

condition of the Borrower as a component business unit of MTC in all material respects as of June 30, 2022 and the results of its operations for the twelve (12) month period then ended in conformity with GAAP. Since the most recent Audited Financial Statements delivered to the Bank, there has been no material adverse change in the financial condition or operations of the Borrower that could reasonably be expected to have a Material Adverse Effect.

Section 5.9. Incorporation of Representations and Warranties by Reference. The representations and warranties of the Borrower contained in the other Related Documents to which the Borrower is a party, together with the related definitions of terms contained therein, are hereby incorporated by reference in this Agreement as if each and every such representation and warranty and definition were set forth herein in its entirety, and the representations and warranties made by the Borrower in such Sections are hereby made for the benefit of the Bank (except for any representation or warranty that by its terms expressly relates to an earlier date, in which case such representation and warranty shall be and remain true and correct in all material respects as of such earlier date). No amendment to or waiver of such representations and warranties or definitions made pursuant to the relevant Related Document or incorporated by reference shall be effective to amend such representations and warranties and definitions as incorporated by reference herein without the prior written consent of the Bank.

Section 5.10. No Default or Event of Default. No Default or Event of Default has occurred and is continuing. No default by the Borrower has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any Indebtedness. No bankruptcy, insolvency or other similar proceedings pertaining to the Borrower or any agency or instrumentality of the Borrower are pending or presently contemplated. No Default or Event of Default has occurred and is continuing hereunder. No “default” or “event of default” under, and as defined in, any of the other Related Documents has occurred and is continuing. The Borrower is not presently in default under any material agreement to which it is a party which could reasonably be expected to have a Material Adverse Effect. The Borrower is not in violation of any material term of the organizational documents or authorizing legislation applicable to the Borrower or any material term of any bond indenture or agreement to which it is a party or by which any of its Property is bound which could reasonably be expected to result in a Material Adverse Effect.

Section 5.11. Cash Flows. The cash flows attached hereto as Schedule 5.11 and delivered to the Bank on _____, 2023 were prepared using information provided to the Borrower by BART and MTC. The Borrower is not aware of any fact, circumstance or event that would render the cash flows inaccurate as of the date delivered to the Bank.

Section 5.12. Use of Proceeds; Margin Regulations. The Borrower will not use the proceeds of the Loans for any purposes other than (i) providing funds to MTC to satisfy BART requisitions made in accordance with the terms of the BART T&R Agreement; (ii) paying capitalized interest on the Loans; and (iii) paying fees and other Obligations (other than the principal of Loans). The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System).

Section 5.13. Power to Sue and Be Sued. The Borrower cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement or the Related Documents to which it is a party; *provided, however*, the Borrower is a public agency subject to

the rules of procedure applicable to public agencies which differ from those applicable to other Persons.

Section 5.14. Tax-Exempt Status. The Borrower has not taken any action or omitted to take any action, and has no actual knowledge of any action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the Loans from gross income for federal income tax purposes or the exemption of interest on the Loans from State personal income taxes.

Section 5.15. Usury. None of the payments required to be made by the Borrower pursuant to this Agreement violate any applicable law regarding permissible maximum rates of interest.

Section 5.16. Security. This Agreement creates for the exclusive benefit of the Bank a legally valid, binding and irrevocable Lien on and pledge of the Programmed Grant Receipts and all of the Borrower's rights (but not the Borrower's obligations) under the MTC Grant Funding Agreement (collectively, the "Collateral"). No filing, registration, recording or publication of this Agreement or any other instrument is required, and no further action on the part of the Borrower, the Bank or any Person is required, to establish the pledge provided for hereunder or to perfect, protect or maintain the Lien created hereby on the Collateral to secure the Loans and the other Obligations.

Section 5.17. Pending Legislation and Decisions; No Public Vote or Referendum. There is no amendment, or to the knowledge of the Borrower, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which could reasonably be expected to result in a Material Adverse Effect. There is no public vote or referendum pending, proposed or concluded, the results of which could reasonably be expected to result in a Material Adverse Effect.

Section 5.18. Sanctions Concerns and Anti-Corruption Laws.

(a) *Sanctions Concerns.* Neither the Borrower, nor, to the knowledge of the Borrower, any director or officer thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

(b) *Anti-Corruption Laws.* The Borrower has conducted its business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

Section 5.19. Taxes. The Borrower has filed or caused to be filed, if any, all material tax returns required by law to be filed and has paid or caused to be paid all material taxes, assessments and other governmental charges levied upon or in respect of any of its properties, assets or franchises, other than taxes the validity or amount of which are being contested in good faith by

the Borrower by appropriate proceedings and for which the Borrower shall have set aside on its books adequate reserves in accordance with GAAP.

Section 5.20. ERISA. The Borrower is not subject to ERISA and maintains no Employee Plans.

Section 5.21. Federal Funds Eligibility. The Borrower is not precluded from receiving federal funds from the FTA.

Section 5.22. Title to Assets; No Liens; No Indebtedness. The Borrower has good and marketable title to its assets (including the Collateral) except where the failure to have good and marketable title to any of its assets (excluding therefrom the Collateral) would not have a Material Adverse Effect. The Collateral is not subject to any Lien other than Lien created by this Agreement. Except for this Agreement, the Borrower has no Indebtedness (including any Swap Contract) secured by the Collateral, and has not entered into any agreement or commitment to issue or incur Indebtedness (including any Swap Contract) secured by the Collateral.

Section 5.23. Solvency. The Borrower is solvent and is able to pay its debts as they become due.

ARTICLE VI COVENANTS

The Borrower agrees that so long as the Commitment hereunder remains outstanding or any amount payable hereunder remains unpaid:

Section 6.1. Preservation of Corporate Existence, Etc. The Borrower shall preserve and maintain its existence pursuant to the Act and the Laws of the State and shall not merge, dissolve, liquidate, consolidate with or into another Person; provided that, for the avoidance of doubt, a new member joining BAIFA in accordance with the terms of the Joint Powers Agreement shall not constitute a merger, dissolution, liquidation or consolidation for purposes of this Section.

Section 6.2. Compliance with Laws. The Borrower shall comply with and observe the obligations and requirements set forth in the Act, in all other Laws and all orders, writs, injunctions and decrees applicable to it or to its business or Property, except in such instances in which: (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. Without limiting the foregoing, the Borrower shall comply with all applicable Laws of the United States of America and regulations of the FTA relating to the Section 5307 Formula Funds and Section 5337 Formula Funds in order to be eligible to receive Programmed Grant Receipts for the payment of the principal of and interest on the Loans and all other Obligations.

Section 6.3. Books and Records. The Borrower shall maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower.

Section 6.4. Visits and Inspections. To the extent permitted by Law, the Borrower will permit any Person designated by the Bank (at the expense of the Bank) to visit any of the offices

of the Borrower upon prior written notice and during reasonable business hours to examine the books and financial records (except books and financial records the examination of which by the Bank is prohibited by Law), including minutes of meetings of any relevant governmental committees or agencies, and make copies thereof or extracts therefrom (at the expense of the Bank), and to discuss the affairs, finances and accounts of the Borrower with their principal officials as such relate to the Loans and the other Obligations, this Agreement and the other Related Documents, all at such reasonable times and as often as the Bank may reasonably request, and in such manner as not to disrupt the normal business operations of the Borrower; *provided, however*, if an Event of Default has occurred and is existing such expenses shall be paid by the Borrower.

Section 6.5. Litigation Notice. As promptly as practicable, the Borrower shall furnish or cause to be furnished to the Bank written notice of all litigation served against the Borrower and all proceedings before any court or Governmental Authority contesting or affecting the validity or enforceability of this Agreement or any other Related Document or any material provision hereof or thereof.

Section 6.6. Further Assurances. From time to time hereafter, the Borrower will execute and deliver such additional instruments, certificates or documents, and will take all such actions as the Bank may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Related Documents or for the purpose of more fully evidencing or renewing the rights of the Bank with respect to this Agreement and the other Related Documents. Upon the exercise by the Bank of any power, right, privilege or remedy pursuant to this Agreement (including pursuant to Section 7.2(b) and/or Section 7.2(c)) and the other Related Documents which requires any consent, approval, registration, qualification or authorization of any Governmental Authority or instrumentality, the Borrower will, to the extent permitted by Law, execute and deliver all necessary applications, certifications, instruments and other documents and papers that the Bank may be required to obtain for such governmental consent, approval, registration, qualification or authorization.

Section 6.7. Information.

(a) Commencing with the fiscal year of the Borrower beginning July 1, 2023 and for each fiscal year thereafter, the Borrower shall provide or cause to be provided to the Bank, the audited statement of net position of the Borrower, a component unit of MTC, at the end of such fiscal year, and the audited statement of revenues, expenses and changes in net position of the Borrower, a component unit of MTC, for the twelve (12) month period ended on the last day of such fiscal year, accompanied in each case by a report and opinion of an independent certified public accountant of recognized standing reasonably acceptable to the Bank (it being understood that Crowe LLP is reasonably acceptable to the Bank), which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any “going concern” or like qualification or exception or any qualification or exception as to the scope of such audit (collectively, the “Audited Financial Statements”), promptly after such Audited Financial Statements are available for distribution to the public and in any event not later than 210 days after the end of each such fiscal year;

(b) Commencing with the first Federal Fiscal Year that ends during the Amortization Period and for each Federal Fiscal Year thereafter, the Borrower shall provide, or cause MTC to provide, to the Bank, promptly after such information becomes available, (i) the amount of the appropriation by the United States Congress to FTA of Section 5307 Formula Funds and Section

5337 Formula Funds for such Federal Fiscal Year, (ii) the amount of the FTA apportionment to MTC of Section 5307 Formula Funds and Section 5337 Formula Funds that have been appropriated by the United States Congress for such Federal Fiscal Year and (iii) the amount of Apportioned Section 5307 Formula Funds and Apportioned Section 5337 Formula Funds that MTC has programmed, or proposes to program, to the Borrower for such Federal Fiscal Year.

(c) The Borrower shall promptly furnish to the Bank copies of any Communications it receives from MTC or BART pursuant to the Related Documents.

(d) The Borrower shall promptly, following any request therefor, provide such information and documentation as is reasonably requested by the Bank for purposes of compliance with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act.

(e) The Borrower shall, promptly upon the request of the Bank, furnish to the Bank such financial and other information with respect to the Borrower as the Bank may reasonably request.

Section 6.8. Other Notices. Promptly upon obtaining knowledge of any Default, Event of Default or Event of Suspension or notice thereof, and within five (5) Business Days thereafter, the Borrower shall furnish or cause to be furnished to the Bank copies of a certificate signed by an Authorized Officer specifying in reasonable detail the nature and period of existence thereof and, with respect to any Default or Event of Default, what action the Borrower has taken or proposes to take with respect thereto. Promptly following a written request of the Bank, the Borrower shall furnish to the Bank a certificate of an Authorized Officer as to the existence or absence, as the case may be, of a Default, an Event of Default or an Event of Suspension.

Section 6.9. Related Documents.

(a) The Borrower shall perform and comply with each of its obligations under the Related Documents (other than this Agreement) to which it is a party, the provision of which other Related Documents, as well as related defined terms contained therein, are hereby incorporated by reference in this Section 6.8 with the same effect as if each and every such provision were set forth in this Section 6.8 in its entirety, all of which shall be deemed to be made for the benefit of the Bank from time to time.

(b) The Borrower shall not agree or consent to any amendment or modification or termination of any Related Document, nor waive any provision thereof without prior written consent of the Bank; *provided, however*, that the Borrower may agree or consent to amendments or modifications to the Related Documents without the written consent of (but with notice to) the Bank at any time and from time to time solely to the extent that such amendments or modifications are of an administrative nature only.

Section 6.10. Additional Indebtedness. The Borrower shall not create, incur, assume or suffer to exist any Indebtedness secured by the Collateral (or any part thereof) other than (i) Loans under this Agreement, and (ii) other Indebtedness, the proceeds of which are sufficient to, and which are applied pursuant to Section 2.5 to, prepay in full, all outstanding and unpaid Obligations (a “Refinancing”).

Section 6.11. Refinancing. The Borrower shall use its commercially reasonable best efforts to cause a Refinancing to occur prior to commencement of the Amortization Period; *provided, however*, that the failure to cause a Refinancing to occur prior to commencement of the Amortization Period shall not constitute an Event of Default so long as the Borrower used its commercially reasonable best efforts in the pursuit thereof.

Section 6.12. No Liens. The Borrower shall not create, incur, assume or suffer to exist any Lien upon the Collateral or any portion thereof other than the Lien of this Agreement, *provided* that the Borrower may create a Lien upon the Collateral or any portion thereof in connection with a Refinancing as long as creation of such Lien is contemporaneous with the prepayment of all outstanding Obligations pursuant to Section 2.5.

Section 6.13. Dispositions. The Borrower shall not sell, assign or otherwise dispose of the Collateral.

Section 6.14. Reserved.

Section 6.15. Use of Proceeds. The Borrower shall use the proceeds of the Loans solely for the purposes described in Section 5.12 and not to purchase or carry Margin Stock. Without limiting the foregoing, the Borrower agrees not to use the proceeds of Loans in contravention of any Law (including Laws prohibiting the funding of any activities of or business with any Person, that, at the time of such funding, is the subject of Sanctions).

Section 6.16. Anti-Corruption Laws; Sanctions. The Borrower shall conduct its business in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other applicable anti-corruption legislation in other jurisdictions and with all applicable Sanctions, and maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

Section 6.17. References to the Bank. The Borrower shall not refer to the Bank in any offering document or make any changes in reference to the Bank in any offering document without the Bank's prior written consent thereto, such consent not to be unreasonably withheld or delayed.

ARTICLE VII EVENTS OF DEFAULT

Section 7.1. Events of Default. The occurrence of any of the following shall constitute an "Event of Default" hereunder:

(a) the Borrower shall fail to pay (i) any Repayment Obligation as and when due hereunder, or (ii) any other Obligation as and when due hereunder and such failure shall continue for a period of thirty (30) days after written notice thereof;

(b) (i) the Borrower fails to perform or observe any term, covenant or agreement contained in Section 6.1, 6.8, 6.9(b), 6.10, 6.12, 6.13 or 6.15 hereof; or (ii) the Borrower fails to perform or observe any other term, covenant or agreement contained in (or incorporated by reference into) this Agreement or any other Related Document to which it is a party and such failure remains uncured for ninety (90) days after the earlier of (A) the date any Authorized Officer becomes aware of such failure and (B) written notice thereof being delivered to the Borrower by the Bank;

(c) (i) any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower herein, in any other Related Document, or in any document delivered in connection herewith or therewith that is qualified by “materiality” or “Material Adverse Effect” shall be incorrect or misleading in any respect when made or deemed made; or (ii) any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower herein, in any other Related Document, or in any document delivered in connection herewith or therewith that is not qualified by “materiality” or “Material Adverse Effect” shall be incorrect or misleading in any material respect when made or deemed made;

(d) an Event of Insolvency occurs with respect to the Borrower;

(e) a Debt Moratorium, debt restructuring, debt adjustment or comparable restriction is imposed on the repayment, or a repudiation by the Borrower, of the payment, when due and payable of the principal of or interest on any obligation of the Borrower secured by a Lien upon the Collateral; *provided, however*, that the occurrence or continuance of an Event of Non-Appropriation or an Event of Non-Authorization, or both, shall not constitute a Debt Moratorium, a debt restructuring, a debt adjustment or a comparable restriction or a repudiation for purposes of this Section 7.1(f);

(f) (i) any provision of this Agreement or any Related Document to which the Borrower is a party relating to (A) the security for the Obligations; or (B) the Borrower’s obligation to pay the Obligations or perform its other material obligations hereunder or thereunder shall cease to be in full force or effect as a result of any legislative or administrative action by a Governmental Authority with competent jurisdiction or is declared in a final non-appealable judgment by any court with competent jurisdiction to be null and void, invalid or unenforceable; or (ii) the Borrower or any Person duly authorized to act by or on behalf of the Borrower shall deny, repudiate, contest or disaffirm in writing the validity or enforceability of (A) the Borrower’s obligations under this Agreement or the other Related Documents to which the Borrower is a party relating to the security for the Obligations; (B) the Borrower’s obligation to pay the Obligations or perform its other material obligations hereunder or thereunder; or (C) the rights and remedies of the Bank under this Agreement and the other Related Documents;

(g) (i) any material provision of the MTC Grant Funding Agreement (including, without limitation, the obligation of MTC to program Apportioned Section 5307 Formula Funds and Apportioned Section 5337 Formula Funds for the payment of the MTC Funding Obligation) at any time for any reason ceases to be valid and binding on MTC as a result of any legislative or administrative action by a Governmental Authority with competent jurisdiction or is declared in a final non-appealable judgment by any court with competent jurisdiction to be null and void, invalid or unenforceable; or the validity or enforceability thereof is publicly contested by MTC; (ii) an “event of default” has occurred and is continuing under the MTC Grant Funding Agreement and the applicable grace period for corrective action has expired; or (iii) MTC ceases to be eligible to receive Section 5307 Formula Funds and Section 5337 Formula Funds as a direct recipient;

(h) (i) any material provision of the BART T&R Agreement (including, without limitation, the obligation of BART to comply with federal eligibility requirements) at any time for any reason ceases to be valid and binding on BART as a result of any legislative

or administrative action by a Governmental Authority with competent jurisdiction or is declared in a final non-appealable judgment by any court with competent jurisdiction to be null and void, invalid or unenforceable; or the validity or enforceability thereof is publicly contested by BART; (ii) an “event of default” has occurred and is continuing under the BART T&R Agreement and the applicable grace period for corrective action has expired; or (iii) BART ceases to be eligible to receive Section 5307 Formula Funds and Section 5337 Formula Funds;

(i) the Bank ceases for any reason to have a first priority Lien over the Collateral; or

(j) an Event of Termination has occurred;

provided, however, that any of the foregoing events, occurrences, failures, breaches or inaccuracies described in clauses (a), (b), (f), (g) or (h) above that result, and remain in effect, solely and exclusively from the occurrence of an Event of Non-Appropriation, an Event of Non-Authorization or both shall not be considered an Event of Default.

Section 7.2. Rights and Remedies upon Event of Default. Upon the occurrence of an Event of Default hereunder:

(a) During the Availability Period, the Bank may by written notice to the Borrower reduce the Available Commitment to zero and thereafter the Bank will have no further obligation to make Loans hereunder; *provided, however,* that, upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States during the Availability Period, the obligation of the Bank to make Loans shall automatically terminate and the Available Commitment shall be reduced to zero without further act of the Bank.

(b) During the Amortization Period only, the Bank may by written notice to the Borrower declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Related Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower; *provided, however,* that, upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States during the Amortization Period, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the Bank;

(c) Of the type described in Section 7.1(h)(ii) or 7.1(h)(iii), the Bank may in its own name or in the name of Borrower or both seek a writ of mandamus against MTC to compel MTC to perform and carry out its obligations under the MTC Grant Funding Agreement;

(d) Of the type described in Section 7.1(i)(ii) or 7.1(i)(iii), the Bank may in its own name or in the name of Borrower or both, unless MTC is then exercising remedies against BART, seek a writ of mandamus against MTC to compel MTC to cause BART to perform and carry out its obligations under the BART T&R Agreement; and

(e) The Bank may exercise all rights and remedies available to it under the Related Documents or Applicable Law or equity.

Section 7.3. Suspension of Available Commitment Upon Event of Suspension. Upon the occurrence and during the continuance of an Event of Suspension, the Available Commitment shall be reduced to zero and the obligation of the Bank to extend Loans under this Agreement shall immediately be suspended, until such time (if any) as such Event of Suspension shall no longer be continuing, whereupon the Available Commitment shall be reinstated in accordance with the terms of this Agreement; *provided, however*, that in the event that such Event of Suspension shall continue until the Commitment Termination Date, the Bank will have no further obligation to make Loans hereunder and the Available Commitment shall permanently terminate.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Amendments and Waivers. No amendment or waiver of any provision of this Agreement or any other Related Document, and no consent to any departure by the Borrower therefrom, shall be effective unless in writing signed by the Bank and the Borrower, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 8.2. Notices; Effectiveness; Electronic Communication.

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax transmission or e-mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, if to the Borrower or the Bank, to the address, fax number, e-mail address or telephone number specified for such Person as shown below. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax transmission or e-mail transmission shall be deemed to have been given when sent (except that, if not given during normal business hours of the Borrower, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

If to the Borrower:	Bay Area Infrastructure Financing Authority 375 Beale Street, Suite 800 San Francisco, CA 94105-2066 Attention: Derek Hansel Telephone: (415) 778-6730 Email: dhansel@bayareametro.gov
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In addition, for notices
pursuant to Section 8.10(b): Clerk of the Board, BAIFA
375 Beale Street, Suite 800
San Francisco, CA 94105-2066
Attention: Clerk
Telephone: (415) 778-6700

With a copy (which shall
not constitute notice) to: Metropolitan Transportation Commission
375 Beale Street, Suite 800
San Francisco, CA 94105-2066
Attention: Kathleen Kane, General Counsel
Telephone: (415) 778-7975
Email: kkane@bayareametro.gov

If to the Bank: Municipal Banking and Markets
Bank of America, N.A.
One Bryant Park, 12th Floor
New York, NY 10036
Attention: Eunice Onie Lee
Telephone: (646) 743-1358
Email: eunice.lee@bofa.com

With a copy to: Municipal Banking and Markets
Bank of America, N.A.
100 Federal Street
Boston, MA 02110
Attention: Collin De La Bruere
Telephone: (617) 434-1362
Email: collin.delabruere@bofa.com

(b) *Electronic Communications.*

(i) Notices and other communications to the Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Bank. The Bank or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures provided by it, provided that the approval of such procedures may be limited to particular notices or communications.

(ii) Unless the Bank otherwise prescribes, (A) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (B) notices and other communications posted to an Internet or intranet website shall be deemed received by the intended recipient upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail address or other written acknowledgement) indicating that such notice or communication is available and identifying the website address therefor; *provided, that*, for both clauses (A) and (B), if such notice or other