

DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF THE STATE SERVICE CONTRACT OBLIGATION RESOLUTION

The following sections contain definitions of certain terms used in, and a general summary ("Summary") of, certain provisions of the State Service Contract Obligation Resolution. The definitions and Summary are not to be considered a full statement of the terms of the State Service Contract Obligation Resolution and, accordingly, are qualified by reference to and are subject to the full text of the State Service Contract Obligation Resolution. A copy of the State Service Contract Obligation Resolution may be obtained upon request from MTA or the Trustee.

Definitions

Capital Costs shall mean (i) the costs of the Issuer or any other Related Entity for the planning, design, acquisition, construction, reconstruction, rehabilitation or improvement of all or any part of a Project, including costs of acquisition of real or personal property or any interests therein, legal, administrative, engineering, planning, design, studies, insurance, financing costs (including Costs of Issuance) and initial working capital required for the commencement of operation of any such project and any capital contributions, whether or not represented by equity or debt securities or other evidences of indebtedness, made by the Issuer or any other Related Entity to any Person participating in a Project for the purpose of funding any costs described in this clause (i); (ii) amounts paid into any Fund or Account upon the issuance of any Obligations; and (iii) payment when due (whether at the maturity of principal or on the due date of interest or upon redemption or when otherwise due, including by purchase or through tender or exchange) on any indebtedness or obligation of the Issuer or any other Related Entity authorized to be paid under the State Service Contract Legislation, including Obligations, Obligation Anticipation Notes, Parity Debt, Subordinated Indebtedness, Subordinated Contract Indebtedness, any termination or other payments for financial hedging arrangements, or any such indebtedness or obligation issued or incurred by any Related Entity.

Initial State Service Contract shall mean the State Service Contract, dated as of May 15, 2002, by and between the Issuer and the State, as from time to time amended or supplemented in accordance with the terms thereof.

Events of Default shall mean the events defined as such in the Resolution.

Issuer shall mean the MTA.

Obligations shall mean State Service Contract Obligations.

Project or Projects shall mean transportation facilities as defined in subdivision 14 of Section 1261 of the Issuer Act.

Resolution shall mean the State Service Contract Obligation Resolution, including the Standard Resolution Provisions set forth in Annex A to the Resolution, as from time to time amended or supplemented by Supplemental Resolutions in accordance with the terms of the Resolution.

Standard Resolution Provisions shall mean the Standard Resolution Provisions appended to the Resolution as Annex A.

State Service Contract or **State Service Contracts** shall mean the (i) Initial State Service Contract and (ii) any other subsequent contract or contracts between the Issuer and the State entered into for the purpose of assisting (a) the financing and refinancing of Projects, and (b) refunding Obligations (1) previously issued by the Issuer, the Transit Authority and the TBTA, and/or (2) secured wholly or partially by any or all of the State Service Contracts authorized by law.

State Service Contract Debt Service Fund shall mean the Fund by that name established in the Resolution.

State Service Contract Legislation shall mean (i) Section 16 of Chapter 314 of the Laws of 1981, (ii) Section 42 of Chapter 929 of the Laws of 1986, and (iii) Section 34 of Part O of Chapter 61 of the Laws of 2000, as each of such laws has been, and may hereafter be, amended from time to time.

State Service Contract Obligation or **State Service Contract Obligations** shall mean any bonds, notes, commercial paper or other form of indebtedness of the Issuer payable from the State Service Contract Debt Service Fund, authorized and delivered pursuant to the Resolution.

State Service Contract Payments shall mean all payments or other amounts received or receivable by the Issuer pursuant to the State Service Contracts.

State Service Contract Proceeds Fund shall mean the Fund by that name established in the Resolution.

Trust Estate shall mean, collectively, but subject to the terms and provisions of the Resolution, all right, title and interest of the Issuer in:

- (i) the Initial State Service Contract and in any other State Service Contract pledged under the Resolution by Supplemental Resolution, including, without limitation, the State Service Contract Payments, other than State Service Contract Payments representing amounts designated by the State to be applied directly to the payment of Capital Costs or to be deposited in an escrow fund for the payment of principal of and premium, if any, and interest on any Obligations to be deemed paid within the meaning of the Resolution,
- (ii) the proceeds of the sale of the Obligations, and
- (iii) all Funds, Accounts and sub-accounts established by the Resolution, including the investments, if any, thereof.

(Section 102)

Standard Resolution Provisions

Except as otherwise specifically provided in the Resolution or by Supplemental Resolution, the Standard Resolution Provisions appended to the Resolution as Annex A constitute an integral part of the Resolution and have the same force and effect as if set forth in the forepart of the Resolution.

(Section 101)

Authorization of the Obligations

The Resolution authorizes Obligations of the Issuer designated as “State Service Contract Obligations.” The Obligations shall be special obligations of the Issuer payable solely from the Trust Estate pledged to the payment thereof pursuant to the first paragraph of the section of the Resolution summarized under the caption “The Pledge Effected by the Resolution.” The aggregate principal amount of the Obligations which may be executed, authenticated and delivered under the Resolution is not limited except as provided in the Resolution or as may from time to time be limited by law.

General Provisions for Issuance of Obligations

The Obligations of one or more Series may at any time, or from time to time, be authenticated and delivered upon original issuance pursuant to the section of the Resolution summarized under this caption to pay, or to provide for the payment of, all or part of the Capital Costs included in a Capital Program Plan (within the meaning of Section 1269-b of the Issuer Act or any successor provision) if a Capital Program Plan is then required.

Obligations of any Series shall be authorized by a Supplemental Resolution which shall specify (in addition to the items set forth in the Resolution) the following matters (or the manner of determining such matters), or shall include, among other things, the following certificate for delivery to the Trustee (in addition to the items set forth in the Resolution), as appropriate:

a certificate of an Authorized Officer of the Issuer to the effect that

(1) upon the authentication and delivery of the Obligations of such Series, the aggregate amount of debt service on all State Service Contract Obligations (plus debt service amounts on all previously issued and Outstanding State service contract obligations) shall not exceed, in any State fiscal year, the amounts payable by the State pursuant to the State Service Contract, up to and including the Expiration Date; and

(2) the amounts payable by the State pursuant to the State Service Contract will be sufficient to pay, when due, all (a) Debt Service payments and (b) debt service amounts on previously issued and Outstanding State service contract obligations.

(Section 202)

No Bond Anticipation Notes, Variable Interest Rate Obligations, Parity Debt

Pursuant to the Initial State Service Contract (prior to the amendment thereof), the Issuer shall not issue any State Service Contract Obligations under the Resolution of the following types:

- (1) notes in anticipation of the issuance of any State Service Contract Obligations;
- (2) State Service Contract Obligations bearing interest at a variable rate; or
- (3) Parity Debt.

Pursuant to the Initial State Service Contract (after the amendment thereof) or another State Service Contract, the Issuer may issue Obligation Anticipation Notes, Variable Interest Rate Obligations, and Parity Debt, and the terms and conditions of such Obligations shall be included in the Supplemental Resolution authorizing those Obligations.

(Section 203)

Obligations to Refund Pre-existing Indebtedness

Obligations may be authenticated and delivered upon original issuance in one or more Series or subseries for the purpose of refunding (including by redemption, payment at maturity or in connection with exchanges or tenders) any Pre-existing Indebtedness.

Any Series of Obligations issued for the purpose of refunding any Pre-existing Indebtedness shall be so authenticated and delivered only upon receipt by the Trustee, in addition to the documents required by the section of the Resolution summarized under the caption “General Provisions for Issuance of Obligations,” of an Opinion of Bond Counsel to the effect that such Pre-existing Indebtedness has been exchanged, paid or is deemed to have been paid within the meaning and with the effect expressed in the related authorizing resolution or other document, which opinion may rely upon a certificate of an Authorized Officer or an independent verification agent to the effect that sufficient money and defeasance securities have been placed in escrow to provide for the payment of the principal or Redemption Price of, and interest on, such Pre-existing Indebtedness as such obligations mature, are tendered for purchase or exchange, or are called for redemption in accordance with the related authorizing resolution or other document. The proceeds received on the sale of such Obligations shall be applied in the manner provided in the Supplemental Resolution authorizing such Obligations and in any related escrow agreement.

(Section 204)

Redemption at Demand of the State or the City

Except as otherwise provided pursuant to a Supplemental Resolution, either the State or the City may, upon furnishing sufficient funds therefor, require the Issuer to redeem all or any portion of the Obligations as provided in the Issuer Act.

(Section 401)

The Pledge Effectuated by the Resolution

The Trust Estate is pledged pursuant to the Resolution for payment of the principal and Redemption Price of, interest on, and Sinking Fund Installments for, the Obligations, in accordance with their terms and the provisions of the Resolution, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution.

The pledge of the Trust Estate shall in all respects secure on a *pari passu* basis all of the Obligations and, except as expressly so provided, nothing contained in the Resolution shall be deemed to confer on the Owners of any Obligations any rights in the Trust Estate which are superior or inferior to the Owners of any other Obligations.

The pledge of the Trust Estate shall be valid and binding from and after the date of issuance and delivery of the first Obligations, and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such parties have notice thereof.

Subject to the provisions described in the first paragraph of this caption, the Trust Estate is and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by the Resolution, and all corporate action on the part of the Issuer to that end has been duly and validly taken.

(Section 501)

Establishment of Funds, Accounts and Sub-Accounts

The Resolution establishes the State Service Contract Proceeds Fund, which shall be held and administered by the Issuer.

The Resolution establishes the State Service Contract Debt Service Fund, which shall be held and administered by the Trustee.

Amounts held at any time by the Issuer or the Trustee in any of the Funds established pursuant to the Resolution shall be held in trust separate and apart from all other funds. Accounts and sub-accounts may be established within the Funds established pursuant to the Resolution. Additional funds, accounts or sub-accounts may be created for other purposes by a certificate of an Authorized Officer of the Issuer or by any Supplemental Resolution.

(Section 502)

State Service Contract Proceeds Fund; Amounts to be Paid Therein and Application Thereof

The Issuer shall deposit, upon receipt thereof, into the State Service Contract Proceeds Fund:

- (1) such proceeds of the sale of Obligations as may be provided for in a Supplemental Resolution; and
- (2) amounts to be transferred to the State Service Contract Proceeds Fund pursuant to the Resolution.

Subject to the provisions of the Resolution summarized in the next paragraph, amounts in any account or sub-account of the State Service Contract Proceeds Fund shall be applied to the payment of Capital Costs.

The Issuer shall pay out and permit the withdrawal of amounts on deposit in any account or sub-account of the State Service Contract Proceeds Fund at any time for the purpose of paying all or any part of the Capital Costs pursuant to the Resolution, but only upon receipt of:

- (1) a written requisition setting forth (by reference to the Issuer's standard payout forms or otherwise) the amount, manner, and person to whom such payment is to be made (which may be or include the Issuer) and the purpose thereof, and, with respect to such payments made to the Issuer, the Issuer shall within 30 days following the end of the calendar month in which such payments are made, deliver to the Trustee an accounting of all such payments for Capital Costs, in reasonable detail;
- (2) a certificate of an Authorized Officer of the Issuer identifying such requisition and stating that the amount to be withdrawn from the State Service Contract Proceeds Fund pursuant to such requisition is a proper charge thereon and that such charge has not been the basis of any previous withdrawal;
- (3) such additional documentation, if any, as may be required pursuant to any Supplemental Resolution.

Amounts remaining in the State Service Contract Proceeds Fund after the payment of the Capital Costs and not applied to pay such Capital Costs pursuant to the provisions of the Resolution summarized in the preceding two paragraphs, shall, at the discretion of the Issuer, be deposited in the State Service Contract Debt Service Fund or transferred to pay Subordinated Indebtedness or Subordinated Contract Obligations as provided in a Supplemental Resolution or other resolution.

(Section 503)

State Service Contract Debt Service Fund; Amounts to be Paid Therein

The Issuer shall deposit each State Service Contract Payment, upon the receipt of the same by the Issuer or on the next succeeding Business Day, into the State Service Contract Debt Service Fund.

If on the Business Day next preceding a Debt Service Payment Date, the amounts in the State Service Contract Debt Service Fund shall be less than the Debt Service payable on such date, then the Issuer shall apply amounts from the State Service Contract Proceeds Fund to the extent necessary to make up the deficiency.

On or after each Debt Service Payment Date of each year, and subsequent to the payment of interest, Principal Installments and Redemption Price which may be due on such dates, the Issuer may, in its discretion, withdraw any amounts remaining on deposit in the State Service Contract Debt Service Fund and:

- (1) deposit the same in the State Service Contract Proceeds Fund; or
- (2) transfer the same to pay Subordinated Indebtedness or Subordinated Contract Obligations as provided in a Supplemental Resolution or other resolution;

provided, that the amounts to be withdrawn will not be needed to make a Debt Service Payment in the then current State fiscal year, assuming that the State Legislature has approved or will approve the annual appropriations necessary to make the State Service Contract Payments due under the State Service Contract during that same period.

(Section 504)

State Service Contract Debt Service Fund; Application Thereof

The Trustee shall pay out of the State Service Contract Debt Service Fund to the respective Paying Agents (i) on or before each interest payment date for any of the State Service Contract Obligations, the amount required for the interest payable on such date; (ii) on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; and (iii) on or before any redemption date for the State Service Contract Obligations which occurs on any interest payment date, the amount required for the payment of interest on the Obligations then to be redeemed. Such amounts shall be applied by the Paying Agents to such payments on and after the due dates thereof.

(Section 505)

Compliance with Laws Relating to Appropriation

The Issuer shall, at all times, comply with the obligations of the Issuer contained in the State Service Contracts and shall require the State to comply with its obligations as set forth therein including, without limitation, the obligation to pay all State Service Contract Payments payable thereunder, as the same shall become due and payable.

(Section 602)

Agreement of the State; No Bankruptcy

In accordance with Section 1271 of the Issuer Act, the Issuer does include the pledge and agreement of the State with the Owners of the Obligations that the State will not limit or alter the denial of authority under subdivision 9 of Section 1269 of the Issuer Act, or the rights vested in the Issuer by the Issuer Act to fulfill the terms of any agreement made with such Owners, or in any way impair the rights and remedies of such Owners until such agreements, bonds, notes and obligations with such Owners, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the Issuer is liable in connection with any action or proceeding by or on behalf of such Owners, are fully met and discharged.

(Section 603)

Amending the State Service Contract

So long as any of the Obligations shall remain Outstanding, the Issuer shall not alter, change, modify or amend any provision of the State Service Contracts except in accordance with the terms thereof and of the Resolution.

The State Service Contracts may, without the consent of the Owners of Outstanding State Service Contract Obligations, be altered, changed, modified or amended in a manner that will not adversely affect the Owners of the Outstanding State Service Contract Obligations.

The Issuer shall not alter, change, modify or amend any provision of the State Service Contracts so as to adversely affect the interest of the Owners of Outstanding Obligations without first obtaining:

- (1) the consent of the Owners of at least a majority in aggregate principal amount of the State Service Contract Obligations then Outstanding, or
- (2) if less than all of the State Service Contract Obligations then Outstanding are adversely affected by the alteration, change, modification or amendment, the consent of the Owners of at least a majority in aggregate principal amount of the State Service Contract Obligations then Outstanding which are so adversely affected;

provided, however, that:

- (a) if such alteration, change, modification or amendment will, by its terms, not take effect so long as any State Service Contract Obligations or of any specified maturity remain outstanding, the consent of the Owners of such State Service Contract Obligations shall not be required, and such State Service Contract Obligations shall not be deemed to be Outstanding for the purposes of any calculation of Outstanding State Service Contract Obligations under the Resolution; and
- (b) no such alteration, change, modification or amendment shall decrease the amount of any payment required to be made by the State under the State Service Contracts or extend the time of payment thereof.

For the purposes of the section of the Resolution summarized in this caption, State Service Contract Obligations shall be deemed to be adversely affected by an alteration, change, modification or amendment of the State Service Contracts if the same adversely affects or diminishes the rights of the Owners of the State Service Contract Obligations. The Trustee may, in its discretion, and based on a Counsel's Opinion, determine whether or not, in accordance with the foregoing powers of alteration, change, modification or amendment, any particular State Service Contract Obligations would be adversely affected by any alteration, change, modification or amendment of any State Service Contract. In any event, the Issuer shall not consent to any alteration, change, modification or amendment to any State Service Contract without the consent of the Trustee.

State Service Contract Obligations owned or held by or for the account of the Issuer or the State shall not be deemed Outstanding for the purpose of consent or other action or any calculation of outstanding State Service Contract Obligations provided for in the Resolution, and the Issuer or the State shall not be entitled with respect to such State Service Contract Obligations to give any consent or take any other action provided for in the section of the Resolution summarized in this caption. At the time of any consent or other action taken under the Resolution, the Issuer shall furnish the Trustee a certificate of an Authorized officer, upon which the Trustee may rely, describing all State Service Contract Obligations so to be excluded.

An adverse change shall not be deemed to occur if the State Service Contract is amended to provide for:

- (1) an increase in the amounts payable under a State Service Contract or in the amount of net proceeds which may be realized by the Issuer from the sale of State Service Contract Obligations or in the term of the State's obligations (other than an increase in such term that changes the maturity date or payment date of any outstanding State Service Contract Obligations); or
- (2) the issuance by the Issuer of:
 - (a) notes in anticipation of the issuance of any State Service Contract obligations;
 - (b) State Service Contract Obligations bearing interest at a variable rate; or
 - (c) Parity Debt under the State Service Contract Resolution.

(Section 604)

Events of Default

Each of the following events is defined as and shall constitute an "Event of Default" under the Resolution:

There shall occur a default in the payment of principal, Sinking Fund Installment, interest or premium on any Obligation after the same shall have become due, whether at maturity or upon call for redemption or otherwise, which default shall continue for a period of 30 days.

There shall occur a failure to observe, or a refusal to comply with, the terms of the Resolution or the Obligations, other than a failure or refusal constituting an event specified in any other paragraph of this caption and

other than a failure to make all or any portion of any required deposit into any Fund or Account which failure is the result of the fact that the Issuer has not received sufficient State Service Contract Payments to make such deposit; provided, however, that such failure or refusal shall have continued for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, is given to the Issuer by the Trustee, unless the Trustee shall agree in writing to an extension of such time prior to its expiration, and provided further, that if the failure stated in the notice cannot be remedied within the applicable period, the Trustee shall not unreasonably withhold its consent to an extension of such time if corrective action has been instituted by the Issuer within such period and is being diligently pursued.

The State or any Final Judgment shall limit or alter the denial of authority under subdivision 9 of Section 1269 of the Issuer Act to the Issuer or shall limit or alter the rights and powers vested in the Issuer by the Issuer Act to fulfill the terms of any agreements made by it with the holders of any notes, bonds, or lease or other obligations, or in any way impair the rights and remedies of such holders, until such agreements and all such obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the Issuer is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

The pledge created in the Resolution summarized under the caption “The Pledge Effected by the Resolution” shall, at any time and for any reason, cease to be in full force and effect or a Final Judgment shall be rendered which shall declare the pledge to be null and void, or shall declare that the pledge does not establish in any material respect the lien it purports to establish, or that the pledge is not for the benefit of the Owners of the Obligations, subject to the rights of no other parties.

Except as provided in this caption or in a Supplemental Resolution, no default under any resolution, agreement, or other instrument shall constitute or give rise to a default under the Resolution.

(Section 701)

Powers of Trustee

In the event that any Event of Default specified in the section of the Resolution summarized under the caption “Events of Default” shall occur and be continuing, the Trustee may, and, upon written request of the Owners of a majority in aggregate principal amount of the State Service Contract Obligations then Outstanding, shall, in its name,

- (1) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the Owners of Obligations;
- (2) bring suit upon the Obligations against the Issuer;
- (3) by action or suit, require the Issuer to account as if it were the trustee of an express trust for the Owners of the Obligations; or
- (4) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Obligations.

Subject to the provisions of the Resolution and the foregoing provisions summarized under this caption, the remedies conferred upon or reserved to the Trustee in respect of any Event of Default are not intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or now or hereafter existing at law or in equity or by statute; provided, however, that the Trustee or the Owners of the Obligations shall not have the right to declare all Obligations to be immediately due and payable. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in the Article of the Resolution summarized under this caption, it shall not be necessary to give any notice, other than notice as may be expressly required in the Resolution.

The Trustee shall in addition to the foregoing powers, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in the Resolution or incidental to the general representation of Owners of Obligations in the enforcement and protection of their rights.

The Issuer covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the Issuer and all other records relating to the Trust Estate shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys and, upon demand of the Trustee, the Issuer will account, as if it were the trustee of an express trust, for the Trust Estate for such period as shall be stated in such demand.

(Section 702)

Priority of Payments After Default

In the event that the funds held by the Fiduciaries shall be insufficient for the payment of interest and principal or Redemption Price then due on the Obligations, such funds (excluding funds held for the payment or redemption of particular Obligations which have theretofore become due at maturity or by call for redemption) and any other moneys received or collected by the Fiduciaries, or the Trustee, after making provision for the payment of any expenses necessary in the opinion of the Trustee to preserve the continuity of the amounts to be received under the Resolution or otherwise to protect the interest of the Owners of the Obligations, and for the payment of the charges and expenses and liabilities incurred and advances made by the Fiduciaries in the performance of their duties under the Resolution, shall be applied as follows:

- (1) Unless the principal of all of the Obligations shall have become due and payable,

First: To the payment to the Persons entitled thereto of all installments of interest then due with respect to Obligations in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installments due on the same date, then to the payment thereof ratably, according to the amounts due on such installments, to the Persons entitled thereto, without any discrimination or preference, except as to the difference in the respective rates of interest specified in such Obligations; and

Second: To the payment to the Persons entitled thereto of the unpaid principal or Redemption Price of any Obligations which shall have become due, whether at maturity or by call for redemption, in the order of their due dates and, if the amount available shall not be sufficient to pay in full all the Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal and Redemption Price due on such date, to the Persons entitled thereto, without any discrimination or preference.

- (2) If the principal of all of the Obligations shall have become due and payable, to the payment of the principal and interest then due and unpaid upon the Obligations without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Obligation over any other Obligation, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto, without any discretion or preference except as to any difference in the respective rates of interest specified in the Obligations.

The provisions of this caption are in all respects subject to the provisions of Article VI of the Standard Resolution Provisions.

(Section 703)