

**Request for Responses (RFR) to serve as  
Senior Managing Underwriter  
for the Commonwealth’s 2022 CTF Series A, 2022 General Obligation  
New Money and Refunding Bonds, 2014 Series D-2 Variable Rate General  
Obligation Debt**

**January 21, 2022**

**CONTACT PERSON:** John Durgin, Procurement Manager – [jdurgin@tre.state.ma.us](mailto:jdurgin@tre.state.ma.us)

- 1. Regarding this RFR.** The State Treasurer’s Office (“TRE”) requests proposals for the negotiated offering of 2022 Commonwealth Transportation Fund (“CTF”) New Money bonds and two series of New Money and Refunding General Obligation (“GO”) issuances in calendar year 2022 as described in further detail below. TRE is also requesting proposals for the 2014 Series D-2 as described in further detail below, as well as proposals for new variable rate debt. Responses to this RFR can be provided by both public finance investment banking firms that are currently pre-qualified to serve as Underwriter and from qualified banks or other institutions (“Firm” or “Firms”). **Firms may respond with a proposal for any or all of the transactions listed.**

The following table summarizes the anticipated negotiated transactions for which TRE is seeking responses in this RFR:

<b>\$300,000,000*</b>	<b>New Money CTF Series – March/April*</b> Targeted issuance in the March/April timeframe. Amount indicated is an estimate. This issuance is not expected to include refunding bonds.
<b>\$600,000,000*</b>	<b>New Money GO Series – June/July*</b> Targeted issuance in the June/July timeframe. Amount indicated is an estimate. This issuance may also include refunding bonds.
<b>\$600,000,000*</b>	<b>New Money GO Series – September/October*</b> Targeted issuance in the September/October timeframe. Amount indicated is an estimate. This issuance may also include refunding.
<b>\$200,000,000</b>	<b>Commonwealth of MA Consolidated Loan of 2014, Series D-2</b> To refinance or remarket the bonds which have a mandatory put date of August 1, 2022, a final maturity of August 1, 2043 and outstanding par amount of \$200 million. Proposals may include converting the bonds to a variable rate mode, direct purchase/refinancing, or a fixed rate mode with either a mandatory put feature or a final maturity. Proposals may also be for refinancing the bonds by issuing new refunding bonds. The amortization schedule for the bonds can be found in Appendix E.
* Dates and par amounts are preliminary estimates and are subject to change.	

This RFR will be used to select book-running senior manager(s) and to assist the TRE in its selection of syndicates for the 2022 CTF Series A Bonds and for the 2022 negotiated GO new money and/or refunding transaction(s). Additionally, TRE anticipates it will make syndicate or bank financing determinations based on recommendations made regarding variable rate debt, including the 2014 Series D-2. TRE expects to announce the selection of the book-runners at the conclusion of this RFR, while the selection of the full syndicate may be announced at a later date.

Please also note that TRE will be issuing approximately \$650 million of new money GO bonds competitively, which is expected to price in early February 2022. The anticipated amortization of those bonds is publicly available on our website at [www.massbondholder.com](http://www.massbondholder.com).

The TRE reserves the right to include or exclude any Firms, and to place such included Firms in any syndicate position it deems appropriate at its discretion. Any such decisions will be made based on the Responses to this RFR and any other factors the TRE determines to be pertinent. Issuance of this RFR in no way constitutes a commitment by TRE to award a contract. TRE reserves the right to issue all, some, or none of the indicated par amounts on a negotiated basis. TRE also reserves the right to select one or more syndicates from this RFR, depending on the actual number of bonds issuances.

Firms wishing to only be considered for a co-manager position, should indicate as such in their cover letter and only respond to questions in Section 14 (f), titled Co-Managers' Strategies and Section 15, titled References. All other Firms should respond to the questions in Section 14 for each of the specific transactions for which the Firm would like to be considered, as well as provide references pursuant to Section 15. Firms will automatically be considered for co-senior or co-manager positions in addition to book-running senior manager. The plans of finance and responses to the questions in Section 14 will be evaluated based on their detail, comprehensiveness, creativity, and potential effectiveness (among other factors) in providing the Commonwealth with the opportunity for the most successful financing(s).

Please note that any Firm selected as book-running senior manager may be asked to underwrite, on a sole basis, significant unsold balances for the purpose of ensuring fair pricing for the Commonwealth across all maturities. TRE requires that all Firms responding as book-running senior managers maintain an expectation that this could be the case and demonstrate a willingness and capacity to meet those needs as necessary.

- 2. Minimum Qualifications.** Firms submitting proposals to this RFP for variable rate debt issuances must be Qualified Banks and other institutions. Firms submitting proposals to this RFP for CTF and GO issuances must be in compliance with the "Minimum Qualifications" of Section 7 of the TRE RFQ ("TRE RFQ"), including the requirement to submit to TRE annually an updated Legal Disclosure Certification within 30 days of the end of the Commonwealth's fiscal year, as described in Section 12 of the TRE RFQ. Should your situation with respect to your most recently submitted annual Legal Disclosure Certification have changed materially, please provide an updated Certification along with this RFP Response. The TRE RFQ dated October 12, 2016 can be found on the Massachusetts' investor website at [www.massbondholder.com](http://www.massbondholder.com) in the Financial Documents section under Procurements titled "Debt Management - Request for Qualifications – Pre-Qualification of Firms."

3. For a detailed description of the Commonwealth's debt financing programs and various other data that may be useful, including information on the CTF program as well as prior issuances, see Massachusetts' investor website at [www.massbondholder.com](http://www.massbondholder.com).
4. **Schedule.** The following is the tentative schedule for the TRE's selection of a Firm or Firms to serve as book-running senior manager(s) for the Commonwealth's 2022 CTF Series A Bonds and/or issuance of General Obligation Bonds in one or more transactions on a negotiated basis. This schedule is subject to modification by the TRE.

Issuance of RFR	January 21, 2022
Question Submission Deadline	January 28, 2022 1:00 pm Boston, MA time
Question Response Deadline	February 1, 2022
<b>RFR Response Deadline</b>	<b>February 22, 2022</b> <b>1:00 pm Boston, MA time</b>
Approximate Selection Date	March 4, 2022

5. **Terms of the State Treasurer's Office RFR to Apply.** The terms and conditions of the State Treasurer's Office, including all exhibits and appendices, shall apply to the RFR and shall be used in the evaluation of responding Firms, as otherwise indicated herein.
6. **Scope of Services.** The scope of services to be provided by a book-running senior manager, any co-senior manager and co-managers, are those outlined in the 2016 TRE RFQ Section 6, SCOPE OF SERVICES which can be found at [www.massbondholder.com](http://www.massbondholder.com) in the Financial Documents section under Procurements.
7. **Questions.** Firms responding to this RFR that have questions related to the RFR must email their questions to [jdurgin@tre.state.ma.us](mailto:jdurgin@tre.state.ma.us) no later than 1:00 pm, Boston, MA time on the Question Submission Deadline date of January 28, 2022. The TRE's responses to the questions will be posted on COMMBUYS by the Question Response Deadline of February 1, 2022.
8. **Communication.** Firms that intend to respond to this RFR are prohibited from contacting any employee of the TRE or any entity under the TRE, the Executive Office for Administration and Finance, or the Massachusetts Clean Water Trust regarding any matters related to this RFR, except the Contact Person, from the date of this RFR and continuing until the selection process is concluded. In addition, this prohibition shall also apply to any employee of the TRE's current investment advisor/broker, bond counsel, or financial advisor in relation to this RFR. Any questions, technical inquiries, or other communications related to this RFR are required to be addressed only to [jdurgin@tre.state.ma.us](mailto:jdurgin@tre.state.ma.us). Failure to observe this prohibition shall be grounds for disqualification.
9. **COMMBUYS.** COMMBUYS, the Commonwealth's online procurement website, is the official source of information for this RFR and is publicly accessible at no charge at [www.commbuys.com](http://www.commbuys.com). Information contained in the document and on COMMBUYS, including file attachments, and information contained in the related Questions & Answers (Q&A), are all

components of the RFR, as referenced in COMMBUYS, and are incorporated into the RFR and any resulting contract.

Firms are solely responsible for obtaining all information distributed for this RFR via COMMBUYS. It is each Firm's responsibility to check COMMBUYS for any amendments, addenda or modification to this RFR, and any Q&A records related to this RFR. TRE accepts no liability and will provide no accommodation to Firms that fail to check for amended RFRs and submit inadequate or incorrect responses.

Firms may not alter (manually or electronically) the RFR language or any RFR component files. Modifications to the body of the RFR, its specifications, or terms and conditions, which change the intent of this RFR are prohibited and may disqualify a Response.

- 10. Public Records.** All Responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, Massachusetts General Law ("MGL"), Chapter 66, §10 and MGL, Chapter 4, §7, Clause Twenty-Six. Any statement in a Response that is inconsistent with the foregoing statutes is hereby rejected and will be disregarded.
- 11. Response Submission.** Firms must email [jdurgin@tre.state.ma.us](mailto:jdurgin@tre.state.ma.us) an electronic copy as a PDF file no later than 1:00 pm, Boston, MA time on the RFR Response Deadline, February 22, 2022.
- 12. Contents of the Response.** To be considered complete, each copy of the Response must include the following:
  - a. Cover Letter.** The Response must include a cover letter, no longer than two pages, signed by the member of the Firm that will have the primary responsibility for the engagement ("Firm Signatory") that includes relevant introductory information. By signing the cover letter, the Firm Signatory, on behalf of his or her Firm, irrevocably offers to provide the services envisioned by this RFR, and if selected, agrees to the terms and conditions of this RFR, including the terms and conditions of the 2016 TRE RFQ, all of which shall become a part of the contract between the Commonwealth and the selected Firm, and certifies that the statements made and the documents included in the Response are true, accurate and complete.
  - b. Answers to Questions.** As indicated earlier, for Firms applying for book-running senior manager, the Response(s) must include an answer to each of the questions in Section 14 for each of the specific transactions for which the Firm would like to be considered and provide references as indicated in Section 15. These Firms will also automatically be considered for co-senior manager or co-manager in addition to book-running senior manager. For Firms only wishing to be considered for a co-manager position in the syndicate(s), the Response should only include answers to the questions in Section 14 (f) (Co-manager' Strategies) and provide references pursuant to Section 15.
- 13. Procurement Management Team.** The Deputy Treasurer for Debt Management, two Senior Debt Analysts and one Debt Analyst will comprise the Procurement Management Team ("PMT") and will evaluate the Responses. The PMT will make its recommendation to the Treasurer for approval. The PMT will select the Firm(s) that best meet the needs of the TRE using the

Evaluation Criteria described below in Section 16. The TRE's financial advisor(s) will provide advice to the PMT, as needed, in evaluating the Responses.

**14. Questions.** Please provide Responses to each of the Questions listed below for any of the specific transactions for which the Firm would like to be considered. You may respond to the Questions pertaining to Personnel, Marketing and Distribution and Underwriting Abilities jointly for all of the transactions for which you are seeking consideration.

**a. CTF Proposals.**

- i. Bond Issuance and Structure Recommendation. (Please limit response to four pages; any structure schedules you may wish to include may be included as an appendix.)** Please provide a description of your recommended bond structure and key features of your proposal that you wish to highlight. Highlight any issuance trends for similar issuers and credits that you feel would be relevant. Please provide your expectation of credit spreads relative to MMD for your proposed structure using MMD as of February 3, 2022. Your recommendation should discuss the anticipated demand from investors (retail and institutional) for the structure being proposed and indicative pricing terms. Your recommended structure should be designed to allow the Commonwealth to sell its bonds at aggressive prices while appealing to a broad investor base and maintaining current credit ratings. You may also provide debt service coverage projections for the current financing and pro-forma coverage, including your assumptions, for the future borrowing needs. Please assume par amounts issued as follows: \$300 million in 2022, \$300 million in 2023, \$250 million in each 2024-2026. Your proposed structure must comply with the statutory limits for the applicable bond authorizations.
- ii. Credit and Ratings Considerations. (Please limit your response to two pages).** Please provide relevant credit analysis of the CTF program and your thoughts on potential economic impact caused by COVID-19 and the Federal stimulus responses regarding credit considerations. Please also discuss any changes your Firm anticipates to the ratings criteria utilized by the credit ratings agencies and potential impact for special tax and priority lien tax debt on the CTF credit and similar credits. Your discussion can also include programmatic recommendations to the structuring of and issuance under the CTF credit that the Commonwealth should consider for its longer-term plan of finance and to best leverage the CTF credit structure. You may also provide recommendations on how the Commonwealth could update the investor presentation for this credit.

To assist you in the appropriate development of your response, historical data for pledged revenues, transportation-related fee and tax collections can be found in previous CTF Official Statements located on the Massachusetts' investor website at [www.massbondholder.com](http://www.massbondholder.com), in the Bonds section, under Official Statements .

**b. General Obligation Proposals.**

- i. Recommended New Money Financing Transactions. (Please limit your response to seven pages. Any structure schedules you wish to provide may be included as**

**an appendix.)** Please provide your overall recommendations on structuring new money bond issuances for projected sales in June/July 2022 and September/October 2022. Considering the Commonwealth's current debt portfolio, the anticipated structure of the February competitive issuance, prevailing and anticipated interest rates and market demand, please provide a description of your recommended bond structure(s) and any key features of your proposal that you wish to highlight. Please provide your expectation of credit spreads relative to MMD for your proposed structure(s) using MMD as of February 3, 2022. Please be as specific as possible in including the interest-rate mode, couponing, call provisions, amortization and why each attribute you recommend is best suited to help the Commonwealth meet its financing goals as well as position itself for future financings. What are your overall recommendations on structuring new money bond issuances in 2022 to create adequate flexibility that balances interest expense and cost of optionality? Your recommendation should be specific as to the anticipated demand from investors for the structure being proposed – both retail and institutional.

**ii. Refunding Recommendations.** Please provide your recommendations of refunding opportunities for TRE in calendar 2022, and a description of your recommended refunding transaction(s), indicating the proposed timing, size and structure of the transaction(s), the anticipated savings, the benefits and risks/opportunity cost of executing on your proposed refunding structure(s) in the targeted timeframe, and any key features of the proposed transaction(s) that you wish to highlight.

**c. 2014 Series D-2 Bond Proposal and Variable Rate Debt Recommendations.**

**i.** 2014 Series D-2 bonds were issued as multi-modal bonds with a mandatory put date of August 1, 2022 and a final maturity date of August 1, 2043. Proposals may include converting bonds to variable rate mode, direct purchase, or a fixed rate mode with either a mandatory put feature or a final maturity and/or refinancing the bonds with new refunding bonds. The amortization of the bonds is available in Appendix E. The proposal should include the following:

1. Must be for full outstanding par amount of the bond series, subject to the amortization schedule.
2. TRE is interested in all ideas for this series and proposals can include a direct purchase ("DP"), alternate form of variable rate or conversion to a fixed-rate. If proposal is for a fixed-rate, it can be included as part of your overall GO proposal, please make reference to that in this section.
3. For a fixed or variable rate conversion, your proposal should give consideration to the Commonwealth's current debt portfolio, prevailing interest rates and market demand. Please be as specific as possible in including the interest-rate mode, couponing, call provisions, liquidity needs, amortization and why your proposed financing structure is best suited to help the Commonwealth meet its financing goals. Your proposal should be specific as to the anticipated demand from investors for the structure being proposed – both retail and institutional, as well as your Firm's distribution capabilities. Please provide your expectation of credit spreads relative to MMD for your proposed structure, using MMD as

of February 3, 2022. Please include a discussion on the additional costs for different structures, i.e., liquidity, remarketing agent, etc., as well as any terms and conditions pertinent to the structure.

4. For DP proposals, confirm that the terms and conditions set forth in the attached Form of Bondholders Agreement (Appendix A) are acceptable to your Firm. Any proposed edits must be specifically marked against Appendix A and returned as part of your proposal. Please include the status of your Firm's credit approval or expected timeframe to obtain approval.
5. For DP, please complete the attached cost proposal in Appendix C. Cost proposals do not have to be submitted under separate cover. Your response to the cost proposal will be deemed an offer held firm until and through the anticipated closing date.

ii. In addition to the 2014 Series D-2 Bond proposal described above, TRE's objective is to utilize variable rate instruments to maintain a diversified debt portfolio, lower its cost of capital, improve its overall Asset-Liability management and to diversify its investor base. Please provide your thoughts on the Commonwealth's variable rate debt portfolio and provide your recommendations regarding future variable rate debt strategies that TRE should consider. Please provide your key considerations with regard to future variable rate issuance and relevant discussion of variable rate products (and their benefits and risks) that the Commonwealth should consider utilizing. Please be specific as to the amount of liquidity that would be required and the proposed cost of such liquidity. Banks may respond to this portion of the RFR with only liquidity recommendations.

1. For DP proposals please provide the information referenced in i.4. and i.5.
2. For liquidity proposals, terms and conditions set forth in the attached Form of Credit Agreement (Appendix B) shall be deemed acceptable to your Firm. Any proposed edits must be specifically marked against Appendix B and returned as part of your proposal.
3. For liquidity proposals, please complete the attached cost proposal in Appendix D. Cost proposals do not have to be submitted under separate cover. Your response to the cost proposal will be deemed an offer held firm until and through the anticipated closing date.

**d. Personnel and Relevant Experience.** Please identify the personnel that will comprise your team. Please provide a brief description of the relevant experience of each individual including their professional background, knowledge and technical abilities, the role each will serve for each of the specific transactions for which the Firm would like to be considered, their title and their office location. Highlight the specific team members' experience in context of executing recent financings similar to the one(s) you are recommending. Your response should be pertinent and specific to the current market environment and should provide relevant examples of transactions that you have lead-managed in this environment for each of the specific transactions for which the Firm would like to be considered.

**e. Marketing and Distribution, Syndicate, Underwriting Ability and Fee Proposal (Please limit your Response to three pages.)**

- i. Please provide your Firm's distribution capabilities and approach to marketing and investor outreach. What would your Firm propose as a marketing/outreach plan for each of the financing structures you are proposing? Please provide any specific trends you have seen recently in investor outreach and transaction marketing that you think would benefit the Commonwealth. Would you recommend a separate retail order period under current market conditions?
- ii. What is your recommended syndicate structure for your proposed financing(s) and why? Include specific responsibilities assigned to various firms within the syndicate. Please be as specific as possible with respect to not only the overall size of the syndicate as it pertains to the specific transaction, but also the types of firms from which the syndicate should be constructed. Discuss your timeline for the proposed transaction(s) (assuming the pricing dates outlined) and your approach for engaging the syndicate. Please also provide your recommended syndicate compensation and designation policy for each transaction for which you are seeking consideration.
- iii. What is your underwriting desk's approach to pricing a bond deal? How is book-building and pricing progress communicated to the issuer? Please provide specific recent examples that demonstrate this approach. Please give specific examples of recent (within the past 24 months) bond deals where initial pricings were either widened or tightened to best sell the issue.
- iv. Please give some examples of recent deals where your underwriting desk needed to underwrite a significant amount of bonds to maintain pricing discipline. How much did your Firm underwrite and what was the size of the deal? What is your Firm's process for allocating underwritten bonds to the syndicate based on liabilities?
- v. Provide a firm indication of your proposed underwriting takedown(s) for the GO and CTF offerings (in dollars/\$1,000) if your Firm is selected as the book-running senior manager for these financings. Please provide your takedown per maturity, assuming that there will be maturities from 2022 through 2052 for purposes of providing takedowns regardless of proposed structure. Please do not provide ranges. Please state whether your proposed takedown will impact your Firm's willingness to underwrite unsold balances.
- vi. If not selected as bookrunner, please discuss how your Firm approaches its role as a co-manager and how the Firm measures its effectiveness in the co-manager role. Please detail your Firm's approach to selling bonds and adding value as a syndicate co-manager. Please provide specific discussions for recent transaction in which you served on the syndicate, and the contributions you brought to the syndicate that demonstrates your Firm's capabilities in a co-manager role; e.g., research provided to investors, secondary trading, orders from specific types of investors, etc. If you include the orders that you placed for a transaction, also include the size of allotments you received for those orders. **Responses should describe your Firm's contributions as**



**a co-senior manager or co-manager and how you measure your Firm's effectiveness in either role.**

**f. Co-Managers' Strategies (Co-Managers Only. Please limit your response to four pages.)**

- i. Please discuss how your Firm approaches its role as a co-manager and how the Firm measures its effectiveness in the co-manager role. Please detail your Firm's approach to selling bonds as a syndicate co-manager. Also provide any recommendation that you may have for TRE to better support and incentivize syndicate members to improve their participation in selling the bonds. You are encouraged to provide specific examples/case studies of your particular contribution as a co-manager in a similar transaction that demonstrated your Firm's capabilities.
- ii. Please discuss your Firm's distribution capabilities. Describe specific contributions your Firm can make from a marketing or investor-targeting perspective as a co-manager. Please provide specific discussions for recent transaction in which you served on the syndicate, and the contributions you brought to the syndicate that demonstrates your Firm's capabilities; e.g., research provided to investors, secondary trading, orders from specific types of investors, etc. If you include the orders that you placed for a transaction, also include the size of allotments you received for those orders. Please include specific recommendations for investor targets that you wish to highlight for each series and your Firm's ability to market to such investors. Be as specific as possible as to what retail type and size of retail orders your Firm would expect to deliver and what you are defining as professional retail orders. In addition, please include a discussion of how issuers are treating professional retail investors (i.e. in order priority and for syndicate compensation purposes), given their increased role as significant purchasers of new issue bonds and your recommendation on any changes that the Commonwealth should make with regard to treatment of orders placed by professional retail investors, including benefits provided to the Commonwealth.
- iii. What is your recommended syndicate structure for the CTF and GO issuances for the indicated transaction sizes? Please be as specific as possible with respect to not only the overall size of the syndicate, but also the types of firms from which the syndicate should be constructed (example: "bulge-bracket" firms combined with smaller firms that may have a niche specialty). Please also provide your recommended syndicate compensation and designation policy, including a discussion on net designation vs. group net policy. How would your Firm's approach and results differ under group net vs. net designation compensation policy?
- iv. What feedback are investors giving you on types of couponing and call structures in the current market environment? How much demand do investors have for these types of structures?

**15. References (All Respondents).** List three clients that the TRE can contact as references. Briefly describe the client and its types of financings. For each reference, please provide the name, title, email address, and phone number for the appropriate contact.

**16. Evaluation Criteria.** The TRE is seeking detailed and responsive proposals from Firms. The PMT will evaluate Responses based on the following criteria:

**a. CTF Proposals**

- i. Recommended Financing Structures.** Responses for CTF should include well-developed recommended bond structures and financing strategies designed to allow TRE to aggressively price the bonds and achieve a broad distribution while maximizing future structuring flexibility and minimizing risks to the existing program. Responses should demonstrate a strong understanding of the Commonwealth's Transportation Fund credit. Responses should also take into consideration new money needs, future strategies, current debt service coverage and future anticipated coverage, as well as credit rating considerations and requirements. Also, please highlight estimated investor demand for your financing structure. The proposed structure must comply with the statutory limits for the applicable bond authorizations. It is recommended that examples of similar financings that your Firm was involved with are included to support your proposed structure.
- ii. Credit Considerations.** Responses should demonstrate a strong understanding of relevant rating agency and investor criteria as it relates to the CTF. Please provide relevant credit analysis that you would highlight for the credit. Please also discuss any changes your Firm anticipates to the ratings criteria utilized by the credit ratings agencies and the potential impact for special tax and priority lien tax debt. Your discussion can also include programmatic recommendations to the structuring of and issuance under the CTF credit that the Commonwealth should consider for its longer term of finance.

**b. General Obligation Proposals**

- i. Recommended Financing Structures.** General obligation proposals should include well-developed recommended bond structures and financing strategies designed to allow TRE to aggressively price the bonds and achieve a broad distribution while maximizing future structuring flexibility and minimizing risks to the existing programs. Responses should take into consideration the Commonwealth's current portfolio and goals of diversification and adequate portfolio flexibility that balances interest expense, couponing and cost of optionality. Please highlight any issuance trends for similar issuers that you feel would be relevant to the Commonwealth. Your recommendation should specify the anticipated demand from investors (retail and institutional) for the structure being proposed and financing strategies. Please provide an analysis of recommended refunding opportunities in calendar 2022 and a description of your recommended transaction(s) indicating proposed size and structure, anticipated savings, the benefits and risks/opportunity costs of executing the proposed transaction, and any other key features of the proposed transaction that you wish to highlight. Please provide rationale to support recommendations. You may also provide an analysis of the optionality within the Commonwealth's debt portfolio, specifically with regards to planning for and managing future anticipated refundings in the next 3-5 years. Proposed structures should be mindful of the Commonwealth's current debt portfolio and financing goals. It is recommended that examples of similar

financings that your Firm was involved with are included to support your proposed structure.

- ii. **Credit Considerations.** For the General Obligation bonds, please highlight any potential changes to the credit ratings and the projected impact to the Commonwealth GO credit by any proposed methodology changes by the credit rating agencies.

**c. Variable Rate Debt Proposals**

- i. **2014 Series D-2 Bonds Proposal.** Proposals will be evaluated on the fees on other related costs, the acceptance of key terms and the form of the relevant Agreement, status of the Firm's credit approval, and all other proposed terms offered by the Firm as deemed applicable by the Commonwealth. If proposal is to convert bonds to fixed-rate, the evaluation criteria listed under the GO Proposals section will be used.
  - ii. **Recommended Financing Structures.** For the variable rate debt recommendations, please discuss the various types of variable rate instruments that you would recommend and discuss why those types would work best for the Commonwealth and its existing portfolio. Please indicate investor demand for each type, as well as spreads relevant to a Massachusetts fixed-rate bond with a similar maturity (or remarketing date.) Please include all costs that would be associated with your proposal, including fees for liquidity facilities and remarketing agents. Also include the final maturity for each type of variable rate debt proposed and its associated remarketing date in addition to any call features including sinking funds. In addition, please include which type of index your Firm is recommending for the transaction(s) and discuss the implications of each index recommended. For bank liquidity proposals, please include your proposed fees and other related costs, your acceptance of key terms and form of the Commonwealth's standard liquidity and credit agreements, and state of Firm's credit approval and credit availability.
- d. Personnel and Relevant Experience.** Responses should demonstrate that the primary coverage team has the experience and expertise required, and the ability to successfully complete the financings covered by the RFR, including the recommended transaction and any other proposals in the Firm's Response. The main content of this section of the Response should demonstrate that the Firm has sufficient qualified and experienced professional staff in addition to the primary coverage team to provide all of the services contemplated by this RFR. The specialties and the experience and expertise of individuals in the primary coverage team will be considered and weighed, as well as the Firm's overall ability to appropriately execute the financing.
- e. Marketing and Distribution Ability.** Responses should include a detailed marketing and distribution approach for each of your recommended transactions(s). Please highlight your approach to targeting investors for each recommended transaction and include both market breadth and depth. Responses must also include indicative couponing and spreads for the proposed transactions with a discussion as to the basis of determination, proposed syndicate compensation and designation policy, and a review of your Firm's definition of professional retail and how these investors should be treated during the order period

and in the designation policy. Responses should also include a discussion on the various designation policies.

- f. Fee Proposal and Underwriting Ability.** The ability to and willingness of the Firm to support each of your proposed transaction(s) will be considered during the PMT review and relied upon should your Firm be selected book-running senior manager or as part of the syndicate. Responses should demonstrate the underwriter's approach to pricing similar transactions.
- g. Co-Managers' Evaluation Criteria.** Responses should demonstrate your Firm's strengths as a co-manager. Responses should describe your Firm's expected contributions as a co-manager and how you measure your Firm's effectiveness in this role. Any specific examples you provide that demonstrate your Firm's capabilities in adding value to the syndicate in similar transactions will be helpful. You should also provide recommendations on syndicate composition and compensation policy that will help syndicate members to fully engage in distributing the bonds. Responses should also include a discussion on the various designation policies and the benefits to the Commonwealth for each policy. If selected as a member of the syndicate for these transactions, your response will be the basis for syndicate performance expectations and targets.
- h. Overall quality of the Response and any other information the TRE deems appropriate.**

The TRE reserves the right to consider other factors, including information that may not be provided in the Responses if it deems the information relevant to the evaluation and selection process. The TRE reserves the right, but is not obligated, to waive or modify any irregularities in the Responses received.

**Appendix A**

**BONDHOLDER'S AGREEMENT**

**dated as of**

\_\_\_\_\_, 2018

**between**

**THE COMMONWEALTH OF MASSACHUSETTS**

**and**

\_\_\_\_\_

**Relating to**

**\$120,365,000  
The Commonwealth of Massachusetts  
General Obligation Refunding Bonds  
2018 Series A**

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## BONDHOLDER'S AGREEMENT

This **BONDHOLDER'S AGREEMENT**, dated as of August 1, 2017 (as amended and supplemented from time to time, this "*Agreement*"), is between **THE COMMONWEALTH OF MASSACHUSETTS** (together with its successors and permitted assigns hereunder, the "*Commonwealth*"), and \_\_\_\_\_, as initial purchaser, together with its successors, assignees, designees and nominees hereunder, the "*Purchaser*").

### RECITALS

WHEREAS, pursuant to and in accordance with the Constitution and laws of the Commonwealth, including Chapter 29 of the Massachusetts General Laws, as amended (the "*Enabling Act*"), the Commonwealth has issued a series of bonds designated as The Commonwealth of Massachusetts General Obligation Refunding Bonds, 2001 Series B (the "*Bonds*"); and

WHEREAS, the Commonwealth had previously converted the rate of interest borne by the Bonds to an Index Floating Rate (as hereinafter defined) and sold said Bonds to \_\_\_\_\_ (the "*Prior Purchaser*"), pursuant to a bondholder's agreement between the Commonwealth and the Prior Purchaser (the "*Prior Agreement*"); and

WHEREAS, the Bonds are subject to purchase by the Commonwealth on August 1, 2017 and the Commonwealth has determined that it is in its best interests to cause the Bonds to be remarketed to the Purchaser as more fully described herein; and

WHEREAS, subject to the terms and conditions of this Agreement and the Bonds (as such Bonds have been amended in conjunction with the remarketing thereof to the Purchaser), the Purchaser has agreed to purchase the Bonds on the Closing Date (as hereinafter defined) from the Tender Agent (as hereinafter defined), acting on behalf of the Commonwealth;

NOW, THEREFORE, to induce the Purchaser to purchase the Bonds from the Tender Agent, acting on behalf of the Commonwealth, on the Closing Date, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Commonwealth and the Purchaser hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

**Section 1.01. Certain Defined Terms.** In addition to the terms defined in the recitals and elsewhere in this Agreement, the following terms shall have the following meanings:

"*Accredited Investor*" has the meaning set forth in Section 9.13(b) hereof.

"*Affiliate*" means, with respect to a Person, any Person (whether for profit or not-for-profit), which "controls" or is "controlled" by or is under common "control" with such Person. For purposes of this definition, a Person "controls" another Person when the first Person possesses or

exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

“*Agreement*” has the meaning set forth in the introductory paragraph hereof.

“*Authorized Denominations*” means, with respect to the Bonds, denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof.

“*Authorized Representative*” means the Treasurer and Receiver-General of the Commonwealth or any Deputy Treasurer of the Commonwealth acting on the State Treasurer’s behalf or any designee thereof and, when used in reference to an act or document, shall also mean any other person authorized by law to perform such act or sign such document.

“*Base Rate*” means, for any day, the greatest of (a) the Prime Rate plus XXXXX per annum, (b) the Federal Funds Rate plus XXXXX per annum, (c) the LIBOR Rate plus \_\_\_ per annum and (d) XXXXXXXXXX per annum. The Base Rate is not intended to be the lowest rate of interest charged by the Purchaser in connection with the extension of credit to customers.

“*Bond Proceedings*” means any and all certificates and other documents relating to the Bonds signed by an Authorized Representative, including the form of the Bonds which sets forth the interest rate setting mechanism relating to the Bonds.

“*Bondholder*” or “*Holder*” or “*Owner*” means the registered owner of the Bonds; *provided, however,* that at any time the Bonds are book-entry bonds, “*Bondholder*” or “*Holder*” or “*Owner*” shall mean any person who acquires a beneficial ownership interest in a Bond held by DTC.

“*Bondholder Representative*” means, (a) on and as of the Closing Date, the Purchaser, and (b) thereafter, upon the receipt from time to time by the Commonwealth of a notice described in Section 9.14 hereof, the Person designated in such notice as the Bondholder Representative as more fully provided in Section 9.14 hereof. The parties hereto acknowledge and agree that, for so long as the Bonds are held by the Purchaser or an Affiliate of the Purchaser or any trust established by the Purchaser or an Affiliate of the Purchaser, the Purchaser shall be the Bondholder Representative.

“*Bonds*” has the meaning set forth in the recitals to this Agreement.

“*Business Day*” has the meaning set forth in the Bonds.

“*Calculation Agent*” means, initially, the Commonwealth, and thereafter any other Calculation Agent designated from time to time by the Commonwealth, in consultation with the Purchaser, as provided in the Bonds.

“*Closing Date*” means August 1, 2017, or such other date as the Commonwealth and the Purchaser may determine.

“*Closing Transcript*” has the meaning set forth in Section 4.04 hereof.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time, or any successor provision or provisions thereto or any successor federal tax code, and any regulations (including temporary and proposed regulations relating to the matters governed by this Agreement) thereunder or under any such provision or successor federal tax code.

“*Commonwealth*” means The Commonwealth of Massachusetts.

“*Commonwealth Information Statement*” means the Commonwealth Information Statement dated May 19, 2017, as supplemented by the Commonwealth Information Statement Supplement dated June 16, 2017 and any subsequent information statement or any supplement thereto issued by the Commonwealth.

“*Debt*” of any Person means, at any date and without duplication, (i) all obligations of such Person for borrowed money evidenced by bonds, debentures, notes or other similar instruments (including, without limitation, principal and interest payments due to a bank in the form of reimbursement), (ii) all obligations of such Person for borrowed money not evidenced by bonds, debentures, notes or similar instruments, (iii) all obligations of such Person as lessee under capital leases which are assigned a long-term rating by each Rating Agency then rating Parity Debt equal to the rating assigned by such Rating Agency to Parity Debt, (iv) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business (including, without limitation, accounts payable to construction contractors and other professionals for services rendered), which are assigned a long-term rating by each Rating Agency then rating Parity Debt equal to the rating assigned by such Rating Agency to Parity Debt, (v) all indebtedness of others secured in full by a lien on any asset of such Person, so long as such indebtedness is assumed by such Person and such indebtedness is assigned a long-term rating by each Rating Agency then rating Parity Debt equal to the rating assigned by such Rating Agency to Parity Debt, (vi) all indebtedness of others guaranteed or secured in full by any of the revenues of, or assets of, such Person and (vii) payment obligations of such Person under any Swap Contract.

“*Default Rate*” means the Base Rate plus XXXXXX per annum.

“*Designated Successor*” has the meaning set forth in Section 9.14(a) hereof.

“*DTC*” means The Depository Trust Company, New York, New York, or any substitute securities depository appointed by the Commonwealth.

“*EMMA*” means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

“*Enabling Act*” has the meaning set forth in the recitals to this Agreement.

“*Event of Default*” has the meaning set forth in Section 7.01 hereof.

“*Event of Taxability*” means a final, non-appealable determination by the Internal Revenue Service or the Department of the Treasury or a court of competent jurisdiction that any interest paid or payable on the Bonds is or is to become includable in the gross income of the recipients

thereof or any former recipient thereof for federal income tax purposes as a result of any action or inaction of the Commonwealth.

“*Expenses*” means all fees, charges, costs and expenses of any nature whatsoever, whether in the form of a direct, reimbursement, or indemnity payment obligation, incurred at any time and from time to time (whether before or after an Event of Default) by the Bondholder Representative or other Owner in purchasing or funding the purchase of the Bonds, in administering or modifying the Related Documents, in negotiating or entering into any “workout” of the Transactions, or in exercising or enforcing any rights, powers and remedies provided in any of the Related Documents, including reasonable attorneys’ fees, court costs and receiver’s fees.

“*Federal Funds Rate*” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Purchaser on such day on such transactions as determined by the Purchaser.

“*Fiscal Year*” means, with respect to the Commonwealth, the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve (12) month period or fifty-two (52) week period hereafter selected and designated as the official fiscal year period of the Commonwealth.

“*Fitch*” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Moody’s) designated by the Commonwealth with written notice to the Bondholder Representative.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“*GAAP*” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“*General Obligation Debt*” means any Debt of the Commonwealth, the payment of which is secured by the full faith and credit of the Commonwealth.

“*Governmental Approval*” means an authorization, consent, approval, permit, license, certificate of occupancy or an exemption of, a registration or filing with, or a report to, any Governmental Authority.

“*Governmental Authority*” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau, central bank or comparable authority.

“*Index Floating Mode*” has the meaning set forth in the Bonds.

“*Index Floating Rate*” has the meaning set forth in the Bonds and as set forth in Section 2.01 hereof.

“*Initial Interest Period*” means the Interest Period commencing on the Closing Date and expiring on September 1, 2017.

“*Interest Payment Date*” means, for so long as the Bonds are in the Index Floating Mode, the first Business Day of each calendar month, with the first Interest Payment Date being September 1, 2017 and the final payment of interest being due and payable on the date when the principal of the Bonds is paid in full.

“*Interest Period*” means, other than the Initial Interest Period, a period commencing on the first day of each month during which the Purchaser is the Bondholder and ending on the last day of the same month; provided that (a) if any Interest Period other than the Initial Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period.

“*Laws*” means, collectively, the Constitutions of the United States and the Commonwealth, all applicable common law and principles of equity and all international, foreign, federal, state and local laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, writ, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all administrative orders, directed duties, requests, licenses, certificates, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“*Liabilities*” has the meaning set forth in Section 8.01 hereof.

“*LIBOR Rate*” means, with respect to any LIBOR Rate Loan for the Interest Period applicable thereto, the rate of interest in U.S. Dollars (rounded upwards, at the Purchaser's option, to the next 1/100th of one percent) equal to the Intercontinental Exchange Benchmark Administration Ltd. (“ICE,” or the successor thereto if ICE is no longer making a London Interbank Offered Rate available) (“ICE LIBOR”) rate for the equivalent Interest Period as published by Bloomberg (or such other commercially available source providing quotations of ICE LIBOR as designated by Purchaser from time to time) at approximately 11:00 A.M. (London time) two (2) London Business Days prior to the LIBOR Rate Reset Date; provided however, if more than one ICE LIBOR is specified, the applicable

rate shall be the arithmetic mean of all such rates. If, for any reason, such rate is not available, the term LIBOR Rate shall mean, with respect to any Interest Period, the rate of interest per annum determined by the Purchaser to be the average rate per annum at which deposits in dollars are offered for such Interest Period by major banks in London, England at approximately 11:00 A.M. (London time) two (2) London Business Days prior to the LIBOR Rate Reset Date, provided, that if the LIBOR Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“*London Business Day*” means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in London, England.

“*Material Adverse Change*” or “*Material Adverse Effect*” means the occurrence of any event or change resulting in a material and adverse change in the business, condition (financial or otherwise), operations of the Commonwealth since the date of the most recent Commonwealth Information Statement or which materially and adversely affects the enforceability of this Agreement or the Related Documents or the ability of the Commonwealth to perform its obligations hereunder or thereunder.

“*Maximum Lawful Rate*” means the respective maximum, non-usurious, lawful rate of interest that may be contracted for, charged or received in connection with the payment obligations of the Commonwealth under the Bonds and this Agreement under Laws currently in effect or, to the extent permitted by law, under Laws that may hereafter be in effect and that allow a higher maximum and non-usurious rate of interest than applicable Laws now allow.

“*Maximum Rate*” means the lesser of (a) 18% per annum and (b) the Maximum Lawful Rate.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency (other than Fitch or S&P) designated by the Commonwealth with written notice to the Bondholder Representative.

“*Notice of Default*” has the meaning set forth in Section 7.02(a) hereof.

“*Obligations*” means all amounts payable by the Commonwealth pursuant to this Agreement and the other Related Documents or with respect to the Bonds of any kind and description, direct or indirect or absolute or contingent and due or to become due (including any amounts to reimburse the Bondholder Representative or any other Owner for any advances or expenditures by it under any of such documents).

“*OFAC*” has the meaning set forth in Section 9.01 hereof.

“*Outstanding*” has the meaning set forth in the Bond Proceedings.

“*Parity Debt*” means all General Obligation Debt other than the Bonds.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001), and all amendments thereto.

“*Paying Agent*” means the Commonwealth, as paying agent for the Bonds, and its successors and assigns.

“*Person*” means an individual, a corporation, a partnership, an association, a business trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Potential Event of Default*” means any event or condition which with notice, passage of time or any combination of the foregoing, would constitute an Event of Default.

“*Prime Rate*” means that rate of interest per annum publicly announced from time to time by the Purchaser as its “prime rate.” The Prime Rate is set by the Purchaser based on various factors, including the Purchaser’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans. The Purchaser may price loans to its customers at, above or below the Prime Rate. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of a change in the Purchaser’s prime rate.

“*Prior Agreement*” has the meaning set forth in the recitals to this Agreement.

“*Prior Purchaser*” has the meaning set forth in the recitals to this Agreement.

“*Purchaser*” has the meaning set forth in the introductory paragraph hereof.

“*QIB*” has the meaning set forth in Section 9.13(b) hereof.

“*Rating Agency*” means any or all of S&P, Fitch or Moody’s.

“*Rating Documentation*” has the meaning set forth in Section 4.01(e) hereof.

“*Related Documents*” means this Agreement, the Tax Certificate, the Undertaking, the Bonds and other Bond Proceedings.

“*Related Party*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person or of such Person’s Affiliates.

“*Sanction(s)*” means any economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the United States government, including those administered by OFAC, Department of the Treasury or the U.S. Department of State.

“*Set Aside*” has the meaning set forth in Section 9.15 hereof.

“*Swap Contract*” means (a) any and all rate swap transactions, basis swaps, total return swaps, credit derivative transactions, forward rate transactions, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, cap transactions, floor transactions, collar transactions, spot contracts, or any other similar transactions or any combination of any of the

foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

“*S&P*” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency (other than Fitch or Moody’s) designated by the Commonwealth with written notice to the Bondholder Representative.

“*Tax Certificate*” means the Certificate as to Tax Matters of the Commonwealth dated February 20, 2001, as supplemented with respect to the Bonds by the Tax Certificate dated February 3, 2012

“*Taxable Date*” means the date as of which interest on the Bonds is first includible in gross income of the Owner (including, without limitation, any previous Owner) thereof as a result of an Event of Taxability.

“*Taxable Period*” has the meaning set forth in Section 3.02(a) hereof.

“*Taxable Rate*” means, with respect to a Taxable Period, the product of (i) the average interest rate on the Bonds during such period and (ii) 1.54.

“*Tender Agent*” means U.S. Bank National Association, its successors and assigns.

“*Transactions*” means the remarketing of the Bonds bearing interest initially at the Index Floating Rate and, in connection therewith, the purchase of the Bonds by the Purchaser, the execution and delivery by the Commonwealth of the Related Documents, and the performance by the Commonwealth of the Obligations (including payment obligations) hereunder and thereunder.

“*Trustee*” means, initially, the Commonwealth.

“*Undertaking*” means the Continuing Disclosure Undertaking of the Commonwealth related to the Bonds dated February 20, 2001, as the same may be amended and supplemented from time to time.

**Section 1.02. Computation of Time Periods.** In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

**Section 1.03. Construction.** Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,”



“herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The words “asset” and “property” shall be construed to have the same meaning and effect and, when used in connection with any Person, to refer to all rights, title and interests of such Person in and to any and all property whether real, personal or mixed, tangible or intangible, now owned or hereafter acquired and wherever situated, including cash, securities, investment property, accounts, land, buildings, general intangibles, chattel, intellectual property, contract rights and other property and assets. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation hereof in any respect. Section, subsection and exhibit references are to this Agreement unless otherwise specified. Any exhibit, schedule and annex attached hereto is incorporated by reference herein and is a constituent part of this Agreement.

**Section 1.04. Certain Other Definitions.** Any capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Bond Proceedings.

**Section 1.05. Accounting Terms and Determinations.** All accounting terms used herein without definition shall be interpreted in accordance with generally accepted accounting principles, consistently applied, and, except as otherwise expressly provided herein, all accounting determinations required to be made pursuant to this Agreement shall be made in accordance with generally accepted accounting principles, consistently applied.

**Section 1.06. New York, New York Time Presumption.** All references in this Agreement to times of day shall be references to prevailing New York City time unless otherwise expressly provided herein.

## ARTICLE II

### PURCHASE AND DELIVERY OF BONDS

**██████████ Purchase; Acknowledgments of the Commonwealth.** Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Purchaser hereby agrees to purchase from the Tender Agent, acting on behalf of the Commonwealth, all, but not less than all, of the outstanding \$163,935,000 aggregate principal amount of the Bonds immediately subsequent to the remarketing thereof on the Closing Date. Furthermore, on the Closing Date, the Commonwealth will cause the interest rate borne by the Bonds to be converted to a new Index Floating Rate and the initial Index Floating Rate effective as of the Closing Date shall be XXX%.

The principal amount of the Bonds, the dated date therefor, the maturity, the sinking fund and optional redemption provisions, the tender provisions and the interest rates per annum are set forth in the Bonds (including the appendices thereto).

The purchase price for the Bonds shall equal the par amount of the Bonds.

The Commonwealth acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Agreement is an arm’s-length commercial transaction between the Commonwealth and the Purchaser, (ii) in connection with such transaction, the Purchaser is acting solely as a

principal and not as an agent or a fiduciary of the Commonwealth, (iii) the Purchaser has not assumed a fiduciary responsibility in favor of the Commonwealth with respect to the Bonds or the process leading to the purchase of the Bonds by the Purchaser (whether or not the Purchaser, or any Affiliate of the Purchaser, has advised or is currently advising the Commonwealth on other matters) and has no other obligation to the Commonwealth except the obligations expressly set forth in this Agreement, and (iv) the Commonwealth has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the purchase of the Bonds pursuant to the terms of this Agreement.

**Section 2.02. No CUSIP, DTC; Offering Document.** The Bonds shall not be (i) registered with DTC or any other securities depository, (ii) issued pursuant to any type of official statement, private placement memorandum or other offering document, (iii) assigned a CUSIP number or (iv) placed or offered by a broker-dealer in the capacity of an underwriter or placement agent.

### ARTICLE III

#### THE COMMONWEALTH'S OBLIGATIONS

##### Section 3.01. Payment Obligations.

(a) The Commonwealth hereby unconditionally, irrevocably and absolutely agrees to make prompt and full payment of any and all payment obligations owed to the Bondholder Representative and any other Owner hereunder and under the other Related Documents, whether now existing or hereafter arising, irrespective of their nature, whether direct or indirect, absolute or contingent, with interest thereon at the rate or rates provided herein.

(b) Except as otherwise provided upon the occurrence of an Event of Default, the Commonwealth shall pay within thirty (30) days after demand:

(i) if an Event of Default shall have occurred, all reasonable costs and expenses of the Bondholder Representative and any other Owner in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of their respective rights under any of the Related Documents and such other documents which may be delivered in connection therewith, plus the reasonable fees of any legal counsel retained by the Bondholder Representative and any other Owner in connection therewith;

(ii) a fee for each amendment of any Related Document, consent by the Bondholder Representative or any other Owner or waiver by the Bondholder Representative or any other Owner under any Related Document, in each case, in an amount agreed to between the Bondholder Representative and the Commonwealth; and

(iii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Bondholder Representative in connection with advising the Bondholder Representative as to its or the Owner's rights and

responsibilities under any of the Related Documents or in connection with responding to requests from the Commonwealth for approvals, consents, amendments and waivers.

(c) Neither the Bondholder Representative nor any other Owner shall be under an obligation to pay, and the Commonwealth shall pay, any expenses incident to the performance of the Commonwealth's obligations hereunder and under the other Related Documents including, but not limited to, (i) the fees and disbursements of Locke Lord LLP, Bond Counsel ("*Bond Counsel*") and counsel to the Commonwealth and (ii) the fees and disbursements of any other accountants, attorneys and other experts, consultants or advisers retained by the Commonwealth.

(d) In addition, if at any time any Governmental Authority shall require payment of, or fees, documentary stamps or any other tax in connection with, the execution or delivery of any of the Related Documents, then, if the Commonwealth lawfully may pay for such stamps, taxes or fees, the Commonwealth shall pay, when due and payable, for all such stamps, taxes and fees, including interest and penalties thereon, and the Commonwealth agrees to save the Bondholder Representative and any other Owner harmless from and against any and all liabilities with respect to, or resulting from any delay or omission of the Commonwealth in paying, such stamps, taxes and fees hereunder.

(e) Except as may be otherwise provided herein, all fees hereunder and all interest on amounts owed hereunder shall be computed on the basis of a year of 365/6 days and the actual number of days elapsed. All payments by or on behalf of the Commonwealth to the Bondholder Representative or other Owner hereunder and under the other Related Documents shall be fully earned when due and (absent manifest error) nonrefundable when paid and made in lawful currency of the United States of America and in immediately available funds. If any payment hereunder is due on a day that is not a Business Day, then such payment shall be due on the next succeeding Business Day, and, in the case of the computation of the interest or fees hereunder, such extension of time shall, in such case, be included in the computation of the payment due hereunder.

(f) The Bondholder Representative shall maintain in accordance with its usual practice records evidencing the amounts payable and paid from time to time hereunder or under the other Related Documents. In any legal action or proceeding in respect of this Agreement or the other Related Documents, the entries made in such records shall be presumptive evidence of the existence and amounts of the obligations of the Commonwealth therein recorded. The failure to record any such amount shall not, however, limit or otherwise affect the obligations of the Commonwealth hereunder or under the other Related Documents to repay all amounts owed hereunder and under the other Related Documents, together with all interest accrued thereon as provided herein.

(g) In order to avoid confusion and unless otherwise specified in a notice delivered by the Bondholder Representative to the Commonwealth pursuant to Section 9.13 hereof, the term "Owner," for purposes of this Section, shall be deemed to include the Bondholder Representative.

**Section 3.02. Event of Taxability.**

(a) If an Event of Taxability occurs, the Commonwealth hereby agrees to pay to each Owner on demand therefor (A) an amount equal to the difference between (I) the amount of interest that would have been paid to such Owner on the Bonds during the period for which interest on the Bonds is includable in the gross income of such Owner if the Bonds had borne interest at the Taxable Rate, beginning on the Taxable Date (the “Taxable Period”), and (II) the amount of interest actually paid to the Owner during the Taxable Period, and (B) an amount equal to any interest, penalties or charges owed by such Owner as a result of interest on the Bonds becoming includable in the gross income of such beneficial owner, together with any and all attorneys’ fees, court costs, or other out of pocket costs incurred by such Owner in connection therewith; and

(b) The obligations of the Commonwealth under this Section shall survive the termination of this Agreement and the redemption or other payment in full of the Bonds.

**Section 3.03. Obligations Absolute.** The payment obligations of the Commonwealth under this Agreement and the other Related Documents shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement and the other Related Documents under all circumstances, including the following:

(a) any lack of validity or enforceability of any of the Related Documents or any provision hereof or thereof;

(b) any amendment or waiver of, or any consent to departure from, all or any of the Related Documents;

(c) the existence of any claim, set off, defense or other right which the Commonwealth may have at any time against the Bondholder Representative, any other Owner or any other Person, whether in connection with any of the Related Documents, the Transactions or any unrelated transaction; or

(d) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

**Section 3.04. Optional Prepayment.**

(a) The Commonwealth may, on any Business Day, optionally prepay all or any portion of the Bonds or convert the interest rate on all or any portion of the Bonds from the Index Floating Rate to a different interest rate upon giving the Owner at least five (5) days’ prior written notice, as provided in the Bonds, but subject to subsection (c) below.

(b) Reserved.

(c) In the event an Owner shall incur any loss, cost, or expense (including, without limitation, any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by such Owner to purchase or hold the Bonds or the relending or reinvesting of such deposits or

other funds or amounts paid or prepaid to the Purchaser) as a result of any optional redemption, conversion or other prepayment of the Bonds on a date other than an Interest Payment Date for any reason, whether before or after default, then upon the demand of such Owner, the Commonwealth shall pay to such Owner a premium in such amount as will reimburse such Owner for such loss, cost, or expense. If such Owner requests such premium, it shall provide to the Commonwealth a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for such premium in reasonable detail and such certificate shall be conclusive if reasonably determined.

## ARTICLE IV

### CONDITIONS PRECEDENT TO PURCHASE OF BONDS

**Section 4.01. Documentary Requirements.** The obligation of the Purchaser to purchase the Bonds is subject to the conditions precedent that the Purchaser shall have received, on or before the Closing Date, the items listed below in this Section, each dated and in form and substance as is satisfactory to the Purchaser and its counsel.

(a) ***Transaction Documents.***

(i) Copies of the Bond Proceedings and copies of all other opinions (other than those described in Section 4.01(c) hereof), certificates and other documents delivered at the time that the Bonds were initially delivered. With respect to such items, there shall be included all amendments and supplements thereto, if any, that have been executed and delivered by the parties since initial delivery of the Bonds and each of said items shall be in full force and effect on and as of the Closing Date;

(ii) A copy of the Tax Certificate that was executed and delivered by the parties at the time of the initial delivery of the Bonds, and an executed original of this Agreement and the Bonds; and

(iii) Copies, certified to be true copies by an Authorized Representative, of all Governmental Approvals, if any, necessary for the Commonwealth to execute, deliver and perform the Related Documents to which it is party.

(b) ***Commonwealth Supporting Documents.***

(i) Copies of certificates and other documents of the Commonwealth not referred to in Section 4.01(a) approving the execution and delivery of the Related Documents to which the Commonwealth is a party, approving the form of the Related Documents to which it is not a party and the other matters contemplated hereby and thereby, certified by an Authorized Representative as being true and complete and in full force and effect on the Closing Date;

(ii) A certificate of an Authorized Representative of the Commonwealth containing specimen signatures and certifying the names and signatures of the Persons authorized to sign, on behalf of the Commonwealth, the Related

Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder;

(iii) Audited financial statements of the Commonwealth for the Fiscal Year ending June 30, 2016, including balance sheets, income and cash flow statements; if such audited financial statements are available prior to the Closing Date;

(iv) A copy of each Swap Contract, guaranteed investment contract and related documentation applicable to the Bonds and to which the Commonwealth is a party; and

(v) Evidence that the Prior Agreement has been terminated and that all amounts due and payable to the Prior Purchaser has been paid in full.

(c) **Opinions.** The following opinions, dated the Closing Date, addressed to the Purchaser, or on which the Purchaser is otherwise expressly authorized to rely, each in form and substance satisfactory to the Purchaser and its counsel:

(i) From counsel to the Commonwealth, as to the due execution and delivery of this Agreement, the enforceability of this Agreement and such other customary matters as the Purchaser may reasonably request; and

(ii) From Bond Counsel, a copy of its approving opinion delivered at the time of the original issuance of the Bonds, together with a reliance letter thereon without the necessity of updating said opinion, and an opinion to the effect that converting the Bonds to the Index Floating Rate as of the Closing Date will not adversely affect the exclusion of the interest on the Bonds from gross income of the holders of the Bonds for federal income tax purposes, and such other customary matters as the Purchaser may reasonably request.

(d) **Closing Certificate of the Commonwealth.** A certificate of the Commonwealth executed by an Authorized Representative, dated the Closing Date, to the effect that:

(i) Each representation and warranty made by the Commonwealth in this Agreement and in the other Related Documents is true, complete and correct as of the Closing Date as if made on the Closing Date.

(ii) No Potential Event of Default or Event of Default has occurred and is continuing under this Agreement or any Related Documents and no Potential Event of Default or Event of Default will occur as a result of any amendment of the Bonds by the Commonwealth in connection with its execution and delivery of this Agreement and the execution and performance by the Commonwealth of this Agreement and the other Related Documents.

(iii) Each of the Related Documents to which the Commonwealth is a party has been duly executed and delivered by an Authorized Representative of the

Commonwealth authorized to execute each such document, and the Commonwealth has duly adopted and there is in full force and effect such resolutions or other enactments as shall be necessary to authorize the Transactions. Each such Related Document is in full force and effect on the Closing Date. No such Related Document has been amended, modified or supplemented other than as certified to the Bondholder Representative.

(iv) The Commonwealth has complied with all applicable terms and conditions of the Related Documents which are necessary to be complied with on or prior to the Closing Date, all conditions under the Enabling Act have been satisfied with respect to the Bonds, and the conditions precedent set forth in this Section have been satisfied.

(v) The Bonds being delivered on the Closing Date to the Purchaser pursuant to the terms hereof substantially conform to the descriptions thereof contained in the Bond Proceedings.

(vi) Since the date of the most recent Rating Documentation applicable to General Obligation Debt, the unenhanced long-term debt ratings assigned to the Bonds have not been reduced, withdrawn or suspended and no notice has been given to the Commonwealth of any intended review, downgrading, suspension, withdrawal or negative change in credit watch status by Fitch, Moody's or S&P, as applicable.

(vii) The Commonwealth Information Statement did not, as of its date, contain any untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements appearing or incorporated therein, in light of the circumstances in which they were made, not misleading.

(viii) As of the Closing Date, there has been no Material Adverse Change with respect to the financial condition of the Commonwealth as described in the Commonwealth Information Statement.

(e) **Ratings.** Evidence that the underlying unenhanced long-term rating assigned to Parity Debt is "Aa1" (stable) or higher by Moody's, "AA" (stable) or higher by S&P and "AA+" (stable) or higher by Fitch (such evidence, the "*Rating Documentation*").

(f) **Litigation.** Except to the extent otherwise provided in the most recent Commonwealth Information Statement, the Purchaser shall have received a written description of all actions, suits or proceedings pending or, to the Commonwealth's knowledge, threatened against the Commonwealth in any court or before any arbitrator of any kind or before or by any Governmental Authority which could reasonably be expected to result in a Material Adverse Effect, if any.

(g) ***Other Documents and Requirements.***

(i) Such other instruments, documents, approvals, filings, statements, certificates, agreements, information and opinions as the Purchaser shall reasonably require to evidence compliance with law and the Related Documents and this Agreement.

(ii) All other legal matters pertaining to the execution and delivery of the Related Documents and the issuance of the Bonds shall be reasonably satisfactory to the Purchaser and its counsel.

**Section 4.02. Conditions Precedent.** On or prior to the Closing Date, the Commonwealth shall pay the fees and expenses of outside counsel to the Purchaser in an amount not to exceed \$XXXX, plus disbursements.

**Section 4.03. Failure to Satisfy Conditions Precedent.** If the Commonwealth shall be unable to satisfy the conditions to the obligations of the Purchaser to purchase the Bonds contained in this Agreement, or if the obligations of the Purchaser to purchase the Bonds shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Purchaser nor the Commonwealth shall be under any further obligation hereunder.

**Section 4.04. Closing Transcript.** Promptly following the Closing Date, the Commonwealth shall provide, at the Commonwealth's expense, the following: (1) hardcopy executed originals (or certified or specimen copies) of all documents listed in Section 4.01 hereof, including the Related Documents (such documents, the "*Closing Transcript*") and (b) the Closing Transcript on CD ROM or other electronic format.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

The Commonwealth makes the following representations and warranties to the Purchaser as of the Closing Date as follows:

**Section 5.01. Authorization.** The Treasurer and Receiver-General of the Commonwealth had, at all relevant times, and has all requisite power and authority on behalf of the Commonwealth to execute and deliver this Agreement and the other Related Documents and the Commonwealth had, at all relevant times, and has all requisite power and authority to perform all of its obligations hereunder and thereunder.

**Section 5.02. Necessary Consents.** All authorizations, consents, approvals, licenses, exemptions of or registrations with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, necessary for the valid execution, delivery and performance by the Commonwealth of this Agreement and the other Related Documents have been obtained, except that a legislative appropriation may be required for the payment of amounts due under this Agreement and the other Related Documents, and such execution, delivery and performance did not, does not, and will not violate, conflict with or constitute a default under any



constitutional or statutory provision or other law, rule, regulation or order or any agreement or instrument to which the Commonwealth is a party or by which it is bound.

**Section 5.03. Governmental Authorizations or Other Approvals.** The Commonwealth has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and each of the other Related Documents to which it is a party.

**Section 5.04. Validity and Binding Effect; Full Faith and Credit Pledge.** This Agreement and the other Related Documents constitute legal, valid and binding obligations of the Commonwealth, enforceable in accordance with their respective terms. The Bonds constitute general obligations of the Commonwealth as described in Section 5.15 hereof.

**Section 5.05. No Litigation.** Except as disclosed to the Purchaser in writing or in the Commonwealth Information Statement, to the best knowledge of the Commonwealth there are no suits, proceedings or investigations pending or threatened against the Commonwealth which could reasonably be expected to result in a Material Adverse Change, or which question the validity or enforceability of, or would have a material impact upon, the Agreement, the other Related Documents, the transactions contemplated thereby or any action taken or to be taken by the Commonwealth hereunder or thereunder.

**Section 5.06. Financial Statements.** The government-wide statement of net assets of the Commonwealth as of June 30, 2016, and the related statement of activities for the fiscal year then ended and the auditors' report with respect thereto, and which are included in the Commonwealth's Comprehensive Annual Financial Report for the fiscal year ended June 30, 2016, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the Commonwealth at such date and for such period, and were prepared in accordance with generally accepted accounting principles.

**Section 5.07. Complete and Correct Information.** All information, reports, other papers, and data with respect to the Commonwealth furnished to the Purchaser or its counsel by the Commonwealth were, taken in the aggregate and at the time the same were so furnished, complete and correct in all material respects, to the extent necessary to give the Purchaser a true and accurate knowledge of the subject matter. No fact is known to the Commonwealth that the Commonwealth has not disclosed to the Purchaser and that adversely affects or, so far as the Commonwealth can now reasonably foresee, is likely to adversely affect the assets, liabilities or financial condition of the Commonwealth. When taken in the aggregate, no document furnished or statement made by the Commonwealth in connection with the negotiation, preparation or execution of this Agreement or any other Related Document contains any untrue statement of a fact material to the creditworthiness of the Commonwealth or omits to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

**Section 5.08. Incorporation of Representations and Warranties by Reference.** The Commonwealth hereby makes to the Purchaser the same representations and warranties as were made by the Commonwealth in each Related Document, together with the related definitions of terms contained therein, and such representations and warranties are hereby incorporated by

reference with the same effect as if each and every such representation and warranty and definition were set forth herein in its entirety. Except as otherwise provided herein, no amendment to or termination of such representations, warranties and definitions contained in the documents set forth above shall be effective to amend or terminate such representations, warranties and definitions incorporated herein by this reference, without the prior written consent of the Bondholder Representative.

**Section 5.09. Bonds.** The Bonds have been duly and validly issued under the Enabling Act and are entitled to the benefits thereof.

**Section 5.10. No Default.** No Potential Event of Default or Event of Default has occurred or is continuing hereunder or under any other Related Document.

**Section 5.11. Sovereign Immunity.** The Commonwealth has waived immunity from suit on the grounds of sovereignty as to any of its contractual obligations including, but not limited to, payment obligations under this Agreement and the Bonds to the fullest extent permitted under applicable Law; and proceedings may be brought against the Commonwealth in such courts and tribunals as are permitted under the laws of the Commonwealth; *provided, however* that, notwithstanding the foregoing, the property of the Commonwealth is not subject to attachment or levy to a judgment and the satisfaction of any judgment generally requires legislative appropriation. Enforcement of a claim for payment of or interest on bonds and notes of the Commonwealth may also be subject to the provisions of federal or Commonwealth statutes, if any, hereafter enacted extending the time for payment or imposing other constraints upon enforcement, insofar as the same may be constitutionally applied.

**Section 5.12. Tax-Exempt Status of Bonds; Use of Proceeds.** As of the date hereof, the Commonwealth has not taken any action which would cause interest on the Bonds to be includable in the gross income of the recipients thereof for federal income tax purposes.

**Section 5.13. No Proposed Legal Changes.** There is no amendment or, to the knowledge of the Commonwealth, proposed amendment to the Constitution of the Commonwealth or any administrative interpretation of the Constitution of the Commonwealth or any Commonwealth law, or any judicial decision interpreting any of the foregoing; the effect of which could reasonably be expected to materially adversely affect the remarketing or sale of any of the Bonds, the security for any of the Bonds, or the Commonwealth's obligations hereunder or under any of the Related Documents, or the Commonwealth's ability to repay when due its obligations under this Agreement, any of the Bonds and the other Related Documents.

**Section 5.14. Interest.** Provided that the Owner is subject to control, regulation or examination by any state or federal regulatory agency, the Obligations of the Commonwealth are not subject to any usury limitations of the Commonwealth.

**Section 5.15. Security.** The Constitution and the laws of the Commonwealth provide that the interest and principal payments on the Bonds constitute general obligations of the Commonwealth to which the full faith and credit and taxing power of the Commonwealth are pledged on a parity with all other general obligation debt of the Commonwealth to which the full faith and credit of the Commonwealth are pledged. It should be noted, however, that Chapter 62F

of the Massachusetts General Laws establishes a state tax revenue growth limit and does not exclude principal and interest payments on Commonwealth debt obligations from the scope of the limit. The other Obligations of the Commonwealth under this Agreement also constitute general obligations of the Commonwealth, subject to the fact that legislative appropriation may be required for the payment thereof. The Commonwealth has not granted any Person holding any general obligation debt, issued or incurred by the Commonwealth, the right to accelerate the Commonwealth's obligation to repay such debt following the occurrence of an Event of Default with respect to such debt.

**Section 5.16. Federal Reserve Regulations.** The Commonwealth is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X of the FRB).

**Section 5.17. Sanctions.** To the knowledge of the Commonwealth, neither the Commonwealth nor any Related Party, (a) is currently the subject of any Sanctions, (b) is located, organized or residing in any Designated Jurisdiction, or (c) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction. No use of proceeds or other transaction contemplated by this Agreement on the part of the Commonwealth will violate any applicable Sanctions.

## ARTICLE VI

### COVENANTS

So long as any amount payable hereunder remains unpaid, the Commonwealth covenants and agrees as follows:

**Section 6.01. Reporting Requirements.** The Commonwealth will deliver by posting on the Commonwealth's website, on EMMA or by email (or such email shall contain a hyperlink providing direct access to) to the Bondholder Representative the following: (i) quarterly revisions of monthly cash flows of the Commonwealth comparing actual performance to budgeted amounts for receipts and disbursements, financial reports, budgets, official statements and similar information issued by it to the public promptly after such issuance but in no event later than 30 days after such issuance to the public; (ii) within the earlier of 270 days after each fiscal year end or promptly when made available by the Commonwealth to the public but in no event later than 30 days after such issuance, annual audited or certified financial statements of the Commonwealth for the fiscal year then ended, commencing with the fiscal year ended June 30, 2016; provided, however, if audited financial statements of the Commonwealth are not available by 270 days after any fiscal year end, such audited financial statements shall be delivered as soon as possible thereafter, but in no event later than 350 days after such fiscal year end, and (iii) immediate notice by telephone, promptly confirmed in writing, of any Default or Event of Default. The Commonwealth shall promptly furnish such other information on the financial condition and affairs of the Commonwealth as the Bondholder Representative may reasonably request from time to time.

**Section 6.02. Inspection of Books and Records.** The Commonwealth will permit any officers, employees or agents of the Bondholder Representative (at the Bondholder Representative's expense but at the expense of the Commonwealth after the occurrence and during the continuance of an Event of Default) to discuss with appropriate Commonwealth officials matters reasonably pertinent to an evaluation of the credit of the Commonwealth, all at such reasonable times as the Bondholder Representative may reasonably request.

**Section 6.03. Performance of This and Other Agreements.** The Commonwealth shall punctually pay or cause to be paid its Obligations hereunder and all amounts to become due in respect of the Bonds in strict conformity with the terms of the Bonds and this Agreement.

**Section 6.04. Other Obligations.**

(a) The Commonwealth agrees that it will perform and comply in all material respects with each and every obligation, covenant and agreement required to be performed or observed by it in or pursuant to the Related Documents, which provisions, as well as the related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety.

(b) The Commonwealth shall not cause or permit the Related Documents to be amended, modified or otherwise supplemented in a manner that (i) adversely affects the rights, interests, security, remedies or obligations of the Purchaser without the prior written consent of the Purchaser or (ii) could reasonably be expected to result in a Material Adverse Effect, in each case, without the prior written consent of the Bondholder Representative.

**Section 6.05. Compliance with Rules and Regulations.** The Commonwealth shall comply with all applicable laws, rules, regulations and orders of any court or Governmental Authority, except that this Section shall not apply to noncompliance that, singly or in the aggregate, would not have a Materially Adverse Effect on (i) the financial condition or operations of the Commonwealth or (ii) the ability of the Commonwealth to perform its obligations hereunder, including but not limited to the timely payments of the Bonds or other Obligations.

**Section 6.06. Further Assurances.** The Commonwealth shall, upon the request of the Bondholder Representative, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and the Related Documents. Except to the extent it is exempt therefrom, the Commonwealth will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement, the Related Documents and such instruments of further assurance.

**Section 6.07. Proceeds of Bonds.** None of the proceeds of the Bonds will be used, directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any "margin stock" within the meaning of Regulation U or X of the FRB. The

Commonwealth shall use the proceeds of the Bonds hereunder in compliance with all applicable legal and regulatory requirements of any Governmental Authority (including Regulation U or X of the FRB and the Securities Exchange Act of 1934 and the Securities Act of 1933 and any regulations thereunder).

**Section 6.08. Tax Exemption.** The Commonwealth shall not take any action or omit to take any action, that if taken or omitted, would adversely affect the excludability of interest on the Bonds from the gross income of the Bondholders thereof for federal income tax purposes.

**Section 6.09. No Sovereign Immunity.** To the fullest extent permitted by applicable Law, with respect to its obligations arising under this Agreement and the other Related Documents, the Commonwealth irrevocably agrees that it will not claim any immunity on the grounds of sovereignty or other similar grounds from (a) any action, suit or proceeding arising under or relating to this Agreement or any other Related Document, (b) relief by way of injunction, order for specific performance or writ of mandamus or (c) execution or enforcement of any judgment to which it might otherwise be entitled in any proceedings in the courts of any jurisdiction.

**Section 6.10. Filing with EMMA.** By no later than ten (10) Business Days following the Closing Date, the Commonwealth shall post, or caused to be posted, on EMMA, a redacted copy of the executed Agreement.

## ARTICLE VII

### EVENT OF DEFAULTS; REMEDIES

**Section 7.01. Events of Default.** The occurrence and continuance of any of the following events (whatever the reason for such event and whether voluntary, involuntary or effected by operation of law) shall be an “Event of Default” hereunder, unless waived in writing by the Bondholder Representative:

(a) The Commonwealth shall fail to pay or cause to be paid when due (i) any amounts with respect to the principal of or interest or premium, if any, on the Bonds or (ii) any other Obligation (other than the principal of or interest or premium, if any, on the Bonds) and such failure shall continue for three Business Days; or

(b) The Commonwealth shall fail to pay when due and payable any principal of or interest on any General Obligation Debt and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning General Obligation Debt; or

(c) (i) Any material provision of this Agreement or the Bonds, relating to the payment of any principal or interest on the Bonds or the security therefor shall at any time for any reason cease to be valid and binding or fully enforceable on the Commonwealth as determined by any Governmental Authority of competent jurisdiction in a final non-appealable judgment, (ii) the Commonwealth shall have taken or permitted to be taken any action or has duly enacted any statute which would result in any material provision of this Agreement or the Bonds relating to the payment of any principal or interest on the Bonds or the security therefor being invalid or unenforceable, or (iii) a senior authorized officer

of the Commonwealth shall have contested in writing the validity or enforceability of any material provision of this Agreement or the Bonds relating to the payment of any principal or interest on the Bonds or the security therefor; or

(d) (i) A debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on repayment of debt shall have been declared by the Commonwealth or imposed by a Governmental Authority of competent jurisdiction (whether or not in writing) with respect to the Bonds or all General Obligation Debt of the Commonwealth, or (ii) the Commonwealth shall admit in writing its inability to pay its debts as they mature, or the Commonwealth shall seek any form of debtor relief affecting its General Obligation Debt, or a trustee, custodian, liquidator or receiver shall be appointed with respect to all or substantially all assets of the Commonwealth, or the Commonwealth shall be declared by a court of competent jurisdiction or shall declare itself to be insolvent, or (iii) an order shall have been entered and shall not have been discharged within sixty (60) days from the entry thereof in a case, proceeding or other action commenced against the Commonwealth in a court of competent jurisdiction which (a) seeks issuance of a warrant of attachment, execution or similar process against all or substantially all of the Commonwealth's assets, and (b) commences only after the rendering of a final non-appealable judgment or order by a court against the Commonwealth which has not been paid or otherwise satisfied by the Commonwealth within the time frame specified in such final judgment or order; or

(e) The Commonwealth shall fail to observe or perform any covenant or agreement set forth in clause (ii) of Section 6.01, Section 6.04(b), 6.05, 6.07 or 6.09 hereof; or

(f) The Commonwealth shall fail to observe or perform any other covenant or agreement contained (or incorporated by reference) in this Agreement or in any other Related Document to which it is a party and such failure shall remain unremedied for a period of sixty (60) days after written notice thereof shall have been given to the Commonwealth from the Bondholder's Representative; provided, however, that failure to comply with Section 6.08 shall not in any circumstance constitute an Event of Default; or

(g) The long-term unenhanced rating assigned to the Commonwealth's General Obligation Debt (i) shall be withdrawn or suspended for credit related reasons or reduced below "Baa3" (or its equivalent) (in the case of Moody's), "BBB-" (or its equivalent) (in the case of S&P) and "BBB-" (or its equivalent) (in the case of Fitch) by each of the Rating Agencies then rating such debt.

**Section 7.02. Consequences of an Event of Default.** If an Event of Default specified in Section 7.01 hereof shall occur and be continuing, then in addition to any other rights or remedies available to the Bondholder Representative under any other Related Document or under applicable Law, the Bondholder Representative may exercise any one or more of the following rights and remedies (regardless of whether the actions are taken at the same or different times):

(a) The Bondholder Representative may provide written notice to the Commonwealth of the occurrence of such Event of Default (a "*Notice of Default*") and,

upon the delivery to the Commonwealth of such Notice of Default, the Bonds and all other amounts payable hereunder shall bear interest at the Default Rate, payable upon demand. In the event the Bondholder Representative has provided a Notice of Default and, subsequent thereto, the Commonwealth has cured the applicable Event of Default (in the opinion of the Bondholder Representative based on its absolute discretion) or the Purchaser has waived said Event of Default and no other Event of Default has occurred and is continuing, then the Bondholder Representative shall rescind such Notice and the Bonds and all other amounts payable hereunder shall no longer bear interest at the Default Rate; or

(b) Either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, the Bondholder Representative may take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under this Agreement, the Bonds and the other Related Documents or to enforce the performance or observance of any obligation, agreement or covenant of the Commonwealth under this Agreement, the Bonds and the other Related Documents, whether for specific performance of any agreement or covenant of the Commonwealth or in aid of the execution of any power granted to the Bondholder Representative or any Owner in the Related Documents; or

(c) The Bondholder Representative may exercise, or cause to be exercised, any and all other remedies as it may have under the Related Documents and as otherwise available at law and at equity.

**Section 7.03. Remedies Cumulative; Solely for the Benefit of the Bondholder Representative and any other Owner.** To the extent permitted by, and subject to the mandatory requirements of, applicable Laws, each and every right, power and remedy herein specifically given to the Bondholder Representative or the Owners in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Bondholder Representative, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Bondholder Representative specified herein are for the sole and exclusive benefit, use and protection of the Bondholder Representative and any other Owners, and the Bondholder Representative is entitled, but shall have no duty or obligation to the Commonwealth or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Bondholder Representative hereunder or under any of the other Related Documents.

**Section 7.04. Waivers or Omissions.** No course of dealing and no delay or omission by the Bondholder Representative in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, remedy or power or be construed to be a waiver of any default on the part of the Bondholder Representative or to be acquiescence therein. No express or

implied waiver by the Bondholder Representative of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default. No delay or omission on the part of the Bondholder Representative in exercising any right hereunder or under other Related Documents, following any Event of Default as aforesaid, or any other option granted to the Bondholder Representative hereunder or under the other Related Documents in any one or more instances, or the acceptance by the Bondholder Representative of any partial payment on account of the Obligations shall constitute a waiver of any such Event of Default, and each such option shall remain continuously in full force and effect.

**Section 7.05. Discontinuance of Proceedings.** In case the Bondholder Representative shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Bondholder Representative shall have the unqualified right so to do and, in such event, the Commonwealth and the Bondholder Representative shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Bondholder Representative hereunder shall continue as if the same had never been invoked.

**Section 7.06. Injunctive Relief.** The Commonwealth recognizes that in the event an Event of Default occurs, any remedy at law may prove to be inadequate relief to the Bondholder Representative; therefore, the Commonwealth agrees that the Bondholder Representative, if the Bondholder Representative so requests, shall be entitled to temporary and permanent injunctive relief in any such case.

## ARTICLE VIII

### INDEMNIFICATION

**Section 8.01. Indemnification.** To the extent permitted by applicable Laws, the Commonwealth hereby indemnifies and holds harmless the Bondholder Representative and each other Owner (and their respective Affiliates, directors, officers, employees and agents) (each, an “*Indemnatee*”) from and against any and all claims, damages, losses, liabilities, costs or expenses (including reasonable attorneys’ fees) (collectively, the “*Liabilities*”) whatsoever which such Indemnatee may incur (or which may be claimed against such Indemnatee by any Person whatsoever) by reason of or in connection with (a) the issuance of the Bonds by the Commonwealth and/or the purchase of the Bonds by the Purchaser, (b) any breach by the Commonwealth of any representation, warranty, covenant, term or condition in, or the occurrence of any default under, this Agreement, the Bonds or the other Related Documents, including all reasonable fees or expenses resulting from the settlement or defense of any claims or liabilities arising as a result of any such breach or default, (c) involvement of such Indemnatee in any suit, investigation, proceeding, inquiry or action as a consequence, directly or indirectly, of the Purchaser’s purchase of the Bonds and with respect to the Related Documents, or (d) any invalidity or alleged invalidity of the Bonds or the failure of the interest on the Bonds to be exempt from federal or state income tax; *provided* the Commonwealth shall not be required to indemnify such Indemnatee for any Liabilities to the extent, but only to the extent, such Liabilities are caused by the willful misconduct or gross negligence of such Indemnatee as determined in a final, non-



appealable determination by a court of competent jurisdiction. Nothing in this Section is intended to limit the Commonwealth's payment of the Obligations.

**Section 8.02. Reimbursement; Interest.** If the Bondholder Representative or any Owner shall incur any Expenses or pay any Liabilities payable by the Commonwealth pursuant to the terms hereof or any other Related Document in connection with the Bonds or the other Related Documents or the rights and remedies provided under the Related Documents (regardless of whether or not any of the Related Documents expressly provide for an indemnification by the Commonwealth against such Expenses or Liabilities), the Bondholder Representative's and such other Owner's payment of such Expenses and Liabilities shall constitute advances to the Commonwealth which shall be paid by the Commonwealth to the Bondholder Representative and such other Owner, as applicable, on demand, together with interest thereon from the date incurred until paid in full at the rate of interest then applicable to the Bonds. Notwithstanding the foregoing, in any action or proceeding under any Related Document to recover or collect the Obligations, mandatory provisions of law governing the recovery of costs, disbursements and allowances shall prevail unaffected by this Section.

**Section 8.03. Survival.** The obligations of the Commonwealth under this Article VIII shall survive the payment of the Bonds and the termination of this Agreement.

## ARTICLE IX

### MISCELLANEOUS

**Section 9.01. Patriot Act Notice; OFAC.** The Bondholder Representative hereby notifies the Commonwealth that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Commonwealth. Such information includes the name and address of the Commonwealth and other information that will allow the Bondholder Representative to identify the Commonwealth in accordance with the Patriot Act. The Commonwealth hereby agrees that it shall promptly provide such information upon request by the Bondholder Representative.

The Commonwealth shall ensure (i) that neither the Commonwealth nor any Affiliate of the Commonwealth is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("*OFAC*"), the Department of the Treasury or included in any Executive Orders, that prohibits or limits the Bondholder Representative from making any advance or extension of credit to the Commonwealth or from otherwise conducting business with the Commonwealth, and (ii) that the Bond proceeds shall not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto. Further, the Commonwealth shall comply, and cause each of its Affiliates to comply, with all applicable Bank Secrecy Act laws and regulations, as amended.

**Section 9.02. Amendments and Waivers; Enforcement.** The Bondholder Representative and the Commonwealth may from time to time enter into agreements amending, modifying or supplementing the Related Documents or changing the rights of the Bondholder Representative and the Commonwealth hereunder or thereunder. In the sole and absolute discretion

of the Bondholder Representative, the Bondholder Representative may from time to time grant waivers or consents to a departure from the due performance of the obligations of the Commonwealth hereunder or thereunder. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth in such writing, and a copy of such writing shall be delivered to the Paying Agent (if other than the Commonwealth). In the case of any such waiver or consent relating to any provision hereof, any Potential Event of Default or Event of Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Potential Event of Default or Event of Default or impair any right consequent thereto.

**Section 9.03. Notices.** All notices, requests, demands, directions and other communications (collectively “*notices*”) under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be properly addressed and sent by registered or certified mail or by express courier for next Business Day delivery and shall be deemed received as follows: (i) if by registered or certified mail, five (5) days after mailing; (ii) if by express courier, on the next Business Day; and (iii) if by facsimile, when confirmation of transmission is obtained if prior to 5:00 p.m. local time on a Business Day, and otherwise, on the next Business Day; *provided* that service of a notice prescribed by any applicable statute shall be considered complete when the requirements of that statute are met. Notices by electronic mail (e-mail) shall not constitute notice under this Agreement and are only to be used in addition to notice given as prescribed under (i), (ii) or (iii) of this Section. All notices shall be sent to the applicable party at the following address or in accordance with the last unrevoked written direction from such party to the other parties hereto:

If to Commonwealth:

If to the Bondholder  
Representative:

With a copy to:

The Bondholder Representative may in its sole discretion rely on any notice (including telephone communication or e-mail communication) purportedly made by or on behalf of the Commonwealth, but it shall have no duty to accept any notice not given as prescribed in this Section and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

**Section 9.04. Right of Setoff.**

(a) Upon the occurrence of any Event of Default, the Bondholder Representative may, at any time and from time to time, without notice to the Commonwealth or any other Person (any such notice being expressly waived), set off and appropriate and apply against and on account of any Obligations, without regard to whether or not the Bondholder Representative has made any demand therefor, any and all deposits (general or special, including but not limited to deposits made pursuant to this Agreement and Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts, such as restricted donor accounts) and any other Debt at any time held or owing by the Bondholder Representative or any Affiliate of the Bondholder Representative to or for the credit or the account of the Commonwealth.

(b) The Bondholder Representative agrees promptly to notify the Commonwealth after any such set off and application referred to in subsection (a) above, *provided* that the failure to give such notice shall not affect the validity of such set off and application. Subject to the provisions of subsection (a) above, the rights of the Bondholder Representative under this Section are in addition to other rights and remedies (including other rights of set off) which the Bondholder Representative may have.

**Section 9.05. Severability.** The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

**Section 9.06. Governing Law; Consent to Jurisdiction; Waiver of Jury Trial.**

(a) ***Governing Law.*** THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND TOGETHER WITH ANY DISPUTES OR CONTROVERSIES ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE COMMONWEALTH.

(b) ***Waiver of Jury Trial.*** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HERETO WAIVES ITS RIGHT TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE RELATED DOCUMENTS. IT IS HEREBY ACKNOWLEDGED THAT THE WAIVER OF A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE PURCHASER TO ENTER INTO THIS AGREEMENT AND THAT THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY EACH PARTY HERETO IS MADE IN RELIANCE UPON SUCH WAIVER. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT SUCH WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE FOLLOWING CONSULTATION WITH ITS RESPECTIVE LEGAL COUNSEL.

(c) ***Miscellaneous.*** The covenants and waivers made pursuant to this Section shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**Section 9.07. No Advisory or Fiduciary Responsibility.** In connection with all aspects of the Transactions (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the Commonwealth acknowledges and agrees that: (a)(i) the arranging, structuring and other services regarding this Agreement and the other Related Documents provided by the Bondholder Representative and any Affiliate of the Bondholder Representative are arm's length commercial transactions between the Commonwealth and its Affiliates on the one hand, and the Bondholder Representative and its Affiliates on the other hand, (ii) the Commonwealth has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate in connection with the Transactions, and (iii) the Commonwealth is capable of evaluating, and understands and accepts, the terms, risks and conditions of the Transactions; (b)(i) the Bondholder Representative and each Affiliate of the Bondholder Representative is and has been acting solely as a principal and has not been, is not, and will not be acting as an agent or fiduciary for the Commonwealth or any other Person and (ii) neither the Bondholder Representative nor any Affiliate of the Bondholder Representative has any obligation to the Commonwealth with respect to the Transactions, except those obligations expressly set forth herein; and (c) the Bondholder Representative and each Affiliate of the Bondholder Representative may be engaged in a broad range of transactions that involve interests that differ from those of the Commonwealth, and neither the Bondholder Representative nor any Affiliate of the Bondholder Representative has any obligation to disclose any of such interests to the Commonwealth. To the fullest extent permitted by applicable Laws, the Commonwealth hereby waives and releases any claims that it may have against the Bondholder Representative and each Affiliate of the Bondholder Representative with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the Transactions.

**Section 9.08. Reserved.**

**Section 9.09. Entire Agreement.** The Related Documents to which the Commonwealth is a party constitute the entire understanding and agreement between the Commonwealth, the Purchaser and the Bondholder Representative with respect to the Transactions and the Bonds, and

supersede all prior or contemporaneous written or oral understandings, courses of dealing and agreements among the Commonwealth, the Purchaser and the Bondholder Representative with respect to the matters addressed in such Related Documents. In particular, and without limitation, the Related Documents supersede any commitment by the Purchaser to extend credit to the Commonwealth or to purchase the Bonds and all such agreements or commitments are merged into such Related Documents. Except as incorporated in writing into such Related Documents, there are no representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Related Documents.

**Section 9.10. Duration.** All representations and warranties of the Commonwealth contained herein or made in connection herewith (including, but not limited to, any statements made in or in connection with any amendment hereto) shall survive the making of and shall not be waived by the execution and delivery of any of the Related Documents or any investigation by the Commonwealth. All covenants and agreements of the Commonwealth contained herein shall continue in full force and effect from and after the date hereof until the Obligations have been indefeasibly paid in full and fully discharged; *provided, however*, that the obligations of the Commonwealth under Article III, Article VIII and Section 9.15 hereof and under each other provision of any Related Document granting a right of indemnity or reimbursement in favor of the Bondholder Representative or any other Owner shall survive any expiration or termination of this Agreement. This Agreement may be amended (or extended) by an appropriate supplement hereto duly executed by the Bondholder Representative and the Commonwealth.

**Section 9.11. Counterparts.** This Agreement may be executed in any number of counterparts by the parties hereto, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument. This Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a PDF copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

**Section 9.12. Parties in Interest.**

(a) This Agreement as heretofore specified shall constitute the entire agreement between us and is made solely for the benefit of the Commonwealth, the Bondholder Representative and each Owner and no other person shall acquire or have any right hereunder or by virtue hereof. Notwithstanding any other provision of any of the Related Documents to the contrary, each Owner may, without the consent of the Commonwealth, assign, pledge as security, participate or sell the Bonds or a beneficial interest in the Bonds, subject to applicable securities laws restrictions, if any, as provided in Section 9.13; provided, such assignee is deemed to have made to the Commonwealth such representations and agreements as contained in the investor letter delivered on the Closing Date. Bonds shall be sold or assigned in Authorized Denominations.

(b) The Commonwealth hereby agrees that the Purchaser and the Bondholder's Representative may provide a copy of all or any portion of the executed Related Documents (and any supplements and amendments thereto) to prospective purchasers of the Bonds who request such information in connection with the prospective purchase of the Bonds.

### **Section 9.13. Successors and Assigns.**

(a) This Agreement is a continuing obligation and shall be binding upon the Commonwealth and its permitted successors and assigns, and shall inure to the benefit of the Bondholder Representative, the Owners and their respective permitted successors, transferees and assigns.

(b) The Commonwealth may not assign or otherwise transfer or delegate any of its rights or obligations hereunder or under the other Related Documents without the prior written consent of the Bondholder Representative in its sole and absolute discretion. Notwithstanding any other provision of any of the Related Documents to the contrary, any Owner may, without the consent of the Commonwealth, assign, pledge or grant as security, participate, transfer, redeliver or sell the Bonds or a beneficial interest in the Bonds, subject to any applicable securities laws restrictions, or its rights or interests under the Bonds and/or this Agreement, in order to secure the obligations of the Purchaser, such Affiliate of the Purchaser or such Owner, including (y) any pledge or assignment to secure obligations to any state or local governmental entity or with respect to public deposits and (z) any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment by the Purchaser shall release the Purchaser from any of its obligations hereunder or substitute any such pledgee or assignee for the Purchaser as a party hereto. Any sale of the Bonds or a beneficial interest in the Bonds pursuant to this Section shall be to (i) any Person which is an Affiliate of the Owner, (ii) a trust or other custodial arrangement established by the Owner or one of its Affiliates, the owners of any beneficial interest in which are limited to any qualified institutional buyer, as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “1933 Act”) (a “QIB”), or accredited investor, within the meaning of Rule 501 of Regulation D under the 1933 Act constituting a commercial bank, insurance company or an investment company registered under the Investment Company Act of 1940, as amended (an “Accredited Investor”) or (iii) a QIB or Accredited Investor.

### **Section 9.14. Bondholder Representative.**

(a) The Purchaser is the Bondholder Representative on the Closing Date. The Bondholder Representative may designate any nominee, designee or agent to act for and in the name of the Bondholder Representative by written notice to the Commonwealth and the Trustee and any such duly designated nominee, designee or agent shall thereupon be empowered to act for and on behalf of the Bondholder Representative and exercise the rights, powers, privileges and responsibilities of the Bondholder Representative in each of the Related Documents. The current Bondholder Representative shall give written notice to the Commonwealth and the Paying Agent (if other than the Commonwealth) of any successor Bondholder Representative. Any successor Bondholder Representative shall be one or more Owner(s) of the Bonds, one or more Affiliate(s) thereof or one or more Person(s) who establish(es) a trust into which such Bonds are deposited (each, a “Designated Successor”). Upon delivery of written notice to the Commonwealth and the Paying Agent (if other than the Commonwealth), the Designated Successor shall thereupon constitute the Bondholder Representative and shall succeed to and become vested with all of the rights, powers, privileges and responsibilities of the Bondholder Representative

hereunder and under the Related Documents. Collectively, the Designated Successors must own a majority of the aggregate principal amount of the Bonds Outstanding. If there is more than one Designated Successor, the Bondholder Representative shall give notice to the Commonwealth and the Paying Agent (if other than the Commonwealth) that the Designated Successors constitute the Bondholder Representative and such Designated Successors shall thereupon constitute the Bondholder Representative and shall succeed to and become vested with all of the rights, powers, privileges and responsibilities of the Bondholder Representative hereunder and under the Related Documents. Any predecessor Bondholder Representative shall be discharged from its duties and obligations hereunder, *provided* that the predecessor Bondholder Representative shall continue to be entitled to the benefits of Article III, Article VIII and Section 9.15 and of each other provision of the Related Documents granting a right of indemnity or reimbursement in favor of the Bondholder Representative.

(b) The Bondholder Representative may and, in any case where more than one Designated Successor constitutes the Bondholder Representative, the Bondholder Representative shall designate any nominee, designee or agent to act for and in the name of the Bondholder Representative. Such designation shall be made by a written instrument signed by each Designated Successor which shall be delivered to such nominee, designee or agent and to the Commonwealth and the Paying Agent (if other than the Commonwealth), whereupon such nominee, designee or agent shall be empowered to act for and on behalf of the Bondholder Representative and exercise the rights, powers, privileges and responsibilities of the Bondholder Representative hereunder and under each of the Related Documents. The Commonwealth and the Paying Agent (if other than the Commonwealth) may rely on the actions, directions and communications of such nominee, designee or agent as actions, directions and communications of the Bondholder Representative until such time as a new nominee, designee or agent has been designated in accordance with the foregoing.

(c) Any Purchaser of the Bonds shall provide prior or contemporaneous written notice to the Commonwealth of the sale of the Bonds to a subsequent Purchaser, *provided* that failure to give such notice shall not in any way impair or otherwise affect such sale.

**Section 9.15. Preferences.** To the extent that the Bondholder Representative or any other Owner receives any payment from or on behalf of the Commonwealth which payment or any part thereof is subsequently

- (a) invalidated;
- (b) declared to constitute a fraudulent conveyance or preferential transfer;
- (c) set aside; or
- (d) required to be repaid (including pursuant to any settlement entered into by the Bondholder Representative or any other Owner in its discretion) to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause (collectively, “*Set Aside*”),

then, to the extent of any such Set Aside, the obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment had not been received by the Bondholder Representative or such other Owner or such Set Aside had not occurred.

**Section 9.16. Standard of Conduct by Bondholder Representative; Liability of Bondholder Representative.**

(a) Except as expressly provided therein, nothing contained in any Related Document shall limit the right of the Bondholder Representative or any other Owner to exercise its and their business judgment or to act, in the context of the granting or withholding of any advance or consent under any of the Related Documents, in a subjective manner, whether or not objectively reasonable under the circumstances, so long as the Bondholder Representative's or any such other Owner's exercise of its business judgment or action is made or undertaken in good faith. The Commonwealth and the Bondholder Representative intend by the foregoing to set forth and affirm their entire understanding with respect to the standard pursuant to which the Bondholder Representative's or any other Owner's duties and obligations are to be judged and the parameters within which the Bondholder Representative's or any such other Owner's discretion may be exercised hereunder and under the other Related Documents. As used herein, "good faith" means honesty in fact in the conduct and transaction concerned.

(b) The Commonwealth hereby unconditionally and irrevocably releases and discharges the Bondholder Representative and each other Owner and each of their respective Affiliates and the officers, directors, employees and agents of each of them from any liability or responsibility for any of the following: (i) any use that may be made of the proceeds of the Bonds or for any acts or omissions of the Paying Agent (if other than the Commonwealth), the Commonwealth, or any other Person in connection with the Bonds or the use of the Bond proceeds; (ii) any of the acts, omissions, agreements, circumstances or conditions covered by the indemnification provided in Article VIII; (iii) any act or omission of the Bondholder Representative or any other Owner; and (iv) any other circumstances whatsoever in connection with the Transactions or the exercise by the Bondholder Representative or any other Owner of any of its or their rights under any of the Related Documents; *provided* that, the Commonwealth shall have a claim against the Bondholder Representative or such other Owner, and the Bondholder Representative or such other Owner shall be liable to the Commonwealth, to the extent, but only to the extent, of any direct, actual damages, but expressly not for any lost profits or any consequential, special, indirect or punitive damages (the right to recover or receive lost profits, consequential, special, indirect or punitive damages being hereby waived), suffered by the Commonwealth and not required to be mitigated by the Commonwealth under applicable Laws, which direct, actual damages are determined by a final and nonappealable judgment of a court of competent jurisdiction to have been directly caused by the Bondholder Representative's or such other Owner's willful misconduct or gross negligence in connection with the administration of this Agreement.

**Section 9.17. Waiver of Rule of Construction.** The Commonwealth hereby waives any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.



[Remainder of page intentionally left blank; signature page immediately follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

THE COMMONWEALTH OF  
MASSACHUSETTS

**Appendix B**

**CREDIT AGREEMENT**

**Dated as of \_\_\_\_\_**

**between**

**THE COMMONWEALTH OF MASSACHUSETTS**

**and**

\_\_\_\_\_

**Relating to**

**Tax Exempt Commercial Paper Notes, Series \_**

**of**

**The Commonwealth of Massachusetts**

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This **CREDIT AGREEMENT**, dated as of \_\_\_\_\_ (this “Agreement”), is between **THE COMMONWEALTH OF MASSACHUSETTS** (including its successors and assigns, the “Commonwealth”) and \_\_\_\_\_ (including its successors and assigns, the “Bank”).

## **PRELIMINARY STATEMENT**

WHEREAS, the Commonwealth proposes to borrow money through the issuance and reissuance of its Tax Exempt Commercial Paper Notes, Series \_ (the “Series Notes”), in the maximum principal amount equal to the Commitment (as herein defined), to fund various capital outlay projects for which bonds of the Commonwealth have been authorized or as revenue anticipation notes, or renewals thereof, to fund operating expenses of the Commonwealth, or to pay maturing Notes;

WHEREAS, the Commonwealth has authorized the issuance of the Notes which are to be delivered pursuant to the Issuing and Paying Agency Agreement (as hereinafter defined) and pursuant to the laws of the Commonwealth, including particularly Sections 47 and 49 of Chapter 29 of the Massachusetts General Laws, as amended (collectively, the “Enabling Act”);

WHEREAS, the Commonwealth has requested the Bank to provide liquidity to support such Notes by making available a revolving line of credit, initially in an aggregate principal amount not to exceed \$200,000,000 at any time outstanding; and

WHEREAS, the Bank is willing to make available such a revolving line of credit to the Commonwealth, subject to the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the mutual agreements contained in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows for their own benefit and for the benefit of the holders of the Notes:

### **SECTION 1. DEFINITIONS**

**1.1 Defined Terms.** As used herein the following terms shall have the following meanings, unless the context otherwise requires and such meanings shall be equally applicable to both singular and plural forms of the terms herein defined.

“Advance” or “Advances” shall have the meaning set forth in Section 2.1.

“Affiliate” means, with respect to a Person, any Person (whether for profit or not-for-profit), which “controls” or is “controlled” by or is under common “control” with such Person. For purposes of this definition, a Person “controls” another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

“Agreement” shall mean this Credit Agreement, as the same may from time to time be amended, supplemented or otherwise modified in accordance with its terms.

“Authorized Officer” shall mean the Treasurer and Receiver-General of the Commonwealth, the First Deputy Treasurer of the Commonwealth and such other officials of the Commonwealth as may be lawfully designated as Authorized Officers by the Treasurer and Receiver-General of the Commonwealth by written notice to the Bank.

“Available Line of Credit Commitment” shall mean, at the time any determination thereof is to be made, the Line of Credit Commitment less the sum of any outstanding Advances.

“Bank” shall have the meaning ascribed in the introductory paragraph of this Agreement.

“Bank’s Account” shall have the meaning set forth therefor in Section 2.5 hereof.

“Bank Note” shall mean at any time the then outstanding Bank Note of the Commonwealth issued to the Bank substantially in the form of Exhibit A hereto to evidence the obligation of the Commonwealth to reimburse any Advances or Term Loans, and shall include any replacement Bank Note issued pursuant to Section 2.3(f) hereof.

[“Bank Rate” shall mean for each period specified below, beginning with and including the date funds are advanced hereunder and ending on, but excluding, the date funds are repaid in full with interest thereon as provided herein, the interest rate specified with respect to such period, which interest rates shall be computed on the basis of the actual number of days elapsed and a 365/366 day year, as applicable:

**Period**

**Rate**

Notwithstanding the foregoing, from and after the earlier of (i) the date amounts are owed hereunder but only so long as not paid when due and (ii) during the occurrence and continuance of an Event of Default, all amounts owed hereunder shall bear interest at the Overdue Rate.]

“Bond Anticipation Notes” shall mean Notes issued in anticipation of the issuance of bonds of the Commonwealth.

“Business Day” shall mean any day other than (a) a Saturday or Sunday or (b) a day on which commercial banks in the State of New York or the Commonwealth of Massachusetts or the city in which notices of Advance are to be presented to the Bank hereunder, are authorized or obligated by law or executive order to close or are otherwise closed to the public or on which the New York Stock Exchange is closed.

“Close of Business” shall mean on any day, the last time at which third party payors may make payment into the federal funds system.

“Commercial Paper Obligations” shall have the meaning set forth in Section 4.1(j) of this Agreement.

“Commonwealth” shall have the meaning ascribed in the introductory paragraph of this Agreement.

“Dealer” shall mean either \_\_\_\_\_ or \_\_\_\_\_, acting in their capacity as a dealer, or any successor thereto.

“Dealers” shall mean, collectively, \_\_\_\_\_ and \_\_\_\_\_, acting in their capacity as dealers, or any successor dealer thereto.

“Dealer Agreements” shall mean, collectively, the Series \_ Dealer Agreement and the Series \_ Dealer Agreement.

“Debt” of any Person shall mean, at any date and without duplication, (a) all obligations of such Person for borrowed money evidenced by bonds, debentures, notes or other similar instruments (including, without limitation, principal and interest payments due to a bank in the form of reimbursement), (b) all obligations of such Person for borrowed money not evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person as lessee under capital leases, (d) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business (including, without limitation, accounts payable to construction contractors and other professionals for services rendered), (e) all indebtedness of others secured in full by a lien on any asset of such Person, whether or not such indebtedness is assumed by such Person, (f) all indebtedness of others guaranteed or secured in full by any of the revenues or assets of, such Person and (g) payment obligations of such Person under any Swap Contract.

“Default” means any condition or event that, with the giving of notice or the lapse of time or both would, unless cured or waived, become an Event of Default.

“Designated Jurisdiction” means any country or territory that is the subject of Sanctions.

“Documents” shall mean and include each of this Agreement, the Fee Letter, the Dealer Agreements, the Issuing and Paying Agency Agreements, the Offering Memoranda, the Notes and the Bank Note.

“Dodd-Frank Act” shall mean the Dodd-Frank Wall Street Reform and Consumer Protection Act and all regulations, guidelines and directions in connection therewith, as the same may be amended from time to time.

“Effective Date” shall mean \_\_\_\_\_.

“Effective Termination Date” shall have the meaning set forth in Section 2.4(a) hereof.

“EMMA” means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

“Event of Default” shall mean an event specified in Section 5 of this Agreement, provided that any requirement for notice, lapse of time, or both, or any other condition precedent has been satisfied.



“Excess Interest Amount” shall have the meaning set forth in Section 2.3(g) hereof.

“Federal Funds Rate” means, for any day, the rate of interest per annum as determined by the Bank at which overnight Federal Funds are offered to the Bank for such day by major banks in the interbank market, with any change in such rate to become effective as to the Commonwealth on the date of any change in such rate. Each determination of the Federal Funds Rate by the Bank shall be deemed conclusive and binding on the Commonwealth absent manifest error.

“Fee Letter” shall mean the letter agreement dated \_\_\_\_\_, between the Commonwealth and the Bank specifying certain Line of Credit Fees and other fees payable with respect to the transactions referred to herein, as the same may be amended and supplemented from time to time.

“Fee Payment Date” shall have the meaning set forth in Section 2.3(b) hereof.

“Fitch” shall mean Fitch Ratings and any successor or assign.

“General Obligation Debt” shall mean any Debt of the Commonwealth, the payment of which is secured by the full faith and credit of the Commonwealth.

“Governmental Authority” shall mean any government or political subdivision, or any agency, board, commission, department or instrumentality of either, or any court, tribunal, central bank or arbitrator.

“Highest Lawful Rate” shall mean the maximum rate of interest, if any, which the Bank is legally entitled to charge, contract for or receive under any law to which such interest is subject.

“Immediate Suspension Event” shall mean the occurrence of any event set forth in Section 3.3(e).

“Immediate Termination Event” shall mean the occurrence of any event set forth in Section 3.3(a), (b), (c) or (d).

“Interest Payment Date” shall have the meaning set forth in Section 2.3(f).

“Issuing and Paying Agent” shall mean, as applicable, either the Series \_ Issuing and Paying Agent or the Series \_ Issuing and Paying Agent.

“Issuing and Paying Agents” shall mean, collectively, the Series \_ Issuing and Paying Agent and the Series \_ Issuing and Paying Agent.

“Issuing and Paying Agency Agreement” shall mean, as applicable, either the Series \_ Issuing and Paying Agency Agreement or the Series \_ Issuing and Paying Agency Agreement.

“Issuing and Paying Agency Agreements” shall mean, collectively, the Series \_ Issuing and Paying Agency Agreement and the Series \_ Issuing and Paying Agency Agreement.

“Line of Credit Commitment” shall mean \$200,000,000 as the same may be permanently reduced pursuant to Section 6.6.

“Line of Credit Expiration Date” shall mean \_\_\_\_\_ or such later date to which the Line of Credit Expiration Date has been extended pursuant to Section 6.14 hereof.

“Line of Credit Fees” shall have the meaning set forth in Section 2.3(b) hereof.

“Moody’s” shall mean Moody’s Investors Service, Inc. and any successor or assign.

“Notes” shall mean, collectively, the Series \_ Notes and the Series \_ Notes.

“Notice of Advance” shall have the meaning set forth in Section 2.1(c) hereof.

“Offering Memoranda” shall mean, collectively, the Series \_ Offering Memorandum and the Series \_ Offering Memorandum.

[“Overdue Rate” shall mean the then current Bank Rate plus \_\_\_% per annum; provided, however, that the Overdue Rate shall be no less than \_\_\_%.]

“Participant” shall mean the Bank and any institution participating in the Line of Credit, Bank Note or this Agreement.

“Payment Account” shall have the meaning set forth in Section 2.5 hereof.

“Payment Obligations” shall mean all amounts to be paid by the Commonwealth to the Bank under this Agreement, the Fee Letter and the Bank Note.

“Person” shall mean an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

[“Prime Rate” shall mean that variable rate of interest per annum designated by the Bank, from time to time, as being its prime rate of interest, with a change in the Prime Rate to take effect simultaneously and automatically, without further notice, upon the Bank’s determination and designation from time to time of such prime rate. It is understood that such designated prime rate is merely a reference rate and does not necessarily represent the lowest or best rate being charged to any customer. The Bank’s determination and designation from time to time of its prime rate shall not in any way preclude the Bank from making loans to other borrowers at rates that are higher or lower than or different from the referenced rate. If the Bank ceases to exist or to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.]

“Rating Agency” means Fitch, Moody’s or S&P, as applicable.

“Refunding Account” shall have the meaning set forth in Section 2.5 hereof.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Sanction(s)” means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“S&P” shall mean Standard & Poor’s and any successor or assign.

“Series \_ Dealer Agreements” shall mean each Dealer Agreement between the Commonwealth and a Dealer for the Series \_ Notes, dated as of \_\_\_\_\_, as the same may be amended, modified or supplemented, or any successor agreement thereto.

“Series \_ Issuing and Paying Agency Agreement” shall mean the Issuing and Paying Agency Agreement, dated as of \_\_\_\_\_, between the Commonwealth and the Series \_ Issuing and Paying Agent relating to the Series \_ Notes, as the same may be amended, modified or supplemented, or any successor agreement thereto.

“Series \_ Issuing and Paying Agent” shall mean \_\_\_\_\_, acting in its capacity as issuing and paying agent under the Series \_ Issuing and Paying Agency Agreement, or any successor at law thereto or any successor issuing and paying agent under the Series \_ Issuing and Paying Agency Agreement.

“Series \_ Notes” shall mean tax-exempt promissory notes of the Commonwealth having a maturity of 270 days or less and issued by the Commonwealth pursuant to the Series \_ Issuing and Paying Agency Agreement for the purposes specified in Section 2.8, together with any such notes issued from time to time in renewal thereof.

“Series \_ Offering Memorandum” shall mean the offering memorandum relating to the Series \_ Notes, including any amendment or supplement to such offering memorandum.

“Series \_ Dealer Agreements” shall mean each Dealer Agreement between the Commonwealth and a Dealer for the Series \_ Notes, as the same may be amended, modified or supplemented, or any successor agreement thereto.

“Series \_ Issuing and Paying Agency Agreement” shall mean the Issuing and Paying Agency Agreement, dated as of \_\_\_\_\_, between the Commonwealth and the Series \_ Issuing and Paying Agent relating to the Series \_ Notes, as the same may be amended, modified or supplemented, or any successor agreement thereto.

“Series \_ Issuing and Paying Agent” shall mean [U.S. Bank National Association], acting in its capacity as issuing and paying agent under the Series \_ Issuing and Paying Agency Agreement, or any successor at law thereto or any successor issuing and paying agent under the Series \_ Issuing and Paying Agency Agreement.

“Series \_\_ Notes” shall mean federally taxable promissory notes of the Commonwealth having a maturity of 270 days or less and issued by the Commonwealth pursuant to the Series \_\_ Issuing and Paying Agency Agreement for the purposes specified in Section 2.8, together with any such notes issued from time to time in renewal thereof.

“Series \_\_ Offering Memorandum” shall mean the offering memorandum relating to the Series \_\_ Notes, including any amendment or supplement to such offering memorandum.

“Swap Contract” shall mean (a) any and all rate swap transactions, basis swaps, total return swaps, credit derivative transactions, forward rate transactions, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, cap transactions, floor transactions, collar transactions, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

[“30 Day LIBOR” shall mean \_\_\_\_\_.]

“Term Loan” or “Term Loans” shall have the meaning set forth in Section 2.3(f) hereof,

“Term Loan Conversion Date” shall have the meaning set forth in Section 2.3(f) hereof.

“Term Loan Final Amortization Date” shall have the meaning set forth in Section 2.3(f) hereof.

[“Term Loan Rate” shall mean the highest of (i) the Prime Rate plus \_\_\_% per annum, (ii) [30 Day LIBOR] plus \_\_\_% per annum, or (iii) \_\_\_% per annum.]

**1.2 Use of Defined Terms.** Terms defined in this Agreement shall have their defined meanings when used in any document, certificate, report or agreement furnished from time to time in connection with this Agreement unless the context otherwise requires.

## **SECTION 2. LINE OF CREDIT**

### **2.1 Advances.**

(a) Subject to and upon the terms and conditions herein set forth, the Bank agrees, at any time and from time to time on and after the Effective Date and prior to the Line of Credit Expiration Date, to make advances under the same line of credit for maturing Series \_\_ Notes and for maturing Series \_\_ Notes (each an “Advance” and collectively, the “Advances”) to the Commonwealth, which Advances shall not exceed in aggregate principal amount at any time outstanding the Line of Credit Commitment from time to time. The Line of Credit Commitment on the Effective Date shall be \$200,000,000. The Commonwealth and the Bank hereby agree that

while Advances may be outstanding and owing under the Bank Note at the same time, at no time shall any Series \_ Notes and any Series \_ Notes be issued and outstanding at the same time.

(b) Advances may be voluntarily prepaid pursuant to Section 2.3(f), and, subject to the other provisions of this Agreement, any amounts so prepaid may be reborrowed. The Bank's Line of Credit Commitment shall expire, and each Advance shall automatically convert to a Term Loan on the Line of Credit Expiration Date, without further action on the part of the Bank.

(c) On or before 12:00 P.M., New York City time on the date of maturity of any Series \_ Note or Series \_ Note, the applicable Issuing and Paying Agent, on behalf of and as agent for the Commonwealth, may request an Advance by delivery of a telecopy or telephonic notice (promptly confirmed in writing) (a "Notice of Advance"). Such Notice of Advance shall indicate the date on which disbursement is to be made by the Bank, and may request an Advance in an amount up to the lesser of the Available Line of Credit Commitment or the aggregate principal amount of either the Series \_ Notes or the Series \_ Notes maturing on such date. Pursuant to the applicable Issuing and Paying Agency Agreement, the Bank shall, if and to the extent that the Advance referred to in the preceding sentence is honored by wire transfer of funds rather than by a debiting of the applicable Bank's Account, withdraw from the applicable Bank's Account and apply to the repayment of amounts payable hereunder and under the Bank Note any and all amounts on deposit in the applicable Bank's Account on such date. Pursuant to the applicable Issuing and Paying Agency Agreement, all amounts received from any Advance are required to be deposited in the applicable Payment Account and held in trust and set aside exclusively for the payment of either the Series \_ Notes or the Series \_ Notes for which such Advance was made, and the applicable Issuing and Paying Agent is required to apply such amounts to the payment of such Notes, upon presentation thereof for payment; provided, that no Advances may be made unless on the date such Advance is to be made the conditions precedent set forth in Section 3.3 shall each have been satisfied.

(d) No later than 3:00 P.M., New York City time, on the date specified in each Notice of Advance, the Bank will, subject to the satisfaction of all of the conditions precedent in Section 3.3, from its own funds and not with the funds of any other person, make available to the Commonwealth the Advance requested to be made on such date, in U.S. dollars and immediately available funds. The proceeds of such Advance shall be deposited in the applicable Payment Account as set forth in the applicable Issuing and Paying Agency Agreement.

## **2.2 Substitution, Termination or Replacement of Line of Credit.**

(a) In the event that any restrictions or limitations are imposed upon or determined or held to be applicable to the Bank by, under or pursuant to any law or regulation (United States federal, state or local) now or hereafter in effect or by reason of any interpretation thereof by any court or governmental agency (including, without limitation, any interpretation by any competent bank supervisory agency having jurisdiction over the Bank as to the applicability of legal lending limits to the transactions contemplated hereby), which in the sole judgment of the Bank would prevent it from legally making any Advances made under this Agreement, then the Bank shall give prompt written notice thereof to the Commonwealth, the Series \_ Issuing and Paying Agent and the Series \_ Issuing and Paying Agent, whereupon no additional Notes issued

by the Commonwealth shall be entitled to the benefits of this Agreement; provided, however, that to the full extent permitted by law, the Bank shall continue to be liable in accordance with the terms of this Agreement in respect of either the Series \_ Notes or the Series \_ Notes entitled to the benefit of this Agreement issued prior to the date notice is given by the Bank in accordance with this Section 2.2(a). The Bank shall use commercially reasonable efforts to notify the Commonwealth of events described in this paragraph which in the sole judgment of the Bank are likely to result in the Bank's inability to make any Advances made under this Agreement as soon as practicable following the date on which the Bank learns of such events; provided, however, that the failure of the Bank to provide such notice shall in no way impair, limit or modify the obligations of the Commonwealth under this Agreement or impose any liability on the Bank or limit the actions of the Bank with respect to such events.

(b) The Commonwealth may terminate this Agreement as set forth in Section 6.6. No termination of this Agreement may occur unless all Payment Obligations are paid in full on or prior to the date of such termination.

(c) The obligations of the Bank to make Advances pursuant to this Agreement shall be discharged in accordance with the terms set forth herein.

### **2.3 Payment of Advances; Bank Note, Fees and Other Payments, Term Loan.**

(a) The Commonwealth agrees to repay each Advance, at the times, in the manner and otherwise as provided in this Agreement and the Bank Note and to pay any and all other amounts specified herein and in the Fee Letter, together with interest thereon pursuant to the terms of this Agreement, the Bank Note and the Fee Letter. The obligation of the Commonwealth to repay any Advances and Term Loans shall be evidenced by and subject to the terms and conditions set forth in the Bank Note.

(b) The Commonwealth hereby agrees to pay or cause to be paid to the Bank in immediately available funds to the account specified in Section 2.3(d), an annual fee (the "Line of Credit Fee") for the period commencing with and including the Effective Date and ending on and including the Effective Termination Date for any period then ending for which such Line of Credit Fee shall not have been theretofore paid, calculated at the rates per annum specified in the Fee Letter, computed on the basis of a year consisting of 360 days and actual days elapsed. The Line of Credit Fee is payable quarterly in arrears on the last Business Day of each \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ thereafter and on the Effective Termination Date (each a "Fee Payment Date"), with the first such payment date being \_\_\_\_\_.

(c) If any change in applicable law, treaty, regulation, guideline or directive (including, without limitation, Regulation D promulgated by the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect) or any new law, treaty, regulation, guideline or directive, or any interpretation of any of the foregoing by any authority charged with the administration or interpretation thereof or any central bank or other fiscal, monetary or other authority having jurisdiction over the Bank or any Participant or the transactions contemplated by this Agreement whether or not having the force of law, and if not having the force of law:

(i) subject the Bank or any Participant to any tax, charge, fee, deduction or withholding of any kind with respect to the Bank Note, the Fee Letter or this Agreement, or any amount paid or to be paid by the Bank or any Participant (other than any tax measured by or based upon the overall net income of the Bank or a Participant);

(ii) impose, modify or deem applicable any reserve, premium, special deposit or similar requirements against any assets held by, deposits with or for the account of, or loans, letters of credit or commitments by, an office of the Bank or any Participant;

(iii) change the basis of taxation of payments due the Bank or any Participant under this Agreement, the Fee Letter or the Bank Note (other than a change in taxation of the overall net income of the Bank or a Participant); or

(iv) impose upon the Bank or any Participant any other condition with respect to such amount paid or payable to or by the Bank or any Participant or with respect to this Agreement, the Fee Letter or the Bank Note,

and the result of any of the foregoing is to increase the cost to the Bank or any Participant of agreeing to issue, issuing, making any payment under or maintaining the Line of Credit under this Agreement, or to reduce the amount of any payment (whether of principal, interest or otherwise) receivable by the Bank or any Participant or to require the Bank or any Participant to make any payment on or calculated by reference to the gross amount of any sum received by it, in each case by an amount which the Bank or such Participant in its reasonable judgment deems material, then upon determination to impose increased costs under this Section:

(A) the affected Participant shall promptly notify the Bank in writing of the happening of such event;

(B) the affected Participant shall promptly deliver to the Bank or the Bank may generate on its own behalf a certificate stating the change which has occurred or the reserve requirements or other costs or conditions which have been imposed on such Participant or the Bank, as the case may be, or the request, direction or requirement with which it has complied together, to the date thereof, the amount of such increased cost, reduction or payment and the way in which such amount has been calculated, including a reasonably detailed calculation and the Participant's or the Bank's, as the case may be, determination of such amounts, absent fraud or manifest error, shall be conclusive;

(C) the Bank shall promptly deliver to the Commonwealth the information received or determined pursuant to (A) and (B) above; and

(D) the Commonwealth shall pay to the Bank for the account of the affected Participant, or for the Bank's own account, as the case may be, from time to time as specified by such Participant or the Bank, as the case may be, on a date not later than the fifteenth (15th) day after receipt of notice from the Bank, such an amount or amounts as will compensate such Participant or the Bank, as the case may be, for such additional cost, reduction or payment, and if not paid as of such fifteenth (15th) day after receipt of notice from the Bank, together with interest on such amount from such fifteenth (15th) day at the Overdue Rate.

In addition to the foregoing, if after the date hereof the Bank or any Participant shall have determined that the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, or compliance by the Bank or any Participant with any request or directive regarding capital adequacy whether or not having the force of law, and if not having the force of law, of any such authority, central bank or comparable agency, has or would have the effect of increasing the cost to, reducing the income receivable by or otherwise reducing the rate of return on the capital of, the Bank or any Participant to a level different from that which the Bank or such Participant could have experienced but for such adoption, change or compliance (taking into consideration the policies of the Bank or such Participant with respect to capital adequacy) by an amount deemed by the Bank or such Participant to be material, or affects or would affect the amount of capital required or expected to be maintained by the Bank or any Participant or any corporation controlling the Bank or such Participant by an amount deemed by the Bank or such Participant to be material, as a consequence of its obligations hereunder, then from time to time the Commonwealth shall be obligated to pay or cause to be paid to the Bank for the account of such Participant or for its own account, as the case may be, such additional amount or amounts as will compensate the Bank or such Participant for such increase or reduction with respect to any period for which such increase or reduction was incurred upon demand by the Bank or such Participant, together with interest on such amount for each day from such date of demand until payment in full at the Overdue Rate. A certificate setting forth in reasonable detail such increase or reduction of the Bank or a Participant as a result of any event mentioned in this paragraph shall be submitted by the affected Participant to the Bank who shall promptly deliver such certificate (or such a certificate generated by the Bank on its own behalf) to the Commonwealth and such certificate shall, in the absence of fraud or manifest error, be conclusive as to amount thereof.

The protections of this Section shall be available to the Bank and the Participants regardless of any possible contention of invalidity or inapplicability of the law, regulation or condition which has been imposed; provided, however, that if it shall be later determined that any amount so paid by the Commonwealth pursuant to this Section is in excess of the amount payable under the provisions hereof, the Bank or such Participant, as the case may be, shall refund such excess amount to the Commonwealth by delivery of such amount to the Bank who shall thereupon transfer such amount to the Commonwealth; provided further, however, if such excess amount is not refunded as of the fifteenth (15th) day following actual notice by the Bank or such Participant of such excess amount then due, such amount owing to the Commonwealth shall earn interest at the Overdue Rate until paid in full.

Notwithstanding anything in this Section to the contrary, if such costs are to be incurred on a continuing basis and the Bank or any Participant shall so notify the Bank in writing as to the amount thereof, who shall promptly deliver such notice on such Participant's or its own behalf, as the case may be, to the Commonwealth, such costs shall be paid by the Commonwealth to the Bank for the account of such affected Participant or the Bank, as the case may be, quarterly in arrears.

Notwithstanding the foregoing, for purposes of this Agreement (i) only requests, rules, guidelines or directives adopted after the Effective Date in connection with the Dodd-Frank Act shall be deemed to be a change in law, policy, guidelines, etc. under this Section 2.3(c), and (ii) only requests, rules, guidelines or directives promulgated by the Bank for International



Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or any Governmental Authority after the Effective Date shall be deemed to be a change in law, policy, guidelines, etc. under this Section 2.3(c).

(d) All payments to be made to the Bank by or on behalf of the Commonwealth under this Agreement, the Fee Letter or the Bank Note shall be made to the Bank at its account in immediately available funds as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ABA No.: \_\_\_\_\_  
Account # \_\_\_\_\_  
Acct Name: \_\_\_\_\_  
Reference: \_\_\_\_\_  
Contact: \_\_\_\_\_

Unless otherwise specified herein, all such payments shall be made to the Bank as aforesaid not later than 3:00 P.M., New York City time, on the date due; and funds received after that hour shall be deemed to have been received on the next succeeding Business Day. All such payments not received on the date and time due shall bear interest until payment in full thereof at the Overdue Rate.

(e) The Payment Obligations shall be absolute, unconditional and irrevocable under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Commonwealth may have or have had against the Bank, including, without limitation, any defense based on the failure of any request for an Advance by the applicable Issuing and Paying Agent to conform to the terms of this Agreement or the applicable Issuing and Paying Agency Agreement or any failure of the Commonwealth to receive all or any part of the proceeds of the sale of applicable Notes with respect to which such request for an Advance was made by the applicable Issuing and Paying Agent or any non-application or misapplication by the applicable Issuing and Paying Agent of the proceeds of an Advance, and irrespective of the legality, validity, regularity or enforceability of this Agreement, and notwithstanding any termination of this Agreement pursuant hereto.

(f) There is hereby authorized the issuance of a promissory note of the Commonwealth designated as the "Bank Note." The Bank Note shall be issued to the Bank on the Effective Date, to evidence the obligation of the Commonwealth to repay each Advance and Term Loan, if any, made by the Bank to the Commonwealth, subject to and in accordance with the terms, conditions and limitations of this Agreement. In no event shall the principal amount of the Bank Note exceed the Line of Credit Commitment.

The Bank Note shall be in substantially the form set forth in Exhibit A hereof, shall be dated the Effective Date and, subject to Section 5, shall mature on the later of (i) the Effective Termination Date and (ii) the applicable date specified in the following two sentences. Each Advance made for a purpose specified in Section 2.8(i) hereof shall be paid no later than the June 30th next succeeding the date such Advance shall have been made (but in no event later than the

Line of Credit Expiration Date). Each Advance made for a purpose not specified in Section 2.8(i) hereof shall be paid in full no later than the Line of Credit Expiration Date or, if applicable, the Term Loan Final Amortization Date, or earlier as required by applicable law. Each Advance shall be further payable at the earliest to occur of: (i) subject to the satisfaction of the conditions precedent to the conversion of such Advance to a Term Loan as described below, the fifth anniversary of the date of the related Advance (such fifth anniversary being referred to herein as the “Term Loan Final Amortization Date”); (ii) the date that a substitute liquidity or credit facility replaces this Agreement in whole; (iii) the date the Notes program is terminated on a permanent basis; and (iv) the date that the amount of the Commitment under this Agreement is permanently reduced to zero (other than as a reduction of the Facility solely as a result of the occurrence of the Line of Credit Expiration Date).

Each Advance and Term Loan outstanding under and evidenced by the Bank Note shall bear interest payable by the Commonwealth to the Bank on the unpaid principal amount thereof from time to time outstanding, from the dates of the making of the related Advance, at a rate per annum equal to the Bank Rate. Interest on each Advance and Term Loan shall be payable in arrears monthly on the first Business Day of each calendar month, on the date of any prepayment of the Bank Note, on the date of payment of any principal installment of a Term Loan and at maturity of the Bank Note (each an “Interest Payment Date”). Interest shall be calculated on the basis of a 365/366-day year, as applicable, for actual days elapsed, on the outstanding principal balance of the Advance or Term Loan, as applicable, on each Interest Payment Date.

Any amount of an Advance remaining unpaid by the Commonwealth to the Bank on the date such Advance was made shall be converted to a term loan on such date (the “Term Loan Conversion Date” and amount of each such conversion being a “Term Loan” and, collectively, the “Term Loans”), but only if (i) the representations and warranties set forth in Section 4.1 of this Agreement are true and correct as of such date and (ii) no Default or Event of Default shall have occurred and be continuing. The principal portion of the Term Loan shall be payable in ten (10) equal semi-annual installments commencing on the date that is six (6) months after the Term Loan Conversion Date; *provided* that the number and amount of principal payments shall be adjusted, if necessary, to ensure that the final such principal payment is paid no later than the first to occur of (i) the Term Loan Final Amortization Date and (ii) an earlier principal payment date if such earlier principal payment date is required by applicable law.

If on the date of any Advance, (i) any representation or warranty set forth in Section 4.1 of this Agreement is not true and correct or (ii) any Default or Event of Default shall have occurred and be continuing, such Advance shall be immediately due and payable on the date of such Advance. Late payments of interest and principal on any Advance not converted to a Term Loan shall accrue interest at the Overdue Rate and shall be payable on demand.

The Bank Note shall be subject to prepayment prior to its stated maturity, at the option of the Commonwealth, as a whole or in part in amounts of not less than \$100,000, at any time or from time to time, at a prepayment price equal to the unpaid principal amount of the Bank Note to be prepaid and interest accrued thereon to the date fixed for prepayment (without premium), from moneys deposited to the credit of the Refunding Account, and available for transfer to the Bank’s Account, as soon as practicable following such deposit.

Notice of prepayment of the Bank Note shall be by telephone, telecopier or other telecommunication device, confirmed in writing, shall be delivered or transmitted by the Commonwealth to the Bank not later than 12:00 noon, New York City time, on the date fixed for prepayment which shall be a Business Day, at its address or number set forth in this Agreement, and shall state the prepayment date, the principal amount being prepaid and the interest to be paid on such principal amount.

The sum of all outstanding Advances and Term Loans shall constitute the outstanding principal amount from time to time outstanding due and payable on the Bank Note, and each payment of principal of the Bank Note shall constitute reimbursement of such Advances and Term Loans and shall fully discharge the obligation of the Commonwealth on the Bank Note and under this Agreement to the extent of the payment so made. Provided no Event of Default has occurred and is continuing, any amount received by the Bank in payment of principal of the Bank Note shall be applied to the repayment of Advances and Term Loans.

Payments of both principal of and interest on the Bank Note are to be made in lawful money of the United States of America by payment of immediately available funds to the account of the Bank specified for such purpose in Section 2.3(d) of this Agreement. Payments made by the Commonwealth on the Bank Note shall be applied first to any accrued and unpaid interest and second to the outstanding principal amount of the Bank Note in inverse order of maturity of all then outstanding Advances and Term Loans made under the Line of Credit Commitment.

The Bank Note constitutes a general obligation of the Commonwealth and the full faith and credit of the Commonwealth are pledged to the payment of principal of and interest on the Bank Note.

The Bank Note shall be executed on behalf of the Commonwealth by the manual signature of the Treasurer and Receiver-General or a Deputy Treasurer of the Commonwealth, countersigned by the manual signature of the Comptroller, Deputy Comptroller or Assistant to the Comptroller of the Commonwealth, and approved by the manual or facsimile signature of the Governor of the Commonwealth. The official seal of the Commonwealth (or a facsimile thereof) shall be impressed, imprinted or reproduced thereon.

In case any person who shall have executed or sealed the Bank Note, whether manually or by facsimile, shall die or cease to be the person authorized to execute or seal the Bank Note before the Bank Note shall have been actually issued and delivered, the Bank Note shall be valid nevertheless, and may be issued with the same effect as though the person who had so signed or sealed the Bank Note had not died or ceased to be such authorized person.

(g) Authorization of Bank Note; Highest Lawful Rate. All interest payable hereunder, under the Fee Letter or under the Bank Note is payable on demand unless otherwise specified and shall be calculated on the basis of actual days elapsed and a year of 365 or 366 days. Any change in the interest rate on any amounts remaining unpaid by the Commonwealth hereunder, under the Fee Letter or under the Bank Note resulting from a change in the Bank Rate or the Overdue Rate shall become effective as of the opening of business on the day on which such change in the Bank Rate or the Overdue Rate, as the case may be, shall become effective. Any Payment Obligation not paid when due shall accrue interest at the Overdue Rate and shall be

payable on demand. In no event shall the amount of interest payable under this Agreement, the Fee Letter or the Bank Note exceed the Highest Lawful Rate. In the event any interest required to be paid hereunder, under the Fee Letter or under the Bank Note at any time exceeds the Highest Lawful Rate, the portion of such interest required to be paid on a current basis shall equal such Highest Lawful Rate; provided, however, that the differential (the “Excess Interest Amount”) between the amount of interest payable assuming no Highest Lawful Rate and the amount paid on a current basis after giving effect to the Highest Lawful Rate shall be carried forward and shall be payable on any subsequent date of calculation (but in any event, no later than the Effective Termination Date when all such amounts shall become due and payable) so as to result in a recovery of interest previously unrealized (because of the limitation dictated by such Highest Lawful Rate) at a rate of interest, and as part of the interest payable, that, after giving effect to the recovery of such excess and all other interest paid and accrued hereunder to the date of calculation, does not exceed such Highest Lawful Rate. In the event that this Agreement is terminated and at such time there exists any Excess Interest Amount, the Commonwealth shall, to the extent permitted by applicable law, pay to the Bank on such termination date an additional fee equal to the Excess Interest Amount, provided that no such amount shall be paid to the extent payment thereof would violate applicable usury law or law governing maximum interest rates.

(h) On any June 30th on which there shall be outstanding under the Bank Note principal representing an Advance or a Term Loan made with respect to the Notes issued for a purpose not specified in Section 2.8(i) hereof, the Commonwealth shall pay such outstanding principal amount, unless the Commonwealth shall extend such maturity, by telephonic notice given to the Bank not later than 3:00 p.m., New York City time, on such June 30th, promptly confirmed in writing.

## **2.4 Issuance of Notes.**

(a) Conditions for Issuance of Notes. So long as the Issuing and Paying Agents and the Commonwealth are not in receipt of written instructions then in effect from the Bank not to issue or deliver Notes because (i) a Default or an Event of Default has occurred and is continuing, or (ii) on the date of the proposed issuance of such Notes, there shall not be available with the applicable Issuing and Paying Agent to be transferred to the Bank, funds sufficient to pay the Bank an amount equal to the interest on maturing Notes on such date, or (iii) a restriction or limitation has been imposed upon or determined or held to be applicable to the Bank of the type referred to in Section 2.2(a) hereof, or (iv) the Line of Credit Commitment is otherwise terminated in accordance with the terms thereof, or (v) there has been delivered to the Bank a letter of Locke Lord LLP to the effect that the opinion of such counsel referred to in Section 3.1(a) hereof may not continue to be relied upon to the extent set forth in said opinion, or (vi) the representations and warranties of the Commonwealth set forth in Section 4 hereof shall no longer be true and correct, the Commonwealth may, from time to time after the Effective Date, issue and sell either Series \_ Notes or Series \_ Notes, but not at the same time or while the other series of Notes are outstanding, pursuant to this Agreement and the applicable Issuing and Paying Agency Agreement. Such instructions to the Series \_ Issuing and Paying Agent and the Series \_ Issuing and Paying Agent from the Bank shall be effective when given; provided, however, that instructions received by the applicable Issuing and Paying Agent after 11:30 A.M. on any date on which such Notes are being authenticated shall be effective on the next succeeding day. Upon giving of any such instructions to the Series \_ Issuing and Paying Agent and the Series \_ Issuing and Paying Agent and the

Commonwealth not to issue or deliver any Notes, the Bank shall also give notice thereof to the Dealer, but failure to give notice thereof to the Dealer or any delay in doing so shall not impair the effect of such instructions. Upon the occurrence of any of the events described in this Section 2.4(a), the Bank shall have the right to cause the termination of the Line of Credit Commitment. If the Line of Credit Commitment is so terminated, then the obligation of the Bank to make Advances under this Agreement shall be terminated on the earliest to occur of the following dates (the "Effective Termination Date"), as applicable: (i) the date of such termination, if no Series \_ Notes or Series \_ Notes entitled to the benefits of this Agreement shall then be Outstanding, or (ii) if there are Series \_ Notes or Series \_ Notes then Outstanding entitled to the benefits of this Agreement, on the earlier of (A) the date of payment in full of the last Series \_ Note or Series \_ Note entitled to the benefits of this Agreement, however such payment is made, or (B) the Line of Credit Expiration Date; provided, that with respect to an Immediate Termination Event or an Immediate Suspension Event, the Commitment of the Bank shall terminate or suspend automatically as described in Section 5 hereof.

(b) Non-Issuance of Notes. No Series \_ Note or Series \_ Note shall be issued unless (i) upon the issuance of such Note and the application of the proceeds thereof (or the proceeds of any Advance) to the payment of any Series \_ Notes or Series \_ Notes or the Bank Note, the aggregate principal amount of all Series \_ Notes or Series \_ Notes Outstanding will not exceed the Available Line of Credit Commitment and (ii) all such Notes issued will mature on or before the maturity of the applicable Bank Note held by the Bank at the date of issuance of such Notes.

(c) Delivery of Notes. All Notes shall be delivered and issued against payment therefor in immediately available funds on the date of issuance thereof equal to the principal amount thereof and otherwise strictly in accordance with the terms of this Agreement and the applicable Issuing and Paying Agency Agreement.

**2.5 Payment of Outstanding Notes and Repayment of Advances.** For the purpose of facilitating the transactions contemplated by this Agreement and the applicable Issuing and Paying Agency Agreement, the applicable Issuing and Paying Agent has established pursuant to Section 2 of the applicable Issuing and Paying Agency Agreement at their respective offices in \_\_\_\_\_ or in \_\_\_\_\_, three special purpose trust accounts for the benefit of the holders of the Notes, the Commonwealth and/or the Bank, to the extent set forth in the applicable Issuing and Paying Agency Agreement (said accounts being referred to herein and in the applicable Issuing and Paying Agency Agreement as the "Bank's Account," the "Payment Account," and the "Refunding Account," it being understood that the Series \_ Issuing and Paying Agent and the Series \_ Issuing and Paying Agent have established separate accounts for its respective Notes).

**2.6 Liability of Bank.** Neither the Bank, the Participants nor any of their officers or directors shall be liable or responsible for (a) the use which may be made of the proceeds of any Advance or for any acts or omissions of either the Series \_ Issuing and Paying Agent or the Series \_ Issuing and Paying Agent and any application of the proceeds of an Advance or transfer in connection therewith; (b) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged; (c) payment by the Bank against presentation of

documents which do not comply with the terms of this Agreement, including failure of any documents to bear any reference or adequate reference to this Agreement; or (d) any other circumstances whatsoever in making or failing to make an Advance, except only that the Commonwealth shall have a claim against the Bank, and the Bank shall be liable to the Commonwealth, to the extent of any damages suffered by the Commonwealth by the Bank's willful misconduct or gross negligence in (i) determining whether the conditions precedent to the Bank's obligation to make an Advance shall have been satisfied or (ii) otherwise failing to fund an Advance in accordance with the terms hereof.

Neither the Bank nor the Participants shall be liable in any way for any failure on its part to honor any Advance as a result of any act or omission (whether rightful or wrongful) of any Governmental Authority or any other cause beyond the control of the Bank.

**2.7 Other Agreements by the Commonwealth.** The Commonwealth agrees with the Bank that the Commonwealth's obligation to pay the Bank Note and to pay the Payment Obligations to the Bank under this Agreement and the Fee Letter shall be absolute, unconditional and irrevocable, shall be fulfilled strictly in accordance with this Agreement and the Fee Letter, and shall not be affected by, and the Bank shall not be responsible for, among other things, the validity, genuineness or enforceability of the Notes or the Bank Note or documents or endorsements relating thereto (even if the Notes, the Bank Note or such documents or endorsements relating thereto should, in fact, prove to be in any and all respects invalid, fraudulent or forged), or any dispute between or among the Commonwealth, the applicable Issuing and Paying Agent or any holder of applicable Notes, or any claims whatsoever of the Commonwealth against the applicable Issuing and Paying Agent, any holder of applicable Notes, or any transferee.

The Bank shall not be liable or responsible in any respect for (a) any error, omission, interruption or delay in transmission, dispatch or delivery of any notice, message or advice, however transmitted, in connection with the request for or the making of any Advance or (b) any action, inaction or omission which may be taken by it in good faith in connection with the request for or the making of any Advance or otherwise under this Agreement. The Commonwealth further agrees that any action taken or omitted by the Bank under or in connection with the request for or the making of any Advance, the related notices, drafts or documents or otherwise under this Agreement, if done in good faith without gross negligence, shall be effective against the Commonwealth as to the rights, duties and obligations of the Bank and shall not place the Bank under any liability to the Commonwealth.

**2.8 Use of Proceeds of the Notes.** (a) The Commonwealth agrees that it will use the proceeds derived from the sale of the Series \_ Notes (i) (with respect only to Series \_ Notes which are not Bond Anticipation Notes) for the purposes for which Commonwealth note proceeds may be used under Section 47 of Chapter 29 of the Massachusetts General Law, as amended, (ii) for the purpose of funding capital outlay projects for which the issuance of Commonwealth bond anticipation notes is authorized, (iii) to pay maturing Series \_ Notes, (iv) for such other lawful purpose or purposes as may be approved by the Bank or (v) any combination thereof.

(b) The Commonwealth agrees that it will use the proceeds derived from the sale of the Series \_ Notes (i) (with respect only to Series \_ Notes which are not Bond Anticipation Notes) for the purposes for which Commonwealth note proceeds may be used under Section 47 of Chapter

29 of the Massachusetts General Law, as amended, (ii) for the purpose of funding capital outlay projects for which the issuance of Commonwealth bond anticipation notes is authorized, (iii) to pay maturing Series \_ Notes, (iv) for such other lawful purpose or purposes as may be approved by the Bank or (v) any combination thereof.

**2.9 Nature of Obligations of the Commonwealth.** The obligation of the Commonwealth to repay Advances and Term Loans under the Bank Note constitutes a General Obligation Debt of the Commonwealth to which the full faith and credit of the Commonwealth are pledged on a parity with all other General Obligation Debt of the Commonwealth to which the full faith and credit of the Commonwealth are pledged. The other Payment Obligations of the Commonwealth under this Agreement and the Fee Letter also constitute General Obligation Debt of the Commonwealth, subject to the fact that legislative appropriation may be required for the payment thereof.

### **SECTION 3. CONDITIONS PRECEDENT.**

**3.1 Conditions Precedent to the Establishment of the Line of Credit.** The obligation of the Bank to establish the Line of Credit under this Agreement shall be subject to the fulfillment of the following conditions precedent on or before the Effective Date hereof, in manner satisfactory to the Bank and its counsel:

(a) The Bank shall have received an opinion of Locke Lord LLP, as Bond Counsel, substantially to the effect set forth in Exhibit B to this Agreement with respect to the Notes, dated the Effective Date, and which shall also cover any other matters which the Bank may reasonably request;

(b) The Bank shall have received an opinion of \_\_\_\_\_, counsel to the Bank, dated the Effective Date and in form and substance satisfactory to the Bank and the Commonwealth;

(c) Unless waived by the Bank, (i) the long-term general obligation debt of the Commonwealth shall be rated not less than “A” by Fitch, “A” by Moody’s and “A” by S&P, (ii) the Bank shall have received a copy of the rating letters or other documents evidencing any such rating, and (iii) such ratings shall continue in effect on the Effective Date;

(d) The Bank shall have received on the Effective Date certified copies or executed originals, as the Bank may request, of this Agreement, the Fee Letter and any other documents which the Bank may reasonably request evidencing that all necessary action (other than as referred to in Section 4.1(b)) required to be taken by the Commonwealth in connection with the authorization, execution, issuance, delivery and performance of this Agreement, the Fee Letter, the Notes, the Bank Note and any other document required to be delivered by the Commonwealth pursuant to or in connection with this Agreement or the transactions contemplated hereby has been taken;

(e) The Bank Note shall have been duly authorized, executed and delivered to the Bank by the Commonwealth and any previous “Bank Note” issued with respect to the Notes returned to the Commonwealth and shall be canceled;

(f) The Bank shall have received written evidence that the Bank Note CUSIP number has been obtained and received from Standard & Poor's CUSIP Service Bureau;

(g) The Bank shall have received written confirmation that the Bank Note shall have received at least one unenhanced long-term credit rating from any of the Rating Agencies;

(h) The Bank shall have received a certificate dated the Effective Date providing that (i) the representations and warranties set forth in Section 4 of this Agreement and in any other certificate, letter, writing or instrument delivered by the Commonwealth to the Bank pursuant hereto or in connection herewith, shall be true and correct as of the Effective Date; and (ii) on the Effective Date no Event of Default and no event, act or omission which with notice, lapse of time or both, would constitute such an Event of Default shall have occurred and be continuing; and (iii) no material adverse change in the financial condition of the Commonwealth has occurred since June 30, 2017, except as may be disclosed in the Offering Memoranda;

(i) The Bank shall have received such certifications as to matters of fact, evidence of corporate authority, copies of governmental consents, permits, licenses and approvals, and other documents as shall be reasonably requested by the Bank, and the form and substance of any order or other official action granting any consent, permit, license or approval shall be satisfactory to the Bank;

(j) All other legal matters pertaining to the execution and delivery of this Agreement and the Fee Letter, the issuance of the Notes and the Bank Note shall be reasonably satisfactory to the Bank and its counsel;

(k) (i) The Bank shall have received a certificate of the Attorney General of the Commonwealth concerning no litigation; (ii) a certificate of the Governor of the Commonwealth with respect to the Bank Note; and a certificate of the Secretary of State of the Commonwealth with respect to the Bank Note; and

(l) The Bank shall have received a certificate, signed by the Treasurer and Receiver-General and another Authorized Officer of the Commonwealth and dated the Effective Date, as to the incumbency and containing the specimen signature or signatures of the Authorized Officer or Authorized Officers and any other officials of the Commonwealth executing and delivering this Agreement, the Fee Letter and the Bank Note and any instrument or agreement required hereunder on behalf of the Commonwealth.

**3.2 Conditions Precedent to Issuance of Notes.** Prior to the issuance of any Notes after the Effective Date, the Commonwealth shall deliver the following documents, in form and substance reasonably satisfactory to the Bank and its counsel:

- (a) Copies of the final Offering Memoranda;
- (b) Copies of the executed Dealer Agreements;
- (c) Copies of the Issuing and Paying Agency Agreements;



(d) Unless waived by the Bank, (i) Fitch, Moody's and S&P shall have rated such Notes at least "F-1," "P-1" and "A-1," respectively (or the then comparable Fitch, Moody's or S&P rating, as the case may be, without additional credit support (other than the Line of Credit), and the long-term general obligation debt of the Commonwealth shall be rated not less than "A" by each of Fitch, Moody's and S&P, (ii) the Bank shall have received a copy of the rating letters or other documents evidencing any such rating, and (iii) such ratings shall continue in effect on the Effective Date;

(e) A letter from Locke Lord LLP, as Bond Counsel, dated the Initial Issuance Date confirming that the Bank may continue to rely on the opinion provided thereby pursuant to Section 3.1(a) as if said opinion had been delivered on such date; provided, however, that Bond Counsel will not have any duty to update said opinion and delivery of the aforementioned reliance letter will not be deemed such a bring-down or an update thereof;

(f) A copy of the opinion of Locke Lord LLP, as Bond Counsel, dated the Initial Issuance Date, which opinion shall cover the validity and tax-exemption (if applicable) of the Notes and shall also be related to the applicable Offering Memorandum, and a reliance letter from Bond Counsel addressed to the Bank allowing the Bank to rely on such opinion;

(g) A certificate of the Treasurer and Receiver-General of the Commonwealth, or a duly appointed designee, certifying, on and as of the Initial Issuance Date: (i) that the representations and warranties set forth in (or incorporated by reference in) Section 4 of this Agreement and in any other certificate, letter, writing or instrument delivered by the Commonwealth to the Bank pursuant hereto or in connection herewith, shall be true and correct, (ii) that no Event of Default or no event, act or omission which with notice, lapse of time or both, would constitute such an Event of Default, shall have occurred and be continuing hereunder and that no "Event of Default" (as defined in the Issuing and Paying Agency Agreement) or no event, act or omission which with notice, lapse of time or both, would constitute such an "Event of Default" thereunder, shall have occurred and be continuing, (iii) as to the incumbency and containing the specimen signature or signatures of the authorized officer or authorized officers and any other officials of the Commonwealth executing and delivering any instrument or agreement required in connection with the issuance of the Notes (including, without limitation, the Offering Memoranda and closing certificates that are usual and customary for transactions of this nature), (iv) except for information contained in the Offering Memoranda describing the Bank, as to which no representation is made, the Offering Memoranda is accurate in all material respects for the purposes for which its use is, was or shall be authorized; and with the aforesaid exception, the Offering Memoranda did not as of their date and the Offering Memoranda does not as of the Initial Issuance Date contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading and that there is no material fact which has come to the attention of the Commonwealth relating to the operation, affairs, condition or prospects of the Commonwealth which materially adversely affects the same and has not been disclosed to the Bank in writing or in the Offering Memoranda, (v) that there has been no material adverse change in the business, condition (financial or otherwise) or operations, present or prospective, of the Commonwealth since June 30, 2017, except as may be disclosed in the Offering Memoranda, and (vi) such other matters as the Bank may reasonably request; and

(h) A certificate from the Issuing and Paying Agent dated the Initial Issuance Date (i) confirming the names and specimen signatures of those officers of the Issuing and Paying Agents authorized to make requests for Advances and (ii) confirming that, to the best of its knowledge, no “Event of Default” (as defined in the Issuing and Paying Agency Agreements) or no event, act or omission which with notice, lapse of time or both, would constitute such an “Event of Default” thereunder, shall have occurred and be continuing; and

(i) All fees of \_\_\_\_\_ relating to the review and preparation of the documents and other matters set forth in this Section 3.2 shall be paid on or before the Initial Issuance Date.

**3.3 Conditions Precedent to Advances.** Advances under this Agreement shall be available only to pay the principal of maturing Notes, and Advances under this Agreement shall not be available if the Bank shall not have received the Notice of Advance as required by Section 2.1(c) hereof and if any of the following events shall have occurred and be continuing:

(a) The Commonwealth’s General Obligation Debt shall be rated below the lowest “investment grade” rating by Fitch, Moody’s and S&P or any long-term credit rating assigned to General Obligation Debt of the Commonwealth shall be withdrawn or suspended for credit-related reasons by each of Fitch, Moody’s and S&P;

(b) The Commonwealth shall fail to pay when the same shall become due and payable any principal of or interest on any General Obligation Debt (including, but not limited, the Bank Note or any interest on the Notes) described in clause (a), (c) or (g) of the definition of “Debt” herein (including, in each case, without limitation, any principal or sinking fund installments with respect thereto, but excluding (i) any bank notes (including, but not limited to, the Bank Note), the payment of which has been accelerated prior to maturity under the related liquidity facility, insurance policy, line of credit or other liquidity support or mechanism obtained for the purpose of securing the payment of the principal and/or interest of maturing Notes or Commercial Paper Obligations of the Commonwealth other than by reason of an acceleration by the provider of such liquidity facility, insurance policy, line of credit or other liquidity support or mechanism due to non-payment of an advance or a bank note (including, but not limited to, any Advance or the Bank Note) by the Commonwealth, (ii) General Obligation Debt in the form of the commercial paper notes which are supported as to the payment of principal and/or interest thereof by a credit enhancement or liquidity facility if such failure to make such payment is due solely to the failure of the related credit enhancement or liquidity facility provider to make such payment, (iii) any Swap Contract that does not relate to the payment of interest with respect to General Obligation Debt described in clause (a) or (c) of the definition of “Debt” herein and (iv) any termination payment or settlement amount under a Swap Contract) and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning such General Obligation Debt;

(c) (i) A debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on repayment of debt shall have been declared by the Commonwealth or imposed by any Governmental Authority of competent jurisdiction (whether or not in writing) pursuant to a finding or ruling with respect to the Notes, the Bank Note or all General Obligation Debt of the Commonwealth, (ii) the Commonwealth shall admit in writing its inability to pay its

debts as they mature, or the Commonwealth shall seek any form of debtor relief affecting its General Obligation Debt, or a trustee, custodian, liquidator or receiver shall be appointed with respect to all or substantially all assets of the Commonwealth, or the Commonwealth shall be declared by a court of competent jurisdiction or shall declare itself to be insolvent; or (iii) an order shall have been entered and shall not have been discharged within sixty (60) days from the entry thereof in a case, proceeding or other action commenced against the Commonwealth in a court of competent jurisdiction which (a) seeks issuance of a warrant of attachment, execution or similar process against all or substantially all of the Commonwealth's assets, and (b) commences only after the rendering of a final judgment or order by a court against the Commonwealth which has not been paid or otherwise satisfied by the Commonwealth within the time frame specified in such final judgment or order; or;

(d) Any material provision of this Agreement or the Bank Note, relating to the payment of any principal or interest on the Notes or the Bank Note or the general obligation of the Commonwealth to which the full faith and credit of the Commonwealth are pledged to the payment therefor, subject to the Commonwealth's state tax revenue growth limit, shall at any time for any reason cease to be valid and binding or fully enforceable on the Commonwealth as determined by any Governmental Authority of competent jurisdiction in a final non-appealable judgment;

(e) A Default exists as a result of the occurrence of an event described in subsection (c)(iii) above.

Each Notice of Advance delivered to the Bank pursuant to this Section shall constitute a representation and warranty by the Commonwealth on such date that the conditions described in clause (a), (b), (c), (d) and (e) of this Section have not occurred and are not continuing.

#### **SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS.**

**4.1 Representations, Warranties and Covenants of the Commonwealth.** In order to induce the Bank to enter into this Agreement and to establish the Line of Credit provided for in this Agreement, the Commonwealth represents, warrants and covenants with respect to itself, this Agreement and certain other matters as follows:

(a) The Treasurer and Receiver-General of the Commonwealth had, at all relevant times, and has all requisite power and authority to execute and deliver this Agreement, the Fee Letter, the Bank Note, the Notes, the Issuing and Paying Agency Agreements and Dealer Agreements and the Commonwealth had, at all relevant times, and has all requisite power and authority to perform all of its obligations hereunder and thereunder.

(b) No authorization, consent, approval, license, exemption of or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, has been or will be necessary for the valid execution, delivery and performance by the Commonwealth of the Documents, except that a legislative appropriation may be required for the payment of fees and expenses due under the Documents, and such execution, delivery and performance did not, does not and will not violate, conflict with or constitute a default under any constitutional or statutory provision or other law, rule, regulation or order or any agreement or instrument to which the Commonwealth is a party or by which it is bound.

(c) The Commonwealth has taken all necessary action to authorize the execution, delivery and performance by it of each of the Documents to which it is a party. The Documents constitute legal, valid and binding obligations of the Commonwealth enforceable against the Commonwealth in accordance with their respective terms. The Bank Note constitutes a General Obligation Debt of the Commonwealth to which the full faith and credit of the Commonwealth are pledged; and the other Payment Obligations constitute general obligations of the Commonwealth as described in Section 2.9 hereof.

(d) There is no suit or proceeding pending or threatened against the Commonwealth which questions the validity or enforceability of the Documents or any action taken or to be taken thereunder.

(e) The Commonwealth is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X of the Board of Governors of the Federal Reserve System), and no part of the proceeds of any Advance will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

(f) The Commonwealth shall punctually pay or cause to be paid the Payment Obligations and all amounts to become due in respect of the Notes in strict conformity with the terms of the Notes, this Agreement, the Fee Letter and the Bank Note and it shall perform and comply in all material respects with each and every obligation, covenant and agreement required to be performed or observed by it in or pursuant to the Documents, which provisions, as well as the related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety. The Commonwealth shall not cause or permit the Documents to be amended, modified or otherwise supplemented in a manner that adversely affects the rights, interests, security, remedies or obligations of the Bank without the prior written consent of the Bank.

(g) The Commonwealth shall furnish to the Bank by posting on the Commonwealth's website or EMMA the following: (i) quarterly revisions of monthly cash flows of the Commonwealth comparing actual performance to budgeted amounts for receipts and disbursements; financial reports, budgets, official statements and similar information issued by it to the public promptly after such issuance but in no event later than 30 days after such issuance to the public; (ii) within the earlier of 270 days after each fiscal year end or promptly when made available by the Commonwealth to the public but in no event later than 30 days after such issuance, annual audited or certified financial statements for the fiscal year then ended for the Commonwealth (iii) and immediate notice by telephone, promptly confirmed in writing, of any Default or Event of Default. The Commonwealth shall promptly furnish such other information on the financial condition and affairs of the Commonwealth as the Bank may reasonably request from time to time.

(h) The Commonwealth shall cause the Issuing and Paying Agent to deliver a statement to the Bank on the fifth (5<sup>th</sup>) Business Day of each calendar month setting forth the aggregate principal amount of Notes outstanding on each Business Day of the immediately preceding calendar month in form and substance satisfactory to the Bank.

(i) The Commonwealth shall not (i) cause or permit the Issuing and Paying Agency Agreements or the Dealer Agreements to be amended, modified or otherwise supplemented without the prior written consent of the Bank or (ii) cause or permit a successor Issuing and Paying Agent or Dealer to be appointed or cause or permit there to be a vacancy in the position of Issuing and Paying Agent or Dealer, without the prior written consent of the Bank. In the event such consent is withheld, the Bank will promptly provide the Commonwealth, in reasonable detail, an explanation of such withholding of consent, which explanation the Commonwealth agrees not to disclose without the prior written consent of the Bank.

(j) In the event that there are outstanding Advances or Term Loans at the same time as there are unreimbursed drawings, however evidenced, with respect to any other commercial paper obligations of the Commonwealth (any such commercial paper obligations, the "Commercial Paper Obligations"), then any moneys of the Commonwealth, other than proceeds of the sale of Commercial Paper Obligations or the Notes, to be applied to the payment of any Commercial Paper Obligations or the Notes shall be applied pro rata to the payment of such Advances or Term Loans, on the one hand, and such unreimbursed drawings with respect to Commercial Paper Obligations, on the other hand, in proportion to the relative amounts outstanding thereunder.

(k) Prior to the issuance of Notes which are Bond Anticipation Notes, the Commonwealth shall provide the Bank with evidence satisfactory to the Bank of authorization for the issuance of the bonds of the Commonwealth in anticipation of which such Notes are to be issued.

(l) The Treasurer and Receiver-General of the Commonwealth shall annually request that the Commonwealth include in its annual budget the sums necessary to satisfy its Payment Obligations hereunder and under the Notes.

(m) The Commonwealth shall comply with all applicable laws, rules, regulations and orders of any court or Governmental Authority, except that this Section 4.1( ) shall not apply to noncompliance that, singly or in the aggregate, would not have a materially adverse effect on (i) the financial condition or operations of the Commonwealth or (ii) the ability of the Commonwealth to perform its obligations hereunder, including but not limited to the timely payments of the Notes, Advances or other Payment Obligations.

(n) The Commonwealth shall, upon the request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and the Documents. Except to the extent it is exempt therefrom, the Commonwealth will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement, the Documents and such instruments of further assurance.

(o) The Commonwealth shall at all times maintain at least two ratings on the long-term unenhanced General Obligation Debt of the Commonwealth by any two Rating Agencies.

(p) The Commonwealth shall not include in the Offering Memoranda or any other disclosure document for the Notes any information concerning the Bank that is not supplied in writing, or otherwise consented to, by the Bank expressly for inclusion therein.

(q) The Commonwealth agrees to permit the Bank to disclose any information received by the Bank in connection herewith to any Participants of the Bank in this Agreement.

(r) To the fullest extent permitted by applicable law, with respect to its obligations arising under this Agreement and the Fee Letter Agreement, the Commonwealth irrevocably agrees that it will not claim any immunity on the grounds of sovereignty or other similar grounds from (i) any action, suit or proceeding arising under or relating to this Agreement or any other Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus, or (iii) execution or enforcement of any judgment to which it might otherwise be entitled in any proceedings in the courts of any jurisdiction.

(s) The Commonwealth will permit any officers, employees or agents of the Bank (at the Bank's expense but at the expense of the Commonwealth after the occurrence and during the continuance of an Event of Default) to discuss with appropriate Commonwealth officials matters reasonably pertinent to an evaluation of the credit of the Commonwealth, all at such reasonable times as the Bank may reasonably request.

(t) The Commonwealth shall not take any action or omit to take any action that, if taken or omitted, would adversely affect the excludability of interest on the Series \_ Notes from the gross income of the owners thereof for purposes of federal income taxation.

(u) (i) The Commonwealth will not direct a Dealer to cease its attempts to market Notes for any reason; and (ii) any Dealer Agreement entered into by the Commonwealth in relation to the Notes after the date hereof shall provide that the related Dealer will resign only upon providing sixty (60) days prior written notice to the Bank.

(v) To the knowledge of the Commonwealth, neither the Commonwealth nor, any Related Party, (a) is currently the subject of any Sanctions, (b) is located, organized or residing in any Designated Jurisdiction, or (c) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction. To the knowledge of the Commonwealth, the proceeds of a purchase hereunder have not been used, directly or indirectly, to lend, contribute, provide or otherwise be made available to fund any activity or business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including the Bank) of Sanctions.

## SECTION 5. EVENTS OF DEFAULT.

**5.1 Events of Default.** If any of the following Events of Default shall occur and be continuing:

- (a) Any of the Immediate Termination Events shall have occurred; or
- (b) The issuance of any Note or the Bank Note shall result in a violation by the Commonwealth of any law, rule or regulation, or any order of any court, governmental agency or regulatory body, or any indenture or loan or credit agreement (including this Agreement), or any other agreement or instrument, applicable to the Commonwealth or to such issuance by the Commonwealth; or
- (c) The Commonwealth shall default in the performance of the covenants in Section 2.8, 4.1(i), 4.1(j), 4.1(l), 4.1(p) or 4.1(r); or
- (d) The Commonwealth shall fail to observe or perform any other covenant or agreement contained (or incorporated by reference) in this Agreement (other than those contained in clauses (a), (b) and (c) above), or in any other Document to which it is a party and such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Commonwealth by the Bank; or
- (e) Any representation or warranty on the part of the Commonwealth contained in this Agreement, in the placement or offering memorandum for the Notes or in any certificate, letter or other writing or instrument furnished or delivered by the Commonwealth pursuant hereto or thereto or in connection herewith or therewith, shall at any time prove to have been incorrect in any material respect when made or when effective or when reaffirmed, as the case may be; or
- (f) Any material provision of any Document shall at any time for any reason cease to be valid and binding on the Commonwealth or shall be declared to be null and void as determined by a Governmental Authority of competent jurisdiction in a final, non-appealable judgment; or
- (g) (i) the Commonwealth shall have taken or permitted to be taken any action, or has duly enacted any statute, which would result in any material provision of this Agreement or the Bank Note relating to the payment of any principal or interest on the Bank Note or the general obligation of the Commonwealth to which the full faith and credit of the Commonwealth are pledged, subject to the Commonwealth's state tax revenue growth limit, therefor being invalid or unenforceable, or (ii) a senior authorized officer of the Commonwealth shall have contested in writing the validity or enforceability of any material provision of this Agreement or the Bank Note relating to the payment of any principal or interest on the Bank Note or the general obligation of the Commonwealth to which the full faith and credit of the Commonwealth are pledged, subject to the Commonwealth's state tax revenue growth limit, therefor; or
- (h) Any Refunding Account, any Payment Account or any Bank's Account or any funds or securities on deposit in, or otherwise to the credit of, such Refunding Account, such Payment Account or such Bank's Account, shall become subject to any writ, judgment, warrant or attachment, execution or similar process; or

(i) If the Commonwealth has taken or permitted to be taken any action or has duly enacted any statute which would materially adversely affect the enforceability of this Agreement against the Commonwealth or the ability of the Commonwealth to repay the Payment Obligations or to pay its General Obligation Debt or the legal authority of the Commonwealth to raise revenues for the payment of debt service on Commonwealth General Obligation Debt or limit or restrict the source to which the Commonwealth may look for the payment of its General Obligation Debt pursuant to duly enacted statutes or materially adversely affect the Commonwealth's legal authority to issue bonds or notes; or

(j) The Commonwealth's General Obligation Debt shall be reduced below "BBB" (or its equivalent) in the case of Fitch, "Baa2" (or its equivalent) in the case of Moody's, or "BBB" (or its equivalent) in the case of S&P; or

(k) An "event of default" as defined in any other Document shall have occurred and shall be continuing or the Commonwealth shall fail to comply with the terms of the Notes; or

(l) Other than as set forth in Section 3.3(b) hereof, any default under any indenture, contract or instrument providing for the creation of or concerning bonds or notes of the Commonwealth the payment of which is secured by the full faith and credit of the Commonwealth shall occur and shall continue beyond any applicable grace period, if any, specified in such indenture, contract or instrument, if the effect of such default is to cause such debt to become due and payable prior to its scheduled maturity or permits such debt to become due and payable prior to its scheduled maturity; or

(m) Any final non-appealable judgment or order of the payment of money in excess of \$15,000,000 (which is not otherwise covered by insurance and for which the applicable insurer has not denied coverage) shall have been rendered against the Commonwealth, and such judgment shall not have been satisfied within a period of one year from the date on which it became final and non-appealable,

then, and in any such event, the Bank may, at the same or different times, so long as such Event of Default shall not have been remedied, take one or more of the following actions: (i) instruct the Commonwealth and the Issuing and Paying Agent to cease issuing Notes or (ii) establish the Effective Termination Date of the Line of Credit Commitment, whereupon the Line of Credit Commitment shall terminate, or (iii) declare the unpaid principal amount of the Bank Note and the interest accrued thereon and all other amounts payable hereunder to be due and payable immediately (whereupon all such sums shall be immediately due and payable); provided that in the case of the occurrence of any of the Immediate Termination Events, without any notice to the Commonwealth or any other act by the Bank, the Line of Credit Commitment and the Bank's obligation to make Advances hereunder shall thereupon terminate and the Bank Note shall immediately be deemed to be tendered for payment to the Commonwealth and the Commonwealth shall be obligated to pay immediately the outstanding principal amount of the Bank Note (together with accrued interest thereon) and all other amounts owed by the Commonwealth hereunder, without presentment, demand, protest or notice of any kind, all of which are hereby waived by the Commonwealth. Promptly following the taking of any action or the occurrence of any event or condition referred to above, the Bank shall give notice thereof to the Commonwealth, the Issuing and Paying Agent and the Dealers, but the failure to give any such notice or any delay in giving



any such notice shall not impair the validity or effect of any action or event or condition referred to above, other than with respect to clause (i) of the preceding sentence.

Upon the occurrence and during the continuance of an Immediate Suspension Event, the Bank's obligation to make Advances hereunder shall be immediately and automatically suspended, without notice, and the Bank shall be under no further obligation hereunder to make Advances hereunder until the insolvency or similar proceeding referred to therein is terminated prior to the court entering an order granting the relief sought in such proceeding. In the event such proceeding is terminated, then the obligation of the Bank to make Advances hereunder shall be automatically reinstated and the terms of this Agreement shall continue in full force and effect (unless the obligation of the Bank to make Advances hereunder shall otherwise have terminated as provided in this Section 5.1) as if there had been no such suspension.

**SECTION 6. MISCELLANEOUS.**

**6.1 Amendments, etc.** No amendment or waiver of any provision of this Agreement nor consent to any departure by the parties hereto shall in any event be effective unless consented to in writing by the Commonwealth and the Bank, which consent shall not be unreasonably withheld or delayed, and the same shall be in writing and signed by such parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

**6.2 Addresses for Notices, etc.** All notices, requests, demands, directions and other communications provided for hereunder and under the Notes shall be in writing and mailed or otherwise sent or delivered to the applicable party at the addresses indicated below:

If to the Commonwealth:

Honorable Deborah Goldberg  
Treasurer and Receiver General  
Room 227, State House  
Boston, Massachusetts 02130  
Telephone: (617) 367-6900  
Telecopier: (617) 227-1622

If to the Bank:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Telecopier: \_\_\_\_\_  
Email: \_\_\_\_\_  
Ref.: \_\_\_\_\_

If to a Dealer:

As set forth in the applicable Dealer Agreement

If to a Issuing and Paying Agent:

As set forth in the applicable Issuing and Paying Agent Agreement

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party.

**6.3 No Waiver; Remedies.** No failure on the part of the Bank to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

**6.4 Indemnification.** In addition to any and all rights of reimbursement, indemnification, subrogation, or any other rights pursuant to this Agreement or under law or equity, to the extent permitted by law, the Commonwealth hereby indemnifies and holds harmless the Bank and its officers, directors and agents and each Participant and its officers, directors and agents (collectively, the “Indemnitees”) from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses (including reasonable attorneys’ fees) whatsoever which an Indemnitee may incur (or which may be claimed against an Indemnitee by any person or entity whatsoever) by reason of or in connection with the execution and delivery of this Agreement or the making of any Advance or failure to make any Advance under this Agreement; provided, that the Commonwealth shall not be required to indemnify the Bank for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of the Bank in determining whether the conditions precedent to the Bank’s obligation to make an Advance shall have been satisfied or otherwise failing to fund an Advance in accordance with the terms hereof. Nothing in this Section 6.4 is intended to limit the Payment Obligations of the Commonwealth contained in this Agreement. If any proceeding shall be brought or threatened against an Indemnitee by reason of or in connection with the events described above and in respect of which indemnity may be sought against the Commonwealth, such Indemnitee shall promptly notify the Commonwealth in writing, enclosing a copy of all papers served, but any omission so to notify the Commonwealth of any such action shall not relieve it of any liability which it may have to the Commonwealth otherwise than under this Section 6.4. In case any such action shall be brought against any Indemnitee and it shall notify the Commonwealth of the commencement thereof, the Commonwealth shall be entitled to participate in and, to the extent that it shall wish, to assume the defense thereof with counsel satisfactory to such Indemnitee and after notice from the Commonwealth to such Indemnitee of the Commonwealth’s election so to assume the defense thereof, the Commonwealth shall not be liable to such Indemnified Party for any subsequent legal or other expenses attributable to such defense, except as provided below and other than reasonable costs of investigation subsequently incurred by such Indemnitee in connection with the defense thereof. The Indemnitee shall have the right to employ its own counsel in any such action, but the fees and expenses of such counsel shall be at the expense of such Indemnitee unless: (i) the employment of counsel by such Indemnitee has been authorized by the Commonwealth, (ii) the Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Commonwealth and the Indemnitee in the conduct of the defense of such action on behalf of the Indemnitee shall not have the right to direct the defense of such action on behalf of the Indemnitee, or (iii) the Commonwealth shall not in fact have employed counsel satisfactory to the Indemnitee to assume the defense of such action, in all of which cases the reasonable fees and expenses of such counsel shall be at the expense of the Commonwealth.

**6.5 Successors and Assigns.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Commonwealth and the Bank and their respective successors and assigns, except that (i) the Commonwealth may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Bank and (ii) with respect to the Bank, no assignment shall occur and become effective as long as any Notes are then outstanding, and if no Notes are then outstanding, until each of S&P, Fitch and Moody's, if then rating the Notes, has confirmed in writing that such assignment shall not cause the lowering, withdrawal or suspension of any ratings then existing on the Notes.

**6.6 Reduction or Termination of Line of Credit Commitment; Substitution of Line of Credit and Related Matters.**

(a) The Commonwealth shall have the right permanently to reduce in whole or in part the Line of Credit Commitment upon not less than fifteen (15) days prior written notice to the Bank by the Commonwealth, designating the date (which shall be a Business Day) of such reduction and the amount of any partial reduction; provided, however, that such reduction shall not reduce the Line of Credit Commitment to an amount less than the aggregate principal amount of Notes outstanding; provided, further, however, that the Commonwealth shall be required to pay the Termination Fee or the Reduction Fee (as such terms are defined in the Fee Letter).

(b) Subject to the conditions set forth in (a) above and so long as no Event of Default shall have occurred and be continuing, the Commonwealth shall have the right to request the Bank to convert the Line of Credit established under this Agreement to a standby bond purchase agreement, the terms of which shall be determined at the time of such conversion. This conversion shall be subject to execution of documentation mutually acceptable to the Commonwealth and the Bank.

**6.7 Reimbursement of Expenses, Losses, Liabilities, Costs, etc.** The Commonwealth hereby agrees to reimburse the Bank upon the request of the Bank for all expenses, disbursements, liabilities and advances incurred or made by the Bank in accordance with any provision of this Agreement or any other Document including, without limitation, (i) the compensation and the expenses and disbursements of the agents and counsel of the Bank as set forth in the Fee Letter, and (ii) the fees and expenses incurred in connection with the maintenance of any funds and accounts under the Issuing and Paying Agency Agreements. The Commonwealth further agrees, to the extent permitted by law, to reimburse the Bank for any loss, liability or expense arising out of or in connection with the obligations and responsibilities of the Bank under this Agreement or any other Document, including, without limitation, the costs and expenses of defending the Bank against any claim or liability in connection with the exercise or performance of any of the duties of the Bank under this Agreement and the Bank's costs and expenses in connection with the preparation, administration, interpretation, amendment, transfer, consent with respect to, waiver of any provision of and enforcement of this Agreement and the other Documents and all other agreements, instruments and documents relating to this transaction including, without limitation, in all cases attorneys' fees and expenses. Nothing in this Section 6.7 is intended to limit the Payment Obligations of the Commonwealth, and the provisions of this Section 6.7 shall survive the payment of the Bank Note and the termination of this Agreement and the Line of Credit.

**6.8 Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**6.9 Set-Off.** Upon the occurrence and during the continuance of any Event of Default the Bank is hereby authorized at any time and from time to time, without notice to the Commonwealth (any such notice being expressly waived by the Commonwealth) and to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Bank, to or for the credit or the account of the Commonwealth against any and all of the obligations of the Commonwealth now or hereafter existing under this Agreement or the Fee Letter, irrespective of whether or not such demand shall have been made hereunder and although such obligations may be unmatured.

**6.10 Governing Law.** THE OBLIGATIONS OF THE BANK UNDER THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND FOR ALL PURPOSES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF \_\_\_\_\_ AND THE OBLIGATIONS OF THE COMMONWEALTH UNDER THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND FOR ALL PURPOSES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE COMMONWEALTH OF MASSACHUSETTS.

**6.11 Waiver of Trial by Jury.** With respect to any suit, actions or proceedings relating to this Agreement, to the fullest extent permitted by applicable law, each party to this Agreement waives any right it may have to trial by jury.

**6.12 Headings.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

**6.13 Execution in Counterparts.** This Agreement may be executed in one or more counterparts, and when each party hereto has executed at least one counterpart hereof, this Agreement shall be effective and all such counterparts shall be deemed to be one and the same document.

**6.14 Extensions.** Upon the written request of the Commonwealth to the Bank made at any time, the Bank shall within sixty (60) days of such request notify the Commonwealth whether or not it will extend the scheduled Line of Credit Expiration Date for the time period requested on terms acceptable to both parties. The Bank's determination to extend pursuant to any request shall be within the Bank's sole and absolute discretion. If the Bank approves an extension, the Commonwealth shall deliver a new Bank Note, if necessary.

**6.15 Patriot Act.** The Bank hereby notifies the Commonwealth that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the

Commonwealth, which information includes the name and address of the Commonwealth and other information that will allow the Bank to identify the Commonwealth in accordance with the Patriot Act, and the Commonwealth hereby agrees to take any action necessary to enable the Bank to comply with the requirements of the Patriot Act.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

THE COMMONWEALTH OF MASSACHUSETTS

By \_\_\_\_\_

Name: Deborah Goldberg

Title: Treasurer and Receiver General

\_\_\_\_\_

By \_\_\_\_\_

Name:

Title:

[FORM OF BANK NOTE]

THE COMMONWEALTH OF MASSACHUSETTS

BANK NOTE

No. \_\_\_\_\_

CUSIP: \_\_\_\_\_

Maximum Principal Amount of this Bank Note: \$200,000,000

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

THE COMMONWEALTH OF MASSACHUSETTS (the “Commonwealth”), for value received, hereby promises to pay, to \_\_\_\_\_ (the “Holder”), on the Stated Maturity (as hereinafter defined), subject to the right of prior prepayment hereinafter mentioned, a principal amount equal to the sum of all Advances (as such term is defined in the Credit Agreement) from time to time outstanding and not reimbursed on and as of the Stated Maturity hereof, and as endorsed on the Schedule of Advances attached hereto and hereby made a part of this Bank Note, but in no event exceeding the Maximum Principal Amount set forth above. “Stated Maturity” shall mean the later of (i) the Effective Termination Date (as defined in the Credit Agreement) and (ii) the date on which all amounts owed to the Bank by the Commonwealth under the Credit Agreement have been paid.

The date and amount of each Advance under the Line of Credit, and of each reimbursement thereof by the Commonwealth, shall be endorsed on the Schedule of Advances and each such entry shall be signed by an authorized officer of \_\_\_\_\_. Each such entry shall, absent manifest error, be binding on the Commonwealth. The sum of all Advances from time to time which have not been reimbursed shall constitute the principal amount from time to time outstanding of this Bank Note, and each payment, including any prepayments prior to the Stated Maturity hereof, as provided in the Credit Agreement, of principal hereof shall constitute reimbursement of such Advances and shall fully discharge the obligation of the Commonwealth hereon to the extent of the payment so made. If any Advance is converted to a Term Loan (as such term is defined in the Credit Agreement) in accordance with the Credit Agreement, such conversion shall be noted on the Schedule of Term Loans attached hereto, and the Commonwealth shall pay the principal of and interest on such Term Loan on the dates and in the amounts and at the rate set forth in the Credit Agreement.

The Commonwealth also hereby promises to pay interest on each unpaid installment of principal hereof from time to time outstanding, as endorsed on the Schedule of Advances, from the date of the respective Advance, at the rates and on the dates set forth in the Credit Agreement.

Payments of both principal and interest are to be made in lawful money of the United States of America by payment of immediately available funds to the Holder at the address specified for such purpose in the Credit Agreement.

This Bank Note shall be subject to prepayment prior to its stated maturity, at the option of the Commonwealth, as a whole or in part in amounts of not less than \$100,000, at any time or from time to time, at a prepayment price equal to the unpaid principal amount of this Bank Note to be prepaid and interest accrued thereon to the date fixed for prepayment (without premium), from moneys deposited to the credit of the Refunding Account, and available for transfer to the Bank's Account, as soon as practicable following such deposit.

Notice of prepayment of this Bank Note shall be by telephone, telecopier or other telecommunication device, confirmed in writing, shall be delivered or transmitted by the Commonwealth to the Bank not later than 12:00 noon, New York City time, on the date fixed for prepayment which shall be a Business Day, at its address or number set forth in the Credit Agreement, and shall state the prepayment date, the principal amount being prepaid and the interest to be paid on such principal amount.

Reference is hereby made to the Credit Agreement dated as of \_\_\_\_\_ (the "Credit Agreement," as the same may from time to time be amended, supplemented or otherwise modified in accordance with its terms) between the Commonwealth and the Holder for the provisions, among others, relating to the nature and extent of the security and the provisions for payment of this Bank Note, the custody and application of the proceeds of this Bank Note and the Series \_ Notes or the Series \_ Notes, the rights and remedies of the Holder and of the holders of Series \_ Notes or the Series \_ Notes, the rights, duties and obligations of the Commonwealth and the provisions for modification or amendment of such rights and obligations of the Commonwealth and the Holder, to all of which terms, conditions and provisions of the Credit Agreement, the Holder, by its acceptance hereof, irrevocably assents.

This Bank Note constitutes a general obligation of the Commonwealth, and the full faith and credit of the Commonwealth are pledged thereto.

If an Event of Default (as defined in the Credit Agreement) shall occur, the principal of and interest on this Bank Note may be declared due and payable upon the conditions, in the manner and with the effect provided in the Credit Agreement.

This Bank Note is not exchangeable or transferable, except as expressly provided in the Credit Agreement, and the Commonwealth may treat the Holder as the absolute owner of this Bank Note for the purpose of receiving payment of the principal hereof and interest hereon and for all other purposes whatsoever and shall not be affected by any notice to the contrary.

No covenant or agreement contained in this Bank Note or the Credit Agreement shall be deemed to be a covenant or agreement of any officer, agent or employee of the Commonwealth in his or her individual capacity, and none of such officers, agents or employees or any persons executing this Bank Note on behalf of the Commonwealth shall be liable personally on this Bank Note or be subject to any personal liability or accountability by reason of the issuance of this Bank Note.

It is hereby certified, recited and declared that all acts, conditions, and things required to have happened, to exist and to have been performed precedent to and in the issuance of this Bank Note and the series of which it is one, have happened, do exist, and have been performed in regular



and due time, form and manner as required by law; and that this Bank Note and the series of which it is one do not exceed any limitations of indebtedness prescribed by law or otherwise applicable to the Commonwealth.

This Bank Note shall be governed by, and construed and interpreted in accordance with, the laws of The Commonwealth of Massachusetts.

IN WITNESS WHEREOF, The Commonwealth of Massachusetts has caused this Bank Note to be executed in its name and on its behalf by the signature of the Treasurer and Receiver-General or a Deputy Treasurer, countersigned by the Comptroller or a Deputy Comptroller and the approval of the Governor to be noted hereon by his facsimile signature, and has caused its official seal or a facsimile thereof to be impressed hereon, all as of the date above noted.

THE COMMONWEALTH OF MASSACHUSETTS

By \_\_\_\_\_  
Treasurer and Receiver General or Deputy Treasurer

COUNTERSIGNED

By \_\_\_\_\_  
Comptroller or Deputy Comptroller

APPROVED

By \_\_\_\_\_  
Governor

SCHEDULE OF ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	Tax-Exempt or <u>Taxable Advance</u>	<u>Amount of Reimbursement</u>	<u>Unpaid Principal Amount</u>	<u>Authorized Signature</u>
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SCHEDULE OF TERM LOANS

<u>Date of Advance</u>	<u>Tax-Exempt or Taxable Advance</u>	<u>Term Loan Conversion Date</u>	<u>Outstanding Amount of Term Loan</u>
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## [FORM OF BOND COUNSEL OPINION]

\_\_\_\_\_

\_\_\_\_\_

We have acted as Bond Counsel to The Commonwealth of Massachusetts (the “Commonwealth”) in connection with the issuance by the Commonwealth of its Tax Exempt Commercial Paper Notes, Series \_ (the “Series \_ Notes”) and the Commercial Paper Notes, Series \_ (Federally Taxable) (the “Series \_ Notes,” and, together with the Series \_ Notes, the “Notes”) in a principal amount outstanding at any time not to exceed \$200,000,000 pursuant to the laws of the Commonwealth. Capitalized terms not otherwise defined herein are used as defined in the Credit Agreement dated as of \_\_\_\_\_ (the “Credit Agreement”), by and between the Commonwealth and \_\_\_\_\_ (the “Bank”) relating to the Notes. This opinion is provided in accordance with Section 3.1(a) of the Credit Agreement.

In that connection we have examined the Credit Agreement and we have made such further examination as we have deemed necessary for purposes of rendering the following opinion. We have assumed the validity, binding effect and enforceability of the Credit Agreement as against the Bank as to which reference is made to the opinion of even date herewith of \_\_\_\_\_, counsel to the Bank.

Based on the foregoing, we are of the following opinion as of the date hereof:

1. The Treasurer and Receiver-General (the “Treasurer”) has all requisite power and authority to execute and deliver the Credit Agreement and the Bank Note referred to in the Credit Agreement; and the Commonwealth has all requisite power and authority to perform all of its obligations under the Credit Agreement and the Bank Note. The Credit Agreement and the Bank Note have been duly authorized, executed and delivered by the Commonwealth.

2. No authorization, consent, approval, license, exemption of or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, has been or will be necessary for the valid execution, delivery and performance by the Commonwealth of the Credit Agreement and the Bank Note, except that payment by the Commonwealth of amounts under the Credit Agreement, other than the principal of and interest on the Bank Note, may require legislative appropriation, and such execution, delivery and performance will not violate, conflict with or constitute a default under any constitutional or statutory provision or other law, rule or regulation.

3. The Credit Agreement and the Bank Note constitute legal, valid and binding obligations of the Commonwealth enforceable against the Commonwealth in accordance with their respective terms, and payment of sums due on account of principal or interest under the Credit Agreement and the Bank Note is backed by the full faith and credit of the Commonwealth. It should be noted, however, that Chapter 62F of the Massachusetts

General Laws establishes a state tax revenue growth limit and does not exclude principal and interest payments on Commonwealth debt obligations from the scope of the limit.

4. No documentary, stamp, intangible or other similar tax imposed by the Commonwealth is payable by the Bank in connection with the execution, delivery and performance of its obligations under the Credit Agreement or the Line of Credit.

5. The Payment Obligations under the Credit Agreement do not violate any laws of the Commonwealth governing, relating to, or prescribing the rate of interest at which money may be borrowed or lent.

We refer you to a certificate of the Attorney General of the Commonwealth to the effect that, as of the date hereof, there are no suits or proceedings pending or, to the best of his knowledge, threatened against the Commonwealth which question the validity or enforceability of the Credit Agreement or the Bank Note issued or to be issued and secured thereby or any action taken or to be taken thereunder.

We are qualified to practice law in the Commonwealth of Massachusetts and we do not express any opinion concerning any law other than the law of the Commonwealth of Massachusetts and the federal law of the United States.

It is to be understood that the rights of holders of the Bank Note, and the enforceability thereof and of the Credit Agreement may be subject to moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in accordance with general principles of equity.

Very truly yours,

**Appendix C**  
**Cost Proposal**  
**Direct Purchase**

**THE COMMONWEALTH OF MASSACHUSETTS**  
**REQUEST FOR BIDS**

Please complete the bid matrix below that will serve as your Cost Proposal.

Once a financial institution has been selected to provide these services, negotiation of the fees may become necessary in order to account for the size of funding, the increments of funding, and any clarifications. In no case will the negotiations result in a fee that is higher than the fees contained in the proposal.

**Name of Financial Institution:** \_\_\_\_\_

**If Financial Institution is submitting with other Firms, identify here:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

Expiration Date	Applicable Index (SIFMA, 1-Month LIBOR, etc)	Basis Point Spread to Index

Bank Legal Fees and Expenses: Estimated at \$ \_\_\_\_\_; capped at \$ \_\_\_\_\_

Firm Providing Legal Services: \_\_\_\_\_

\_\_\_\_\_  
**Name/Title of Submitter**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature (Authorized Signatory)**

**Appendix D  
Cost Proposal  
Standby Bond Purchase Agreement**

Name of Financial Institution: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Please provide the annual commitment fee which the Firm is willing to propose. Fees will be payable quarterly in arrears based upon the actual days elapsed divided by a 365-day year.

Expiration Date	Annual Commitment Fee (In Basis Points, On Outstanding Principal Amount)	Set-Up Fee (If, any)

Please provide the impact to the proposed annual commitment fee if the Commonwealth's credit rating were to be downgraded.

	Moody's Rating	S&P Rating	Fitch Rating	Proposed Fee Change (In Basis Points)
<b>1</b>	Aa2 and above	AA and above	AA and above	
<b>2</b>	Aa3	AA-	AA-	
<b>3</b>	A1	A+	A+	
<b>4</b>	A2	A	A	
<b>5</b>	A3	A-	A-	
<b>6</b>	Baa1	BBB+	BBB+	
<b>7</b>	Baa2	BBB	BBB	
<b>8</b>	Baa3 or below	BBB- or below	BBB- or below	

Bank Legal Fees and Expenses: Estimated at \$ \_\_\_\_\_; capped at \$ \_\_\_\_\_

Other Fees (Provide detail): Estimated at \$ \_\_\_\_\_; capped at \$ \_\_\_\_\_

\_\_\_\_\_  
Signature (Authorized Signatory)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Appendix E  
Amortization Schedules

<b>2014 Series D2</b>	<b>Year</b>	<b>Amount</b>
	August 1, 2038	\$19,900,000
	August 1, 2039	\$25,450,000
	August 1, 2040	\$29,525,000
	August 1, 2041	\$33,805,000
	August 1, 2042	\$55,800,000
	August 1, 2043	<u>\$35,520,000</u>
		\$200,000,000