken pursuant to the terms of the Indenture, the Department, the Trustee and the Co-Trustee shall consider the effect on the Owners as if there were no FSA Policy.

5. The rights granted to FSA under the Indenture to request, consent to or direct any action are rights granted to FSA in consideration of the issuance of the FSA Policy. Any exercise by FSA of such rights is merely an exercise of the FSA's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Owners, nor does such action evidence any position of FSA, positive or negative, as to whether Owner consent is required in addition to consent of FSA.

6. Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated "AAA" and "Aaa" by Standard & Poor's and Moody's, respectively, or (5) securities eligible for "AAA" defeasance under then existing criteria of Standard & Poor's or any combination thereof, shall be authorized to be used to effect defeasance of the FSA Insured Bonds unless the FSA otherwise approves.

7. To accomplish legal defeasance of FSA Insured Bonds, the Department shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to FSA ("Accountant") verifying the sufficiency of the escrow established to pay the FSA Insured Bonds in full on the maturity or redemption date ("Verification"), (ii) an escrow agreement (which shall be acceptable in form and substance to FSA), (iii) an opinion of nationally recognized bond counsel to the effect that the FSA Insured Bonds are no longer "Outstanding" under the Indenture and (iv) if there is a Trustee for the FSA Insured Bonds, a certification of discharge of the Trustee with respect to the FSA Insured Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Department, the Trustee, the Co-Trustee and FSA. FSA shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow, or such shorter period as shall be acceptable to FSA. FSA Insured Bonds shall be deemed "Outstanding" under the Indenture unless and until they are in fact paid and retired or the above criteria are met and any additional requirements of Section 1101 of the Master Indenture have been satisfied.

8. Amounts paid by FSA under the Insurance Policy shall not cause the FSA Insured Bonds to be deemed paid for purposes of the Indenture and shall remain Outstanding and continue to be due and owing until paid by the Department in accordance with the Indenture. The Indenture shall not be discharged unless all amounts due or to become due to FSA have been paid in full or duly provided for.

9. Claims upon the FSA Policy and Payments by and to FSA. (a) If, on the third Business Day prior to the related scheduled interest payment date or principal payment date (“Payment Date”) there is not on deposit with the Trustee, after making all transfers and deposits required under the Indenture, moneys sufficient to pay the principal of and interest on the FSA Insured Bonds due on such Payment Date, the Trustee shall give notice to FSA and to its designated agent (if any) (“FSA’s Fiscal Agent”) by telephone or teletype of the amount of such deficiency by 2:00 p.m., New York City time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the FSA Insured Bonds due on such Payment Date, the Trustee shall make a claim under the FSA Policy and give notice to FSA and FSA’s Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the FSA Insured Bonds and the amount required to pay principal of the FSA Insured Bonds, confirmed in writing to FSA and FSA’s Fiscal Agent by 2:00 p.m., New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the FSA Policy.

(b) In the event the claim to be made is for a mandatory Sinking Fund Installment Redemption, upon receipt of the moneys due, the Trustee shall cause the Registrar to authenticate and deliver to affected Owners who surrender their FSA Insured Bonds a new FSA Insured Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the FSA Insured Bond surrendered. The Trustee shall designate any portion of payment of principal on FSA Insured Bonds paid by FSA, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of FSA Insured Bonds registered to the then current Owner, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to FSA, registered in the name of Financial Security Assurance Inc., in a principal amount equal to the amount of principal so paid (without regard to Authorized Denominations); provided that the Trustee’s failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Department on any Bond or the subrogation rights of FSA.

(c) The Trustee shall keep a complete and accurate record of all funds deposited by FSA into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal paid in respect of any FSA Insured Bond. FSA shall have the right to inspect such records at reasonable times upon reasonable notice to the Trustee.

(d) Upon payment of a claim under the FSA Policy the Trustee shall establish a separate special purpose trust account for the benefit of Owners of FSA Insured Bonds referred to herein as the “FSA Policy Payments Account” and over which the Trustee shall have exclusive control and sole right of withdrawal. The Trustee shall receive any amount paid under the FSA Policy in trust on behalf of Owners of FSA Insured Bonds and shall deposit any such amount in the FSA Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Trustee or the Trustee shall cause such amounts to be disbursed, to Owners of FSA Insured Bonds in the same manner as

principal and interest payments are to be made with respect to the FSA Insured Bonds under the sections hereof regarding payment of FSA Insured Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments.

(e) Funds held in the FSA Policy Payments Account shall not be invested by the Trustee and may not be applied to satisfy any costs, expenses or liabilities of the Trustee or Co-Trustee. Any funds remaining in the FSA Policy Payments Account following a Payment Date shall promptly be remitted to FSA.

(f) The obligations to FSA under this paragraph 9 shall survive discharge or termination of the Indenture.

10. FSA shall be entitled to pay principal or interest on the FSA Insured Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Department (as such terms are defined in the FSA Policy), whether or not FSA has received a Notice of Nonpayment (as such terms are defined in the FSA Policy) or a claim upon the FSA Policy.

11. The Department and the Trustee shall give notice to FSA of (i) the occurrence of any Event of Default under the Indenture and any event of default under the Master Credit and Liquidity Agreement within five Business Days of their actual knowledge thereof, (ii) the commencement of any proceeding by or against the Department under the United States Bankruptcy Code or any other insolvency laws, (iii) the making of any claim in connection with any insolvency proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the FSA Insured Bonds and (iv) the resignation or removal of any of the Co-Trustee, the Paying Agent for FSA Insured Bonds or the Bond Registrar for FSA Insured Bonds, and the appointment of, and acceptance of such duties by, any successor thereto.

12. Any surety, insurance policy or similar surety instrument used in lieu of cash or investments in the Debt Service Reserve Account shall be from a provider rated in the second highest long term rating category or better (without regard to ratings modifiers) by a Rating Agency, and the Department shall replace any such surety, insurance policy or similar surety instrument if the provider's long term rating falls below such category.

13. FSA shall have the right to request the Department to remove any Auction Agent of FSA Insured Bonds for cause and, provided the Department and the Trustee each consent to such request, the Department shall remove such Auction Agent in accordance with Section 3.02 of Appendix A to the First Supplemental Indenture.

14. The notice address of FSA is: Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022, Attention: Managing Director – Surveillance, Re: Policy No. 29835-N, Telephone: (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of

Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate “URGENT MATERIAL ENCLOSED.”

## APPENDIX C-3

### SPECIAL PROVISIONS RELATING TO XL CAPITAL INSURANCE

Pursuant and subject to Section 3.01 of the First Supplemental Indenture, the following provisions are hereby made applicable with respect to the Series 2002D-4 Bonds and the Series 2002D-5 Bonds insured by XL Capital (the “XL Capital Insured Bonds”) pursuant to the Policy issued by XL Capital insuring the XL Capital Insured Bonds (the “XL Capital Policy”).

1. So long as the XL Capital Policy is in full force and effect and payment on the XL Capital Policy is not in default, then

(i) (a) XL Capital shall be deemed to be the sole Owner of the XL Capital Insured Bonds when the approval, consent or action of the Owners of such XL Capital Insured Bonds is required or may be exercised under the Indenture, except for purposes of the second sentence of Section 902 of the Master Indenture with respect to modifications and amendments only with the consent of particular Owners of Bonds and (b) with respect to such modifications and amendments, the consent of XL Capital shall be required in addition to the consent of the Owners of applicable XL Capital Insured Bonds,

(ii) any amendment or modification of the Indenture, the Rate Agreement, the Servicing Arrangements or the Master Credit and Liquidity Agreement which would require the consent of the Owners of the Bonds under Section 902 of the Master Indenture shall also require the consent of (a) XL Capital if such amendment or modification would have an adverse affect on the rights or interests of FSA but not on the rights or interests of all Insurers or (b) a majority of the Outstanding Bonds insured by the Insurers, as exercised by the Insurers pursuant to clause (i) of this paragraph, and

(iii) to the extent that the Department issues Bonds on or after January 1, 2003 pursuant to a Supplemental Indenture other than (a) to achieve debt service savings through a refunding or (b) pursuant to an additional bonds test, XL Capital must consent to the issuance of such Bonds and the Supplemental Indenture pursuant to which such Bonds are issued, which consent will not be unreasonably withheld.

Pursuant to Section 3.01(c) of the First Supplemental Indenture, the provisions of clause (i) of the immediately preceding sentence requiring the consent of particular Owners of XL Capital Insured Bonds in addition to the consent of XL Capital may not be waived by XL Capital or amended by agreement between XL Capital and the Department and, if applicable, the Trustee, the Co-Trustee or the Paying Agent. No provision of the First Supplemental Indenture expressly recognizing or granting rights in or to XL Capital may be amended without the prior written consent of XL Capital. The Department shall deliver a copy of each amendment of the Indenture to XL Capital on or

prior to the effective date of such amendment. A copy of any such amendment shall be sent to Standard & Poor's Rating Services.

2. In the event that the principal, Sinking Fund Installments, if any, and Redemption Price, if applicable, and interest due on any XL Capital Insured Bonds shall be paid under the provisions of the XL Capital Policy, such XL Capital Insured Bonds shall continue to be Outstanding under the Indenture; all covenants, agreements and other obligations of the Department to the Owners of such XL Capital Insured Bonds shall continue to exist; and XL Capital shall be subrogated to the rights of such Owners.

3. XL Capital shall be a third party beneficiary of the Indenture.

4. In determining whether the Owners of XL Capital Insured Bonds will be adversely affected by any action taken pursuant to the terms of the Indenture, Department, the Trustee and the Co-Trustee shall consider the effect on the Owners as if there were no XL Capital Policy.

5. The rights granted to XL Capital under the Indenture to request, consent to or direct any action are rights granted to XL Capital in consideration of the issuance of the XL Capital Policy. Any exercise by XL Capital of such rights is merely an exercise of XL Capital's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Owners nor does such action evidence any position of XL Capital, positive or negative, as to whether Owner consent is required in addition to consent of XL Capital.

6. Only cash and the following securities shall be authorized to be used to effect defeasance of the XL Capital Insured Bonds pursuant to Section 1101 of the Master Indenture:

(i) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – "SLGs");

(ii) direct obligations of the Treasury which have been stripped by the Treasury itself;

(iii) an interest component of Resolution Funding Corp. ("REFCORP") strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form;

(iv) pre-refunded municipal bonds rated "Aaa" by Moody's and "AAA" by Standard & Poor's. If, however, the issue is only rated by Standard & Poor's (i.e., there is no Moody's rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA rated pre-refunded municipals; and

(v) the following obligations backed by the full faith and credit of the United States and issued by one of the following agencies:

(b) direct obligations or fully guaranteed certificates of beneficial ownership issued by the U.S. Export-Import Bank (Eximbank);

(c) obligations of the Farmers Home Administration (FmHA);

(d) obligations of the Federal Financing Bank;

(e) participation certificates issued by the General Services Administration;

(f) guaranteed Title XI financing of the U.S. Maritime Administration;  
and

(g) Project Notes, Local Department Bonds, New Communities Debentures and U.S. Public Housing Notes and Bonds issued by the U.S. Department of Housing and Urban Development (HUD)

7. To accomplish legal defeasance of XL Capital Insured Bonds, the Department shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to XL Capital (“Accountant”) verifying the sufficiency of the escrow established to pay the XL Capital Insured Bonds in full on the maturity or redemption date (“Verification”), (ii) an escrow agreement (which shall be acceptable in form and substance to XL Capital), (iii) an opinion of nationally recognized bond counsel to the effect that the XL Capital Insured Bonds are no longer “Outstanding” under the Indenture and (iv) if there is a Trustee for the XL Capital Insured Bonds, a certification of discharge of the Trustee with respect to the XL Capital Insured Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Department, the Trustee, the Co-Trustee and XL Capital. XL Capital shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow, or such shorter period as shall be acceptable to XL Capital. XL Capital Insured Bonds shall be deemed “Outstanding” under the Indenture unless and until they are in fact paid and retired or the above criteria are met and any additional requirements of Section 1101 of the Master Indenture have been satisfied.

8. Claims Upon the XL Capital Policy and Payments by and to XL Capital. (a) If, on the third Business Day prior to the Interest Payment Date or scheduled principal payment date (“Payment Date”), there is not on deposit with the Trustee or the Paying Agent for the XL Capital Insured Bonds, after making all transfers and deposits required under the Indenture, moneys sufficient to pay the principal of and interest on the XL Capital Insured Bonds due on such Payment Date, the Trustee shall give notice to XL Capital and to its designated agent (if any) (“XL Capital’s Fiscal Agent”) by telephone or telecopy of the amount of such deficiency by 2:00 p.m., New York City time, on such Business Day. If, on the Business Day immediately preceding the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the XL Capital Insured Bonds due on such Payment Date, the Trustee shall make a claim under the XL Capital Policy and give notice to XL Capital and XL

Capital's Fiscal Agent (if any) by telephone of the amount of any deficiency in the amount available to pay principal and interest, and the allocation of such deficiency between the amount required to pay interest on the XL Capital Insured Bonds and the amount required to pay principal of the XL Capital Insured Bonds, confirmed in writing to XL Capital and XL Capital's Fiscal Agent by 2:00 p.m., New York City time, on such Business Day, by delivering the Notice of Nonpayment and Certificate.

"Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from the Trustee to XL Capital, which notice shall specify (a) the name of the entity making the claim, (b) the XL Capital Policy number, (c) the claimed amount and (d) the date such claimed amount will become Due for Payment.

"Nonpayment" means the failure of the Department to have provided sufficient funds to the Trustee for payment in full of all principal of and interest on the XL Capital Insured Bonds which are Due for Payment.

"Due for Payment," when referring to the principal of XL Capital Insured Bonds, means when the stated maturity date or mandatory redemption date for the application of a required sinking fund installment has been reached and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by application of Sinking Fund Installments), acceleration or other advancement of maturity, unless XL Capital shall elect, in its sole discretion, to pay such principal due upon such acceleration; and when referring to interest on XL Capital Insured Bonds, means when the Interest Payment Date has been reached.

"Certificate" means a certificate in form and substance satisfactory to XL Capital as to the Trustee's right to receive payment under the XL Capital Insurance Policy.

(b) The Trustee shall designate any portion of payment of principal on XL Capital Insured Bonds paid by XL Capital, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of XL Capital Insured Bonds registered to the then current Owner, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to XL Capital, registered in the name of XL Capital Assurance Inc., in a principal amount equal to the amount of principal so paid (without regard to Authorized Denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Department on any XL Capital Insured Bond or the subrogation rights of XL Capital.

(c) The Trustee shall keep a complete and accurate record of all funds deposited by XL Capital into the XL Capital Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal paid in respect of

any XL Capital Insured Bond. XL Capital shall have the right to inspect such records at reasonable times upon reasonable notice to the Trustee.

(d) Upon payment of a claim under the XL Capital Policy, the Trustee shall establish a separate purpose trust account for the benefit of Owners of XL Capital Insured Bonds referred to herein as the “XL Capital Policy Payments Account” and over which the Trustee shall have exclusive control and sole right of withdrawal. The Trustee shall receive any amount paid under the XL Capital Policy in trust on behalf of Owners of XL Capital Insured Bonds and shall deposit any such amount in the XL Capital Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Trustee, or the Trustee shall cause the Paying Agent for the XL Capital Insured Bonds to disburse, to Owners of XL Capital Insured Bonds in the same manner as principal and interest payments are to be made with respect to the XL Capital Insured Bonds under the sections hereof regarding payment of XL Capital Insured Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments.

(e) Funds held in the XL Capital Policy Payments Account shall not be invested by the Trustee and may not be applied to satisfy any costs, expenses or liabilities of the Trustee. Any funds remaining in the XL Capital Policy Payments Account following an Interest Payment Date or scheduled principal payment date shall promptly be remitted to XL Capital.

(f) The obligations to XL Capital under this paragraph 8 shall survive discharge or termination of the Indenture.

9. The Trustee or the Co-Trustee shall furnish to XL Capital, as soon as practicable, notice of (i) the failure of the Department to give or make any of the certificates, notices, reports or filings it is required to give or make pursuant to the Indenture, and (ii) the insufficiency of amounts on deposit with the Trustee and available to make any payments of principal or interest on the XL Capital Insured Bonds when due.

10. The Trustee shall invest amounts on deposit in any fund, account or subaccount under the Indenture in Authorized Investments described in clause (iii) or (iv) of such definition only if such Authorized Investments are rated “A” or better (without regard to ratings modifiers) by at least two Rating Agencies.

11. Any surety, insurance policy or similar surety instrument used in lieu of cash or investments in the Debt Service Reserve Account shall be from a provider rated in the second highest long term rating category or better (without regard to ratings modifiers) by a Rating Agency, and the Department shall replace any such surety, insurance policy or similar surety instrument if the provider’s long term rating falls below such category.

12. XL Capital shall have the right to request the Department to remove any Auction Agent of XL Capital Insured Bonds for cause and, provided the

Department and the Trustee each consent to such request, the Department shall remove such Auction Agent in accordance with Section 3.02 of Appendix A to the First Supplemental Indenture.

13. The Department and the Trustee shall give notice to XL Capital of (i) the occurrence of any Event of Default under the Indenture and any event of default under the Master Credit and Liquidity Agreement within five Business Days of their actual knowledge thereof, (ii) the commencement of any proceeding by or against the Department under the United States Bankruptcy Code or any other insolvency laws, (iii) the making of any claim in connection with any insolvency proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the XL Capital Insured Bonds and (iv) the resignation or removal of any of the Co-Trustee, the Paying Agent for XL Capital Insured Bonds or the Bond Registrar for XL Capital Insured Bonds, and the appointment of and acceptance of such duties by, any successor thereto.

14. Any notices required to be given by any party pursuant to the Indenture shall also be given to XL Capital. The notice address of XL Capital is: XL Capital Assurance Inc., 250 Park Avenue, New York, New York 10177, Attention: Surveillance, Telephone: (646) 658-5900, Telecopier: (646) 658-5955 or such other address as may be designated by XL Capital.

## **APPENDIX D**

### **Form of Bond**

[Until such time as the Bonds of a Series are no longer restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository, each Bond of such Series shall contain or have endorsed thereon the following legends:

**AS PROVIDED IN THE INDENTURE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE INDENTURE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISION OF THE INDENTURE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE TRUSTEE OR OTHER PAYING AGENT. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE INDENTURE.**

**UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE CO-TRUSTEE OR OTHER REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE CO-TRUSTEE OR OTHER PAYING AGENT FOR PAYMENT OF PRINCIPAL OR REDEMPTION PRICE, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC OR ITS NOMINEE OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, CEDE & CO., AS NOMINEE OF DTC, HAS AN INTEREST HEREIN.]**

No. 2002 \_ - \_\_\_\_\_

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

**STATE OF CALIFORNIA**

**DEPARTMENT OF WATER RESOURCES**

**Power Supply Revenue Bonds, Series 2002 \_\_**

Bond Date

Maturity Date

CUSIP

Registered Owner: CEDE & CO.

Principal Amount: \_\_\_\_\_ Dollars

The STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES (the "Department") acknowledges itself indebted to, and for value received hereby promises to pay, but solely from the Trust Estate and not otherwise, to the Registered Owner specified above or registered assigns, the Principal Amount specified above on the Maturity Date specified above (subject to the right of prior redemption hereinafter mentioned) in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, upon presentation and surrender of this Bond at the office of the Paying Agent designated for such purpose, and to pay to the Registered Owner hereof interest on such Principal Amount in like coin or currency and at the rate or rates of interest per annum and at the times described herein. Interest on this Bond shall be payable from the Interest Payment Date next preceding the date of authentication to which interest has been paid, unless such date of authentication is an Interest Payment Date, in which case from such date if interest has been paid to such date; provided, however, that such interest shall be payable on this Bond from the Bond Date specified above if the date of authentication is prior to the first Interest Payment Date therefor. Interest on overdue principal and, to the extent lawful, on overdue premium and interest shall be paid as provided by the First Supplemental Indenture hereafter referred to.

This Bond is one of a duly authorized issue of bonds of the Department designated as its "Bonds" issued and to be issued in various series under and pursuant to Division 27 (commencing with Section 80000) of the California Water Code, as amended (the "Act"), and under and pursuant to a Trust Indenture dated as of October 1, 2002 (the "Master Indenture"), among the Department, the Treasurer of the State of California, as Trustee (including its successors, the "Trustee"), and U.S. Bank, N.A., as Co-Trustee (including its successors, the "Co-Trustee"), authorizing and securing the Department's Power Supply Revenue Bonds, and a First Supplemental Trust Indenture dated as of October 1, 2002 (the "First Supplemental Indenture"), among the Department, the Trustee and the Co-Trustee. The Master Indenture and the First Supplemental Indenture

are herein collectively called the "Indenture". Capitalized terms used herein and not otherwise defined herein shall have the meanings provided in the Indenture.

This Bond is one of a series of bonds designated as "Power Supply Revenue Bonds, Series 2002 \_\_" (the "Series 2002 \_\_ Bonds"), which may be in several subseries, issued in the aggregate principal amount of \$\_\_\_\_\_ under the Indenture. Copies of the Indenture are on file at the office of the Department and at the offices of the Trustee and Co-Trustee designated for such purpose. The Co-Trustee is also the initial Registrar and the initial Paying Agent for the Series 2002\_\_ Bonds. The Department may appoint additional or different Paying Agents and a different Registrar for the Series 2002A Bonds as provided in the Indenture and, if so, references herein to the Paying Agent and Registrar shall be deemed also to include such additional Paying Agents or Registrar, as the case may be.

The Bonds are payable as to principal, Redemption Price, and interest solely from and are equally and ratably secured solely by the Trust Estate, subject to the provisions of the Indenture permitting the application of such Trust Estate to the purposes and on the terms and conditions set forth in the Indenture, including, without limitation, the prior application of Power Charge Revenues to the payment of Operating Expenses, the prior application of Bond Charge Revenues to the payment of Priority Contract Costs, Outstanding Notes and related costs of the Department, and the application of Bond Charge Revenues to the payment of certain costs on a parity with the Bonds. The principal, Purchase Price and Redemption Price of and interest on the Bonds shall not be payable from the general funds of the Department nor shall the Bonds constitute a legal or equitable pledge, charge, lien or encumbrance upon any of the property or upon any of the income, receipts or revenues of the Department, except the Trust Estate.

Reference is hereby made to the Indenture, to all of the provisions of which any holder of this Series 2002\_\_ Bond by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the pledge and covenants securing the Bonds, including this Series 2002\_\_ Bond; the Revenues and other moneys and securities constituting the Trust Estate pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the pledge; the conditions upon which the Indenture may be amended or supplemented with or without the consent of the Owners of the Bonds; the rights and remedies of the Owner hereof with respect hereto and thereto, including the limitations therein contained upon the right of an Owner hereof to institute any suit, action or proceeding in equity or at law with respect hereto and thereto, and limitations on the ability of an Owner to exercise approval or consent rights or take other action; the rights, duties and obligations of the Department, the Trustee and the Co-Trustee hereunder and thereunder; the terms and provisions upon which the pledges and covenants made therein may be discharged at or prior to the maturity or redemption of this Series 2002\_\_ Bond, and the Series 2002\_\_ Bond thereafter no longer be secured by the Indenture or be deemed to be Outstanding thereunder, if moneys or certain specified securities shall have been deposited with the Trustee or Paying Agent sufficient and held in trust solely for the payment hereof; and for the other terms and provisions thereof.

Payment of Interest and Purchase Price. Interest on this Bond is payable on each Interest Payment Date by check mailed by the Paying Agent to the Owner at the address appearing on the books of registry required to be kept by the Registrar pursuant to the Indenture or wire transfer of immediately available funds to the account specified by the Owner of at least \$1,000,000 in aggregate principal amount of the Series 2002 - Bonds in a written direction received by the Paying Agent at its office designated for such purpose on or prior to the Record Date; provided, however, that upon redemption of any Bond on a date other than a Redemption Date, the accrued interest payable upon redemption shall be payable at the office of the Paying Agent designated for such purpose, upon presentation and surrender of this Bond, unless the Redemption Date is an Interest Payment Date, in which event the interest on such Bond so redeemed shall be paid by the Paying Agent as aforesaid. The Purchase Price upon optional or mandatory tender for purchase shall be made by wire transfer of immediately available funds to the account specified by the Owner in a written direction received by the Tender Agent on or prior to the Purchase Date or, if no such account is specified, by check mailed by the Tender Agent to the Owner at the address appearing on the bonds required to be kept by the Tender Agent pursuant to the First Supplemental Indenture.

Calculation of Interest. This Bond may at any time bear interest in a Daily Rate Mode, Weekly Rate Mode, Flexible Rate Mode, Term Rate Mode, Fixed Rate Mode or Auction Rate Mode, and may be changed from any such Interest Rate Mode to another, all as provided in the First Supplemental Indenture. During any Interest Period in any such Interest Rate Mode, the interest rate applicable to this Bond will be determined at the times and in the manner provided in the First Supplemental Indenture. The interest rate on this Bond (except while this Bond is a Bank Bond) may not exceed the Maximum Rate.

This Bond shall initially be in the applicable Initial Interest Period as prescribed in the First Supplemental Indenture. On the day following the last day of the applicable Initial Interest Period, this Bond shall be changed to a \_\_\_\_\_ Rate Mode as prescribed in the First Supplemental Indenture.

While this Bonds is in the Initial Interest Period, interest hereon shall be calculated on the basis of a 365-day year for the actual number of days elapsed to the Interest Payment Date. While this Bond is in a Daily Rate Mode, Weekly Rate Mode or Flexible Rate Mode, interest hereon shall be calculated on the basis of a 365-day or 366-day year as applicable, for the actual number of days elapsed to the Interest Payment Date. While this Bond is in an Auction Rate Mode with an Auction Period over 180 days, a Term Rate Mode or a Fixed Rate Mode, interest hereon shall be computed on the basis of a year of 360 days composed of twelve 30-day months. While this Bond is in an Auction Rate Mode with an Auction Period of 180 days or less, interest hereon shall be computed on the basis of a 360-day year for the actual number of days elapsed. The Record Date for the payment of such interest is set forth in the First Supplemental Indenture.

Interest Payment Date. Interest Payment Date means the initial Interest Payment Date and each Interest Payment Date thereafter, each as specified in the First Supplemental Indenture with respect to the Series 2002\_\_ Bonds.

Bank Bonds. Notwithstanding anything herein to the contrary, while this Bond is a Bank Bond, the interest rate on this Bond shall be determined, and interest on this Bond shall be payable and calculated, at the times and in accordance with the terms of the Liquidity Facility relating to this Bond. Notwithstanding anything herein to the contrary, while this Bond is a Bank Bond, the principal, Redemption Price and Purchase Price of, and interest on, this Bond shall be payable pursuant to the method of payment that is provided in the Liquidity Facility relating to this Bonds. While this Bond is a Bank Bonds, the interest rate on this Bond may not exceed the lesser of (i) the maximum rate provided for in the Liquidity Facility relating to this Bond, or (ii) the highest interest rate which may be borne by this Bond under State law.

Payment on Business Day. If any payment on this Bond is due on a day other than a Business Day, payment will be made on the next Business Day, and no interest will accrue as a result.

Denominations. The Series 2002\_\_ Bonds are issuable in the form of fully registered bonds in Authorized Denominations. Authorized Denominations means, with respect to Series 2002\_\_ Bonds (i) during an Auction Rate Mode, \$25,000 and any integral multiple thereof, (ii) during a Daily Rate Mode, a Weekly Rate Mode or Flexible Rate Mode, \$100,000 and any integral multiple of \$5,000 in excess thereof and (iii) during a Term Rate Mode and a Fixed Rate Mode, \$5,000 and any integral multiple thereof; provided, however, that if as a result of a change in the Interest Rate Mode from a Term Rate Mode to an Auction Rate Mode, Daily Rate Mode, Weekly Rate Mode or Flexible Rate Mode, it is not possible to deliver all the Series 2002\_\_ Bonds required or permitted to be Outstanding in a denomination permitted above, Series 2002\_\_ Bonds may be delivered, to the extent necessary, in different denominations

Mandatory Purchase. This Bond is subject to mandatory tender for purchase at a price equal to the Purchase Price thereof on each mandatory Purchase Date.

Notice of mandatory tender shall be given to applicable Owners of Series 2002\_\_ Bonds by the Trustee if and as provided in the First Supplemental Indenture. The Owner of this Bond does not have the right to retain it after any mandatory Purchase Date.

Optional Purchase. When interest on this Bond is payable at a Daily Rate or a Weekly Rate, except during the Initial Interest Period, its Owner may elect to have it or any portion thereof in any Authorized Denominations purchased at a price equal to the Purchase Price thereof, at the times and by complying with the procedures provided for such purchase in the First Supplemental Indenture.

Payment of Purchase Price. Funds for the payment of the Purchase Price due upon any optional or mandatory tender for purchase of Series 2002\_\_ Bonds shall be derived solely from the following sources in the order of priority indicated:

- (1) immediately available funds transferred by the Remarketing Agent to the Tender Agent derived from the remarketing of such Series 2002\_\_ Bonds;
- (2) immediately available funds drawn by the Paying Agent under the Liquidity Facility, if any, applicable to such Series 2002\_\_ Bonds.

None of the Department, the Trustee, the Co-Trustee, the Paying Agent, the Tender Agent or the Remarketing Agent shall have any liability or, except from the sources identified above, obligation to pay or make available such Purchase Price, including under circumstances where the applicable Liquidity Facility terminates and does not permit a draw thereunder in connection with such Termination or where the issuer of such Liquidity Facility is in default under such Liquidity Facility. The failure to pay the Purchase Price of Series 2002\_\_ Bonds that have been tendered or deemed tendered for purchase from any of the sources identified above shall not constitute an Event of Default under the Indenture.

Redemption of Bonds. This Bond shall be subject to mandatory redemption prior to maturity and to redemption prior to maturity at the option of the Department, in whole or in part, on the Redemption Dates and at the Redemption Prices and in the manner provided in the First Supplemental Indenture.

Under certain conditions described in the Indenture, the Department may, in connection with a change to a Term Rate Mode or Fixed Rate Mode, or on any Purchase Date for Series 2002\_\_ Bonds in a Term Rate Mode, waive or otherwise alter its rights to redeem thereafter any Series 2002\_\_ Bonds during a Fixed Rate Mode or a Term Period commencing on such Purchase Date.

When the Registrar shall receive notice from the Department of its election to redeem Series 2002\_\_ Bonds pursuant to the Indenture, and when redemption of Series 2002\_\_ Bonds is required by the Indenture, the Registrar shall give notice, in the name of the Department, of the redemption of such Bonds, which notice shall specify the Series, maturities and, if any maturity shall include Series 2002\_\_ Bonds bearing different interest rates and all Series 2002\_\_ Bonds of such maturity are not being redeemed, interest rate of the Series 2002\_\_ Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Series 2002\_\_ Bonds of any maturity and interest rate are to be redeemed, the letters and numbers or other distinguishing marks of such Series 2002\_\_ Bonds so to be redeemed, and, in the case of Series 2002\_\_ Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed, and, if applicable, that such notice is conditional and the conditions that must be satisfied. Such notice shall further state that on such date there shall become due and payable upon each Series 2002\_\_ Bonds to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the

case of Series 2002\_\_ Bonds to be redeemed in part only, together with interest accrued to the Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable, unless, in the case of any conditional notice, such conditions are not satisfied or such notice is rescinded, and unless in other cases moneys sufficient for such redemption shall not have been deposited with the Paying Agent. Such notice shall be given by first class mail, postage prepaid, to the Owners of any Series 2002\_\_ Bonds or portions of Series 2002\_\_ Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books (i) with respect to Bonds of such Series in a Daily Rate Mode, a Weekly Rate Mode or an Auction Rate Mode and a daily Auction Period or seven day Auction Period, not more than twenty-five (25) days nor less than fifteen (15) days prior to the Redemption Date, and (ii) with respect to Bonds of such Series in a Flexible Rate Mode, a Term Rate Mode, a Fixed Rate Mode or an Auction Rate Mode with a Flexible Auction Period, 28-day Auction Period, 35-day Auction Period, three-month Auction Period or semi-annual Auction Period, not more than forty-five (45) nor less than thirty (30) days prior to the Redemption Date. Failure so to mail any such notice to any particular Owner shall not affect the validity of the proceedings for the redemption of Bonds not owned by such Owner and failure of any Owner to receive such notice shall not affect the validity of the proposed redemption of Series 2002\_\_ Bonds.

Any notice of optional redemption may state that it is conditional upon receipt by the Paying Agent of moneys sufficient to pay the Redemption Price of such Bonds or upon the satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such Redemption Price if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission shall be given by the Registrar to affected Owners of Series 2002\_\_ Bonds, in the same manner as the conditional notice of redemption was given, as promptly as practicable upon the failure of such condition or the occurrence of such other event.

Other General Provisions. As provided in the Indenture, Bonds may be issued from time to time pursuant to Supplemental Indentures in one or more series, in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as provided in the Indenture. The aggregate principal amount of Bonds which may be issued under the Indenture is not limited except as provided in the Indenture, and all Bonds issued and to be issued under the Indenture are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Indenture.

This Series 2002\_\_ Bond is transferable, as provided in the Indenture, only upon the books of the Department kept for that purpose at the above-mentioned office of the Registrar by the Owner hereof in person, or by his attorney duly authorized in writing, upon surrender of the Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or his duly authorized attorney, and thereupon a new registered Series 2002\_\_ Bond or Bonds, and in the same aggregate principal amount, Series, maturity and interest rate shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The Department and each Fiduciary may deem and treat the Person in whose

name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal, Purchase Price or Redemption Price hereof and interest due hereon and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Department nor any Fiduciary shall be affected by any notice to the contrary.

THE PRINCIPAL OF THE SERIES 2002\_\_ BONDS MAY NOT BE DECLARED DUE AND PAYABLE BEFORE THE MATURITY THEREOF AS A RESULT OF AN EVENT OF DEFAULT UNDER THE INDENTURE.

The Act provides that neither the person executing the determination to issue Bonds nor any person executing the Series 2002\_\_ Bonds shall be personally liable or be subject to any personal liability or accountability by reason of the issuance thereof.

Pursuant to Section 80200(e) of the California Water Code, the Department, as agent for the State of California, does hereby pledge to and agree with the holder of this Bond that while this Bond remains outstanding and not performed or discharged, the rights, powers, duties and existence of the Department and the California Public Utilities Commission shall not be diminished or impaired in any manner that will affect adversely the interests or rights of the holders of this Bond.

Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof is pledged to the payment of the principal of or interest on this Bond.

It is hereby certified and recited that all conditions, acts and things required by law and the Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this Bond, exist, have happened and have been performed and that the issuance of the Series 2002\_\_ Bonds, together with all other indebtedness of the Department, is within every debt and other limit prescribed by the laws of the State of California.

This Bond shall not be entitled to any benefit under the Indenture or be valid or become obligatory for any purpose until this Bond shall have been authenticated by the execution by the Registrar of the Registrar's Certificate of Authentication hereon.

**IN WITNESS WHEREOF, THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES** has caused this Bond to be signed in its name and on its behalf by the manual or facsimile signature of an Authorized Officer and attested by the facsimile signature of another Authorized Officer.

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

By: \_\_\_\_\_  
Authorized Officer

Attest:

\_\_\_\_\_  
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

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Please insert Social Security or  
Taxpayer Identification Number of Transferee

/ \_\_\_\_\_ /

---

(Please print or typewrite name and address, including  
zip code of Transferee)

---

the within Bond and all rights thereunder, and hereby irrevocably constitutes and  
appoints

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attorney to register the transfer of the within Bond on the books kept for registration  
thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

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NOTICE: Signature(s) must be  
guaranteed by a member or participant  
of a signature guarantee program.

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NOTICE: The signature above must  
correspond with the name of the  
Owner as it appears upon the front of  
this Bond in every particular, without  
alteration or enlargement or change  
whatsoever.

AUTHENTICATION DATE:

Registrar's Certificate of Authentication

This Bond is one of the bonds, of the series designated therein, described in the within-mentioned Indenture.

U.S. BANK, N.A.  
Registrar

By: \_\_\_\_\_  
Authorized Officer