

**AMENDED AND RESTATED  
TRUST INDENTURE**

**by and between**

**BUCKEYE TOBACCO SETTLEMENT FINANCING AUTHORITY**

**and**

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

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**Dated as of March 1, 2020**

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**Amending and restating that Trust Indenture, dated as of October 1, 2007, by and between  
the Buckeye Tobacco Settlement Financing Authority and U.S. Bank National Association**

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## **TRUST INDENTURE**

This **AMENDED AND RESTATED TRUST INDENTURE** (the “Amended and Restated Trust Indenture” or “Trust Indenture” as further defined below) is entered into as of March 1, 2020, by the **BUCKEYE TOBACCO SETTLEMENT FINANCING AUTHORITY** (the “Authority”), a body, both corporate and politic, constituting a public body, agency, and instrumentality of the State of Ohio (the “State”) and performing essential functions of the State, and **U.S. BANK NATIONAL ASSOCIATION**, as Trustee, a national banking association (the “Trustee”).

### **RECITALS:**

WHEREAS, the Trust Indenture (the “Original Indenture”) dated as of October 1, 2007, as supplemented by that Series 2007 Supplement, dated as of October 1, 2007, each by and between the Authority and U.S. Bank National Association, were executed and delivered in connection with the authentication and delivery of the Series 2007 Bonds (as defined herein);

WHEREAS, at the time of issuance of the Series 2007 Bonds, the Authority used proceeds of the Series 2007 Bonds to buy all the right, title and interest of the State of Ohio (the “State”) in and to 2007 Sold Tobacco Receipts (as defined herein) pursuant to that Purchase and Sale Agreement, dated as of October 1, 2007 (the “2007 Sale Agreement”), by and between the Authority and the State, and to make a qualified grant to the State to be used for various health and educational purposes of the State and its residents;

WHEREAS, in order to achieve interest rate savings, the Authority desires to refund through redemption and defeasance (x) all of the Outstanding Series 2007 Bonds that are Senior Bonds, (y) all of the Outstanding Series 2007 Bonds that are First Subordinate Bonds and (z) all of the Outstanding Series 2007 Bonds that are Second Subordinate Bonds (together, the “Series 2007 Refunded Bonds”), and for that purpose the Authority has determined to issue its Tobacco Settlement Asset-Backed Refunding Bonds, Series 2020 Senior Bonds, consisting of Series 2020A-1 Class 1 Senior Current Interest Bonds (Federally Taxable), Series 2020A-2 Class 1 Senior Current Interest Bonds, Series 2020B-1 Class 2 Senior Current Interest Bonds (Federally Taxable), Series 2020B-2 Class 2 Senior Current Interest Bonds, and Series 2020B-3 Class 2 Senior Capital Appreciation Bonds (collectively, the “Series 2020 Senior Bonds”) pursuant to a Series 2020 Supplement to this Amended and Restated Indenture, dated as of March 1, 2020 (the “Series 2020 Supplement”), between the Authority and the Trustee (the Amended and Restated Trust Indenture, collectively with the Series 2020 Supplement, are hereafter referred to herein as the “Trust Indenture”);

WHEREAS, this Amended and Restated Trust Indenture and Series 2020 Supplement are intended to provide for the issuance of the Series 2020 Senior Bonds as Refunding Bonds under the Original Indenture;

WHEREAS, the Series 2020 Senior Bonds will be payable from and secured solely by Collections and the other Collateral as Refunding Bonds pledged under the Original Indenture on a parity basis to the Payment Priority provided for the Series 2007 Senior Bonds being refunded (with the Series 2020A Bonds to be further secured by amounts on deposit in the

Class 1 Senior Liquidity Reserve Subaccount, and the Series 2020B-1 Bonds and Series 2020B-2 Bonds to be further secured by amounts on deposit in the Class 2 Senior Liquidity Reserve Subaccount), and the Series 2020B-1 Bonds, Series 2020B-2 Bonds and Series 2020B-3 Bonds will be subject to Turbo Redemption in accordance with the Payment Priorities;

WHEREAS, Section 3.01(b)(ii) of the Original Indenture provides that Refunding Bonds may be issued to refund Bonds in part (including the funding of defeasance escrows and deposits to Accounts in connection with such issuance) and Additional Bonds may be issued at the discretion of the Authority, but only if upon the issuance of such Refunding Bonds and/or Additional Bonds: (A) the amount on deposit in the applicable subaccounts in the Senior Liquidity Reserve Account immediately following the issuance of such Refunding Bonds and/or Additional Bonds will be at least equal to the Class 1 Senior Liquidity Reserve Requirement and the Class 2 Senior Liquidity Reserve Requirement, as applicable; (B) no Event of Default shall have occurred and be continuing after the date of issuance of such Bonds; (C) the expected weighted average life of each Turbo Term Bond that will remain Outstanding after the date of issuance of the Refunding Bonds and/or Additional Bonds as computed on the basis of new projections on the date of sale of the Refunding Bonds and/or Additional Bonds will not exceed (x) the remaining expected weighted average life of each such Turbo Term Bond as computed by the Authority on the basis of new projections assuming that no such Refunding Bonds and/or Additional Bonds are issued, plus (y) one year; and (D) a Rating Confirmation is received for any Bonds that will remain Outstanding after the date of issuance of the Refunding Bonds and/or Additional Bonds which are then rated by a Rating Agency;

WHEREAS, Section 11.01 of the Original Indenture provides that the Original Indenture may be supplemented or amended in writing by the Authority and the Trustee to provide for the authorization of Bonds of a Series and in connection therewith determine the matters referred to herein, including Section 3.01, and any other things relative to such Bonds that are not materially adverse to the Holders of Outstanding Bonds, or to modify or rescind any such authorization or determination at any time prior to the first authentication and delivery of such Series of Bonds;

WHEREAS, the Authority has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and the entering into of this Amended and Restated Indenture do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Amended and Restated Indenture; and

WHEREAS, the Authority recites and represents to the Trustee for the benefit of the Bondholders that it has authorized this Amended and Restated Trust Indenture.

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

- (a) the Authority’s issue of the Bonds; and

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

## WITNESSETH

In consideration of the mutual agreements contained in this Amended and Restated Trust Indenture and other good and valuable consideration, the receipt of which is hereby acknowledged, the Authority and the Trustee agree as set forth herein for their own benefit and for the benefit of the Bondholders.

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

**Section 1.01 This Amended and Restated Trust Indenture and the Parties.** This Amended and Restated Trust Indenture is by and between the Authority and the Trustee and their respective successors or assigns.

**Section 1.02 Definitions.** In addition to terms defined in the 2007 Sale Agreement or elsewhere herein, the following terms have the following meanings in this Trust Indenture, unless the context otherwise requires:

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

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

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

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

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

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

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

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

“**Accreted Value**” means, with respect to any Capital Appreciation Bond, an amount equal to the initial principal amount of such Bond, plus interest accrued thereon from its date, compounded on each Distribution Date, commencing on the first Distribution Date after its issuance (through and including the Maturity Date or earlier redemption date of such Bond) at the “accretion rate” for such Bond, as set forth in the related Series Supplement or in an exhibit thereto; provided, however, that the Authority shall calculate or cause to be calculated the Accreted Value on any date other than a Distribution Date set forth in the related Series Supplement or in an exhibit thereto as (i) the Accreted Value of such Bond on its Maturity Date times (ii) the result of dividing (a) the dollar price of such Bond calculated as of such date pursuant to standard industry convention using the accretion rate as the discount rate by (b) 100. In performing such calculation, the Authority shall be entitled to engage and rely upon a firm of accountants, consultants or financial advisors with appropriate knowledge and experience. The Trustee may conclusively rely upon such calculations. The term “accretion rate” means, with respect to any particular Bond, the interest rate which when accreted and compounded on each Distribution Date from its issuance date, causes the initial principal amount to equal the Accreted Value on the Maturity Date of such Bond.

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

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

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

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

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

“**Authorized Denominations,**” except as may otherwise be provided in a Supplemental Indenture, means (a) with respect to a Current Interest Bond, \$5,000 or any integral multiple thereof; and (b) with respect to a Capital Appreciation Bond, the amount which will accrete to \$5,000 or any integral multiple thereof at the Maturity Date thereof (such accretion being calculated in the manner described in the definition of Accreted Value).



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

**“Bond Obligation”** means, as of any given date, (i) with respect to any Outstanding Current Interest Bond, its principal amount, (ii) with respect to any Outstanding Capital Appreciation Bond prior to its Maturity Date, the Accreted Value thereof as of such date, and (iii) with respect to any Outstanding Capital Appreciation Bond on and after its Maturity Date, its Accreted Value on its Maturity Date.

**“Bond Service Fund”** means the Fund so designated and established pursuant to Section 5.01, which includes the Senior Debt Service Account, Lump Sum Payment Account, Senior Liquidity Reserve Account, Senior Turbo Redemption Account, First Subordinate Turbo Redemption Account, Second Subordinate Turbo Redemption Account, and Fully Subordinate Turbo Redemption Account, and shall include all subaccounts contained therein.

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

**“Bondholders,” “Holders”** and similar terms mean the registered owners of the Bonds, including the Series 2020 Senior Bonds, as shown on the books of the Authority, and the owners of Coupon Bonds. Unless and until the Bonds have been issued to Bondholders other than DTC, all references to “Bondholders” or “Holders” of the Bonds are qualified by reference to Section 3.04 of this Trust Indenture.

**“Bonds”** means all bonds (or notes), including the Series 2020 Senior Bonds, issued pursuant to Section 3.01.

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

**“Capital Appreciation Bond”** means a Bond the interest on which shall be compounded periodically, shall be payable only at maturity or redemption or prepayment prior to maturity, and shall be determined by subtracting from the Accreted Value thereof the original principal amount thereof.

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

**“Class 1 Senior Bonds”** means the Series 2020A Bonds and any Refunding Bonds and/or Additional Bonds identified as Class 1 Senior Bonds in a Series Supplement.

**“Class 1 Senior Liquidity Reserve Requirement”** means an amount equal to (i) from the date of issuance of the Series 2020A Bonds until June 1, 2029, \$91,657,486.26 for so long as any Series 2020A Bonds are Outstanding, (ii) on and after June 1, 2029, \$75,575,000.00 for so long as any Series 2020A Bonds are Outstanding and (iii) \$0 when no Class 1 Senior Bonds are Outstanding, which amount may (but is not required to) be amended upon the issuance of Refunding Bonds and/or Additional Bonds that constitute Class 1 Senior Bonds in accordance with the applicable Series Supplement.

**“Class 1 Senior Liquidity Reserve Subaccount”** means the respective subaccount so named within the Senior Liquidity Reserve Account established by the Trustee pursuant to Section 5.01 of this Trust Indenture.

**“Class 2 Payment Default”** means a failure to pay when due interest or principal or Accreted Value at maturity on any Class 2 Senior Bonds.

**“Class 2 Senior Bonds”** means the Series 2020B-1 Bonds, Series 2020B-2 Bonds, Series 2020B-3 Bonds and any Refunding Bonds and/or Additional Bonds identified as Class 2 Senior Bonds in a Series Supplement.

**“Class 2 Senior Liquidity Reserve Requirement”** means an amount equal to \$170,850,000.00 for so long as any Series 2020B-1 Bonds or Series 2020B-2 Bonds are Outstanding and an amount equal to \$0 when no Series 2020B-1 Bonds or Series 2020B-2 Bonds are Outstanding, which amount may (but is not required to) be amended upon the issuance of Refunding Bonds and/or Additional Bonds that constitute Class 2 Senior Bonds in accordance with the applicable Series Supplement.

**“Class 2 Senior Liquidity Reserve Subaccount”** means the respective subaccount so named within the Senior Liquidity Reserve Account established by the Trustee pursuant to Section 5.01 of this Trust Indenture.

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

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

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

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

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

**“Corporate Trust Office”** means the office of the Trustee at which the corporate trust business of the Trustee related hereto shall, at any particular time, be principally administered, which office is, at the date of this Trust Indenture, located at 10 West Broad Street, 12<sup>th</sup> Floor, Columbus, Ohio 43215, Attention: Global Corporate Trust.

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

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

**“Counsel”** means Orrick, Herrington & Sutcliffe LLP and Squire Patton Boggs (US) LLP, or another nationally recognized bond counsel or such other counsel as may be selected by the Authority for a specific purpose hereunder.

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

**“Current Interest Bond”** means a Bond the interest on which is payable currently on each Distribution Date.

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

**“Default Rate”** means that rate of interest that accrues on a Capital Appreciation Bond from and after its Maturity Date as set forth in the Series Supplement authorizing the issuance of such Bonds.

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

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

(b) (i) obligations, the timely payment of the principal and interest on which are unconditionally guaranteed by the United States government; (ii) certificates of deposit of banks or trust companies secured by obligations of the United States of America of a market value equal at all times to the amount of the deposit; (iii) notes, bonds, debentures, mortgages

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

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

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

**“Defeased Turbo Term Bonds”** means Turbo Term Bonds for which a defeasance escrow has been established pursuant to Section 2.02 hereof.

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

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

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

**“Distribution Date”** means, except to the extent otherwise set forth in a Series Supplement, each June 1 and December 1, or if such date is not a Business Day, the following Business Day, each additional Distribution Date selected by the Authority or the Trustee

following a Payment Default, and each Distribution Date, to the extent so characterized in a Supplemental Indenture.

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

**“Eligible Bank”** means any (i) bank or trust company organized under the laws of any state of the United States of America (including the Trustee and any of its affiliates), (ii) national banking association, (iii) savings bank or savings and loan association chartered or organized under the laws of any state of the United States of America, or (iv) federal branch or agency established pursuant to the International Banking Act of 1978 or any successor provisions of law, or domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America.

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

(a) Defeasance Collateral;

(b) demand, trust and time deposits, money market deposit accounts or non-negotiable or negotiable certificates of deposit of, or bankers’ acceptances issued by, any bank (including the Trustee and any of its affiliates) or trust company, savings and loan association, or savings bank, payable on demand or on a specified date no more than 365 days after the date of issuance thereof, if such deposits or instruments are rated at least “A” or “A-1” by S&P, or if none of the Outstanding Bonds are rated by S&P, at least “A-1” by S&P, “P-1” by Moody’s or “F1” by Fitch;

(c) certificates, notes, warrants, bonds, obligations, or other evidences of indebtedness of a state or a political subdivision thereof rated by S&P in one of its three highest rating categories, or if none of the Outstanding Bonds are rated by S&P, in one of its three highest rating categories by S&P, Moody’s or Fitch;

(d) commercial or finance company paper (including both noninterest-bearing discount obligations and interest bearing obligations payable on demand or on a specific date not more than 270 days after the date of issuance thereof) that is rated at least “A-1” by S&P, or if none of the Outstanding Bonds are rated by S&P, at least “A-1” by S&P, “P-1” by Moody’s or “F1” by Fitch;

(e) repurchase obligations with respect to any security described in paragraphs (a) or (b)(i), (ii) or (iii) of the definition of Defeasance Collateral above entered into with a financial institution, corporation, registered broker/dealer, domestic commercial bank, primary dealer, depository institution, or trust company (acting as principal) rated at least “A-1” by S&P, or if none of the Outstanding Bonds are rated by S&P, at least “A-1” by S&P, “P-1” by Moody’s or “F1” by Fitch (if payable on demand or on a specified date no more than three months after the date of issuance thereof), or rated by S&P in one of its three highest rating categories, or if none of the Outstanding Bonds are rated by S&P, in one of its three highest long term rating categories by S&P, Moody’s or Fitch, provided that (1) a specific written agreement

governs the transaction, (2) the securities are held, free and clear of any lien, by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (a) a Federal Reserve Bank, or (b) a member of the Federal Deposit Insurance Corporation that has combined surplus and undivided profits of not less than \$25 million, and the Trustee will have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee, (3) the agreement has a term of 30 days or less, or the Trustee or its agent will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within five Business Days of such valuation, and (4) the fair market value of the collateral securities in relation to the amount of the obligation, including principal and interest, is at least 102%;

(f) certificates, notes, bonds, or other securities bearing interest or sold at a discount (payable on demand or on a specified date no more than 365 days after the date of purchase thereof) that are issued by any corporation incorporated under the laws of the United States of America or any state thereof and rated at least "A" or "A-1" by S&P, or if none of the Outstanding Bonds are rated by S&P, at least "A" or "A-1" by S&P, "A2" or "P-1" by Moody's or "A" or "F1" by Fitch at the time such investment or contractual commitment providing for such investment; provided that securities issued by any such corporation will not be Eligible Investments to the extent that investment therein would cause the then-outstanding principal amount of securities issued by such corporation that are then held hereunder to exceed 20% of the aggregate principal amount of all Eligible Investments then held;

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

(h) investment agreements, forward purchase agreements or guaranteed investment contracts rated, or with any financial institution or corporation whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time such agreement or contract is entered into, by S&P in one of its three highest rating categories, or if the Outstanding Bonds are no longer rated by S&P, in one of its three highest rating categories by S&P, Moody's or Fitch, if the Authority has an option to terminate such agreement in the event that such rating is downgraded below the rating on the Bonds, or if not so rated, then collateralized by securities described in paragraphs (a) or (b)(i), (ii) or (iii) of the definition of Defeasance Collateral above with any registered broker/dealer or with any domestic commercial bank whose long-term debt obligations are rated in one of the three highest rating categories by each Rating Agency; provided that (1) a specific

written agreement governs the transaction, (2) the securities are held, free and clear of any lien, by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (a) a Federal Reserve Bank, or (b) a member of the Federal Deposit Insurance Corporation that has combined surplus and undivided profits of not less than \$25 million, and the Trustee will have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee, (3) the agreement has a term of 30 days or less, or the Trustee or third party custodian will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within five Business Days of such valuation, and (4) the fair market value of the collateral securities in relation to the amount of the obligation, including principal and interest, is at least 102%;

(i) a surety, guaranty, letter of credit, liquidity agreement, agreement to purchase securities of the Authority or other similar agreement provided in lieu of or in substitution for amounts in the Senior Liquidity Reserve Account by an entity with a rating in the three highest rating categories by S&P in one of its three highest rating categories, or if the Outstanding Bonds are no longer rated by S&P, in one of its three highest rating categories by S&P, Moody's or Fitch; provided that any cost related to such an investment shall be paid either from funds released from the Senior Liquidity Reserve Account or other available funds and 15 days prior notice is given to each Rating Agency;

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

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

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

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

Ratings of Eligible Investments referred to herein shall be determined at the time of purchase of such Eligible Investment.

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

**"Enforcement Expense Transfer Cap"** means the aggregate limitation, applicable to each Fiscal Year, on the transfer of amounts from the Collection Account pursuant to Section 5.03(b)(ix) for payment or reimbursement of Enforcement Expenses, equal to \$2,000,000 for each Fiscal Year less the amount disbursed in such Fiscal Year for such purpose from the Operating Account pursuant to Section 5.03(b)(i). At the discretion of the Authority, the maximum amount determined in the preceding sentence may be decreased by any other

amounts provided from any other sources for payment of Enforcement Expenses, and such adjustment shall be reflected in the Officer's Certificate provided to the Trustee.

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

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

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

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

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

**"First Subordinate Bonds"** means any Bonds identified as such in the applicable Series Supplement.

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

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

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

**"Fixed Sinking Fund Installment"** means each respective payment of principal to be made on Term Bonds that are Class 1 Senior Bonds scheduled to be made as set forth in a Series Supplement.

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

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

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

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



**“Junior Payments”** means Junior Payments so identified in or by reference to this Trust Indenture or any Supplemental Indenture.

**“Lump Sum Payment”** means a payment from a PM that results in, or is due to, a release of that PM from all or a portion of its future payment obligations under the MSA. For the purposes of the Trust Indenture (and not for purposes of the 2007 Sale Agreement), the term “Lump Sum Payment” does not include any payments that are Total Lump Sum Payments, any non-scheduled prepayments other than a Lump Sum Payment or any payments made with respect to prior payment obligations.

**“Lump Sum Payment Account”** means the Account held by the Trustee pursuant to Section 5.01 of this Trust Indenture.

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

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

**“Maturity Date”** means, with respect to any Bond, the final date on which all remaining Principal or Accreted Value is due and payable.

**“Maximum Rate”** means the highest rate payable on a Bond to Holders as specified by Series Supplement.

**“Moody’s”** means Moody’s Investors Service; references to Moody’s are effective so long as Moody’s is a Rating Agency.

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

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

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

**“Operating Cap”** means (i) \$250,000 in the Fiscal Year ending June 30, 2020, inflated in each following Fiscal Year by the greater of 3% or the percentage increase in the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics for December of the prior year, plus (ii) in each Fiscal Year, Tax Obligations, if any, specified in an Officer’s Certificate.

**“Operating Expenses”** means the reasonable operating expenses of the Authority, including without limitation, the cost of preparation of accounting and other reports, costs of maintenance of the ratings on the Bonds, insurance premiums, and costs of Authority meetings or other required activity of the Authority, counsel fees, including the fees of the Attorney General, and fees and expenses incurred for consultants and fiduciaries, all costs and expenses incurred by the State and other amounts, if any, which are required to be reimbursed or borne by the Authority pursuant to the 2007 Sale Agreement, Enforcement Expenses, and all other costs authorized by the Act or all other Operating Expenses so identified in this Trust Indenture.

**“Original Indenture”** means the Trust Indenture, dated as of October 1, 2007, by and between the Authority and the Trustee, as originally executed.

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

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

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

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

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

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

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

“**Pledged Tobacco Receipts**” means the right, title and interest to 100% of the 2007 Sold Tobacco Receipts, which are payable to the Authority or the Trustee pursuant to the 2007 Sale Agreement and are subject to the lien of this Trust Indenture. For the avoidance of doubt, the Pledged Tobacco Receipts include, without limitation, all Lump Sum Payments and all Total Lump Sum Payments.

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

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

“**Pro Rata**” means, for an allocation of available amounts to any payment of interest, Accreted Value or Principal to be made pursuant to this Trust Indenture, the application of a fraction of such available amounts (a) the numerator of which is equal to the amount due to the respective Holders to whom such payment is owing, and (b) the denominator of which is equal to the total amount due to all Holders or counterparties to whom such payment is owing, as applicable.

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

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

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

“**Rating Agency**” means upon the issuance of the Series 2020 Senior Bonds, S&P with respect to the Series 2020A Bonds and Series 2020B-1 Bonds, and each nationally recognized statistical rating organization that has issued, at the request of the Authority with notice to the Trustee, a rating in effect for a Series of Bonds, as set forth in the related Series Supplement.

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

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

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

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

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

**“S&P”** means S&P Global Ratings, a business unit of Standard & Poor’s Financial Services LLC, a division of The McGraw-Hill Companies, Inc., its successors and assigns; references to S&P are effective so long as S&P is a Rating Agency.

**“Second Subordinate Bonds”** means any Bonds identified as such in an applicable Series Supplement.

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

**“Securities Depository”** means DTC or another securities depository specified by Series Supplement, or if the incumbent Securities Depository resigns from its functions as depository of the Bonds or the Authority discontinues use of the incumbent Securities Depository, then any other securities depository selected by Officer’s Certificate of the Authority.

**“Senior Bonds”** means the Series 2020 Senior Bonds designated as Senior Bonds in the applicable Series Supplements relating thereto and any other Bonds designated as Senior Bonds in a Series Supplement.

**“Senior Bonds Payment Priorities”** means payment of Senior Bonds in the following order of priority:

- (1) first, the Class 1 Senior Bonds are Fully Paid in chronological order of Serial Maturities, Fixed Sinking Fund Installments and Maturity Dates therefor; and
- (2) second, the Class 2 Senior Bonds are Fully Paid in chronological order by Maturity Date and within a maturity, by lot in accordance with Section 5.06(i) of this Trust Indenture.

**“Senior Debt Service”** means interest, redemption premium and Bond Obligation due on Outstanding Senior Bonds.

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

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

**“Senior Liquidity Reserve Requirement”** means an amount equal to the sum of the Class 1 Senior Liquidity Reserve Requirement and the Class 2 Senior Liquidity Reserve Requirement.

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

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

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

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

**“Series 2020 Senior Bonds”** means the Series 2020A Bonds and Series 2020B Bonds.

**“Series 2020 Supplement”** means the Series 2020 Supplement, dated as of March 1, 2020, by and between the Authority and the Trustee, relating to the Series 2020 Senior Bonds.

**“Series 2020A Bonds”** means the Series 2020A-1 Bonds and Series 2020A-2 Bonds.

**“Series 2020A-1 Bonds”** means the Authority’s \$328,400,000 Tobacco Settlement Asset-Backed Refunding Bonds, Series 2020 Senior Bonds, Series 2020A-1 Class 1 Senior Current Interest Bonds (Federally Taxable).

**“Series 2020A-2 Bonds”** means the Authority’s \$1,139,510,000 Tobacco Settlement Asset-Backed Refunding Bonds, Series 2020 Senior Bonds, Series 2020A-2 Class 1 Senior Current Interest Bonds.

**“Series 2020B Bonds”** means the Series 2020B-1 Bonds, Series 2020B-2 Bonds and Series 2020B-3 Bonds.

**“Series 2020B-1 Bonds”** means the Authority’s \$100,000,000 Tobacco Settlement Asset-Backed Refunding Bonds, Series 2020 Senior Bonds, Series 2020B-1 Class 2 Senior Current Interest Bonds (Federally Taxable).

**“Series 2020B-2 Bonds”** means the Authority’s \$3,380,000,000 Tobacco Settlement Asset-Backed Refunding Bonds, Series 2020 Senior Bonds, Series 2020B-2 Class 2 Senior Current Interest Bonds.

**“Series 2020B-3 Bonds”** means the Authority’s \$404,286,396.50 Tobacco Settlement Asset-Backed Refunding Bonds, Series 2020 Senior Bonds, Series 2020B-3 Class 2 Senior Capital Appreciation Bonds.

**“Series Supplement”** means the Series 2020 Supplement and any other Supplemental Indenture providing for the issuance of a Series of Refunding Bonds, Additional Bonds or Additional Subordinate Bonds in accordance with Section 3.01 of this Trust Indenture.

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

**“State”** means the State of Ohio.

**“State Treasurer”** means the State Treasurer of the State.

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

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

**“Surplus Collections”** means all Collections that are in excess of the requirements of the Trust Indenture for the funding of Operating Expenses (including Enforcement Expenses), interest, Principal, Tax Obligations, Junior Payments and maintenance of the Senior Liquidity Reserve Account.

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

**“Tax Certificate”** means, collectively, the Authority Tax Certificate and the Tax Certificate of the State of Ohio executed and delivered by the Authority and the State with respect to the Series 2020 Senior Bonds (other than the Series 2020A-1 Bonds and the Series 2020B-1 Bonds) and each subsequent Series of Bonds consisting in whole or in part of Tax-Exempt Bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

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

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

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

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

**“Trust Indenture”** means this Amended and Restated Trust Indenture, together with the Series 2020 Supplement, as amended, supplemented and in effect from time to time.

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

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

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

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

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

**Section 1.03 Interpretation.** Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Trust Indenture.

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

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

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

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

**Section 1.04 Members of the Authority and State Officials Not Liable on Bonds or Agreement; Obligations of the Bonds; Limited Liability.**

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

(b) All covenants, agreements and obligations of the State contained herein or in the 2007 Sale Agreement shall be deemed to be the covenants, agreements and obligations of the State and not of any officer or employee of the State in his or her individual capacity, and no recourse shall be had hereunder or under the 2007 Sale Agreement for any claim based thereon or on the 2007 Sale Agreement against any officer or employee of the State or any person executing the 2007 Sale Agreement, in his or her individual capacity. Without limiting the generality of the foregoing, Bondholders or any other persons shall have no recourse against any officer or employee of the State with respect to any covenant, agreement or obligation of the State contained herein or resulting from such person executing and delivering the 2007 Sale Agreement. Any proceeding or action instituted against the State under the 2007 Sale Agreement shall be limited to the remedies set forth in Section 3.02(c) of the 2007 Sale Agreement.

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



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

## **ARTICLE II**

### **PLEDGE**

#### **Section 2.01 Security and Pledge.**

(a) In order to secure the payment of Bonds, with the priorities specified in Article V hereof, the Authority, in accordance with the Act, hereby pledges and assigns, as security, to the Trustee in trust upon the terms hereof (i) the Collections, (ii) all rights to receive the Collections and the proceeds of such rights, (iii) the Pledged Accounts and money and investments on deposit in or credited to the Pledged Accounts, (iv) subject to paragraph (c) hereof and subject to the terms and provisions of the 2007 Sale Agreement, including Sections 3.02, 6.04, 6.08 and 6.10, all rights and remedies with respect to any breach by the State of any of its covenants, obligations, representations, and warranties under the 2007 Sale Agreement or under the Act, (v) all interests in the Pledged Tobacco Receipts of the Authority under the 2007 Sale Agreement, to which the State has consented to an assignment pursuant to Section 6.09 of the 2007 Sale Agreement, subject to the terms and limitations of the 2007 Sale Agreement, and (vi) any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security hereunder. The property described in the preceding sentence is referred to herein as the "Collateral." Upon receipt from the State of appropriate proofs that amounts received by the Trustee with respect to payments made by tobacco manufacturers do not constitute 2007 Sold Tobacco Receipts, the Trustee shall release such amounts from the lien of this Trust Indenture and transfer such amounts in accordance with written instructions from the State.

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

or proceedings relating thereto, or any certificate, statement, or other document with respect thereto.

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

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

## **Section 2.02 Defeasance.**

(a) *Total Defeasance.* When (i) there is held by or for the account of the Trustee Defeasance Collateral in such principal amounts, bearing interest at such fixed rates and with such maturities, including any applicable redemption premiums, as will provide sufficient funds to pay, or to redeem in accordance with Section 5.06 of this Trust Indenture, all obligations to Holders in whole (to be verified by a nationally recognized firm of independent verification agents), (ii) any required notice of the deposit of Defeasance Collateral and any required notice of redemption shall have been duly given in accordance with this Trust Indenture or irrevocable instructions to give notice shall have been given to the Trustee, (iii) all the rights hereunder of Bondholders have been provided for and all incurred Operating Expenses have been satisfied in accordance with Section 2.03 of this Trust Indenture, and (iv) the Trustee shall have received an opinion of Counsel to the effect that such defeasance will not, in and of itself, cause interest on any Tax-Exempt Bond to be included in gross income for federal income tax purposes, then upon Written Notice from the Authority to the Trustee, the Bondholders under this Trust Indenture shall cease to be entitled to any benefit or security under this Trust Indenture, except the right to receive payment of the funds held in such defeasance escrow and other rights which by their nature cannot be satisfied prior to or simultaneously with termination of the lien hereof, this Trust Indenture, and the lien and rights created by this Trust Indenture (except in such funds and investments) shall terminate and become null and void, and the Authority and the Trustee shall execute and deliver such instruments as may be necessary to discharge the Trustee's lien and rights (except in such funds and investments) created hereunder. Upon such defeasance, the funds and investments required to pay or redeem the Bonds shall be irrevocably set aside for that purpose, subject, however, to Section 5.06 of this Trust Indenture, and money held for

defeasance shall be invested only as provided above in this section and applied by the Trustee or other Paying Agents, if any, to the retirement of the Bonds. Any funds or other property held by the Trustee and not required for payment or redemption of the Bonds shall be distributed in accordance with the order of the Authority. Upon defeasance of all Outstanding Bonds, any funds or property held by the Trustee and not required for payment or redemption of such Bonds shall be distributed by the Trustee in accordance with Section 5.03(k) hereof.

(b) *Partial Defeasance.* The Authority may create a defeasance escrow for the retirement and defeasance of any Bonds (or portions of Bonds) (the “Bonds to be Defeased”) by so directing the Trustee in an Officer’s Certificate. When (i) there is held by or for the account of the Trustee Defeasance Collateral in such principal amounts, bearing interest at such fixed rates and with such maturities, including any applicable redemption premiums, as will provide sufficient funds to pay, or to redeem in accordance with Section 5.06 of this Trust Indenture, the Bonds to be Defeased (to be verified by a nationally recognized firm of independent verification agents), (ii) any required notice of redemption shall have been duly given in accordance with this Trust Indenture or irrevocable instructions to give notice shall have been given to the Trustee, along with the list identifying such Bonds to be Defeased, (iii) all the rights hereunder of the Agents and the Bondholders applicable to the Bonds to be Defeased have been provided for and (iv) the Trustee shall have received an opinion of Counsel to the effect that such defeasance will not, in and of itself, cause interest on any Tax- Exempt Bond to be included in gross income for federal income tax purposes, then upon Written Notice from the Authority to the Trustee, the Holders of the Bonds to be Defeased under this Trust Indenture shall cease to be entitled to any benefit or security under this Trust Indenture to the extent of such defeasance except the right to receive payment of the funds held in such defeasance escrow and other rights which by their nature cannot be satisfied prior to or simultaneously with the below-described termination of the lien and rights created by this Trust Indenture (except in such funds and investments) shall terminate with respect to such Bonds to be Defeased. Upon such defeasance, the funds and investments required to pay or redeem the Bonds to be Defeased shall be irrevocably set aside for that purpose, subject, however, to Section 5.06 of this Trust Indenture, and money held for defeasance shall be invested only as provided above in this Section 2.02(b), and applied by the Trustee and other Paying Agents, if any, to the retirement of such Bonds, and such Bonds or portions of Bonds shall no longer be Outstanding hereunder.

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

(i) For a given Turbo Term Bond Maturity of a given Series, the Trustee shall determine the pro rata portion of each Projected Turbo Redemption (shown, with respect to each Series of Bonds, in an exhibit to the related Series Supplement) that is allocable to the Defeased Turbo Term Bonds and notify the Authority of such determination. The pro rata portion of each Projected Turbo Redemption shall be calculated as of the date of the defeasance by: (a) deducting the Turbo Redemptions which have already occurred from the earliest Projected Turbo Redemptions to arrive at a schedule of “Projected Turbo Redemptions Adjusted for Prior Payments”; (b) calculating a ratio of the Bond

Obligation to be defeased of each Turbo Term Bond Maturity divided by the then Outstanding Bond Obligation of the Turbo Term Bond Maturity; and (c) applying that ratio to the Projected Turbo Redemptions Adjusted for Prior Payments, resulting in a schedule for each Turbo Term Bond Maturity defined as the “Defeasance Redemption Schedule,” and each such payment referred to herein as a “Defeasance Redemption.”

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

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

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

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

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

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

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

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

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

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

## **ARTICLE III**

### **THE BONDS**

#### **Section 3.01 Bonds of the Authority.**

(a) By Series Supplements complying with this Trust Indenture, the Authority may authorize, issue, sell and deliver the Series 2020 Senior Bonds and one or more Series of Refunding Bonds, Additional Bonds or Fully Subordinate Bonds from time to time in such principal amounts and Accreted Values at maturity as the Authority shall determine. The Bonds of each Series shall bear such dates, mature at such times, be subject to such terms of payment, bear interest at such rates, be in such form and denomination, carry such registration privileges, be executed in such manner, and be payable in such medium of payment, at such place and subject to such terms of redemption, as the Authority may provide herein and in the related Series Supplement. The proceeds of each Series of Bonds shall be applied as provided in the related Series Supplement.

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

(ii) Refunding Bonds may be issued to refund Bonds in part (including the funding of defeasance escrows and deposits to Accounts in connection with such issuance) and Additional Bonds may be issued at the discretion of the Authority, but only if upon the issuance of such Refunding Bonds and/or Additional Bonds: (A) the amount on deposit in the applicable subaccounts in the Senior Liquidity Reserve Account immediately following the issuance of such Refunding Bonds and/or Additional Bonds will be at least equal to the Class 1 Senior Liquidity Reserve Requirement and the Class 2 Senior Liquidity Reserve Requirement, as applicable; (B) no Event of Default shall have occurred and be continuing after the date of issuance of such Bonds; (C) the expected weighted average life of each Turbo Term Bond that will remain Outstanding after the date of issuance of the Refunding Bonds and/or Additional Bonds as computed on the basis of new projections on the date of sale of the Refunding Bonds and/or Additional Bonds will not exceed (x) the remaining expected weighted average life of each such Turbo Term Bond as computed by the Authority on the basis of new projections assuming that no such Refunding Bonds and/or Additional Bonds are issued, plus (y) one year; and (D) a Rating Confirmation is received for any Bonds that will remain

Outstanding after the date of issuance of the Refunding Bonds and/or Additional Bonds which are then rated by a Rating Agency.

(iii) Each Rating Agency shall be given notice of the issuance of any Refunding Bonds.

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

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

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

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

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

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

(c) an opinion of Counsel as to the due authorization, execution and delivery by the Authority of this Trust Indenture and each relevant Series Supplement; to the effect that the Series Supplement is in full force and effect and that the Bonds being issued are valid and

binding obligations of the Authority payable from the sources and in the order of priority specified in the Trust Indenture; and to the effect that the Trust Indenture creates a valid and binding pledge and assignment in the Collateral as security to the Trustee pursuant to Section 2.01 of the Trust Indenture;

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

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

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

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

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

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

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

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

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

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

(vii) prior to any transfer of the Bonds outside the book-entry system (including, but not limited to, the initial transfer outside the book-entry system) the

transferor shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045, as amended. The Trustee shall conclusively rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

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

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

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

(A) Proof of ownership.

(B) Proof of loss or destruction.

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

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

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

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



Trustee. The Trustee shall make an appropriate entry in its records of any new Bond or coupon issued pursuant to this Section.

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

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

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

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

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

(b) *Withdrawal from DTC.* If (i) the Authority advises the Trustee in writing that DTC is no longer willing or able to properly discharge its responsibilities with respect to the Bonds or a Series or other portion thereof, and the Authority is unable to locate a qualified successor Securities Depository, (ii) the Authority at its option advises the Trustee in writing that it elects to terminate the book-entry system through DTC or (iii) after the occurrence of any Event of Default, beneficial owners representing a Majority in Interest of Aggregate Bond Obligation of the Bonds held by DTC advise DTC in writing that the continuation of a book-entry system through DTC is no longer in the best interests of the beneficial owners, then DTC shall notify its Participants (as defined in its rules and regulations) and the Trustee of the occurrence of any such event and of the availability of Bonds to registered owners requesting the same. Upon surrender to the Trustee of the typewritten Bonds by DTC, accompanied by registration instructions, the Authority shall execute and provide to the Trustee, and the Trustee

shall authenticate, Bonds in accordance with the instructions of DTC. None of the Authority, the State or the Trustee shall be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be fully protected in relying on, such instructions.

## **ARTICLE IV**

### **USE OF BOND PROCEEDS**

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

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

## **ARTICLE V**

### **FLOW OF FUNDS**

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

Collection Account

Bond Service Fund:

Senior Debt Service Account;

Senior Liquidity Reserve Account, and within the Senior Liquidity Reserve Account, the Class 1 Senior Liquidity Reserve Subaccount and the Class 2 Senior Liquidity Reserve Subaccount;

Senior Turbo Redemption Account;

Lump Sum Payment Account;

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

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

Costs of Issuance Account

Operating Account

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

Enforcement Expense Reserve Account

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

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

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

**Section 5.03 Application of Collections.**

(a) All Pledged Tobacco Receipts received by the Trustee shall be promptly deposited by the Trustee into the Collection Account. All Collections that have been identified

by an Officer's Certificate as consisting of Lump Sum Payments received by the Trustee shall be promptly (and in any event, no later than the Business Day immediately preceding the next Distribution Date) transferred to the Lump Sum Payment Account and applied as described in subsections (e) and (f) of this Section 5.03 in accordance with the instructions received by the Trustee pursuant to an Officer's Certificate. Not later than on each Distribution Date, the Trustee shall deposit in the Collection Account and apply as described in the following paragraph, all Collections consisting of investment earnings on amounts on deposit with the Trustee in the Pledged Accounts (excluding amounts in the Lump Sum Payment Account), except that unless otherwise specified in a Series Supplement relating to a Series of Bonds, all amounts in the applicable subaccount in the Senior Liquidity Reserve Account in excess of the Class 1 Senior Liquidity Reserve Requirement or the Class 2 Senior Liquidity Reserve Requirement, as applicable, determined to exist pursuant to the valuation procedure described in Section 5.07(b) of this Trust Indenture shall be transferred to the Senior Debt Service Account (except as otherwise provided in Section 5.06(n) or Section 5.06(o), as applicable, of this Trust Indenture).

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

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

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

(iii) to the Senior Debt Service Account, an amount sufficient to cause the amount therein to equal the amount specified in clause (ii) above plus the sum of (a) if the Deposit Date is on or after December 1 and on or before May 31 of any Bond Year,

the Serial Bond maturities, Fixed Sinking Fund Installment or Term Bond maturities due for Class 1 Senior Bonds in or scheduled for the next succeeding Bond Year, plus (b) any such Serial Bond maturities, Fixed Sinking Fund Installment or Term Bond maturities unpaid from prior Distribution Dates, but the amount of each Term Bond maturity shall first be adjusted as described in Section 5.06(f) of this Trust Indenture;

(iv) to the Class 1 Senior Liquidity Reserve Subaccount an amount sufficient to cause the amount on deposit therein to equal the Class 1 Senior Liquidity Reserve Requirement; provided that on any Distribution Date on which the amount in the Class 1 Senior Liquidity Reserve Subaccount (less any amount necessary to be paid in connection with the liquidation of the investment of amounts in the Class 1 Senior Liquidity Reserve Subaccount) equals or exceeds the Bond Obligation and interest on all Outstanding Class 1 Senior Bonds, the amount on deposit in the Class 1 Senior Liquidity Reserve Subaccount (less any amounts necessary to be paid in connection with liquidating investments in the Class 1 Senior Liquidity Reserve Subaccount) may at the option of the Authority first be applied to the optional clean-up call for the Class 1 Senior Bonds and, second, will be transferred to the Collection Account;

(v) to the Senior Debt Service Account, an amount sufficient to cause the amount therein to equal the sum of (x) interest on the Outstanding Class 2 Senior Bonds that will come due (i) in the next succeeding Bond Year, if the Deposit Date is on or after December 1 and on or before May 31 of any Bond Year, or (ii) in the then-current Bond Year, if the Deposit Date is on or after June 1 and on or before November 30 of any Bond Year, plus (y) any such unpaid interest on the Class 2 Senior Bonds from prior Distribution Dates (including interest at the stated rate on such unpaid interest, to the extent legally permissible); provided that the amount to be deposited pursuant to this Section 5.03(b)(v) shall be calculated assuming that principal on the Class 2 Senior Bonds will have been paid as described in clauses (iv), (v) and (vi) of Section 5.03(c) of this Trust Indenture;

(vi) to the Senior Debt Service Account, an amount sufficient to cause the amount therein to equal the amount specified in clause (v) above plus the sum of (a) if the Deposit Date is on or after December 1 and on or before May 31 of any Bond Year, the Serial Maturity or Term Bond maturity (including Turbo Term Bond Maturities) due for Class 2 Senior Bonds in or scheduled for the next succeeding Bond Year, plus (b) any such Serial Maturities or Term Bond maturities (including Turbo Term Bond Maturities) unpaid from prior Distribution Dates, provided that the amount of Turbo Term Bond Maturity shall first be adjusted as described in Section 5.06(f) of this Trust Indenture;

(vii) to the Class 2 Senior Liquidity Reserve Subaccount, an amount sufficient to cause the amount on deposit therein to equal the Class 2 Senior Liquidity Reserve Requirement, provided that on any Distribution Date on which the amount on deposit in the Class 2 Senior Liquidity Reserve Subaccount (less any amount necessary to be paid in connection with the liquidation of the investment of amounts in the Class 2 Senior Liquidity Reserve Subaccount) equals or exceeds the principal or Accreted Value of and interest on all Outstanding Class 2 Senior Bonds secured by the Class 2 Senior Liquidity Reserve Subaccount, the amount on deposit in the Class 2 Senior Liquidity Reserve

Subaccount first shall be applied to the mandatory clean-up call for the Class 2 Senior Bonds secured by the Class 2 Senior Liquidity Reserve Subaccount, and second shall be transferred to the Collection Account;

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

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

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

(xi) to the Senior Turbo Redemption Account, all amounts remaining in the Collection Account until no Class 2 Senior Bonds are Outstanding;

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

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

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

(c) On each Distribution Date the Trustee shall apply amounts in the various Accounts in the following order of priority:

(i) from the Senior Debt Service Account and the Class 1 Senior Liquidity Reserve Subaccount, in that order, to pay interest on Outstanding Class 1 Senior Bonds due on such Distribution Date or unpaid from prior Distribution Dates;

(ii) from the Senior Debt Service Account and the Class 1 Senior Liquidity Reserve Subaccount, in that order, to pay principal of Outstanding Class 1 Senior Bonds due on such Distribution Date or unpaid from prior Distribution Dates in chronological order of the date on which such principal is due, including by reason of Fixed Sinking Fund Installment, and Pro Rata within such a principal due date;

(iii) if a Class 2 Payment Default has occurred, first, from the Senior Debt Service Account, to pay interest, Pro Rata, on Outstanding Class 2 Senior Bonds due on

such Distribution Date or unpaid from prior Distribution Dates, and, second, from the Senior Debt Service Account, to pay the Bond Obligation on Outstanding Class 2 Senior Bonds, Pro Rata. For purposes of the clause “first” in this paragraph, from and after its Maturity Date, a Class 2 Senior Bond that is a Capital Appreciation Bond will accrue interest payable at a rate per annum equal to the Default Rate therefor set forth in the applicable Series Supplement;

(iv) from the Senior Debt Service Account and the Class 2 Senior Liquidity Reserve Subaccount, in that order, to pay interest on Outstanding Class 2 Senior Bonds due on such Distribution Date or unpaid from prior Distribution Dates;

(v) from the Senior Debt Service Account and the Class 2 Senior Liquidity Reserve Subaccount, in that order, to pay principal of Outstanding Class 2 Senior Bonds due on such Distribution Date or unpaid from prior Distribution Dates in chronological order of the date on which such principal is due, and Pro Rata within such a principal due date;

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

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

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

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

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

(d) Notwithstanding anything to the contrary in this Trust Indenture, the value of any Class 2 Senior Bonds that are Capital Appreciation Bonds shall accrue interest payable at the Default Rate (including interest on any unpaid interest), to the extent legally permissible, after the Maturity Date for such Bonds if not Fully Paid on the Maturity Date.

(e) Upon the receipt of a sum that has been identified by an Officer's Certificate as a Lump Sum Payment, the Trustee shall, after making provision for the amounts required to be deposited pursuant to subsection (b)(i) of this Section 5.03, use all such amounts on deposit in the Lump Sum Payments Account to make the following payments on the next Distribution Date following such receipt, in the following order of priority:

(i) to pay any past due interest on the Class 1 Senior Bonds (including interest at the stated rate on any unpaid interest, to the extent legally permissible), Pro Rata;

(ii) to pay the accrued and unpaid interest on the Class 1 Senior Bonds, Pro Rata;

(iii) to pay principal on all Class 1 Senior Bonds then Outstanding in chronological order of the date on which such principal is due and Pro Rata within such a principal due date;

(iv) to pay any past due interest on the Class 2 Senior Bonds (including interest at the stated rate on any unpaid interest, to the extent legally permissible), Pro Rata;

(v) to pay the accrued and unpaid interest on the Class 2 Senior Bonds, Pro Rata;

(vi) to pay principal or Accreted Value on all Class 2 Senior Bonds then Outstanding in chronological order of the date on which such principal is due and Pro Rata within such a principal due date;

(vii) to pay principal and interest or Accreted Value on all First Subordinate Bonds then Outstanding, Pro Rata;

(viii) to pay principal and interest or Accreted Value on all Second Subordinate Bonds then Outstanding, Pro Rata; and

(ix) to pay Fully Subordinate Bonds in accordance with the provisions of the applicable Series Supplement.

(f) Upon the receipt of a sum that has been identified by an Officer's Certificate as a Total Lump Sum Payment, the Trustee shall, after making provision for the amounts required to be deposited pursuant to subsection (b)(i) of this Section 5.03, use all such remaining amounts on deposit in the Lump Sum Payments Account to make the following payments in the following order of priority:

(i) to pay any past due interest on the Class 1 Senior Bonds (including interest at the stated rate on any unpaid interest, to the extent legally permissible), Pro Rata;



(ii) to pay the accrued and unpaid interest on the Class 1 Senior Bonds, Pro Rata;

(iii) to pay principal on all Class 1 Senior Bonds then Outstanding in chronological order of the date on which such principal is due and Pro Rata within such a principal due date, Pro Rata;

(iv) to pay any past due interest on the Class 2 Senior Bonds (including interest at the stated rate on any unpaid interest, to the extent legally permissible), Pro Rata;

(v) to pay the accrued and unpaid interest on the Class 2 Senior Bonds, Pro Rata;

(vi) to pay principal or Accreted Value on all Class 2 Senior Bonds then Outstanding, Pro Rata, irrespective of any principal due date;

(vii) to pay principal and interest or Accreted Value on all First Subordinate Bonds then Outstanding, Pro Rata;

(viii) to pay principal and interest or Accreted Value on all Second Subordinate Bonds then Outstanding, Pro Rata; and

(ix) to pay Fully Subordinate Bonds in accordance with the provisions of the applicable Series Supplement.

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

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

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

(j) Notwithstanding anything in this Trust Indenture to the contrary, moneys in the applicable subaccount in the Senior Liquidity Reserve Account shall (i) prior to a Payment Default, be available at the times, in the amounts, and in the manner as described in this Section 5.03, to pay principal of and interest on Class 1 Senior Bonds or Class 2 Senior Bonds, as applicable, which are Current Interest Bonds and (ii) after a Payment Default, be available at the times, in the amounts and in the manner described in this Section 5.03, to pay and prepay the Bond Obligation and interest on all Class 1 Senior Bonds or Class 2 Senior Bonds, as applicable, including Capital Appreciation Bonds.

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

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

**Section 5.05 [Reserved].**

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

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

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

(c) *Turbo Term Bond Maturity.* The Turbo Term Bonds shall be redeemed in whole or in part prior to their stated maturity, to the extent funds are available, on any Distribution Date, following notice of such redemption in accordance with Section 5.06(b) hereof, in accordance with the Payment Priorities. If less than all of the Turbo Term Bonds of a particular Series, interest rate (or “original issue yield” for Capital Appreciation Bonds) and Maturity Date are to be redeemed pursuant to this subsection, the Holders of the Turbo Term Bonds shall be paid in accordance with subsection (i) of this Section 5.06. The Trustee may specify a special redemption date, for purposes of redeeming Turbo Term Bonds if amounts are available therefor pursuant to Sections 5.03(c)(vi), (viii) and (ix) and if the Trustee is instructed to do so by the Authority in an Officer’s Certificate.

(d) *Turbo Redemptions.* The Turbo Term Bonds which are Senior Bonds shall be redeemed, selected in the manner described in Section 5.06(f), in whole or in part prior to their Maturity Dates from amounts on deposit in the Senior Turbo Redemption Account on any Distribution Date (or on a special redemption date established pursuant to subsection (c) of this Section 5.06), following notice of such redemption in accordance with subsection (b) above, at the principal amount or Accreted Value thereof, together with accrued interest, without premium; applied first, to the Turbo Redemption of all Outstanding Class 2 Senior Bonds that are Turbo Term Bonds, and second shall be transferred to the First Subordinate Turbo Redemption Account and applied to the Turbo Redemption of Outstanding First Subordinate Bonds. The Turbo Term Bonds which are First Subordinate Bonds shall be redeemed, selected in the manner described in Section 5.06(f), in whole or in part prior to their Maturity Date from amounts on deposit in the First Subordinate Turbo Redemption Account on any Distribution Date (or on a special redemption date established pursuant to subsection (c) above), following notice of such redemption in accordance with subsection (b) above, at the principal amount or

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

(e) *Fixed Sinking Fund Installments.* The Term Bonds that are Class 1 Senior Bonds shall be redeemed in whole or in part prior to their stated maturity on any Distribution Date, following notice of such redemption in accordance with Section 5.06(b) hereof, in accordance with the schedule of Fixed Sinking Fund Installments set forth in the applicable Series Supplement. Fixed Sinking Fund Installments shall be credited as described in subsection (f) of this Section 5.06. If less than all of the Term Bonds that are Class 1 Senior Bonds are to be redeemed pursuant to this subsection, the Owners of such Term Bonds shall be paid in accordance with subsection (i) of this Section 5.06.

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

(i) the amount of any Turbo Redemptions shall be paid, and credited against Turbo Term Bond Maturities, in the order of priority and within a priority in chronological order, as set forth in the applicable Series Supplement;

(ii) the amount of any Fixed Sinking Fund Installments made hereunder shall be credited against Term Bond Maturities for the Term Bonds in the order of priority and within a priority in the chronological order set forth in the applicable Series Supplement; provided, however, that Fixed Sinking Fund Installments scheduled for the same date shall be credited Pro Rata regardless of the maturity date of the related Term Bond Maturity; and

(iii) the amount of any optional redemption of Term Bonds in part shall be credited against any Fixed Sinking Fund Installment as directed by the Authority.

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

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

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

(i) *Partial Redemption.* If less than all of the Taxable Bonds of any specific maturity are to be redeemed pursuant to subsections (c), (d), (e) or (f) of this Section 5.06, the Holders of the Taxable Bonds of that maturity shall be paid on a Pro Rata basis. Such Pro Rata basis shall be a pro-rata pass-through distribution of principal basis in accordance with DTC procedures, provided that the selection for redemption or prepayment of such Taxable Bonds will be made in accordance with the operational arrangements of DTC then in effect. If the DTC operational arrangements do not allow for the redemption of the Taxable Bonds on a pro-rata pass-through distribution of principal basis, then the Taxable Bonds will be selected for redemption in accordance with DTC procedures, by lot.

If less than all of the Tax-Exempt Bonds of a specific Series, interest rate (or “original issue yield” for Capital Appreciation Bonds) and Maturity Date are to be redeemed pursuant to subsections (c), (d), (e) or (f) of this Section 5.06, the Holders of the Tax-Exempt Bonds of such Maturity Date to be redeemed shall be selected in accordance with DTC’s standard procedures, or if such Bonds are not then held by DTC or another Securities Depository, on such basis as the Trustee shall deem fair and appropriate, including by lot, and the Trustee may provide for the selection for redemption of portions (equal to any Authorized Denominations) of the principal of Bonds of a denomination larger than the minimum authorized denomination.

(j) *Optional Clean-Up Calls of Class 1 Senior Bonds.* The Class 1 Senior Bonds and any Refunding Bonds and/or Additional Bonds secured on parity with the Class 1 Senior Bonds are subject to redemption at the option of the Authority in whole at a redemption price equal to 100% of the Bond Obligation of the Class 1 Senior Bonds being redeemed plus interest accrued to the redemption date at any time that the available amounts on deposit in the Pledged Accounts allocable to the Class 1 Senior Bonds exceed the aggregate principal amount of, and accrued interest on, all Outstanding Class 1 Senior Bonds.

(k) *Mandatory Clean-Up Call of Class 2 Senior Bonds Secured by the Class 2 Senior Liquidity Reserve Account.* The Class 2 Senior Bonds secured by the Class 2 Senior Liquidity Reserve Account and any Refunding Bonds and/or Additional Bonds secured on parity with the Class 2 Senior Bonds and which are secured by the Class 2 Senior Liquidity Reserve Subaccount are subject to mandatory redemption in whole at a redemption price equal to 100% of the Bond Obligation of such Class 2 Senior Bonds being redeemed plus interest accrued to the redemption date at any time that the available amounts on deposit in the Pledged Accounts allocable to such Class 2 Senior Bonds exceed the aggregate principal amount of, and accrued interest on, all such Outstanding Class 2 Senior Bonds.

(l) *Mandatory Clean-Up Call of Subordinate Bonds.* The First Subordinate Bonds, Second Subordinate Bonds and Fully Subordinate Bonds (the “Subordinate Bonds”) are subject to mandatory redemption in whole at a redemption price equal to 100% of the principal amount being redeemed plus interest accrued to the redemption date at any time that the available amounts on deposit in the Pledged Accounts allocable to the Pledged Accounts allocable to the Subordinate Bonds exceed the aggregate principal amount of, and accrued interest on, all Outstanding Subordinate Bonds.

(m) *Mandatory Redemption of Defeased Turbo Term Bonds.* The Defeased Turbo Term Bonds shall be subject to mandatory redemption, at a redemption price equal to 100% of the Bond Obligation being redeemed, on such date or dates in accordance with the Pro Rata Defeasance Redemption Schedule provisions contained in Section 2.02(c) of this Trust Indenture.

(n) *Redemption From Moneys In Class 1 Senior Liquidity Reserve Subaccount.* Money in the Class 1 Senior Liquidity Reserve Subaccount may be applied to the redemption of Outstanding Class 1 Senior Bonds in accordance with paragraph (j) of this Section 5.06. Any money remaining in the Class 1 Senior Liquidity Reserve Subaccount after its application pursuant to Section 5.06(j) shall be transferred to the First Subordinate Redemption Account or, but only if there shall be no Senior Bonds and First Subordinate Bonds then Outstanding, to the Second Subordinate Turbo Redemption Account, to be applied on the succeeding Distribution Date in accordance with paragraph (d) of this Section 5.06.

(o) *Redemption From Moneys In Class 2 Senior Liquidity Reserve Subaccount.* Money in the Class 2 Senior Liquidity Reserve Subaccount shall be applied to the redemption of Outstanding Class 2 Senior Bonds in accordance with paragraph (k) of Section 5.06. Any money remaining in the Class 2 Senior Liquidity Reserve Subaccount after its application pursuant to Section 5.06(k) shall be transferred to the First Subordinate Redemption Account or, but only if there shall be no Senior Bonds and First Subordinate Bonds then Outstanding, to the Second Subordinate Turbo Redemption Account, to be applied on the succeeding Distribution Date in accordance with paragraph (d) of this Section 5.06.

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

(a) Pending its use under this Trust Indenture, money in the Pledged Accounts held by the Trustee shall be invested by the Trustee in Eligible Investments pursuant to written direction of the Authority (which shall specify the particular investment to be made) if there is not then an Event of Default actually known to an Authorized Officer of the Trustee. Such Eligible Investments shall mature or be redeemable at the option of the Trustee on or before the Business Day preceding each next succeeding Distribution Date, except to the extent that other Eligible Investments timely mature or are so redeemable in an amount sufficient to make payments under clauses (i) through (ix) of Section 5.03(b) on the next succeeding Distribution Date. Investments shall be held by the Trustee in the respective Pledged Accounts and shall be sold or redeemed to the extent necessary to make payments or transfers from each Pledged Account. The Trustee shall not be liable for any losses, fees, taxes or other charges on investments, reinvestments or liquidations of investments made in accordance with this Section unless such losses were caused by the Trustee's negligence, willful misconduct or negligent failure to follow instructions of the Authority properly given hereunder. The Trustee may conclusively rely upon the Authority's written instructions as to both the suitability and legality of the directed investments and such written direction shall be deemed to be a certification that such directed investments constitute Eligible Investments. If the Authority shall have failed to give written investment directions to the Trustee, then the Trustee shall invest the funds in the Pledged Accounts in investments specified in subsection (a) of the definition of Defeasance Collateral maturing not later than prior to the next Distribution Date; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on

which such investment is to be made, the Trustee shall have received written investment directions of the Authority directing the Trustee to invest the funds in such investments and, if no such written order is so received, the Trustee shall notify the Authority and shall hold such moneys uninvested until receipt of such written directions.

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

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

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

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

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

(b) *Senior Liquidity Reserve Account.* No later than May 15 of each year commencing May 15, 2008, the Trustee shall value the money and investments in the Senior Liquidity Reserve Account, and the subaccounts therein, according to the methods set forth in this Section 5.07 and shall promptly notify the Authority of such valuation. Any amounts in the applicable subaccount in the Senior Liquidity Reserve Account in excess of the Class 1 Senior Liquidity Reserve Requirement or the Class 2 Senior Liquidity Reserve Requirement, as applicable, shall be applied as provided in Section 5.03(a) of this Trust Indenture. If, after receipt of any Pledged Tobacco Receipts, the Trustee determines that a withdrawal from the Senior Liquidity Reserve Account will be required on a Distribution Date in any year, the Trustee shall as soon as practicable notify the provider under any Eligible Investment relating to the Senior Liquidity Reserve Account of the estimated amount of the withdrawal and the projected date of the withdrawal. In no event shall such notice be given later than ten (10) Business Days prior to the applicable Distribution Date. In the event no Event of Default has occurred and an investment meeting the requirements of clause (i) of the definition of Eligible Investments is deposited into the applicable subaccount in the Senior Liquidity Reserve Account such that the cash and the value of such Eligible Investment exceed the Class 1 Senior Liquidity Reserve Requirement or the Class 2 Senior Liquidity Reserve Requirement, as

applicable, such excess cash shall be applied as provided in Section 5.03(a) of this Trust Indenture.

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

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

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

**Section 5.08 Unclaimed Money.** Except as may otherwise be required by applicable law, in case any money deposited with the Trustee or a Paying Agent for the payment of the Bond Obligation, or interest or premium, if any, on any Bond remain unclaimed for three (3) years after such Bond Obligation, interest or premium has become due and payable, the Agent may and upon receipt of a written request of the Authority will pay over to the Authority the amount so deposited and thereupon the Agent and the Authority shall be released from any further liability hereunder with respect to the payment of Bond Obligation, interest or premium and the owner of such Bond shall be entitled (subject to any applicable statute of limitations) to look only to the Authority as an unsecured creditor for the payment thereof.

## ARTICLE VI

### COVENANTS AND REPRESENTATION OF THE AUTHORITY

**Section 6.01 Limitation of Rights and Remedies.** The parties acknowledge and agree that all of the covenants, agreements, representations, warranties and obligations of the Authority made under or pursuant to this Article VI are subject in all respects to the provisions of Section 1.04 of this Trust Indenture and Sections 3.02, 6.04, 6.08 and 6.10 of the 2007 Sale Agreement.

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

(b) The Authority covenants to pay when due all sums payable on the Bonds, but only from the Collections and other moneys constituting Collateral designated herein, subject only to (i) this Trust Indenture, and (ii) to the extent permitted hereby, agreements with Holders of Bonds pledging particular collateral for the payment thereof. The obligation of the Authority



to pay the Bond Obligation, interest and redemption premium, if any, to the Holders of Bonds from the Collections and other moneys constituting Collateral described herein, shall be absolute and unconditional, shall be binding and enforceable in all circumstances whatsoever, and shall not be subject to setoff, recoupment or counterclaim.

(c) The Authority represents that it is duly authorized pursuant to the Act to create and issue the Bonds, to enter into this Trust Indenture and to pledge the Collateral as security in accordance with the Act. The Collateral so pledged is and will be free and clear of any pledge, lien, security interest, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created hereby, and all action legally required on the part of the Authority to that end has been duly and validly taken. The Bonds and the provisions hereof are and will be the valid and binding obligations of the Authority in accordance with their terms.

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

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

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

**Section 6.05 Tax Covenants.** The Authority shall, at or prior to the issuance thereof, execute the Tax Certificates and at all times do and perform all acts and things permitted by law and necessary or desirable to assure that interest paid by the Authority on Tax-Exempt Bonds shall be excludable from gross income for federal income tax purposes pursuant to § 103(a) of the Code; and no funds of the Authority shall at any time be used directly or indirectly to acquire securities, obligations or other investment property the acquisition or holding of which would cause any Tax-Exempt Bond to be an arbitrage bond as defined in the Code, including but not limited to actions relating to the rebate of arbitrage earnings and the expenditure and investment of proceeds and moneys deemed to be proceeds of Tax-Exempt Bonds, as more fully set forth in the Tax Certificate. If and to the extent required by the Code, the Authority shall periodically, at such times as may be required to comply with the Code, pay as an Operating Expense the amount, if any, required by the Code to be rebated or paid as a related penalty. Notwithstanding any other provisions hereof, the requirements of this Section 6.05 shall survive the defeasance or other payment of the Tax Exempt Bonds.

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

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

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

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

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

(i) the Outstanding Bonds of each Series;

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

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

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

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

(vi) the Class 1 Senior Liquidity Reserve Requirement and the Class 2 Senior Liquidity Reserve Requirement as of that Distribution Date; and

(vii) whether or not a Lump Sum Payment or Total Lump Sum Payment has been received.

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

(ix) The Trustee shall have no duty to review, verify or analyze report delivered pursuant to Section 6.06(b) above and shall hold such report solely as a repository for the benefit of the Owners of the Bonds. The Trustee shall not be deemed to have notice of any information contained therein, or default or Event of Default which may be disclosed therein in any manner.

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

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

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

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

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

(d) *Payment of Operating Expenses.* The Authority covenants to pay its Operating Expenses to the parties entitled thereto, which covenant is solely for the benefit of the Bondholders and is not intended to be, and shall not be, for the benefit of any party to which the Authority may be obligated to make a payment as an Operating Expense.

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

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

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

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

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

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

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

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

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

(iii) the Authority has received a Rating Confirmation;

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

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

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

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

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

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

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

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

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

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

## ARTICLE VII

### THE STATE

**Section 7.01 Limitation of Rights and Remedies.** All of the provisions and sections of this Article VII are subject in all respects to the provisions of Section 1.04 of this Trust Indenture and Sections 3.02, 6.04, 6.08 and 6.10 of the 2007 Sale Agreement. This Article VII recites certain representations, acknowledgments, consents, warranties, covenants and other obligations made by the State in the 2007 Sale Agreement with the Authority. Nothing in this Article VII or this Trust Indenture is intended or shall be construed to make the State a party to this Trust Indenture or to otherwise create any contractual promise, liability or obligation of the State under this Trust Indenture; provided, however, that this shall not preclude the Trustee from pursuing certain rights and remedies of the Authority arising under the 2007 Sale Agreement against the State that have been assigned by the Authority to the Trustee hereunder, subject to the limitations and provisions of the 2007 Sale Agreement and this Trust Indenture.

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

**Section 7.03 Pledges; Non-Impairment Covenants.** (a) Under the 2007 Sale Agreement, the State has covenanted and agreed with the Authority that the Authority can include in this Trust Indenture the pledges made by the State that the State will: (i) maintain statutory authority for, and cause to be collected and paid directly to the Authority or its assignee, the Pledged Tobacco Receipts, (ii) enforce the rights of the Authority to receive the

2007 Sold Tobacco Receipts, (iii) not materially impair the rights of the Authority to fulfill the terms of its agreements with the Holders of Outstanding Bonds under the Trust Indenture, (iv) not materially impair the rights and remedies of the Holders of Outstanding Bonds or materially impair the security for those Outstanding Bonds, (v) enforce the MSA and the Consent Decree and diligently enforce the Qualifying Statute to effectuate the collection of the Pledged Tobacco Receipts, (vi) cause the Attorney General of the State to irrevocably instruct the escrow agent under the MSA to transfer all Pledged Tobacco Receipts directly to the Trustee as assignee of the Authority, and (vii) not amend the MSA, or amend or repeal the Qualifying Statute, in any manner that would materially impair the rights of the Bondholders, until the Bonds, together with the interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of Bondholders, are fully paid and discharged pursuant to the terms of the Trust Indenture. As stated in Section 183.51 of the Ohio Revised Code, (a) nothing in said subsection or the bond proceedings shall preclude or limit, or be construed to preclude or limit, the State from regulating the sale of cigarettes or other tobacco products, or from defending or prosecuting cases or other actions relating to the sale or use of cigarettes or other tobacco products, and (b) except as otherwise may be agreed in writing by the State Attorney General, nothing in said subsection or the bond proceedings shall modify or limit, or be construed to modify or limit, the responsibility, power, judgment, and discretion of the State Attorney General to protect and discharge the duties, rights and obligations of the State under the MSA, the Consent Decree, or the Qualifying Statute.

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

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

## ARTICLE VIII

### THE AGENTS

**Section 8.01 Limitation of Rights and Remedies.** The Authority and the Trustee covenant, represent and agree that all of the provisions and sections of this Article VIII are subject in all respects to the provisions of Section 1.04 of this Trust Indenture and Sections 3.02, 6.04, 6.08 and 6.10 of the 2007 Sale Agreement.

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

(a) The Trustee represents and warrants as of the Delivery Date for the Series 2020 Senior Bonds that it is duly organized and validly existing as a national banking association, with the capacity to exercise the powers and duties of the Trustee hereunder, and that by proper corporate action it has duly authorized the execution and delivery of this Trust Indenture.

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

(c) As Trustee hereunder:

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

(ii) before the Trustee acts or refrains from acting, it may require an Officer's Certificate and/or an opinion of counsel. The Trustee shall not be liable for any action it takes or omits to take in accordance with such certificate or opinion. Whenever in the administration of the trusts of this Trust Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to



take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate or Written Notice of the Authority delivered to the Trustee, and such certificate or Written Notice, in the absence of negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Trust Indenture upon the faith thereof;

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

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

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

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

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

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

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

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

(g) The Agents may be or become the owner of or trade in the Bonds with the same rights as if they were not the Agents.

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

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

(j) The Agents may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians and nominees appointed with due care, and shall not be responsible for any negligence, willful misconduct and bad faith on the part of any agent, attorney, custodian or nominee appointed with due care hereunder.

(k) Notwithstanding anything herein to the contrary, each Agent shall be responsible for its negligence or willful misconduct. The Trustee shall have no responsibility with respect to any information in any offering circular or other disclosure material distributed with respect to the Bonds or for compliance with any securities laws in connection with the issuance, sale, or remarketing of the Bonds. Except to the extent and as may be required by an investment agreement or repurchase agreement to which the Trustee may be a party with respect to accounts or funds under this Trust Indenture, the Trustee makes no representations as to, and shall have no responsibility for, the value, condition, validity, adequacy or sufficiency of the Collateral, of any assets pledged or assigned by the Trust Indenture or the other transaction documents as security for the Bonds, or the right, title or interest of the Authority therein. The Trustee shall have no duty or obligation to record or file, and shall not be responsible for the validity, priority, recording, rerecording, filing or refiling of the Trust Indenture, any instrument or document of further assurance or collateral assignment, any financing statements, amendments or modifications thereto, or continuation statements, and shall have no duty to collect, preserve, exercise or enforce rights in the Collateral (against prior parties or otherwise), except as expressly provided herein.

(l) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(m) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions (“Instructions”) given pursuant to this Trust Indenture and delivered using Electronic Means (“Electronic Means” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Officer’s Certificate shall provide to the Trustee an incumbency certificate listing the Authorized Officers with the authority to provide such Instructions and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority whenever a person is to be added or deleted from the listing. If the Authority elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Authority and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable

user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

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

**Section 8.05 Resignation or Removal of the Trustee.** The Trustee may resign at any time on not less than 30 days' written notice to the Authority, the Holders and each of the Rating Agencies then rating the Bonds. The Trustee will promptly certify to the Authority that it has sent written notice to all Holders and such certificate will be conclusive evidence that such notice was mailed as required hereby. Upon receiving such notice of resignation, the Authority shall take action to appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Trustee from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the Holders, the resigning Trustee and the successor Trustee. The Trustee may be removed by the Authority or by a Majority in Interest of Outstanding Senior Bonds, upon written notice to the Trustee, if rated BBB- or below by S&P, or, if none of the Outstanding Bonds are rated by S&P, rated below investment grade by S&P, Moody's or Fitch. Each successor Trustee shall be rated BBB or above by S&P, or, if none of the Outstanding Bonds are rated by S&P, rated investment grade by S&P, Moody's or Fitch. The Trustee may also be removed by written notice from the Authority if no Default is then continuing or from a Majority in Interest of the Outstanding Senior Bonds to the Trustee and the Authority. No such resignation or removal shall take effect until a successor has been appointed and has accepted the duties of Trustee.

## **Section 8.06 Successor Agents.**

(a) Any corporation or association which succeeds to the municipal corporate trust business of an Agent as a whole or substantially as a whole, whether by sale, merger, consolidation or otherwise, shall thereby become vested with all the property, rights, powers and duties thereof under this Trust Indenture, without any further act or conveyance and without the execution or filing of any paper with any party hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

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

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

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

- (1) the Bond Obligation paid to Holders expressed in dollars per thousand;

- (2) the interest paid to Holders expressed in dollars per thousand;
- (3) the actual Turbo Redemptions paid on and prior to such Distribution Date versus the projected Turbo Redemptions;
- (4) the amount on deposit in each Fund and Account, including the face value of investments described in subsections (c), (e), (f) and (h) of Eligible Investments;
- (5) whether the amount on deposit in the Class 1 Liquidity Reserve Subaccount is sufficient to satisfy the Class 1 Liquidity Reserve Requirement as of such Distribution Date and, if not, the amount of the shortfall;
- (6) whether the amount on deposit in the Class 2 Liquidity Reserve Subaccount is sufficient to satisfy the Class 2 Liquidity Reserve Requirement as of such Distribution Date and, if not, the amount of the shortfall; and
- (7) whether or not a Lump Sum Payment or Total Lump Sum Payment has been received.

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

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

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

### **ARTICLE IX**

#### **THE HOLDERS**

**Section 9.01 Action by Holders.** Any request, authorization, direction, notice, consent, waiver or other action provided by this Trust Indenture to be given or taken by Holders of Bonds may be contained in and evidenced by one or more writings of substantially the same tenor signed by the requisite number of Holders or their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Trust Indenture (except as otherwise herein expressly provided) if made in the following manner, but the Authority or the Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the

certificate or signature guarantee, which need not be acknowledged or verified, of an officer of a bank, trust company or securities dealer satisfactory to the Authority or to the Trustee; or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof; or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Holder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its clerk or secretary or an assistant clerk or secretary. Any action of the owner of any Bond shall be irrevocable and bind all future record and beneficial owners thereof.

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

## **ARTICLE X**

### **DEFAULT AND REMEDIES**

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

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

- (a) Principal of, premium or interest on any Class 1 Senior Bond has not been paid, when due, including when due by Fixed Sinking Fund Installments;
- (b) failure to pay Turbo Redemptions with respect to Class 1 Senior Bonds when due in accordance with this Trust Indenture, but only if, and to the extent moneys are available therefor;
- (c) the Authority fails to observe or perform any other provision of this Trust Indenture related to the Senior Bonds, which failure is not remedied within 60 days after written notice thereof is given to the Authority by the Trustee or to the Authority and the Trustee by the Holders of at least 25% of the Aggregate Bond Obligation of the Senior Bonds Outstanding, except as specified in Section 10.01(b), failure to make any Turbo Redemption because of insufficiency of Surplus Collections pursuant to Article V shall not constitute a Default or an Event of Default. In the case of a default specified in this subsection, if the default cannot be corrected within the said 60-day period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within said 60-day period and diligently pursued until the default is corrected;

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

(e) without limiting Section 10.01(d), a material breach by the Authority of its covenants contained in Section 7.03(b) hereof, which breach is not remedied within 60 days after written notice thereof is given to the Authority and the State by the Trustee or to the Authority and the Trustee by the Holders of at least 25% of the Aggregate Bond Obligation of the Senior Bonds Outstanding. In the case of a default specified in this subsection, if the default cannot be corrected within the said 60-day period, it shall not constitute an Event of Default if corrective action is instituted by the State or the Authority within said 60-day period and diligently pursued until the default is corrected;

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

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

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

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

Notwithstanding anything in this Trust Indenture to the contrary, neither a Class 2 Payment Default nor a Subordinate Payment Default is an Event of Default hereunder, provided that in the event of a Class 2 Payment Default or a Subordinate Payment Default, so long as no Class 1 Senior Bonds are Outstanding, Owners of Class 2 Senior Bonds (in the event of a Class 2 Payment Default) and Holders of First Subordinate Bonds, Second Subordinate Bonds, and Fully Subordinate Bonds (in the event of a Subordinate Payment Default) shall have the respective specified remedies in Section 10.02(a)(v) hereof.



Notwithstanding anything in this Trust Indenture to the contrary, the failure to pay a Turbo Redemption shall not constitute an Event of Default or a Class 2 Payment Default under this Trust Indenture, if such failure is due to the insufficiency of funds available therefor.

**Section 10.02 Remedies.**

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

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

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

(B) sue upon such Bonds;

(C) require the Authority to account as if it were the trustee on an express trust of such Holders; and

(D) enjoin any acts or things which may be unlawful or in violation of the rights of such Holders.

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

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

(iv) Upon the occurrence of a Payment Default, the Bonds shall be paid as described in Section 5.03(c) of this Trust Indenture.

(v) Only if the Class 1 Senior Bonds are no longer Outstanding, the Owners of the Class 2 Senior Bonds may enforce the provisions of this Trust Indenture for their benefit by appropriate legal proceedings in accordance with clause (a) of the definition of the Payment Priorities. Only if the Senior Bonds are no longer Outstanding, in the event of a Subordinate Payment Default the Holders of First Subordinate Bonds, Second Subordinate Bonds, and Fully Subordinate Bonds may enforce the provisions of this Trust Indenture for their benefit by appropriate legal proceedings in accordance with clauses (b), (c) and (d) of the definition of the Payment Priorities and shall be paid on a Pro Rata basis as described in Section 5.03(c) of this Trust Indenture.

(b) *Subordinate Remedies.*

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

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

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

Bonds will be paid to Holders of Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds until all Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds have been Fully Paid, and the Holders of the Fully Subordinate Bonds will be subrogated to the rights of such Holders of Senior Bonds, First Subordinate Bonds, and Second Subordinate Bonds to receive payments or distributions of assets with respect thereto.

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

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

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

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

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

exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

## ARTICLE XI

### MISCELLANEOUS

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

(a) This Trust Indenture may be:

(i) supplemented by delivery to the Trustee of an instrument certified by an Authorized Officer of the Authority to (A) provide for earlier or greater deposits into the Bond Service Fund, (B) upon direction of an Authorized Officer of the Authority, accompanied by an opinion of Counsel as to the validity thereof under the Act, subject any property to the lien hereof subject to the consent of the State or as authorized by law, (C) add to the covenants and agreements of the Authority or surrender or limit any right or power of the Authority to the extent permitted by the Act or other applicable law, (D) identify particular Bonds for purposes not inconsistent herewith, including credit or liquidity support, remarketing, serialization and defeasance, (E) cure any ambiguity or defect, (F) protect the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, or the exemption from registration of the Bonds under the Securities Act of 1933, as amended, or of this Trust Indenture under the Trust Indenture Act of 1939, as amended, (G) authorize Bonds of a Series and in connection therewith determine the matters referred to herein, including Section 3.01, and any other things relative to such Bonds that are not materially adverse to the Holders of Outstanding Bonds, or to modify or rescind any such authorization or determination at any time prior to the first authentication and delivery of such Series of Bonds, (H) make any other changes to this Trust Indenture that, as evidenced by a Rating Confirmation, are not materially adverse to the Holders of Outstanding Bonds, or (I) provide for the issuance of the Series 2020 Senior Bonds, Refunding Bonds, Additional Bonds and Fully Subordinate Bonds in compliance with Article III of this Trust Indenture; or

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

(iii) amended only with prior written notice to the Rating Agencies and the written consent of a Majority in Interest of the Aggregate Bond Obligation of Senior Bonds (or First Subordinate Bonds when there are no Senior Bonds Outstanding, or Second Subordinate Bonds when there are no Senior Bonds and no First Subordinate Bonds Outstanding); provided, however, this Trust Indenture shall not be amended so as to (A) extend the maturity of any Bond, (B) reduce the Principal amount or Accreted Value of any Bond, applicable premium or interest rate of any Bond, (C) make any Bond

redeemable other than in accordance with its terms, (D) create a preference or priority of any Bond over any other Bond of the same class or (E) reduce the percentage of the Bonds required to be represented by the Holders giving their consent to any amendment unless the Holders of the Bonds affected thereby have consented thereto in writing.

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

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

**Section 11.02 Supplements and Amendments to the 2007 Sale Agreement.** In the event that the Trustee receives a request from the Authority for a consent or other action with respect to an amendment to the 2007 Sale Agreement pursuant to Section 6.09(h) hereof, the Trustee shall transmit a notice of such request to each Holder and request directions with respect thereto.

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

If to the Trustee:

U.S. Bank National Association  
10 West Broad Street, 12<sup>th</sup> Floor  
Columbus, Ohio 43215  
Attention: Global Corporate Trust

If to the Authority:

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

Attn: Chairperson

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

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

**Section 11.04 Governing Law.** This Trust Indenture shall be governed by State law, without reference to its conflict of law provisions, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws. Any and all litigation or actions commenced in connection with this Trust Indenture and the Bonds shall be brought in the venues designated in Section 10.04 of this Trust Indenture.

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

**Section 11.06 Signatures and Counterparts.** This Trust Indenture and each Supplemental Indenture may be executed and delivered in any number of counterparts, each of which shall be deemed to be an original, but such counterparts together shall constitute one and the same instrument. Delivery of an executed signature page of this Trust Indenture or any such Supplemental Indenture by facsimile or email transmission shall be effective as delivery of a manually signed counterpart hereof or thereof.

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

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

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

**Section 11.10 Effective Date.** This Amended and Restated Trust Indenture shall become effective upon its execution and delivery on March 4, 2020.

**Section 11.11 U.S.A. Patriot Act.** The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or

opens an account with the Trustee. The parties to this Trust Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

**Section 11.12 Force Majeure.** In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

[Signature Page Follows]

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

**BUCKEYE TOBACCO SETTLEMENT  
FINANCING AUTHORITY**

By:   
Its: Secretary

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

By:   
Its: Vice President

[Signature Page to Amended and Restated Trust Indenture]