

## ATTACHMENT 2

### SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT

The following is a brief summary of certain provisions of the MTA Hudson Rail Yards Trust Agreement (the “Trust Agreement”). Such summary does not purport to be complete and reference is made to the Trust Agreement for full and complete statements of all provisions. Certain capitalized terms used herein shall have the meanings ascribed to them in Attachment 1. A copy of the Trust Agreement may be obtained upon request from the Authority or the Trustee.

#### **Assignment**

The Authority unconditionally and irrevocably assigns and transfers to the Trustee its rights in the Trust Estate and, in consideration of such assignment and the execution of the Trust Agreement, the Trustee has agreed to execute and deliver the Obligations, each evidencing an interest of the Owners in the MTA Financing Agreement Amount payable by the Authority pursuant to the Financing Agreement.

Section 2.01

#### **Declaration of Trust by Trustee**

The Trustee declares that it holds and will hold the Trust Estate upon the trusts thereafter set forth and for the use and benefit of the Owners, as more particularly set forth in Section 2.03 of the Trust Agreement.

Section 2.02

#### **Payments from Trust Estate Only; Distribution of Trust Estate**

(a) Except as otherwise expressly provided in the Trust Agreement, all amounts of Principal and Interest Components payable by the Trustee with respect to the Obligations pursuant to the Trust Agreement shall be paid only from the income of and proceeds from the Trust Estate and only to the extent that the Trustee shall have actually received (and been allowed to retain) with respect to Principal and Interest Components sufficient income or proceeds from the Trust Estate to make such payments in accordance with the provisions of the Trust Agreement. In connection with amounts of Principal and Interest Components related to the Obligations, Owners shall look solely to the income of and the proceeds from the Trust Estate to the extent available for distribution to such Owners as provided in the Trust Agreement and the Trustee is not personally liable to any Owner for any amounts payable under the Trust Agreement or subject to any liability under the Trust Agreement except liability under the Trust Agreement as a result of negligence or willful misconduct of the Trustee.

(b) So long as the Financing Agreement shall be in effect, all payments of Principal and Interest Components of the MTA Financing Agreement Amount that are payable from Financing Agreement Payments consisting of Monthly Ground Rent, Fee Purchase Payments, Direct Cost Rent Credit Payments and other payments of any kind constituting a part of the Trust Estate payable to the Trustee pursuant to the Financing Agreement and from amounts deposited into the Dedicated Deposit Account, shall be paid directly to, or transferred by the Depository or the Authority to, the Trustee for distribution, in accordance with the Trust Agreement, to or for the Owners or the Authority, as appropriate.

Section 2.03

## **Preparation of Obligations**

(a) The Trustee shall, upon written authorization and request from an Authorized Officer, execute and deliver the Series 2016A Obligations evidencing interests in the MTA Financing Agreement Amount payable by the Authority pursuant to the Financing Agreement.

(b) Refunding Obligations, other than the Series 2016A Obligations, may be issued under the Trust Agreement pursuant to and in accordance with the terms of a Supplemental Trust Agreement and a Supplemental Financing Agreement, but (1) only for the purpose of refunding, in whole or in part, the Outstanding Obligations and related Principal Components, and (2) only if there shall be delivered to the Trustee in connection with each issuance of such Refunding Obligations and related Principal Components (i) in the case of a partial refunding of Outstanding Obligations and Principal Components, a certificate of an Authorized Officer setting forth (A) a schedule of the remaining Monthly Ground Rent to be received, which schedule takes into consideration any Fee Purchase Payments received, (B) a schedule of the remaining payments of the Principal of and Interest with respect to the then Outstanding Obligations and Principal Components, based on the schedule of Monthly Ground Rent payments described in the preceding clause (A) hereof, including the weighted average maturity for each stated maturity of Outstanding Obligations and Principal Components, and (C) a schedule of the payments of Principal of and Interest with respect to the Refunding Obligations and Principal Components and the unrefunded Obligations and Principal Components based on the Monthly Ground Rent payments described in the preceding clause (A) hereof demonstrating that (x) each maturity of Obligations and Principal Components will be paid in full from payments of Monthly Ground Rent no less than twenty-four (24) months prior to its stated maturity date and (y) the weighted average maturity of the unrefunded Obligations and Principal Components is within six (6) months (either earlier or later) than the weighted average maturity calculated in accordance with clause (B) hereof; (ii) a description of the redemption provisions relating to the Refunding Obligations (and related Principal Components) showing that the Refunding Obligations (and related Principal Components) have the same priority of redemption as the Obligations (and related Principal Components) being refunded (versus the unrefunded Obligations (and related Principal Components)); (iii) an opinion of Authority bond counsel to the effect that the issuance of such Refunding Obligations and related Principal Components will not adversely affect the exclusion from gross income of the Interest Components on any Outstanding Obligations or Principal Components for Federal income tax purposes; and (iv) a Supplemental Financing Agreement reflecting the issuance of such Refunding Obligations.

### Section 3.01

## **Form; Denominations; Medium of Payment**

Unless otherwise provided by a Supplemental Trust Agreement, the Obligations shall be in denominations of \$5,000 each or any integral multiple thereof, and shall be represented by fully registered Obligations, without coupons, subject to the provisions of a book-entry system (as described in the Trust Agreement); provided, however, that if such book-entry system is discontinued, physical Obligations shall be delivered to the Owners in accordance with the Trust Agreement. The Obligations shall be payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

### Section 3.02

## **Date of Obligations; Designation; Record Dates; Payment of Principal and Interest**

1. Obligations initially issued pursuant to the Trust Agreement shall be dated the date of issuance of the Financing Agreement and the Interest Component shall accrue from such date. Refunding Obligations shall be dated, and the Interest Component shall accrue thereon, as provided in a Supplemental Trust Agreement and the Supplemental Financing Agreement.

2. Unless otherwise provided by an amendment to the Financing Agreement, the Interest Component of the MTA Financing Agreement Amount shall be calculated on the basis of a 30-day month and 360-day year and shall be payable from the Interest Payment Date next preceding the date of registration thereof, unless such date of registration is an Interest Payment Date, in which event the Interest Component of the MTA Financing Agreement Amount shall be payable from such Interest Payment Date, or unless no Interest Component of the MTA Financing Agreement Amount has been paid or duly provided for with respect to such Obligation, in which event the Interest Component of the MTA Financing Agreement Amount shall be paid from the related Closing Date, or unless such Obligation is registered after the first day of a month of an Interest Payment Date, whether or not such day is a Business Day, in which event the Interest Component of the MTA Financing Agreement Amount shall be payable from such Interest Payment Date; provided, however, that if at the date of registration of any Obligation the Interest Component of the MTA Financing Agreement Amount is in default, the Interest Component of the MTA Financing Agreement Amount shall be paid from the last date to which the Interest Component of the MTA Financing Agreement Amount has been paid or made available for payment.

3. Unless otherwise provided by a Supplemental Trust Agreement, payments of the Interest Component with respect to any Obligation shall be made on the appropriate Interest Payment Date to the person appearing on the Register as the registered holder thereof as of the close of business on the Record Date, such Interest to be paid by check mailed to such registered holder at such registered holder's address as it appears on the Register or at such other address as such registered holder may have filed with the Trustee for that purpose; provided, however, that the Trustee may establish a special record date in connection with the payment of Interest in default. The Principal Component with respect to the Obligations will be payable at the offices of the Trustee upon presentation and surrender of the Obligations.

#### Section 3.03

### **Redemption**

(a) The Authority may redeem Obligations at its option in accordance with their terms, the terms of the Financing Agreement and the terms of the Trust Agreement, including any Supplemental Trust Agreement, and any Supplemental Financing Agreement and shall redeem Obligations as provided in the Trust Agreement. When Obligations are called for redemption, the Applicable Redemption Price and accrued Interest thereon shall become due on the Redemption Date.

(b) As long as the Obligations are registered in book-entry-only form and so long as DTC or a successor securities depository is the sole registered owner of the Obligations, partial redemptions will be done in accordance with DTC procedures. Subject to the other provisions of the Trust Agreement, if the Obligations are not registered in book-entry-only form, any redemption of less than all of the Obligations will be allocated among the registered owners of such Obligations as nearly as practicable in proportion to the Principal Amounts of the Obligations owned by each registered owner, subject to the authorized denominations applicable to the Obligations. This will be calculated based on the formula: (Principal Amount owned by owner) x (principal to be redeemed) / (Principal Amount outstanding). The particular Obligations to be redeemed will be determined by the Trustee, using such method as it deems fair and appropriate.

#### Section 3.16

### **Notice of Redemption**

(a) Notice of Optional Redemption. For Obligations being redeemed pursuant to Optional Redemption, the Authority will give written notice thereof to the Trustee at least five Business Days prior to the giving of Notice of Redemption, or such shorter period as agreed by the Trustee. The Trustee will give notice to the Owners of the Obligations, subject to the further provisions of this paragraph, which notice will specify the Optional Redemption Date and the place or places where amounts due upon such redemption will be payable. The notice will further state that on the Optional Redemption Date the redemption price thereof, including Interest accrued to the Optional Redemption Date, will be payable upon presentation of the

Obligation to the Trustee, and that from and after the Optional Redemption Date Interest with respect to the Obligation called for redemption will cease to accrue. The Trustee will mail a copy of the notice, postage prepaid, not less than twenty (20) days nor more than sixty (60) days before the Optional Redemption Date, to the Owner of each Obligation which is to be redeemed, at the address appearing on the Register. So long as all of the Obligations remain immobilized in the custody of DTC, any such notice of redemption of the Obligations will be delivered only to DTC. DTC is responsible for notifying DTC Participants of such redemption, and DTC Participants and Indirect Participants are responsible for notifying beneficial owners of such redemption. The Trustee is not responsible for sending notices to DTC Participants or Indirect Participants, or to beneficial owners. Any defect in the giving of notice to a particular Owner will not affect the validity of the redemption of the Obligations.

(b) Notice of Early Mandatory Redemption. For Obligations subject to Early Mandatory Redemption, following the Trustee's determination in accordance with the Trust Agreement that Obligations and the related Principal Components will be subject to Early Mandatory Redemption, the Trustee will give notice to the Owners of the Obligations, subject to the further provisions of this paragraph, which notice will specify the Eligible Early Mandatory Redemption Date and the place or places where amounts due upon such redemption will be payable. The notice will further state that on the Eligible Early Mandatory Redemption Date the Applicable Redemption Price thereof, including Interest accrued to the Eligible Early Mandatory Redemption Date, will be payable upon presentation of the Obligation to the Trustee, and that from and after the Eligible Early Mandatory Redemption Date Interest with respect to the Obligation called for redemption will cease to accrue. The Trustee will mail a copy of the notice, postage prepaid, not less than twenty (20) days nor more than ninety (90) days before the Eligible Early Mandatory Redemption Date, to the Owner of each Obligation which is to be prepaid, at the address appearing on the Register. So long as all of the Obligations remain immobilized in the custody of DTC, any such notice of redemption of the Obligations will be delivered only to DTC. DTC is responsible for notifying DTC Participants of such redemption, and DTC Participants and Indirect Participants are responsible for notifying beneficial owners of such redemption. The Trustee is not responsible for sending notices to DTC Participants or Indirect Participants, or to beneficial owners. Any defect in the giving of notice to a particular Owner will not affect the validity of the redemption of the Obligations.

(c) Notice of redemption of any Series of Obligations shall also be sent by the Trustee to such additional Persons as may be specified in the Supplemental Trust Agreement authorizing such Obligations.

#### Section 3.17

### **Non-Presentation**

If an Obligation shall not be presented for payment at the maturity and if moneys for payment of Principal and Interest Components with respect to such Obligation are held by the Trustee and available for payment thereof, then, from and after the date such Obligation and the related Principal Component matures or becomes due and payable, Interest shall cease to accrue or be payable with respect to such Obligation.

The Trustee shall annually notify an Authorized Officer of the Obligations which have not been presented for payment. Anything in the Trust Agreement to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Obligations which remain unclaimed for three years after the date when such Obligations have become due and payable at their stated maturity dates (and the Maturity Date of the related Principal Component), if such moneys were held by the Trustee at such date, or for three years after the date of deposit of such moneys if deposited with the Trustee after said date when such Obligations (and the Maturity Date of the related Principal Component) became due and payable, shall automatically revert from the Trustee to the State of New York once the Trustee has complied with the publication and reporting requirements as prescribed in accordance with the Abandoned Property Laws of the State of New York as amended.

#### Section 3.19

## **Trust Fund**

(a) There is established with the Trustee a special fund to be designated “MTA Hudson Rail Yards Trust Fund,” referred to in the Trust Agreement as the “Trust Fund.” The Trustee shall keep the Trust Fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided in the Trust Agreement. Within the Trust Fund there are established the Costs of Issuance Fund, the Obligations Proceeds Fund, the Capitalized Interest Fund, the Rent Payment Fund and the Interest Reserve Fund, each as more particularly described in the Trust Agreement.

The Trustee shall hold in trust for the benefit of the Owners and apply proceeds of the sale of the Obligations, all moneys and securities from time to time deposited with the Trustee under or pursuant to the Trust Agreement, all funds and accounts established under or pursuant to the Trust Agreement, and the income on or the proceeds of any of the foregoing, all for the benefit of the Owners subject to the terms of the Trust Agreement. The Trustee is authorized at any and all times to receive any and all such property and instruments evidencing the Trustee’s interest in such property, and any other real or personal property of every name and nature from time to time hereafter, by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, or in which an interest is granted, or instruments evidencing the Trustee’s interest in such property, as and for additional security under the Trust Agreement. The Trustee covenants to hold and apply any and all such property and instruments, including such property in which or instruments by which a security interest is hereafter granted, for the benefit of the Owners in accordance with the terms of the Trust Agreement and the Fee Mortgages. The Authority will from time to time execute and deliver all such supplements and amendments to the Trust Agreement and all such financing statements, continuation statements, instruments of further assurance, assignment notices and other instruments and will take such other action as is, or as Trustee or counsel to the Authority deems, necessary to make more effective the Trustee’s interests in all or any portion of the Trust Estate, to maintain or preserve the Fee Mortgages and the security interest or interests created for the benefit of the Owners by the Trust Agreement, the Financing Agreement, the Dedicated Deposit Account and the Fee Mortgages and carry out more effectively the purposes of the Trust Agreement, the Financing Agreement, the Dedicated Deposit Account and the Fee Mortgages, to preserve and defend title to the Trust Estate and the rights of the Trustee, of the Owners against the claims of all persons and parties.

(b) The following amounts shall be deposited by the Trustee as follows:

(A) The Irrevocable Dedicated Deposit Account Instructions shall provide at all times that all amounts forwarded to the Depository by the Ground Lease Tenants or the Authority (relating to Cure Rights payments and Direct Cost Rent Credit Payments) shall be transferred daily to the Trustee for deposit into the Rent Payment Fund. The Depository shall provide the Authority with daily information relating to the amounts transferred by the Depository to the Trustee, as well as any other Financing Agreement Payments received by the Depository that are intended to be payment by the Ground Lease Tenants of Monthly Ground Rent or Fee Purchase Payments, or from the Authority (relating to Cure Rights payments and Direct Cost Rent Credit Payments), and the Depository shall identify the amounts received from specific Ground Lease Tenants and by the Authority (relating to Cure Rights payments and Direct Cost Rent Credit Payments). Using the information provided by the Depository, the Authority shall, no later than 10:00 a.m. on the Business Day before the Monthly Transfer Date, identify for the Trustee with respect to the amounts deposited into the Rent Payment Fund the amount of such payments that are Regularly Scheduled Rent (which shall include all Direct Cost Rent Credit Payments), Prepaid Rent and Delinquent Rent. The amount identified by the Authority as Regularly Scheduled Rent and Delinquent Rent shall be transferred by the Trustee on or before the Monthly Transfer Date into the Rent Revenue Account in the Rent Payment Fund; provided, however, if (i) the Authority previously made Interest Reserve Advances that otherwise would not have been required if such amount of Delinquent Rent was received when due, and (ii) no Ground Lease Payment Event of Default of such Ground Lease Tenant under the defaulted Ground Lease has occurred and is continuing the Trustee shall reimburse the Authority for its previous Interest Reserve Advances attributed to such Delinquent Rent prior to transferring such amounts into the Rent Revenue Account.

(B) All Financing Agreement Payments identified by the Authority as Prepaid Rent shall be transferred by the Trustee on or prior to the Monthly Transfer Date into the Prepaid Rent Account in the Rent Payment Fund. The Authority shall additionally provide the Trustee with a schedule of the amounts and dates that such Prepaid Rent deposited into the Prepaid Rent Account should be subsequently transferred by the Trustee to the Rent Revenue Account. Any such amounts deposited into the Prepaid Rent Account shall be subsequently transferred from the Prepaid Rent Account to the Rent Revenue Account on the first day of each calendar month in amounts representing the Monthly Ground Rent due which are attributable to such prepaid amounts deposited in the Prepaid Rent Account in accordance with the schedule provided by the Authority.

(C) All other Financing Agreement Payments (Fee Purchase Payments, payments by guarantors under any Payment Guaranty intended to reimburse the Authority as provided in the “Guaranteed Additional Amounts Due” column under the “Default Payments Schedule” of the Payment Guaranty relating to an event of default thereunder resulting in the termination of the related Ground Lease, and other amounts not representing Annual Base Rent) shall be deposited by the Trustee as provided in the Trust Agreement into the Fee Purchase Payments Account in the Rent Payment Fund.

(D) In the event the Depository, the Trustee or the Authority determines that amounts previously determined to be Regularly Scheduled Rent, Prepaid Rent or Delinquent Rent were not correctly categorized, the Depository, the Trustee and the Authority shall work cooperatively to correct such wrongful determination consistent with the intended application of such moneys in accordance with the Trust Agreement.

#### Section 4.01

### **Costs of Issuance Fund**

(a) Within the Trust Fund there is established with the Trustee a special fund designated the “Costs of Issuance Fund.” The Trustee shall deposit therein moneys as required in connection with the execution of any series of Refunding Obligations or as directed by an Authority Representative and in connection therewith shall, upon the direction of an Authorized Officer, create and maintain separate Accounts and records with respect to each series of Obligations. The Trustee shall keep the Costs of Issuance Fund separate and apart from all other funds and moneys held by it. The Trustee shall administer such fund as provided in the Trust Agreement.

(b) Moneys in the Costs of Issuance Fund shall be applied by the Trustee to the payment of Costs of Issuance relating to the execution and delivery of the Obligations, the Financing Agreement and the Trust Agreement, and the sale of the Obligations, as directed in writing by an Authorized Officer.

(c) Earnings from investment of moneys in the Costs of Issuance Fund not needed to pay Costs of Issuance shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, to the Interest Account in the Rent Payment Fund. To the extent at any time an Authorized Officer notifies the Trustee that the moneys in such Fund are not needed for the purposes of paying the Costs of Issuance, such moneys shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, to the Interest Account in the Rent Payment Fund and applied to the payment of Interest on the next Interest Payment Date or, to the extent not needed to pay Interest with respect to the Obligations on the next Interest Payment Date, to the Principal Redemption Account in the Rent Payment Fund.

#### Section 4.02

## **Obligations Proceeds Fund**

(a) Within the Trust Fund there is established with the Trustee a special fund designated the "Obligations Proceeds Fund." If so requested by the Authority in writing, or as provided in a Supplemental Trust Agreement, the Trustee shall establish separate Accounts within the Obligations Proceeds Fund corresponding to transit and commuter projects or Related Transportation Entities or any combination thereof. Moneys on deposit in the Obligations Proceeds Fund shall be used solely for the purpose of paying Capital Costs (other than those paid from the Costs of Issuance Fund), except as otherwise provided under this heading.

The Trustee shall deposit in such Fund moneys as required in connection with the execution of any series of Obligations. The Trustee shall keep the Obligations Proceeds Fund separate and apart from all other funds and moneys held by it. The Trustee shall administer the Obligations Proceeds Fund as provided in the Trust Agreement.

(b) All disbursements from each Account of the Obligations Proceeds Fund shall be made by the Trustee upon receipt of a written request from an Authorized Officer. The Authority shall maintain records relating to the amounts in the Obligations Proceeds Fund that are expended for Capital Costs of each of the Related Transportation Entities in order to determine, from time to time, the respective percentages that each such Related Transportation Entity is responsible for with respect to the payment of Interest Reserve Advances, as provided in the Financing Agreement.

(c) The Trustee shall honor all requests for disbursement delivered to it prior to the occurrence of a Trust Agreement Event of Default under the provisions of the Trust Agreement described under the heading "Events of Default Relating to the Trust Obligations and Exercise of Remedies by the Trustee". So long as the Trustee relies in good faith upon the written requests provided for above, it shall have no liability on account of disbursements from the Obligations Proceeds Fund.

(d) Earnings from investment of moneys in any Account in the Obligations Proceeds Fund not needed for paying Capital Costs shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, to the Interest Account in the Rent Payment Fund. To the extent at any time an Authorized Officer notifies the Trustee that the moneys in such Fund are no longer required for Capital Costs, such moneys shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, deposited to the Principal Redemption Account in such manner as to be applied in accordance therewith.

### Section 4.03

## **Rent Payment Fund**

(a) Within the Trust Fund there is established with the Trustee a special fund designated the "Rent Payment Fund." Within such Fund there are created the Rent Revenue Account, Prepaid Rent Account, Fee Purchase Payments Account, Interest Account and Principal Redemption Account. The Trustee shall keep the Rent Payment Fund separate and apart from all other funds and moneys held by it and shall administer the Rent Payment Fund as provided in the Trust Agreement. The Rent Payment Fund shall be maintained by the Trustee until the later of the date on which all Principal and Interest Components are paid in full or until there are no Obligations Outstanding.

(b) Rent Revenue Account. There is created and established in the Rent Payment Fund an account therein called the "Rent Revenue Account." In accordance with the provisions of the Trust Agreement described in subparagraph (b)(A) under the heading "Trust Fund", all Financing Agreement Payments identified by the Authority as either Regularly Scheduled Rent or Delinquent Rent (not otherwise used to reimburse the Authority for prior Interest Reserve Advances attributed to such Delinquent Rent) shall be

deposited by the Trustee into the Rent Revenue Account in the Rent Payment Fund on or prior to the Monthly Transfer Date in the amounts set forth in the schedule provided by the Authority. In accordance with the provisions of the Trust Agreement described in subparagraph (b)(B) under the heading “Trust Fund”, the Trustee shall, on the first day of each calendar month, transfer from the Prepaid Rent Account to the Rent Revenue Account an amount representing the Monthly Ground Rent due during the month of the transfer which is attributable to such prepaid amounts deposited in the Prepaid Rent Account. Such amounts will be transferred to the Interest Account in accordance with the provisions of the Trust Agreement described in subparagraph (e)(ii)(B) under this heading.

(c) Prepaid Rent Account. There is created and established in the Rent Payment Fund an account therein called the “Prepaid Rent Account.” In accordance with the provisions of the Trust Agreement described in subparagraph (b)(B) under the heading “Trust Fund”, the Trustee shall deposit all Financing Agreement Payments identified by the Authority as Prepaid Rent into the Prepaid Rent Account in the Rent Payment Fund within one Business Day following receipt by the Trustee. Any such amounts deposited into the Prepaid Rent Account shall be subsequently transferred from the Prepaid Rent Account to the Rent Revenue Account on the first day of each calendar month in amounts representing the Monthly Ground Rent due on such date which are attributable to such prepaid amounts deposited in the Prepaid Rent Account.

(d) Fee Purchase Payments Account. There is created and established in the Rent Payment Fund an account therein called the “Fee Purchase Payments Account.” In accordance with the provisions of the Trust Agreement described in subparagraph (b)(C) under the heading “Trust Fund”, the Trustee shall, within one Business Day after receipt thereof, transfer all other Financing Agreement Payments (Fee Purchase Payments, payments by guarantors under any Payment Guaranty intended to reimburse the Authority as provided in the “Guaranteed Additional Amounts Due” column under the “Default Payments Schedule” of the Payment Guaranty relating to an event of default thereunder resulting in the termination of the related Ground Lease, and other amounts not representing Annual Base Rent) into the Fee Purchase Payments Account in the Rent Payment Fund, which shall be transferred to the Trustee for deposit into the Principal Redemption Account to be used to redeem Obligations in accordance with the section of the Trust Agreement described herein under “Redemption–Early Mandatory Redemption”.

(e) Interest Account.

(i) There is created and established in the Rent Payment Fund an account therein called the “Interest Account.” On or prior to the Closing Date for the Series 2016A Obligations, the Authority shall deliver to the Trustee a schedule meeting the requirements of Section 3.1(9) of the Financing Agreement, which shall be attached to the Trust Agreement as Schedule 1, and the Authority shall continue to revise such Schedule 1 as provided in such Section 3.1(9) of the Financing Agreement, and the Trustee may conclusively rely on such Schedule 1 as revised from time to time.

(ii) The Trustee shall, on each Monthly Transfer Date, make such deposits or transfers to the Interest Account in the following order:

- (A) transfer to the Interest Account from the Capitalized Interest Account the amount set forth in Schedule 1 equal to that Monthly Transfer Date’s Capitalized Interest Fund Transfer Amount,
- (B) transfer to the Interest Account from the Rent Revenue Account an amount until the amount in the Interest Account is equal to the Interest Account Requirement, and
- (C) if, after making the transfers set forth in the preceding clauses (A) and (B), the amounts transferred into the Interest Account are not sufficient to bring the amount on deposit in the Interest Account to the Interest Account



Requirement, transfer to the Interest Account from the Interest Reserve Fund the amount required to fund the Interest Account to the Interest Account Requirement.

(iii) The Trustee shall, on each Interest Payment Date, pay out of the Interest Account the amounts required for the payment of the Interest Component due and payable on such Interest Payment Date with respect to the Obligations. Notwithstanding the foregoing, amounts in the Interest Account may be applied to the payment of Interest on Obligations redeemed in accordance with the provisions of the Trust Agreement.

(iv) In the event that on a Monthly Transfer Date immediately preceding an Interest Payment Date due to the insufficiency of moneys in the Interest Account or the Interest Reserve Fund, the amount on deposit in the Interest Account of the Rent Payment Fund is less than the amount required to pay the full amount of the Interest Component due and payable on such Interest Payment Date after the transfer made from the Interest Reserve Fund, the Trustee shall forthwith transfer from available moneys in the Principal Redemption Account in the Rent Payment Fund to the Interest Account within the Rent Payment Fund an amount sufficient to make up such deficiency or all of the moneys in the Principal Redemption Account in the Rent Payment Fund if less than the amount required; provided, however, the Trustee shall not transfer any amounts needed to pay the redemption price of Obligations for which a notice of redemption shall have been given pursuant to the provisions of the Trust Agreement.

(v) Unless needed to satisfy the Rebate Requirement, earnings from investment of the amounts in the Interest Account shall be held in the Interest Account and applied in accordance with the Trust Agreement.

(f) Principal Redemption Account.

(i) There is created and established in the Rent Payment Fund an account called the “Principal Redemption Account.”

(ii) The Trustee shall, on each Monthly Transfer Date make such deposits or transfers to the Principal Redemption Account in the following order:

- (A) all amounts in the Fee Purchase Payments Account;
- (B) all amounts that, by the terms of the Trust Agreement described herein under the heading “Application of Moneys”, are intended to be applied to the redemption of Obligations pursuant to the Trust Agreement; and
- (C) after transferring amounts in the Rent Revenue Account to the Interest Account pursuant to the provisions of the Trust Agreement described herein in paragraph (e)(ii)(B) under the heading “Rent Payment Fund”, all remaining amounts in the Rent Revenue Account which were not needed to fund the Interest Account to the then current Interest Account Requirement.

(iii) Concurrently with making the transfers pursuant to paragraph (ii) above, the Trustee shall re-calculate the Principal Amount related to Obligations that can be redeemed on the next Eligible Early Mandatory Redemption Date (taking into consideration the then Applicable Redemption Price and accrued interest) from amounts transferred or deposited in the Principal Redemption Account and then re-calculate the Interest Account Requirement taking into account such upcoming redemptions. Any amounts in the Interest Account in excess of the re-calculated Interest Account Requirement shall be transferred to the Principal Redemption Account.

(iv) Upon making all required transfers to the Principal Redemption Account on or prior to each Monthly Transfer Date, the Trustee shall immediately determine if any Obligations and related Principal Components will be subject to Early Mandatory Redemption on the next Eligible Early Mandatory Redemption Date, taking into account amounts transferred to the Principal Redemption Account and the Early Mandatory Redemption provisions set forth in the provisions of the Trust Agreement. If any Obligations and related Principal Components are subject to Early Mandatory Redemption, the Trustee will notify the Authority of such upcoming redemption and take all actions required to effectuate such redemption, including calculating the Principal Amounts and related Principal Components to be redeemed, the Applicable Redemption Price(s) and sending all required Redemption Notices no later than two Business Days following the Monthly Transfer Date.

(v) Unless needed to satisfy the Rebate Requirement, earnings from investment of the amounts held in the Principal Redemption Account shall be held in the Principal Redemption Account and applied in accordance with the Trust Agreement.

(g) Earnings from investment of moneys in the Rent Revenue Account, Prepaid Rent Account or the Fee Purchase Payments Account in the Rent Payment Fund shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, shall be applied in accordance with the provisions of such Account in which it was earned.

#### Section 4.04

### **Capitalized Interest Fund**

(a) Within the Trust Fund there is established with the Trustee a special fund designated the "Capitalized Interest Fund." The Trustee shall deposit in such Capitalized Interest Fund other moneys as required pursuant to written directions of an Authorized Officer in connection with the execution of any series of Obligations. The Trustee shall keep the Capitalized Interest Fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided in the Trust Agreement. Such fund shall be maintained by the Trustee until there are no Obligations Outstanding.

(b) The initial amounts on deposit in the Capitalized Interest Fund and any amounts deposited therein from the proceeds of any subsequent Series of Obligations shall be used to pay the Interest Components related to the Obligations in accordance with Schedule 1 to the Trust Agreement. The Trustee is authorized and directed to transfer monthly from the Capitalized Interest Fund to the Interest Account in the Rent Payment Fund an amount equal to the Capitalized Interest Fund Transfer Amount set forth in Schedule 1.

(c) Unless needed to satisfy the Rebate Requirement, earnings from investment of the amounts held in the Capitalized Interest Fund shall be held in the Capitalized Interest Fund and applied in accordance with the Trust Agreement.

#### Section 4.05

### **Interest Reserve Fund**

(a) Within the Trust Fund there is established with the Trustee a special fund designated the "Interest Reserve Fund." The Trustee agrees to receive and deposit from the proceeds of the Series 2016A Obligations an amount equal to the Interest Reserve Requirement, in the Interest Reserve Fund on the Closing Date with respect to the Series 2016A Obligations. The Trustee shall deposit in such Interest Reserve Fund other moneys as required pursuant to written directions of an Authorized Officer in connection with the execution of any series of Refunding Obligations. The Trustee shall deposit all Interest Reserve Advances to the credit of the Interest Reserve Fund upon receipt.

The Trustee shall keep the Interest Reserve Fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided in the Trust Agreement. Such fund shall be maintained by the Trustee until the Principal and Interest Components are paid in full and there are no Obligations Outstanding.

(b) If, on any Monthly Transfer Date, after taking into account all other deposits to the Interest Account, the amount on deposit in the Interest Account is less than the Interest Account Requirement, the Trustee shall forthwith transfer from the Interest Reserve Fund to the Interest Account pursuant to the provisions of the Trust Agreement described herein in paragraph (e)(iv) under the heading "Rent Payment Fund" an amount sufficient to make up such deficiency or all of the moneys in the Interest Reserve Fund if less than the amount required. In the event of any such transfer from the Interest Reserve Fund, the Trustee shall provide written notice to the Authority of the amount and date of such transfer. The Trustee shall deposit into the Interest Reserve Fund any Interest Reserve Advances made by the Authority pursuant to the Financing Agreement to restore the Interest Reserve Fund to the Interest Reserve Requirement.

(c) Moneys in the Interest Reserve Fund shall be used solely to make up deficiencies in the Interest Account in the Rent Payment Fund. Except in connection with the execution and delivery of Refunding Obligations wherein a reduction in the Interest Reserve Requirement shall be governed by the Supplemental Trust Agreement and Supplemental Financing Agreement relating thereto, if there is any amount in the Interest Reserve Fund in excess of the Interest Reserve Requirement, such amount shall be transferred to the Principal Redemption Account in the Rent Payment Fund and applied in accordance with the provisions of the Trust Agreement.

(d) Unless needed to satisfy the Rebate Requirement, earnings from investment of moneys in the Interest Reserve Fund shall be credited to the Interest Reserve Fund to the extent the amount on deposit in the Interest Reserve Fund is less than the Interest Reserve Requirement, and then to the Interest Account in the Rent Payment Fund.

#### Section 4.06

#### **Rebate Fund**

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

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

#### Section 4.07

## **Deposit and Investment of Moneys in Funds**

(a) The moneys and investments held by the Trustee under the Trust Agreement are irrevocably held in trust for the purposes therein specified, and such moneys, and any income or interest earned thereon, shall be expended and invested only as provided in the Trust Agreement and the Tax Certificate, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of (i) the Authority, (ii) the Trustee (other than as specifically set forth in Section 5.05 or 6.03 of the Trust Agreement after a Trust Agreement Event of Default or a Ground Lease Payment Event of Default) or (iii) any Owner of the Obligations.

(b) All moneys held by the Trustee in any of the Funds or Accounts established pursuant to the Trust Agreement shall be invested in Permitted Investments as directed in writing (which may be standing investment direction) by an Authorized Officer. Any moneys held by the Trustee in the Capitalized Interest Fund, Interest Reserve Fund and the Rent Payment Fund and so invested shall mature in sufficient time to make the required payments on the applicable Interest Payment Dates.

(c) The Trustee shall make such investment in any of the Funds or Accounts established pursuant to or in accordance with the Trust Agreement in accordance with written instructions received from an Authorized Officer. Unless otherwise directed by an Authorized Officer, interest earned by the investment of moneys in the Interest Reserve Fund shall be retained in such Account to the extent needed to satisfy the Interest Reserve Requirement and, if not so needed, shall be applied as provided in the provisions of the Trust Agreement described under the heading "Interest Reserve Fund".

(d) Unless otherwise provided in the Trust Agreement, interest earned by the investment of moneys in any Fund or Account shall be retained in such Fund or Account to the extent needed therein, and if not so needed, shall be transferred to the Interest Account in the Rent Payment Fund.

(e) The Trustee, at the direction of an Authorized Officer, shall sell any Permitted Investments held in any Fund or Account to the extent required for payments from such Fund or Account. The proceeds of such sales, and of all payments at maturity or redemption of such investments, shall be held in the applicable Fund or Account to the extent required to meet the requirements of such Fund or Account. In computing the amount of such Funds and Accounts, investments shall be valued at par, or if purchased at other than par, shall be valued at Amortized Value. Accrued interest received upon the sale of any Permitted Investment to the extent such amount exceeds any accrued interest paid on the purchase of such Permitted Investment shall be treated as interest earned on such Permitted Investment for purposes of the provisions of the Trust Agreement described under this heading.

(f) All moneys held by the Trustee under the provisions of the Trust Agreement shall constitute trust funds and the Trustee may deposit such moneys with itself or one or more other depositories in trust for said parties. All moneys deposited under the provisions of the Trust Agreement with the Trustee or any depository shall be held in trust and applied only in accordance with the provisions of the Trust Agreement. Each depository shall be a bank or trust company organized under the laws of any state of the United States or a national banking association having capital stock, surplus and undivided earnings of \$50,000,000 or more and willing and able to accept the office on reasonable and customary terms and authorized by law to act in accordance with the provisions of the Trust Agreement.

(g) In making any investment in any Permitted Investments with moneys in any Fund or Account established under the Trust Agreement, the Trustee, upon the direction of an Authorized Officer, may combine such money with moneys in any other Fund or Account held by it, but solely for purposes of making such investment in such Permitted Investments.

(i) The Trustee shall not be liable or responsible for any loss, fee, tax or other charge resulting from any investment made or disposed of in the manner provided in the provisions of the Trust Agreement described under this heading.

## **Performance of Financing Agreement, Fee Mortgages and Ground Leases**

The Authority covenants and agrees, on behalf of itself and the other Related Transportation Entities, with the Owners of the Obligations to perform all obligations and duties imposed on them, as applicable, under the Trust Agreement and under the Financing Agreement, the Irrevocable Dedicated Deposit Account Instructions, the Fee Mortgages and the Ground Leases.

### Section 5.01

#### **Enforcement of Ground Leases, Completion Guaranties and Payment Guaranties**

(a) The Authority covenants and agrees that it shall use commercially reasonable efforts to timely pursue any and all actions to enforce its rights to collect (or to direct the payment to the Depository of) all amounts due under the Ground Leases, the Completion Guaranties and the Payment Guaranties.

(b) The Authority covenants and agrees that it shall not take any action and will use its best efforts not to permit any action to be taken by others under the Ground Leases, the Completion Guaranties, the Payment Guaranties and the Fee Mortgages that would result in a Prohibited Modification

(c) The Authority covenants and agrees that it will not enter into any amendment or modification of the Ground Leases, the Completion Guaranties or the Payment Guaranties that would result in a Prohibited Modification or release any Person from any of such Person's covenants or obligations or impair the validity or effectiveness of such Ground Leases, the Completion Guaranties or the Payment Guaranties or any amendment, hypothecation, subordination, termination or discharge of such Ground Leases, Completion Guaranties or Payment Guaranties in a manner that would have the same effect as a Prohibited Modification.

(d) The Authority covenants and agrees that it shall not take any action and will use its best efforts not to permit any action to be taken by others that would reduce the amount or modify the required timing of Monthly Ground Rent payments and Fee Purchase Payments to be made under the Ground Leases and the Payment Guaranties or result in a violation of the tax covenants set forth in the Trust Agreement.

(e) Subject to the terms of the Ground Lease and the Financing Documents, the Authority agrees to notify the Trustee promptly after becoming aware of any Ground Lease Payment Event of Default and to notify the Trustee of any other events or circumstances necessary for the Trustee to enforce any of the rights and remedies of the Owners under the Ground Leases and/or the Fee Mortgages.

### Section 5.02

#### **Notice of Non-Payment**

Upon the occurrence of a Ground Lease Payment Event of Default, the Authority shall, not later than five (5) days following the Original Ground Lease Default Date give telephonic notice, promptly confirmed in writing, of the delinquency and of the amount thereof to the Trustee. In the event of delinquency in the payment of Interest Reserve Advances or any other amount payable by the Authority to the Trustee pursuant to terms of the Financing Agreement, the Trustee shall, not later than five (5) days following the date upon which such delinquent Interest Reserve Advances or any other amount payable by the Authority to the Trustee pursuant to the Financing Agreement was due, give telephonic notice, promptly confirmed in writing, of the delinquency and of the amount thereof to the Authority.

### Section 5.03

## **Events of Default Relating to the Trust Obligations and Exercise of Remedies by the Trustee**

(a) The following shall be Events of Default under the Trust Agreement:

(i) The failure in the payment of any Principal and Interest Component related to any Obligations when the same shall become due and payable, whether at the stated Maturity Date or upon proceedings for redemption or otherwise, or Interest accrued thereon to the date of redemption after notice of redemption therefor or otherwise; and

(ii) There shall occur a failure by the Authority to observe, or a refusal to comply with, the terms of the Trust Agreement, the Financing Agreement or the Obligations, provided, however, except in the case of the failure of the Authority to make timely payments of Interest Reserve Advances as provided in Section 4.1(1) of the Financing Agreement or the failure of the Authority to make Direct Cost Rent Credit Payments within ten Business Days of their due date as provided in Section 3.1(7) of the Financing Agreement, which shall be an immediate Trust Agreement Event of Default under the Trust Agreement, that such failure or refusal shall have continued for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Authority by the Trustee, unless the Trustee shall agree in writing to an extension of such time prior to its expiration, and provided further, that if the failure stated in the notice cannot be remedied within the applicable period but can be remedied, the Trustee shall not unreasonably withhold its consent to an extension of such time if corrective action has been instituted by the Authority within such period and is being diligently pursued.

(b) Upon the occurrence of any Trust Agreement Event of Default under the Trust Agreement, then the Trustee, upon being indemnified as provided in Article IV of the Trust Agreement, shall (1) bring action upon the Obligations or under the Trust Agreement or the Financing Agreement against the Authority to require compliance with the terms of the Trust Agreement and the Financing Agreement, (2) by action or suit, require the Authority to account for Financing Agreement Payments as if it were the trustee of an express trust for the Owners of the Obligations, and (3) by action or suit, enjoin any acts or things which may be unlawful, or in violation of the rights of the Owners of the Obligations. Amounts recovered from the Authority representing defaulted Interest Reserve Advances shall be transferred first to the Interest Account until the amount therein is equal to the Interest Account Requirement, second to the Interest Reserve Fund until the amount therein is equal to the Interest Reserve Fund Requirement, and third to the Principal Redemption Account to redeem Obligations in accordance with the provisions of the Trust Agreement.

(c) No remedy conferred on the Trustee under paragraph (b) above is intended to be exclusive of any other remedy under the Trust Agreement but each and every remedy given to the Trustee shall be in addition to any other remedy given to the Trustee under the Ground Leases, the Fee Mortgages, the Financing Agreement and under the Trust Agreement.

(d) No delay or omission to exercise any right or power accruing upon any default or Trust Agreement Event of Default shall impair any such right or power or shall be construed to be a waiver of such default or Trust Agreement Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

### Section 5.04

## **Exercise of Remedies by the Authority or the Trustee Upon the Occurrence of a Ground Lease Payment Event of Default**

(a) Upon the occurrence of any Ground Lease Payment Event of Default, the Authority shall, take any action under the defaulted Ground Lease as may be necessary or convenient to remedy the Ground Lease Payment Event of Default consistent with its obligations under Section 5.02(a) of the Trust Agreement.

The Authority shall, during such period, continue to be obligated to make Interest Reserve Advances in accordance with Section 4.1 of the Financing Agreement and Section 4.06 of the Trust Agreement. The Authority shall, within a reasonable period of time following any Original Ground Lease Default Date, but in no event later than twelve (12) months following such date, notify the Trustee in writing either that (i) it is exercising its Cure Rights with respect to the Ground Lease Payment Event of Default, or (ii) it has decided not to exercise its Cure Rights with respect to the Ground Lease Payment Event of Default. If at any time after the Authority exercises its Cure Rights it determines not to continue, the Authority shall promptly notify the Trustee of such determination. In the event the Authority determines not to continue to exercise its Cure Rights, the Authority shall continue to be obligated to make Interest Reserve Advances in accordance with Section 4.1 of the Financing Agreement and Section 4.06 of the Trust Agreement. At no time may the Authority sell the parcel that is the subject of the defaulted Ground Lease at a price that is less than the sum of the defaulted Monthly Ground Rent plus the applicable Fee Purchase Payment due and payable under the applicable Ground Lease.

(b) In the event that (i) the Authority has notified the Trustee as provided in the provisions of the Trust Agreement described under paragraph (a) of this heading that the Authority is not exercising its Cure Rights, (ii) the Authority has not notified the Trustee within twelve (12) months from the Original Ground Lease Default Date that the Authority is exercising its Cure Rights, or (iii) the Authority does not continue to exercise its Cure Rights, the Trustee shall exercise rights and remedies under the applicable Ground Lease and Fee Mortgage, including causing a Real Estate Asset Management Consultant to be retained as provided in the provisions of the Trust Agreement described under paragraph (c) of this heading. It is the intention of this provision that, if at any time the Trustee obtains actual knowledge that the Authority is no longer pursuing remedies against a Ground Lease Tenant following a Ground Lease Payment Event of Default, the Trustee shall be authorized to pursue remedies under the Ground Lease and the related Fee Mortgage as provided in the Trust Agreement.

(c) Upon the occurrence of any event described in the provisions of the Trust Agreement described under paragraph (b) of this heading, the Trustee shall cause a Real Estate Asset Management Consultant to be retained for the purpose of servicing and administering the defaulting Ground Leases for which it is responsible and exercising remedies under the defaulted Ground Leases and Fee Mortgages with the same care, skill, prudence and diligence with which the Real Estate Asset Management Consultant performs its general mortgage servicing and property management activities on behalf of third parties or on behalf of itself, whichever is higher, and giving due consideration to the customary and usual standards of practice of prudent institutional commercial mortgage lenders servicing their own loans and with a view to the timely collection of all scheduled payments of Monthly Ground Rent and, if a Ground Lease Payment Event of Default continues and if, in the good faith and reasonable judgment of the Real Estate Asset Management Consultant, no satisfactory arrangements can be made for the collection of the delinquent payments, the maximization of the recovery on the defaulting Ground Lease for the benefit of the Owners. The Trustee shall not be obligated to pay or advance the fees and expenses of the Real Estate Consultant out of its own funds and shall have no responsibility or liability for any action or omission on the part of such Consultant. The Trustee will, subject to receipt of indemnification from the Authority satisfactory to the Trustee, follow the directions of the Real Estate Asset Management Consultant. The fees and expenses of the Real Estate Asset Management Consultant and the Trustee may be recovered from amounts recovered under the Fee Mortgage and the defaulted Ground Lease.

(d) No remedy conferred on the Authority or the Trustee under this heading is intended to be exclusive of any other paid under the Trust Agreement but each and every remedy given to the Authority and the Trustee shall be in addition to any other remedy given to the Authority and the Trustee under the Ground Leases, the Payment Guaranties, the Fee Mortgages, the Financing Agreement and under the Trust Agreement.

(e) No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of such default or event of

default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

#### Section 5.05

### **Application of Moneys**

(a) All moneys received by the Authority, the Trustee and the Real Estate Asset Management Consultant pursuant to any right given or action taken under the provisions of the Trust Agreement described above under the heading “Exercise of Remedies by the Authority or the Trustee Upon the Occurrence of a Lease Payment Event of Default” shall, after payment of any outstanding fees and expenses of the Trustee and the Real Estate Asset Management Consultant, be applied as follows:

(i) During the period when the Authority pursues remedies in accordance with the provisions of the Trust Agreement described under subparagraph (a) of the heading “Exercise of Remedies by the Authority or the Trustee Upon the Occurrence of a Ground Lease Payment Event of Default” and the Ground Lease remains in effect following the exercise of such remedies, an amount recovered by the Authority equal to the amount of Monthly Ground Rent that was in default from the Original Ground Lease Default Date to the date of application of the recovery moneys shall be transferred to the Trustee. The Trustee shall deposit from such moneys first to the Interest Account an amount equal to the difference between (A) the amount that should have been deposited to the Interest Account from the defaulted Monthly Ground Rent and (B) the amount of Interest Reserve Advances made by the Authority with respect to such defaulted Interest, and second to the Principal Redemption Account an amount equal to the amount that would have been available to redeem Principal Components if the Ground Lease Tenant had not been in default during such period. Provided the amounts then on deposit in the Interest Account are funded to their then required requirements, in the event the Authority made Interest Reserve Advances during such period of default, any remaining moneys recovered shall be used to reimburse the Authority for such Interest Reserve Advances. Any excess shall be transferred to the Trustee for deposit into the Principal Redemption Account to be used to redeem Obligations in accordance with the provisions of the Trust Agreement.

(ii) During the period when the Authority pursues remedies in accordance with the provisions of the Trust Agreement described in subparagraph (a) of the heading “Exercise of Remedies by the Authority or the Trustee Upon the Occurrence of a Ground Lease Payment Event of Default” herein and the parcel that is the subject of the Ground Lease is sold or otherwise disposed of for a price that is at least equal to the sum of the defaulted Monthly Ground Rent plus the applicable Fee Purchase Payment, such amount shall be transferred to the Trustee. From the amounts recovered as defaulted Monthly Ground Rent, the Trustee shall deposit first to the Interest Account an amount equal to the difference between (A) the amount that should have been deposited to the Interest Account from the defaulted Monthly Ground Rent and (B) the amount of Interest Reserve Advances made by the Authority with respect to such defaulted Interest, and second to the Principal Redemption Account an amount equal to the amount that would have been available to redeem Principal Components if the Ground Lease Tenant had not been in default during such period. In the event the Authority made Interest Reserve Advances during such period of default, any remaining moneys recovered as defaulted Monthly Ground Rent, but not including any Fee Purchase Payments, shall be used to reimburse the Authority for such Interest Reserve Advances. Any excess shall be transferred to the Trustee for deposit into the Principal Redemption Account to be used to redeem Obligations in accordance with in accordance with the provisions of the Trust Agreement. All Fee Purchase Payments received shall be transferred to the Trustee for deposit into the Principal Redemption Account to be used to redeem Obligations in accordance with the provisions of the Trust Agreement.

(iii) Upon the exercise of any remedies by the Trustee in accordance with the provisions of the Trust Agreement described under paragraphs (b) and (c) of the heading “Exercise of Remedies



by the Authority or the Trustee Upon the Occurrence of a Ground Lease Payment Event of Default”, the moneys recovered by the Trustee shall be applied first to the payment of costs and expenses of the Trustee and the Real Estate Asset Management Consultant in prosecuting such remedies to the extent not recovered under the defaulted Ground Lease or otherwise, second, to reimburse the Authority for any Interest Reserve Advances made by the Authority during any default period, and third, transferred to the Trustee for deposit into the Principal Redemption Account to be used to redeem Obligations in accordance with the provisions of the Trust Agreement.

(b) Whenever moneys are to be applied pursuant to the provisions of this heading, such moneys shall be applied at such times and from time to time as the Authority or the Trustee, as the case may be, shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. The setting aside of such moneys in trust for the proper purpose shall constitute proper application by the Authority or the Trustee, as the case may be, and the Authority or the Trustee, as the case may be, shall incur no liability whatsoever to the Authority (in the case of the Trustee) or to the Owner of any Obligation (in the case of the Authority and the Trustee) or to any other person for any delay in applying any such moneys so long as the Authority or the Trustee, as the case may be, acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of the Trust Agreement as may be applicable at the time of application by the Authority or the Trustee, as the case may be. Whenever the Authority or the Trustee, as the case may be, shall apply such funds, it shall fix the date upon which such application is to be made and upon such date Interest with respect to the amounts of Principal to be paid on such dates, and for which moneys are available, shall cease to accrue. The Authority or the Trustee, as the case may be, shall give such notice as it may deem appropriate of the deposit with it of any moneys and of the fixing of such date, and shall not be required to make payment to the Owner of any unpaid Trust Obligation until such Trust Obligation shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

#### Section 5.06

### **Initiation of Remedies**

All rights of action under the Trust Agreement may be enforced by the Trustee without the possession of any of the Obligations or the production thereof in any trial or other proceeding relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants the Owners of any Obligation, and any recovery of judgment shall be for the ratable benefit of the Owners of the Obligations then Outstanding.

#### Section 5.07

### **Rights and Remedies of Owners**

No Owner of any Obligation shall have any right to institute any suit, action or proceeding for the enforcement of the Trust Agreement or the Fee Mortgages, for the execution of any trust of the Trust Agreement or any other remedy under the Trust Agreement or under the Fee Mortgages. Nothing in the Trust Agreement shall, however, affect or impair the right of any Owner to enforce the payment of the Principal and Interest with respect to any Obligation and the Financing Agreement at and after the maturity thereof, or the obligation of the Trustee to pay the Principal and Interest with respect to each of the Obligations executed and delivered under the Trust Agreement to the respective Owners thereof at the time and place, and from the source and in the manner, provided in the Trust Agreement.

#### Section 5.08

## **Termination of Proceedings**

In case the Trustee shall have proceeded to enforce any right under the Trust Agreement and/or the Fee Mortgages and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority and the Trustee shall be restored to their former positions and rights under the Trust Agreement and under the Fee Mortgages, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 5.09

## **Waivers of Events of Default**

The Trustee shall waive any Trust Agreement Event of Default referred to in the provisions of the Trust Agreement described under subparagraph (a)(ii) of the heading “Events of Default Relating to the Trust Obligations and Exercise of Remedies by the Trustee” other than a failure to make Interest Reserve Advances and its consequence upon the written request of the Owners of a majority in aggregate Principal Amount of all the Obligations then Outstanding.

Section 5.10

## **No Obligation with Respect to Performance By Trustee**

The Authority shall not have any obligation or liability to any person with respect to the performance by the Trustee of any duty imposed upon it under the Trust Agreement.

Section 5.11

## **No Trustee Liability to Owners for Payment**

Notwithstanding any other provision of the Trust Agreement, the Trustee shall not have any obligation or liability to the Owners of the Obligations with respect to the payment of Financing Agreement Payments when due, or with respect to the performance by the Authority of any other agreement made by it in the Financing Agreement or the Trust Agreement, except to administer, for the benefit of the Owners, the various Funds and Accounts established in the Trust Agreement in the manner therein provided.

Section 5.12

## **No Responsibility for Sufficiency**

The Trustee shall not be responsible for the sufficiency or validity (except as to the Trustee’s obligations) of the Financing Agreement, the Fee Mortgages, the Ground Leases or the value of or title to or license or other property right in the Mortgaged Property.

Section 5.13

## **Tax Covenant**

1. The Authority covenants and agrees that it will maintain the exclusion from gross income of the Interest Components received or accrued by Owners of Obligations pursuant to Section 103(a) of the 1986 Code, as defined below. In furtherance thereof, the Authority will comply with the Tax Certificate (including any supplements thereto or amendments thereof). The Authority further covenants that it will pay or cause to be paid to the United States Treasury Department the amounts, if any, necessary to satisfy the rebate requirements of Section 148(f) of the 1986 Code.

2. As used in this covenant, 1986 Code means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

3. Notwithstanding any other provision of the Trust Agreement to the contrary, upon the Authority's failure to observe, or refusal to comply with, the above covenant, the Owners of the Obligations, or the Trustee acting on their behalf, shall be entitled to the rights and remedies provided to Owners of the Obligations or the Trustee under the provisions of the Trust Agreement described herein in subparagraph (b) of the heading "Events of Default Relating to the Trust Obligations and Exercise of Remedies by the Trustee".

4. Notwithstanding the foregoing, at the written direction of an Authorized Officer, the Trustee may issue all or any portion of the Obligations in one or more series as taxable Obligations.

#### Section 5.14

### **Trustee; Duties, Removal and Resignation**

1. By executing and delivering the Trust Agreement, the Trustee accepts the duties and obligations of the Trustee provided in the Trust Agreement, but only upon the terms and conditions set forth in the Trust Agreement.

2. The Authority may, or the Owners of a majority in aggregate Principal Amount of all Obligations Outstanding may, with the written consent of the Authority, remove the Trustee initially a party to the Trust Agreement, and any successor thereto, upon not less than 30 days' prior written notice to the Trustee and to the Owners by mailing, first class postage prepaid, a copy of such notice to the Owners, and may appoint a successor trustee, but any such successor shall (a) be a bank or trust company organized under the laws of New York State or, if organized under the laws of another state, authorized to do business in the State of New York, or a national banking association; (b) have a substantial corporate trust operation; and (c) meet all thresholds for being well capitalized or adequately capitalized under the prompt corrective action framework applicable to insured depository institutions under Section 38 of the Federal Deposit Insurance Act as in effect from time to time and further, must meet a minimum Common Equity Tier 1 Capital of at least \$10 billion. All successor trustees must agree to and accept the terms and conditions of the Trust Agreement.

3. The Trustee may at any time resign by giving not less than 60 days' prior written notice to the Authority and to the Owners of Obligations by mailing, first class postage prepaid, a copy of such notice to the Owners. Upon receiving such notice of resignation, the Authority shall have the right to appoint promptly a successor trustee by an instrument in writing, and the Authority shall use its best efforts to appoint a qualified successor trustee promptly. Resignation or removal of the Trustee and appointment of a successor trustee shall become effective only upon acceptance of appointment by the successor trustee. If a successor trustee shall not have been appointed within the date designated on such notice of resignation or removal, the resigning Trustee, at the expense of the Authority, or the Authority may apply to any court of competent jurisdiction to appoint a successor Trustee meeting the qualifications specified under this heading to act until such time, if any, as a successor shall have been appointed above as provided. Any successor trustee so appointed by such court shall immediately and without further act be superseded by any successor trustee appointed as above provided within one year from the date of the appointment by such court. Each successor trustee appointed upon the resignation of the Trustee or another successor trustee shall satisfy the qualifications required for a successor trustee appointed on the removal of the Trustee or a successor trustee. Each successor trustee shall be authorized to exercise the trust powers granted to the Trustee in the Trust Agreement. The resigning Trustee shall have no responsibility or liability for any act or omission of any successor trustee.

#### Section 6.02

## **Amendment**

1. The Authority and the Trustee, by execution and delivery of a Supplemental Trust Agreement, may, without the consent of, or notice to, any of the Owners, amend the Trust Agreement for any one or more of the following purposes:

- (a) To cure any ambiguity, inconsistency or formal defect or omission in the Trust Agreement;
- (b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or any of them;
- (c) To subject to the lien and pledge of the Trust Agreement additional revenues or security;
- (d) To authorize and provide for the execution and delivery of Refunding Obligations and the terms of such Refunding Obligations, including as necessary in the determination of an Authorized Officer to provide for issuance of Refunding Obligations, and with such other changes, including provision for reserve fund requirements, subject to the conditions set forth in subparagraph (b) of the heading "Preparation of Obligations";
- (e) To add to the covenants and agreements of the Trustee contained in the Trust Agreement other covenants and agreements thereafter to be observed for the protection of the Owners;
- (f) To add to the Trust Agreement any provisions relating to the application of interest earnings in any Fund and Account under the Trust Agreement required by law to preserve the exclusion from gross income for Federal income tax purposes of Interest received with respect to the Obligations then Outstanding or to be issued or the exemption of Interest received with respect to such Obligations from State income taxation;
- (g) To modify, amend or supplement the Trust Agreement in any manner not already provided for in or pursuant to the Supplemental Trust Agreement authorizing the related series of Obligations in order to provide for a Reserve Fund Credit Facility, municipal bond insurance policy or other similar arrangement with respect to any series of Obligations, under the Trust Agreement, so long as an Authorized Officer determines that such Supplemental Trust Agreement does not materially adversely affect the right, security and interest of the Owners of Outstanding Obligations;
- (h) To insert such provisions clarifying matters or questions arising under the Trust Agreement as are necessary or desirable and are not contrary to or inconsistent with the Trust Agreement as theretofore in effect;
- (i) To modify or amend the Trust Agreement in order to accommodate a modification or amendment to the Financing Agreement or the Ground Leases which is not a Prohibited Modification; or
- (j) To make any other modification or amendment of the Trust Agreement which the Trustee shall in its sole discretion determine will not have a material adverse effect on the interests of Owners of the Obligations, which determination shall be based upon an opinion of counsel delivered to the Trustee and the Authority.

2. Exclusive of the aforementioned types of amendments and subject to the terms and provisions contained in this heading, and not otherwise, the Owners of not less than a majority in aggregate Principal Amount of the Obligations then Outstanding shall have the right, from time to time, anything contained in the Trust Agreement to the contrary notwithstanding, to consent to and approve the execution by the Authority and the Trustee of such other amendment, as shall be deemed necessary and desirable by the Authority or the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the

terms or provisions contained in the Trust Agreement or in any amendment thereto, provided, however, that nothing described in this heading shall permit, or be construed as permitting: (i) an extension of the maturity of the Principal or the Interest with respect to any Obligation executed and delivered under the Trust Agreement, or a reduction in the Principal with respect to any Obligation or the rate of Interest with respect thereto, without the consent of each Owner so affected; or (ii) a privilege or priority of any Obligation over any other Obligation, or a reduction in the aggregate Principal with respect to the Obligations required for consent to such amendment, without the consent of the Owners of all of the Obligations then Outstanding.

3. The Financing Agreement and the Fee Mortgages may be modified or amended by the parties thereto without the consent of, or notice to, any of the Owners or the Trustee, for any of the purposes for which the Trust Agreement may be so amended pursuant to paragraph (a) through (i) above; provided, however, that no amendment to the Financing Agreement or the Fee Mortgages shall be consented to if the amendment would result: (i) in a Prohibited Modification; (ii) in a change in the terms of redemption or maturity of the Principal of any Outstanding Obligation or of any installment of Interest thereon or a reduction in the Principal Amount or the redemption price or in the rate of Interest thereon unless the Owners of all of the Obligations affected so consent; or (iii) in a privilege or priority of any Obligation over any other Obligation, or a reduction in the aggregate Principal Amount of the Obligations required for consent to such amendment, unless the Owners of all of the Obligations then Outstanding so consent. The Ground Leases may be modified or amended by the parties thereto without the consent of, or notice to, any of the Owners or the Trustee for any purpose other than a Prohibited Modification. Neither of the Trust Agreement nor the Financing Agreement shall be modified, amended, altered or changed in any manner that would cause, with respect to Obligations that are intended to be tax-exempt, the inclusion of the Interest portion of the Principal and Interest Components received or accrued by Owners in the gross income of the Owners for Federal income tax purposes. The Trustee shall receive an opinion of counsel, as conclusive evidence as to whether particular Obligations would be so affected by any such modification or amendment of the Trust Agreement, the Financing Agreement or the Fee Mortgage.

4. If, at any time, the Trustee shall propose an amendment for any of the purposes of this heading requiring the approval of the Owners, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, notify the Owners of all Outstanding Obligations of the proposed amendment. Notice of such proposed amendment shall be given not less than thirty (30) days prior to the effective date of the amendment by mailing, first class postage prepaid, a copy thereof, to the Owners. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies are on file at the designated office of the Trustee for inspection by all Owners. If the requisite number of Owners of Outstanding Obligations shall have consented to and approved the execution and delivery of the Supplemental Trust Agreement effecting such amendment as therein provided, no Owner of any Obligation shall have any right to object to any of the terms and provisions contained in the Trust Agreement, or the operation thereof, or in any manner to question the propriety of the execution and delivery thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Trust Agreement, the Trust Agreement, shall be and is deemed to be modified and amended in accordance with the terms of such Supplemental Trust Agreement. The Trustee may, in its discretion, determine whether or not in accordance with the foregoing powers of amendment any particular Obligation would be affected by any modification or amendment of the Trust Agreement and any such determination shall be binding and conclusive on the Authority and all the Owners. The Trustee shall receive an opinion of counsel, as conclusive evidence as to whether particular Obligations would be so affected by any such modification or amendment of the Trust Agreement. Notwithstanding anything in this heading or the Trust Agreement to the contrary, the consent of the Owners of any series of Refunding Obligations to be executed and delivered under the Trust Agreement shall be deemed given if the underwriters or initial purchasers for resale consent in writing to any modification or amendment effected thereby and such proposed modification or amendment is disclosed in the official statement or other offering document pursuant to which such series of Refunding Obligations is offered and sold to the public.

Section 7.01

## **Defeasance**

If and when the whole amount of the Principal and Interest Components due and payable with respect to all Outstanding Obligations or any series or maturity within a series of Obligations and the related Principal Components shall be paid, or provision shall have been made for the payment of the same, by the deposit in the Principal Redemption Account of the Rent Payment Fund or an escrow fund or account of cash or securities issued or guaranteed by the United States Government in an amount sufficient (together with interest earnings thereon), in the opinion of a verification agent selected by the Authority, to provide for the redemption of all such Principal and Interest Components on the first Optional Redemption Date, all amounts required to be paid to the United States Government pursuant to Section 148(f) of the 1986 Code with respect to such Obligations shall have been paid or provided for and all administrative expenses shall have been paid or provided for with respect to such Obligations, then, and in that case, all obligations of the Trustee with respect to such Obligations and of the Authority with respect to the Financing Agreement shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid to such Owners of Obligations all sums due with respect thereto from amounts provided therefor, and the obligation of the Authority to make payments to the United States Government pursuant to the provisions of the Trust Agreement described under the heading "Tax Covenant". Any and all such cash and securities so deposited shall be held by the Trustee and shall be subject to an irrevocable trust to be applied to the payment of the Principal and Interest Components with respect to the Obligations. Except in the event of a refunding of all Outstanding Obligations, if all Outstanding Obligations are paid or provided for in accordance with this heading, the Trustee shall assign and transfer to the Authority all property (in excess of the amounts required for the foregoing) then held by the Trustee (including the Financing Agreement, the Fee Mortgages and all payments thereunder and all balances in any Fund or Account created under the Trust Agreement) and shall execute such documents as may be reasonably required by an Authorized Officer. In the event of a refunding of all Obligations, all such property then held by the Trustee shall be assigned and transferred, as directed in writing by an Authorized Officer, to the Trustee for the refunding Trust Obligations. Notwithstanding any other provisions of the Trust Agreement to the contrary, so long as necessary in order to maintain the exclusion from gross income for Federal income tax purposes of the Interest Components, the tax covenants contained in the heading "Tax Covenant" shall survive the payment of the Series 2016A Obligations and the Principal Components, including any payment or defeasance thereof pursuant to this heading.

### Section 7.02

## **Records**

Prior to the payment in full of the Principal and Interest Components with respect to the Obligations and for a period of six (6) years thereafter, the Trustee shall keep complete and accurate records of all moneys received and disbursed under the Trust Agreement, which records shall be available for inspection by the Authority and the Owners, or the agent of any of them, at any time during regular business hours upon compliance with the reasonable requirements of the Trustee.

### Section 7.03

## **Moneys Held for Particular Obligations**

The amounts held by the Trustee for the payment of the Principal and Interest Components due on any date with respect to particular Obligations shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Obligations entitled thereto.

### Section 7.04