provisions of Schedule 4 as of the Effective Date shall not be deemed to be a Required Modification and no additional concession fee or share of additional Toll Road Revenues shall be payable to the Authority as a result of such implementation. Any Concession Compensation provided pursuant to this Section 5.2 shall include any costs incurred by the Concessionaire in connection with the preparation of the written statement described in Section 5.1 and shall be payable pursuant to Section 15.1(b).

(b) If a Compensation Event necessitates a Modification, the Parties shall first proceed under this Article 5 to attempt in good faith to negotiate an Agreed Modification that resolves the effects of the Compensation Event. If the Parties are unable to agree on an Agreed Modification within sixty (60) days (or such longer period of time as the Parties may agree) the Concessionaire shall be entitled to complete the necessary Modification and receive Concession Compensation and shall not be required to pay an additional concession fee or to provide any other compensation related thereto.

Section 5.3 Implementation of Modifications. The Concessionaire shall (a) ensure that any work or construction performed in connection with a Modification is performed in a good and workmanlike manner and in accordance with the applicable terms of this Agreement, (b) ensure the terms of an Agreed Modification or a Required Modification are diligently complied with and implemented in such manner that the costs and delays relating to a Modification are minimized and (c) conduct a competitive procurement for the services of any Contractor to be engaged in connection with a Modification based on commercially reasonable criteria for contract award (including such Contractor's technical qualifications, bid price and relevant experience). Without limiting the generality of the foregoing, the Concessionaire shall comply with applicable Law, applicable codes, good industry practice and, to the extent not superseded by the terms of the relevant Agreed Modification or Required Modification, the provisions of the Operating Standards, the Project Interface Plan and the applicable EPC Specifications with respect to the manner in which Modifications are implemented.

Section 5.4 Acquisition or Condemnation by Authority of Additional Lands.

(a) *Pursuant to an Agreed Modification.* In the case of an Agreed Modification requiring acquisition of Additional Lands, the Authority shall take such actions as may be reasonably necessary to initiate and diligently pursue to completion the proceedings necessary for the acquisition or condemnation of such Additional Lands. In such event, the costs and expenses, including all judgments and settlements in condemnation, all awards of compensation, costs and litigation expenses, all awards of damages, all costs incurred in prosecuting the condemnation action, including the cost of all legal and support services and the fees of all witnesses, shall be borne as provided in the related Agreed Modification; *provided, however*, that any payment by the Concessionaire of any of the costs or expenses in relation to such acquisition shall not, by itself, entitle the Concessionaire to any real property interest in the Additional Lands so acquired except as provided in Section 5.4(c).

(b) *Pursuant to a Required Modification.* In the case of a Required Modification pursuant to Section 5.2, the Authority shall take such actions as may be reasonably necessary to initiate and diligently pursue to completion the proceedings necessary for the acquisition or condemnation of Additional Lands for such Required Modification. The

Concessionaire's obligation to implement any such Required Modification shall be subject to the prior completion of the proceedings described in the preceding sentence. In such event, all costs and expenses in respect of such acquisition or condemnation of Additional Lands for such Required Modification, including all judgments and settlements in condemnation, all awards of compensation, costs and litigation expenses, all awards of damages, all costs incurred in prosecuting the condemnation action, including the cost of all legal and support services and the fees of all witnesses, shall be borne by the Authority.

(c) *Transfer*. Any lands acquired pursuant to this Section 5.4 shall be deemed to be part of the Toll Road Land subject to this Agreement. In connection with the foregoing, the Concessionaire shall, and shall cause any Concession Mortgagee to, execute such instruments as may be reasonably requested or required by the Authority to give effect to the foregoing. The applicable costs and expenses with respect to Additional Lands contemplated in this Section 5.4 shall be borne as provided in the related Agreed Modification and the applicable costs and expenses with respect to Additional Lands contemplated by Section 5.4(b) shall be borne by the Authority.

(d) *Pre-existing Environmental Conditions*. If a Party proposes a Modification that requires the acquisition of Additional Lands, that Party (or in the case of Required Modifications, the Authority) shall assume and discharge any liabilities and obligations whatsoever arising under any Environmental Law relating to the ownership, operation or condition of the Additional Lands and shall be responsible for any environmental conditions existing prior to the time of acquisition, whether or not the manifestation of which occurs following acquisition (including any Hazardous Substance to the extent released or threatened to be released on or from the Additional Lands at any time prior to the time of acquisition). Notwithstanding the foregoing, in all circumstances, the Concessionaire shall be responsible for complying with Engineering or Institutional Controls associated with such Additional Lands; *provided* that, in the case of environmental conditions for which the Authority is responsible pursuant to the preceding sentence, the Concessionaire receives notice of such Engineering or Institutional Controls from the Authority prior to any obligation to comply therewith and *provided further*, that the Concessionaire may submit any dispute with respect to such obligation to dispute resolution in accordance with Article 19. Notwithstanding any obligation to assume and discharge any liabilities arising under any Environmental Laws contained in this Section 5.4(d), to the extent the Concessionaire is obligated to assume such liabilities, the Concessionaire shall not acquire or be entitled to any real property interest in the Additional Lands associated with such liabilities, except as provided in Section 5.4(c).

ARTICLE 6

OPERATING STANDARDS; NONCOMPLIANCE EVENTS

Section 6.1 Compliance with Operating Standards. The Concessionaire shall, and shall cause the Toll Road Operations to, comply with and implement the Operating Standards in all material respects at all times during the Term (including any changes or modifications to the Operating Standards made pursuant to the terms of this Agreement); *provided* that (a) the Concessionaire shall have a reasonable period of time (i) following the Closing Date to carry out any changes to the operations of the Toll Roads in order to cause the Toll Roads to comply with

the Operating Standards in effect as of the Closing Date and (ii) from time to time to comply with the introduction of changes or modifications to the Operating Standards that are made in accordance with the terms of this Agreement, (b) the Concessionaire shall not be required to comply with certain Operating Standards in relation to the Concessionaire Capital Improvement Projects, as and to the extent set forth in Section 4.2(b) and (c) the Concessionaire shall not be required, with respect to the portion of the DTLs on PR-18 and PR-1, to comply with Chapter G of Schedule 15A. The Concessionaire shall have in place procedures that are reasonably designed to achieve compliance with the Operating Standards. The Authority and the Concessionaire agree that the Operating Standards shall be construed flexibly in light of their objectives. The occasional or incidental failure to comply with specific requirements of the Operating Standards shall not be deemed a breach of this Agreement, except to the extent that such occasional or incidental failure to comply constitutes a Noncompliance Event. Except as specifically set forth in this Agreement (including the Operating Standards), the Concessionaire shall perform all work required to comply with and implement the Operating Standards in all material respects (including the capital improvements described therein) as part of the Toll Road Operations and at its sole cost and expense. To the extent that any term or provision of the Operating Standards conflicts with any term or provision otherwise specified in this Agreement, then such term or provision of this Agreement shall govern and shall supersede any such conflicting term or provision in the Operating Standards. For the avoidance of doubt, in the event of any conflict, ambiguity or inconsistency between or among any of the provisions in this Agreement (including between the forepart of this Agreement and any of the Operating Standards or between any two or more of the Operating Standards), the provisions that establish the higher quality, manner or method of performing the work required to comply with and implement the Operating Standards in all material respects (including the capital improvements described therein) as part of the Toll Road Operations or that establish more stringent standards to the Concessionaire shall prevail. Further, (i) if the Operating Standards contain more stringent standards than applicable Laws, the Operating Standards shall prevail, to the extent that compliance with those more stringent standards would not violate applicable Law, (ii) if compliance with any of the Operating Standards would violate applicable Law (including any NEPA requirements), those standards shall not be deemed to apply when (and to the extent) compliance therewith would violate such applicable Law and (iii) if any of the Operating Standards are less stringent than applicable Laws and compliance with both requirements cannot be achieved concurrently, compliance with such less stringent Operating Standards shall not be required for so long as the more stringent provisions of Law remain applicable (subject, in the case of (ii) or (iii), to Concessionaire providing prompt written notice to the Authority, which notice shall identify the specific applicable Laws and Operating Standards at issue, and subject further to the Authority determining in it its discretion that the relevant Operating Standard(s) may be disregarded pursuant to the applicable clause.

Section 6.2 Proposed Operating Standards. If the Concessionaire, at its sole cost and expense, wishes to implement and use operating standards other than the Operating Standards, the Concessionaire must provide notice of such proposed operating standards to the Authority for the Authority's Approval. The Concessionaire's proposed operating standards must be accompanied by an explanation of the Concessionaire's rationale for making its proposal and all relevant supporting information, certificates, reports, studies, investigations and other materials as are necessary to demonstrate that the Concessionaire's proposed operating standards

are reasonably designed to achieve the objectives of the applicable Operating Standards. The Authority may request any additional supporting information, certificates, reports, studies, investigations and other materials as are reasonably required by the Authority to determine if the Concessionaire's proposed operating standards are reasonably designed to achieve the objectives of the applicable Operating Standards. Until the Authority provides its Approval for the implementation of the Concessionaire's proposed operating standards, the Concessionaire shall not implement the proposed operating standards and shall continue to implement and comply with then existing Operating Standards. The Concessionaire's proposed operating standards shall be deemed incorporated into the Operating Standards upon Approval by the Authority in the Authority's discretion.

Section 6.3 Modified Operating Standards.

(a) The Authority shall have the right, at any time during the Term, to modify or change the Operating Standards upon notice to the Concessionaire to (i) comply with any new Law applicable to the Toll Road Operations that is not being applied to the Concessionaire in a discriminatory or arbitrary manner, (ii) conform the Operating Standards to standards or practices generally adopted and implemented by the Authority with respect to all other Comparable Highways under the jurisdiction of the Authority or (iii) conform the Operating Standards to standards or practices generally adopted and implemented by other Governmental Authorities in the United States having jurisdiction over Comparable Highways. In the event that the Authority modifies or changes the Operating Standards in accordance with the immediately preceding sentence, the Concessionaire, at its cost and expense, shall perform all work required to implement such modifications or changes and shall comply with all such modifications or changes and in no event shall the Concessionaire be excused from compliance with any such modification or change. For the avoidance of doubt, the Concessionaire will have the right to challenge any modified Operating Standard pursuant to Article 19 on the basis that it does not meet the requirements set forth above.

(b) If, during the Term, the Authority is of the opinion that a modification or change to the Operating Standards is necessary or desirable but such modification or change is not subject to Section 6.3(a), the Authority may upon notice to the Concessionaire modify or change the Operating Standards; *provided, however*, that the Authority shall provide Concession Compensation to the Concessionaire with respect thereto at the time such modification or change is to be implemented and a reasonable time period, if necessary, to come into compliance with such modification or change. At the Authority's request, the Concessionaire shall perform all work required to implement and shall comply with all such modifications and changes, and in no event shall the Concessionaire be excused from compliance with any such modification or change. The Authority shall have the right to undertake the work necessary to ensure implementation of and compliance with any modification or change to the Operating Standards referred to in this Section 6.3(b) to the extent that the Concessionaire fails to commence doing so no later than thirty (30) days following the notice specified above and the provision of any applicable Concession Compensation in accordance herewith; *provided, however*, that to the extent that such work is undertaken by the Authority, the Concessionaire shall provide to the Authority within thirty (30) days following written demand therefor, or the Authority may offset from amounts owing to the Concessionaire in connection with such modification or change, the

costs of the portion of the work performed in order to comply with the Operating Standards existing immediately prior to such modification or change, and the Authority shall be responsible only for the incremental costs of the additional work required in order to implement such proposed modification or change to the Operating Standards and, without duplication with the foregoing, the Concession Compensation with respect to such modification or change.

Section 6.4 Noncompliance Events.

(a) *Noncompliance Events.* Noncompliance Events are identified on Schedule 7. The Concessionaire shall promptly notify the Authority of the occurrence of any breach or failure that is or might become a Noncompliance Event. If the Authority becomes aware of a breach or failure that is or might become a Noncompliance Event for which Concessionaire has not yet provided such notice, the Authority shall notify Concessionaire thereof.

(b) *Cure Period.* A Noncompliance Event shall not have occurred until expiration of any cure period applicable with respect thereto, as such cure period is identified on Schedule 7. The Concessionaire's cure period, if any, with respect to such Noncompliance Event starts upon the date the Concessionaire first obtained knowledge or reason to know of the breach or failure. The Concessionaire shall notify the Authority of any efforts to cure a potential Noncompliance Event, which cure is subject to verification by the Authority.

(c) *Noncompliance Points.* The Authority may assess Noncompliance Points with respect to a Noncompliance Event; *provided* that such Noncompliance Points may not exceed the maximum number of points specified for such Noncompliance Event, as set forth on Schedule 7. Noncompliance Points shall be deemed to have been assessed on (x) the expiration of the cure period identified in Schedule 7 with respect to such Noncompliance Point or (y) absent a cure period identified in Schedule 7, the date notice of such Noncompliance Event was first given pursuant to Section 6.4(a). Any dispute concerning the assessment of Noncompliance Points must be initiated by the Concessionaire within fifteen (15) days after the Authority notifies the Concessionaire of the assessment; *provided* that if, for any reason, the Concessionaire fails to initiate such dispute within the applicable time period required by this section, the Concessionaire shall be deemed to have irrevocably and forever waived and released any right to dispute the assessment of the applicable Noncompliance Points or any adverse effects on costs, expenses and liabilities attributable to such assessment that the Concessionaire may otherwise have been able to dispute. The Authority shall not be entitled to assess Noncompliance Points under more than one category for any particular event or circumstance that constitutes a Noncompliance Event. If a single act or omission gives rise to more than one breach or failure, such act or omission shall be treated as a single breach or failure for the purpose of assessing Noncompliance Points, and the highest amount of Noncompliance Points under the relevant breaches or failures shall apply. A failure by the Concessionaire to report to the Authority a breach or failure to perform as required under Section 6.4(a), on the one hand, and the subject breach or failure to perform, on the other hand, constitute separate and distinct breaches and failures to perform for the purpose of assessing Noncompliance Points.

(d) *Increased Oversight, Testing and Inspection.* If at any time there exists a Persistent Concessionaire Default or the Concessionaire receives a notice of Concessionaire Default pursuant to Section 16.1(b), then (in addition to other remedies available to the Authority

under this Agreement) the Authority, by notice to the Concessionaire, may increase the level of its monitoring, inspection, sampling, measuring, testing, auditing and oversight of the Concessionaire's compliance with its obligations under the Agreement, to such level as the Authority sees fit, until such time as the Concessionaire has demonstrated to the reasonable satisfaction of the Authority that the Concessionaire has (i) reduced by fifty percent (50%) the number of Uncured Noncompliance Points outstanding as of the date such notice was given to the Concessionaire (if there existed a Persistent Concessionaire Default as of such notice date), (ii) fully and completely cured the breaches and failures that are the basis for such notice of Concessionaire Default pursuant to Section 16.1(b) (if applicable) and (iii) completed delivery and performance of a Remedial Plan; *provided* that subclause (d)(i) shall not apply in the event that the Persistent Concessionaire Default is of the type described in subsection (b) of the definition of Persistent Concessionaire Default. If the Authority increases its level of monitoring, inspection, sampling, measuring, testing, auditing and oversight pursuant to this Section 6.4(d) and liquidated damages are not provided for under this Agreement in connection with such non-compliance, then the Concessionaire shall pay and reimburse the Authority within thirty (30) days after receipt of demand and reasonable supporting documentation for all increased costs and fees the Authority incurs in connection with such action, including the Authority's share of the increased costs and fees of external resources. The foregoing does not preclude the Authority, at its discretion and expense, from increasing its level of monitoring, inspection, sampling, measuring, testing, auditing and oversight at other times so long as such action is not in contravention of this Agreement.

(e) *Liquidated Damages*. The Authority shall be entitled to liquidated damages from the Concessionaire equal to seven thousand five hundred dollars ($7,500) per Noncompliance Point assessed pursuant to Section 6.4(c); *provided* that (i) the Concessionaire shall not be required to make any payment to the Authority under this Section 6.4(e) with respect to an assessed Noncompliance Point unless and until the aggregate amount of Noncompliance Points assessed pursuant to Section 6.4(c) exceeds twenty-four (24) Noncompliance Points (the "Noncompliance Threshold") , in any consecutive three hundred and sixty five (365) day period, after which time the Authority shall be entitled to prompt payment from the Concessionaire of liquidated damages for each Noncompliance Point assessed pursuant to Section 6.4(c) during such three hundred and sixty five (365) day period, without regard to the Noncompliance Threshold and (ii) liquidated damages shall not be assessed more than once with respect to any assessed Noncompliance Point. The liquidated damages imposed by this Section 6.4(e) shall be the exclusive remedy of the Authority resulting from a Noncompliance Event; *provided* that such damages shall not limit the Authority's rights hereunder upon the occurrence of a Persistent Concessionaire Default.

ARTICLE 7

TOLLING; REVENUES

Section 7.1 Tolling Limitations. The Concessionaire shall comply with the Tolling Limitations set forth in Schedule 4. For the avoidance of doubt, no consent or approval of the Authority or any other Person shall be required for any change in tolls that falls within the toll levels specified in Schedule 4.

Section 7.2 Revenues.

(a) *Toll Road Revenues.* The Concessionaire shall, at all times during the Term, have the right, title, entitlement and interest in and to all revenues (A) charged by or on behalf of the Concessionaire pursuant to this Agreement (including without limitation Schedule 4) in respect of tolls paid or payable for use by vehicles of the Toll Roads (other than, in each case only if applicable, (i) the Authority's portion of the DTLs Incremental Toll Revenues set forth in Section 7.2(h), and (ii) the Authority's portion of the DTL Extension Revenues set forth in Section 7.2(g)) ("Toll Revenues"), and (B) generated (i) from Vendors in accordance with any leases or agreements existing at any time during the Term or pursuant to the Assigned Contracts or generated by the Concessionaire itself as a Vendor or (ii) in accordance with Section 7.2(b) hereof (collectively, "Non-Toll Revenues" and together with Toll Revenues, the "Toll Road Revenues"). For the avoidance of doubt, the revenues referred to in clause (A) of this Section 7.2(a) shall include all tolls collected by the Concessionaire or the Authority on behalf of the Concessionaire from toll violators in enforcement proceedings or by other means in accordance with Section 3.16(b)); *provided* that the Concessionaire hereby transfers and assigns to the Authority all of its right, title, entitlement and interest in and to all Delinquent Non-Cash Tolls in respect of which it shall have received payment from the Authority pursuant to Section 3.16(c), such transfer and assignment to become automatically effective upon such payment by the Authority without the need of any further documentation or action by any Party.

(b) *Other Revenues.* Unless otherwise Approved by the Authority in its discretion, all sources of revenues and activities generating or that may generate revenues other than Toll Road Revenues, including revenues from (i) toll violation enforcement fines, fees, charges, restitution, collection and penalty payments in excess of any unpaid toll authorized by Law, (ii) public transportation services, (iii) the installation of utilities or similar services and safety measures (including water and sewer lines, power transmission lines, fiber optic cable, surveillance equipment and other communications), (iv) the erection of billboards and other forms of advertisement, and (v) mass transit facilities, shall be controlled by, and be the property of, the Authority and, subject to Section 3.7, the Concessionaire shall have no right, title, entitlement or interest therein whatsoever; *provided* that such billboards and other forms of advertising shall not contain or convey an implied or declared rejection, opinion or other reference concerning any of the Concessionaire, its Equity Participants, the Toll Roads, the Toll Road Operations and the Toll Road Services without, in each case, the Approval of the Concessionaire. For the avoidance of doubt, the Authority reserves the right to develop, establish or commercialize any of these services or activities by itself, together with the Concessionaire or in any other manner the Authority may determine in its discretion.

(c) *Use of Toll Road Revenues.* The Concessionaire shall use all Toll Road Revenues to pay (i) for the costs of operations and maintenance of the Toll Roads pursuant to this Agreement (including reconstruction, resurfacing, restoration and rehabilitation of the Toll Roads in compliance with the requirements of this Agreement) and (ii) debt service on Concession Mortgage Debt and Qualified Debt, in each case when due and payable prior to making any distribution of such Toll Revenues to any Equity Participant.

(d) *Vendors.*

(i) The operation of any Vendor shall be a part of the Toll Road Operations. All revenues earned by the Concessionaire attributable to the operation of any Vendor shall be the property of, and controlled by, the Concessionaire.

(ii) The Concessionaire shall not enter into any material agreement or contract with a Vendor or provide goods or services as a Vendor without the prior Approval of the Authority (which Approval shall not be unreasonably or arbitrarily withheld, conditioned or delayed); *provided, however,* that the Approval of the Authority shall not be required to the extent that such agreement or contract is for goods or services of the type provided on the Toll Roads as of the Bid Date. In requesting Approval of the Authority, in addition to the requirements of Section 1.16, the Concessionaire shall inform the Authority in writing about the identity of the Vendor, confirm that the Vendor has not been debarred from bidding on or participating in Authority supervised or funded highway construction work, specify, the exact nature of the goods or services to be provided by the Vendor, and confirm and that the Vendor complies with the Commonwealth Contractor Requirements, to the extent applicable. No such agreement or contract with a Vendor shall extend beyond the Term unless (A) such extension has been Approved by the Authority, (B) such agreement is assignable to the Authority and (C) the Authority can terminate such agreement within three (3) Business Days without penalty after the end of the Term. Each such agreement shall include the terms and conditions required to be included by Act No. 2 in any contract to which the Authority is a party, and such agreement shall be subject to rescission or termination under such laws to the same extent as if the Vendor had entered into such agreement directly with the Authority. Additionally, each Vendor shall comply with the requirements set forth in Section 9.3.

(iii) Any addition to or modification of facilities for Vendors shall require an Agreed Modification pursuant to Article 5.

(e) *Windfall Revenue Sharing Payment.*

(i) *Windfall Revenue Sharing Payment.* As compensation to the Authority in exchange for the Authority's grant to the Concessionaire of rights to impose and receive tolls pursuant to this Agreement, the Concessionaire agrees to pay to the Authority revenue sharing payments as determined under this Section 7.2(e) ("Windfall Revenue Sharing Payment").

(ii) *Band Adjustments.* The Band values included in Schedule 20 are stated on a calendar year basis, starting with the calendar year in which Closing occurs. If the operating period in the first or last calendar year is less than a full calendar year, the applicable values for each such Band will be adjusted pro rata based on the number of operating days in the applicable calendar year for the difference, if any, between the number of operating days in such calendar year based on the Closing Date, and the actual number of days in such calendar year. Any adjustments to the Band values based on the actual Closing Date will be applied on a cumulative basis to the Band levels through the remaining calendar years in the Term. If it is the last year of the operating period that is less than a full calendar year, then Cumulative Toll Road

Revenues shall include those revenues that are accrued or earned but not yet received in such calendar year.

(iii) *Calculation.* The amount of each Windfall Revenue Sharing Payment (the "Windfall Revenue Sharing Payment Amount") shall be calculated as of December 31 beginning the year in which the twelfth anniversary of the Closing occurs and as of December 31 of every subsequent year during the Term, by determining the actual Cumulative Toll Road Revenues collected by the Concessionaire for each annual period during the Term to date. The Windfall Revenue Sharing Payment Amount is the positive amount, if any, that equals fifty percent (50%) of the portion of actual Cumulative Toll Road Revenues during the Term to date that exceed the Band amount, adjusted for changes in inflation as determined under Section 7.2(e)(iv), minus all Windfall Revenue Sharing Payment Amounts, if any, paid in previous calendar years. The Band floor amounts for each applicable calendar year period during the Term are included in Schedule 20.

(iv) *Inflation Adjustment.* The Band amount figures in Schedule 20 are in 2023 dollars and are to be adjusted in accordance with cumulative changes in the Index as described in this Section 7.2(e)(iv). For the first potential Windfall Revenue Sharing Payment, the Band floor amounts for all calendar years in Schedule 20 throughout the Term shall be adjusted by the greater of (i) zero and (ii) the percentage increase in the Index between the Index for the month that is two months prior to the Closing Date and the Index for October (the "Benchmark Month") of the calendar year for which the relevant Windfall Revenue Sharing Payment is being determined. For each potential Windfall Revenue Sharing Payment (i.e., each calendar year) thereafter, the then-current Band floor amounts for the year then under review and all succeeding calendar years in Schedule 20 throughout the Term shall be adjusted by the greater of (y) zero and (z) the percentage increase in the Index between the Index for the Benchmark Month of the year immediately preceding the year under review and the Index for the Benchmark Month of the year under review. For avoidance of doubt, the Band floor amounts subject to adjustment in connection with each review period (i.e., each calendar year) following the review period relating to the first potential Windfall Revenue Sharing Payment shall be based on the results of the adjustments from the preceding review period.

(f) *Payment Procedures.*

(A) Within one (1) month after the end of each calendar year for which the Windfall Revenue Sharing Payment is to be determined, the Concessionaire shall deliver to the Authority a preliminary calculation of the Windfall Revenue Sharing Payment Amount.

(B) Within four (4) months after the end of each calendar year for which the Windfall Revenue Sharing Payment is to be determined, the Concessionaire shall deliver to the Authority (i) a final calculation of the Windfall Revenue Sharing Payment, (ii) unless such information is available in the Traffic Reports prepared by the ETC Service Provider, an audited financial statement prepared by a reputable independent certified public accountant according to generally accepted accounting principles, consistently applied, setting forth the total Cumulative Toll Road Revenue for such year, and (iii) full payment of any Windfall Revenue Sharing Payment Amount as

so calculated. For the avoidance of doubt, Cumulative Toll Road Revenues for purposes of calculating the Windfall Revenue Sharing Payment Amount shall be calculated on a cash basis. The payment priority of the Windfall Revenue Sharing Payment Amount shall follow immediately after Concessionaire's operating expenses.

(C) Within two (2) months after receipt of the deliverables described in Section 7.2(f)(A) and (B), the Authority may request further clarification or amendment to the final calculation of the Windfall Revenue Sharing Payment, which the Concessionaire shall promptly provide to the Authority.

(g) *DTL Extension Revenue Share.* From the time of Substantial Completion of the DTL Extension Project pursuant to Section 4.1(c) until the end of the Term, the Authority shall have all right, title, entitlement and interest in and to sixty percent (60%) of all DTL Extension Revenues. Such share of DTL Extension Revenues shall be remitted to the Authority as provided in the Escrow Agreements. The remaining amounts comprise the Concessionaire's share of the DTL Extension Revenues.

(h) *Sharing of DTLs Incremental Toll Revenues.* The Authority shall have all right, title, entitlement and interest in and to fifty percent (50%) of all DTLs Incremental Toll Revenues. Such share of DTLs Incremental Toll Revenues shall be remitted to the Authority as provided in the Escrow Agreements. The remaining amounts comprise the Concessionaire's share of the DTLs Incremental Toll Revenues.

ARTICLE 8

REPORTS; AUDITS; INSPECTIONS

Section 8.1 Reports.

(a) *Traffic Report.* Within fifteen (15) days after the end of each calendar month, the Concessionaire shall deliver to the Authority a report consistent with the sample form set forth in Schedule 8 (each such report, a "Traffic Report"), accompanied by a detailed estimate of the amount of Delinquent Non-Cash Tolls for such calendar month prepared in good faith by the Concessionaire; *provided* that, for so long as any ETC Service Contract and the Original Escrow Agreement remain in effect, each Traffic Report shall be delivered weekly, no later than the third (3rd) Business Day of the following week, and shall be based upon the traffic reports submitted by the ETC Service Provider under the ETC Service Contract and substantially in the form set forth in the Original Escrow Agreement.

(b) *Traffic Characteristics Reports.* In addition to the Traffic Reports and any other traffic or traffic-related reports required pursuant to this Agreement, the Concessionaire shall provide to the Authority a quarterly traffic characteristics report providing the following details in a format agreed to by the Authority prior to the Closing Date: (i) traffic volume forecasts for each type of classification of vehicle for the next three months; (ii) the current Level of Service for each mile of the Toll Roads as well as the projected changes in the Levels of Service during the coming twelve (12) months; (iii) traffic volume forecasts for the entire Reporting Year; and (iv) actual traffic counts for each month in the preceding quarterly period.

The Concessionaire shall provide such reports to the Authority within twenty (20) Business Days following the end of each calendar quarter of each Reporting Year.

(c) *Incident Management, Notifications and Reports.* The Concessionaire shall promptly notify the Authority of all incidents, including emergencies and accidents for which a report must be filed pursuant to Article 4.07 of the Act No. 22 of the Legislative Assembly of Puerto Rico, enacted on January 7, 2000, 9 P.R. Laws. Ann. § 5107, as amended, also known as the Vehicle and Traffic Law of Puerto Rico, occurring on or at the Toll Roads, and of all claims made by or against the Concessionaire, or potential claims that the Concessionaire reasonably expects to make against, or to be made against it by, third parties. In addition, the Concessionaire shall provide to the Authority a quarterly report of all such incidents, including the following details in a format agreed to by the Authority prior to the Closing Date: (i) type of incident (*e.g.*, human bodily injury, human death or property damage) and summary of each such incident; (ii) classification of incident (*e.g.*, road-related, barrier hit, right-of-way or other); (iii) number of incidents by type and classification; (iv) costs to correct incidents by type and classification; (v) claims made by the Concessionaire and revenue received by type and classification; and (vi) claims made against the Concessionaire and losses incurred or losses claimed by type and classification. The Concessionaire shall provide such report to the Authority within twenty (20) Business Days following the end of each calendar quarter of each Reporting Year.

(d) *Environmental Incident Report.* The Concessionaire shall report to the Authority, on a per occurrence basis, the release, discharge, dumping, spilling (accidental or otherwise) of any reportable quantity, as defined under applicable Environmental Law, of Hazardous Substances occurring on or at the Toll Roads and the location at which the incident has occurred, the time, the agencies involved, the damage that has occurred and, if applicable, the remedial action taken. The Concessionaire shall provide such report to the Authority within seven (7) Business Days following the occurrence of each incident or such shorter time period as may be required pursuant to applicable Law. This reporting obligation shall be in addition to any other reporting obligation required by Environmental Laws.

(e) *Financial Reports.* Until the End Date, the Concessionaire shall deliver to the Authority (i) within sixty (60) days after the end of each six-month period following the first day of each Reporting Year, a copy of the unaudited balance sheets of the Concessionaire at the end of each such six-month period and the related unaudited statements of income, changes in equity and cash flows for such six-month period, in a manner and containing information consistent with the Concessionaire's current practices and (ii) within one hundred twenty (120) days after the end of each Reporting Year a copy of the audited balance sheets of the Concessionaire at the end of each such Reporting Year, and the related audited statements of income, changes in equity and cash flows for such Reporting Year, including in each case the notes thereto, in each case prepared in accordance with generally accepted accounting principles consistently applied in the United States and certified by the Concessionaire's chief financial officer that such financial statements fairly present the financial condition and the results of operations, changes in equity and cash flows of the Concessionaire as at the respective dates of and for the periods referred to in such financial statements, all in accordance with generally accepted accounting principles in the United States consistently applied. Such financial

statements shall reflect the consistent application of such accounting principles throughout the periods involved, except as disclosed in the notes to such financial statements. In addition to the foregoing, together with the financial statements identified in clause (ii) of this Section 8.1(e), the Concessionaire shall provide an opinion thereon of an independent public accountant of national stature in the United States of America engaged by the Concessionaire.

Section 8.2 Information.

(a) *Furnish Information.* At the request of the Authority or any other Governmental Authority of competent jurisdiction (each, an "Authorized Auditor"), the Concessionaire shall, at the Concessionaire's cost and expense and at any and all reasonable times during the Term: (i) make available or cause to be made available (and, if requested by such Authorized Auditor, furnish or cause to be furnished) to such Authorized Auditor all Information relating to the Toll Road Operations, this Agreement or the Toll Roads as may be specified in such request and as shall be in the possession or control of the Concessionaire or its Representatives; and (ii) permit such Authorized Auditor, after having provided ten (10) Business Days' prior notice to the Concessionaire (which notice shall identify the persons such Authorized Auditor requests to be present for an interview and describe with reasonable specificity the subject matter to be raised in the interview), to discuss the obligations of the Concessionaire under this Agreement with any of the directors, chief executive officer and chief financial officer of the Concessionaire, the Operator or their respective Representatives, for the purpose of enabling such Authorized Auditor to determine whether the Concessionaire is in compliance with this Agreement and applicable Law.

(b) *Confidentiality.* Unless disclosure is required by applicable Law, the Authority shall keep confidential any Information obtained from the Concessionaire or its Representatives that (i) constitutes trade secrets or commercial or financial information (A) where the trade secrets or commercial or financial information are proprietary, privileged or confidential or (B) where disclosure of the trade secrets or commercial or financial information may cause competitive harm and (ii) is designated as confidential by the Concessionaire in writing to the Authority. In the event that the Concessionaire requests the Authority to defend an action seeking the disclosure of Information that the Authority determines to be confidential pursuant to this Section 8.2(b), the Concessionaire shall reimburse the Authority for the reasonable costs and expenses incurred by the Authority in defending any such action. This Section 8.2(b) shall not apply to any Information that (w) is already in the possession of the Authority; *provided* that such information is not known by the Authority to be subject to another confidentiality agreement with or other obligations of secrecy to the Concessionaire or another party; (x) becomes generally available to the public other than as a result of a disclosure by the Authority or their Representatives in violation of the terms of this Section 8.2(b); (y) becomes available to the Authority on a non-confidential basis from a source other than the Concessionaire or its advisors; *provided* that such source is not known by the Authority to be bound by a confidentiality agreement with or other obligation of secrecy to the Concessionaire or another party or (z) is independently developed by the Authority or its Representatives.

Section 8.3 Inspection, Audit and Review Rights of the Authority.

(a) *Audit Right.* In addition to the rights set out in Section 8.2, any Authorized Auditor may, at all reasonable times, upon three (3) days' prior notice, or may cause a Representative designated by it to, carry out subject to Section 8.2(b): (i) an Audit of the Information required to be maintained or delivered by the Concessionaire under this Agreement in connection with the performance of the Toll Road Operations for the purpose of verifying the information contained therein; and (ii) any Audit required by the Act. The Concessionaire, at its own cost and expense, shall, at reasonable times, make available or cause to be made available to such Authorized Auditor or its designated Representative such reasonable information and material as may reasonably be required by such Authorized Auditor or its designated Representative for purposes of such Audit and otherwise provide such cooperation as may be reasonably required by such Authorized Auditor in connection with the same. Such Authorized Auditor shall be entitled to make copies of the Information related to the conduct of such Audit and to take extracts therefrom at such Authorized Auditor's expense.

(b) *Inspection Right.* Each Authorized Auditor and its Representatives shall, at all times, have access to the Toll Roads and every part thereof and the Concessionaire, at the reasonable cost and expense of the Concessionaire, shall and shall cause its Representatives to, furnish each Authorized Auditor with every reasonable assistance for inspecting the Toll Roads and the Toll Road Operations for the purpose of Auditing the Information or ascertaining compliance with this Agreement and applicable Law.

(c) *Tests.* Any Authorized Auditor and its Representatives shall, with the prior consent of the Concessionaire (which shall not be unreasonably withheld, conditioned or delayed) be entitled, at the sole cost and expense of such Authorized Auditor, and at any time and from time to time, to perform or cause to be performed any test, study or investigation in connection with the Toll Roads or the Toll Road Operations as such Authorized Auditor may determine to be reasonably necessary in the circumstances and the Concessionaire, at its own cost and expense, shall, and shall cause its Representatives to, furnish such Authorized Auditor or its Representatives with every reasonable assistance in connection with the carrying out of such tests, procedures, studies and investigations. In connection with the foregoing, such Authorized Auditor and its Representatives shall, with the prior consent of the Concessionaire (which shall not be unreasonably withheld, conditioned or delayed), be entitled to install machines, equipment, systems, monitors, counters and other devices in, on, under, over or adjacent to the Toll Roads to permit and facilitate any test, study, monitor, review or investigation of or relating to the Toll Road Operations to the extent that the same does not materially interfere with the Toll Road Operations or damage the Toll Roads.

(d) *No Waiver.* Failure by any Authorized Auditor or its Representatives to inspect, review, test or Audit the Concessionaire's responsibilities under this Agreement or any part thereof or the Information, shall not constitute a waiver of any of the rights of any Authorized Auditor hereunder or any of the obligations or liabilities of the Concessionaire hereunder. Inspection, review, testing or Audit not followed by a notice of Concessionaire Default shall not constitute a waiver of any Concessionaire Default or constitute an acknowledgement that there has been or will be compliance with this Agreement and applicable Law.

(e) *No Undue Interference.* In the course of performing its inspections, reviews, tests and audits hereunder, each Authorized Auditor shall use its Reasonable Efforts to minimize the effect and duration of any disruption to or impairment of the Toll Road Operations or the Concessionaire's rights or responsibilities under this Agreement, having regard to the nature of the inspections, reviews, tests and audits being performed.

Section 8.4 Audits, Assistance, Inspections and Approvals. Wherever in this Agreement reference is made to any Authorized Auditor or its Representatives providing assistance, services, Approvals or Consents to or on behalf of the Concessionaire or its Representatives or to any Authorized Auditor or its Representatives performing an Audit or inspecting, testing, reviewing or examining the Toll Roads, the Toll Road Operations or any part thereof or the books, records, documents, budgets, proposals, requests, procedures, certificates, plans, drawings, specifications, contracts, agreements, schedules, reports, lists or other instruments of the Concessionaire or its Representatives, such undertaking by such Authorized Auditor or its Representatives shall not relieve or exempt the Concessionaire from, or represent a waiver of, any requirement, liability, Concessionaire Default, covenant, agreement or obligation under this Agreement or at law or in equity and shall not create or impose any requirement, liability, covenant, agreement or obligation (including an obligation to provide other assistance, services or Approvals) on any Authorized Auditor or its Representatives not otherwise created or imposed pursuant to the express provisions of this Agreement.

Section 8.5 Reimbursement of Costs. Except as otherwise provided herein, the Concessionaire shall reimburse each Authorized Auditor for all documented costs and expenses reasonably incurred by such Authorized Auditor during the Term (including employment costs and related overhead expenses allocable thereto, as reasonably determined by such Authorized Auditor based on the time expended by the employees who render such services to such Authorized Auditor) in monitoring the Toll Road Operations and the Concessionaire's compliance with its obligations and duties hereunder (including any Audits, tests, reviews or exams of the Toll Roads, the Toll Road Operations (or any part thereof), any information or the proposals, requests, procedures, certificates, plans, drawings, specifications, contracts, agreements, schedules, reports, lists or other instruments of the Concessionaire or its Representatives required or permitted to be provided or undertaken hereunder or required pursuant to the Act); *provided, however,* that the aggregate amount payable by the Concessionaire pursuant to this Section 8.5 and any other provision set forth in this Agreement that requires the Concessionaire to reimburse such Authorized Auditor for costs and expenses incurred in connection with the matters set forth in this Agreement (including Section 8.3(b), but excluding payments described in Section 3.7(a)(ii) and (iii), Section 3.16, Section 8.2(b), and Section 18.5(c)) shall not exceed five hundred thousand dollars ($500,000) per calendar year. The not-to-exceed amount described in the immediately preceding sentence shall be increased as of January 1 of the calendar year immediately following the Closing Date; *provided* that the period between the Closing Date and the following January 1 is a full calendar year, and as of January 1 of each calendar year thereafter by the greater of (i) zero and (ii) the percentage increase in the Index between Index for October of the second immediately preceding year and Index for October of the immediately preceding year. For illustration, if the not-to-exceed amount is to be increased as of January 1, 2030, such amount would be increased by the greater of zero and the percentage increase in the Index between the Index for October 2028 and the

Index for October 2029. The not-to-exceed amount to be adjusted shall be based on the results of the calculation from the preceding review period, and no adjustment shall be made in periods that are less than one full calendar year.

ARTICLE 9

REPRESENTATIONS AND WARRANTIES

Section 9.1 Representations and Warranties of the Authority. The Authority makes the following representations and warranties to the Concessionaire and acknowledges that the Concessionaire and its Representatives are relying upon such representations and warranties in entering into this Agreement:

(a) *Organization*. The Authority is an instrumentality of the Commonwealth.

(b) *Power and Authority*. The Authority has the power and authority to enter into this Agreement and each of the Other Authority Agreements and to do all acts and things and execute and deliver all other documents as are required hereunder and thereunder to be done, observed or performed by it in accordance with the terms hereof or thereof. The Authority has approved the execution and delivery of this Agreement and each of the Other Authority Agreements and authorized the performance of its obligations hereunder and thereunder.

(c) *Enforceability*. This Agreement and each of the Other Authority Agreements has been duly authorized, executed and delivered by the Authority and constitutes a valid and legally binding obligation of the Authority, enforceable against the Authority in accordance with the terms hereof or thereof, subject only to (i) the effect of bankruptcy, insolvency, reorganization, moratorium, or other similar requirements of Law and judicial decisions now or hereafter in effect affecting, generally, the enforcement of creditor's rights and remedies; (ii) the effect of requirements of Law governing equitable remedies and defenses, and the discretion of any court of competent jurisdiction in awarding equitable remedies, including the doctrine of sovereign immunity (except to the extent waived by the Act or other applicable Law); and (iii) the effect of requirements of Law governing enforcement and collection of damages against the Authority; *provided, however*, that the enforcement of any Claims presented in accordance with this Agreement shall be resolved as provided herein.

(d) *Title*. The Authority has good and sufficient title to and/or sufficient rights with respect to, the Toll Roads and the Toll Road Assets, in each case, as necessary to fulfill its obligations under Article 2 and for the Toll Road Operations pursuant to this Agreement, subject only to Permitted Authority Encumbrances and Permitted Concessionaire Encumbrances (other than the Permitted Concessionaire Encumbrances specified in clause (vii) of the definition of the term "Permitted Concessionaire Encumbrance"). The Toll Road Land identified in Schedule 3 constitutes, as of the Time of Closing, the real property necessary for the Toll Road Operations as conducted on the Bid Date. Subject to any and all Permitted Authority Encumbrances and Permitted Concessionaire Encumbrances (other than the Permitted Concessionaire Encumbrances specified in clause (vii) of the definition of the term "Permitted Concessionaire Encumbrance") existing at the Time of Closing, there is no recorded or unrecorded agreement, contract, option, commitment, right, privilege or other right of another

binding upon, or which at any time in the future may become binding upon, the Authority to sell, transfer, convey, subject to lien, charge, grant a security interest in, or in any other way dispose of or materially encumber the Toll Roads or the Toll Road Assets or any material portion thereof. The recorded or unrecorded restrictions, exceptions, easements, rights of way, reservations, limitations, interests and other matters that affect title to the Toll Roads, the Toll Road Assets or any portion thereof do not and will not materially adversely affect the Concessionaire's ability to operate the Toll Roads and use the Toll Road Assets (in whole or in part) in accordance with the terms hereof. Following the redemption, defeasance, refunding or cancellation of the bonds identified in the certificate signed by the Trustee as referenced in Section 2.4(a)(v), no indebtedness for borrowed money or any other obligation of the Authority or any Governmental Authority will be secured by any interest in the Toll Roads or the Toll Road Assets and no Person will have any claim or right to, or interest in, any income, profits, rents, tolls or revenue derived from or generated with respect to the Toll Roads or the Toll Road Assets (other than the Authority and the Concessionaire under this Agreement and any claims, rights or interests granted by or otherwise relating to the Concessionaire). For purposes of this Section 9.1(d), the term "Toll Roads" excludes any land used for an Expansion contemplated hereunder and includes only those parcels of real property described in Schedule 3.

(e) *No Conflicts.* The execution and delivery of this Agreement and each of the Other Authority Agreements by the Authority, the consummation of the transactions contemplated hereby and thereby (including the operation of the Toll Roads in accordance with the terms of this Agreement) and the performance by the Authority of the terms, conditions and provisions hereof and thereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Authority under (i) any applicable Law or (ii) any agreement, instrument or document to which the Authority is a party or by which the Authority is bound.

(f) *Certain Consents; Notice.* No Consent is required to be obtained by the Authority from, and, except for the filings described in Section 2.4(a)(vii) and Section 2.4(a)(viii), no notice or filing is required to be given by the Authority to or made by the Authority with, any Person (including any Governmental Authority) in connection with the execution or delivery of this Agreement and each of the Other Authority Agreements.

(g) *Compliance with Law; Litigation.*

(i) The Authority is operating the Toll Roads and each of the Toll Road Assets in compliance, in all material respects, with all applicable Laws and the Authority is not in breach of any applicable Law that would have a Material Adverse Effect. The Authority possesses all Authorizations from any Governmental Authority necessary, in all material respects, for the operation of the Toll Roads or the Toll Road Assets as currently being operated.

(ii) There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the best of the Authority's actual knowledge, threatened against the Authority, which would (A) have a Material Adverse Effect or (B) materially affect the validity or enforceability of this Agreement or any of the Other Authority Agreements.

(iii) The legislation described in Section 9.1(h) is not subject to any preliminary or permanent injunction or temporary restraining order or other order issued by a Governmental Authority of competent jurisdiction challenging its legality, constitutionality or effectiveness.

(iv) The Authority has complied with all applicable Laws related to the negotiation, authorization and execution of the Concession Agreement.

(h) *Public-Private Partnerships Act.* The Legislative Assembly of Puerto Rico has duly enacted into law the Act which remains in full force and effect. The Act (i) authorizes the Authority to enter into this Agreement and grant the Concession, (ii) authorizes the exemption from Taxes contemplated by Section 3.10(b)(i) and (ii), and (iii) provides that the Concessionaire shall have the authority to establish tolls or other user fees in connection with the Toll Roads, pursuant to this Agreement. This Agreement is a "Partnership Contract" under the Act and a recordable "administrative concession" under the PR Mortgage and Property Registry Law.

(i) *Contracts.* Each of the Assigned Contracts and the Other Authority Agreements is in full force and effect as of the Effective Date and, to the extent that any Assigned Contract is not assignable in accordance with Section 2.1(b), the failure to assign such Assigned Contract will not have a Material Adverse Effect. The Authority is not in material breach of its obligations under any Assigned Contract or Other Authority Agreement as of the Effective Date and no act or event has occurred which, with notice or lapse of time, or both, would constitute a material breach thereof by the Authority, and to the actual knowledge of the Authority no other party to any Assigned Contract or Other Authority Agreement as of the Effective Date is in material breach of its obligations under such contract, and to the actual knowledge of the Authority, no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would constitute a material breach thereof.

(j) *Insurance Policies.* All insurance policies in effect as of the Bid Date are in full force and effect with respect to the period between the Bid Date and the Time of Closing.

(k) *Brokers.* Except for J.P. Morgan Securities LLC, whose fees shall not be paid by the Concessionaire, there is no investment banker, broker or finder who has been retained by or is authorized to act on behalf of the Authority who might be entitled to any fee or commission from the Authority in connection with the transactions contemplated by this Agreement.

(l) *Accuracy of Information.* To the actual knowledge of the Authority, the factual and past historical information regarding the Toll Roads, its operations and the Toll Road Assets that the Authority provided to the Concessionaire in the Data Room was accurate in all material respects (i) as of its date or (ii) if undated, as of the date such information was provided, in each instance subject to any modifications or revisions to such information that have been provided by the Authority in the Data Room or otherwise disclosed to the Concessionaire in writing on or prior to the Setting Date, and the Authority makes no additional representation or warranty with respect to such information.

(m) *Material Adverse Effect.* Since the Setting Date through and including the Closing Date, no transaction or occurrence has taken place that has resulted or is reasonably likely to result in a Material Adverse Effect.

As used herein, "to the actual knowledge of the Authority" shall mean the current, actual knowledge of the Executive Director, the Deputy Director, the Director of Highways Area, the Auxiliary Executive Director of Finance and Administration, the Director of Programing and Special Studies and the Director of the Concession and Service Management Office, without implying any duty of investigation or inquiry. The Authority warrants and represents that the Executive Director, the Deputy Director, the Director of Highways Area, the Auxiliary Executive Director of Finance and Administration, the Director of Programing and Special Studies and the Director of the Concession and Service Management Office are the persons most knowledgeable at the Authority regarding the Transaction.

Section 9.2 Representations and Warranties of the Concessionaire. The Concessionaire makes the following representations and warranties to the Authority (and acknowledges that the Authority is relying upon such representations and warranties in entering into this Agreement):

(a) *Organization.* The Concessionaire is duly organized, validly existing and in good standing under the laws of the state of its organization and is duly qualified to conduct business in the Commonwealth. Except as disclosed in the written certification that the Concessionaire delivered to the Authority prior to the Bid Date (or, to the extent changes in ownership of the Concessionaire are made prior to Closing that would be permitted under the definition of "Change in Control," the Closing Date), no Person owns, directly or indirectly, 10% or more of the capital stock, units, partnership or membership interests and other equity interests or securities of the Concessionaire or the Operator (including options, warrants and other rights to acquire any such equity interests).

(b) *Power and Authority.* The Concessionaire has the power and authority to enter into this Agreement and each of the Escrow Agreements and to do all acts and things and execute and deliver all other documents as are required hereunder or thereunder to be done, observed or performed by it in accordance with the terms hereof or thereof.

(c) *Enforceability.* This Agreement and each of the Escrow Agreements has been duly authorized, executed and delivered by the Concessionaire and constitutes a valid and legally binding obligation of the Concessionaire, enforceable against it in accordance with the terms hereof or thereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) *No Conflicts.* The execution and delivery of this Agreement and each of the Escrow Agreements by the Concessionaire, the consummation of the transactions contemplated hereby and thereby and the performance by the Concessionaire of the terms, conditions and provisions hereof and thereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Concessionaire under (i) any applicable Law, (ii) any material agreement, instrument or document to which the Concessionaire or any Equity

Participant is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Concessionaire and each of the Equity Participants.

(e) *Consents*. No Consent is required to be obtained by the Concessionaire or any Equity Participant from, and no notice or filing is required to be given by the Concessionaire or any Equity Participant to or made by the Concessionaire or any Equity Participant with, any Person (including any Governmental Authority) in connection with the execution and delivery by the Concessionaire of this Agreement and each of the Escrow Agreements or the consummation of the transactions contemplated hereby or thereby, except for such consents which have been obtained and notices of filings which have been given as of the date hereof or such other consents which are not required to be obtained as at the date hereof and are expected to be obtainable following the date hereof.

(f) *Compliance with Law; Litigation*. The Concessionaire is not in breach of any applicable Law that could have a material adverse effect on the ability of the Concessionaire to comply with its obligations under this Agreement or any of the Escrow Agreements. There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Concessionaire's knowledge, threatened against the Concessionaire or any Equity Participant, that would have a material adverse effect on (i) the Transactions contemplated by this Agreement or any of the Escrow Agreements or (ii) the validity or enforceability of this Agreement or any of the Escrow Agreements.

(g) *Code of Ethics*. The Concessionaire acknowledges, represents and warrants that no official or employee of the Authority has a direct or indirect economic interest in the Concessionaire's rights under this Agreement or any of the Escrow Agreements in accordance with the provisions of Title III of Act No. 2, also known as the Code of Ethics for Contractors ("Code of Ethics"). The Concessionaire certifies it has received a copy of, read, and understands the Code of Ethics and will comply with it in its entirety.

(h) *Criminal Proceedings*.

(i) The Concessionaire warrants and certifies that as of the Effective Date and for the preceding ten (10) years, neither it nor its directors, members, partners, and officers (or any person that holds a position with the Concessionaire equivalent to any of the foregoing), nor, to its knowledge, any of its Affiliates (other than Affiliates controlled by Equity Participants) (each, a "Covered Party") nor any of its Equity Participants (or Affiliates controlled thereby), has been convicted, has entered a plea of guilty or *nolo contendre* or has been indicted in any criminal procedure in any State, Commonwealth or federal court or in any foreign country for criminal charges related to acts of corruption, the public treasury, the public trust, a public function, or charges involving public funds or property, or for any Specified Public Integrity Crime.

(ii) Neither the Concessionaire nor, to the knowledge of the Concessionaire, any of its officers, directors or Equity Participants has been convicted of offenses against public integrity, as defined in the Puerto Rico Penal Code, or of embezzlement of public funds, and neither the Concessionaire nor any of its officers, directors or Equity Participants has been found guilty of any such type of offense in the Courts of the

Commonwealth of Puerto Rico, the federal courts or any court of any jurisdiction of the United States of America.

(i) *Representation in the Oversight Board's Certification.* The information included in the Contractor Certification Requirements, as included in Appendix C of the Contract Review Policy (the "Oversight Board Certification"), completed by the Concessionaire, is complete, accurate and correct.

(j) *Economic Sanctions.* None of the Concessionaire, any Equity Participant (or Affiliates controlled thereby), or their respective directors, members, partners, officers, employees, controlling shareholders, or to the knowledge of the Concessionaire, any of its Affiliates (other than Affiliates controlled by Equity Participants), or their respective directors, members, partners, officers, employees, controlling shareholders, or any agents, representatives, or other persons acting on their behalf, are: (1) Sanctioned Persons; (2) located, organized, or ordinarily resident in a Sanctioned Jurisdiction; or (3) owned or controlled, directly or indirectly, individually or in aggregate, by any Sanctioned Persons. Each of the Concessionaire, any Equity Participant (or Affiliates controlled thereby), and their respective directors, members, partners, officers, employees, controlling shareholders, and to the knowledge of the Concessionaire, any of its Affiliates (other than Affiliates controlled by Equity Participants), or their respective directors, members, partners, officers, employees, controlling shareholders, and any agents, representatives, or other persons acting on their behalf are in compliance with applicable Sanctions. Neither the Concessionaire, nor any Equity Participant (or Affiliates controlled thereby), nor, to the knowledge of the Concessionaire, any of its Affiliates (other than Affiliates controlled by Equity Participants), has been subject to any legal proceedings or made any disclosures to any Governmental Authority relating to violations of applicable Sanctions. None of the Concessionaire, any of its Affiliates, or Equity Participants is an "Entidad rusa colaboradora" (collaborating Russian entity) as that term is defined in Section 5 of Puerto Rico Executive Order OE-2022-018.

(k) *Brokers.* Except for any broker or advisor whose fees will be paid by the Concessionaire or its Affiliates, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Concessionaire, any Equity Participant or any of their respective Affiliates who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

(l) *Accuracy of Information.* To the knowledge of the Concessionaire, all information regarding the Concessionaire and the Operator provided to the Authority by the Concessionaire or on behalf of the Concessionaire or the Operator was accurate in all material respects at the time such information was provided and continues to be accurate in all material respects as of the Effective Date.

Section 9.3 Tax Filings.

(a) The Concessionaire for itself and each of its Equity Participants (if the Concessionaire is a conduit entity under the PR Code) represents that as of the date of this Agreement (x) neither it nor any of its Equity Participants has any outstanding debts for unemployment insurance, temporary disability (workmen's compensation), chauffeur's social

security with the Puerto Rico Department of Labor and Human Resources, income taxes with the PR Department of Treasury, or real or personal property taxes with the Municipal Revenues Collection Center (the "CRIM") or (y) it or its Equity Participants have a payment plan in place with respect to any outstanding debt for the foregoing items and have complied therewith.

(b) The Concessionaire acknowledges and agrees that it shall obtain and deliver to the Authority, in each case dated not earlier than sixty (60) days prior to the Closing Date, the following:

(i) A copy of the Concessionaire's Merchant's Registration Certificate.

(ii) Certifications of filing of income and sales and use tax returns, issued by the Internal Revenue Division of the PR Department of Treasury, or a certification by the Concessionaire and each of its Equity Participants (if the Concessionaire is a conduit entity under the PR Code) that as of the date of this Agreement it does not have and has not had to submit income or sales and use tax returns and pay taxes in the Commonwealth during the past five (5) years.

(iii) A no taxes debt due certificate, or payment plan and compliance therewith, issued by the Internal Revenue Division of the PR Department of Treasury.

(iv) A certificate of no debt, or payment plan and compliance therewith, with respect to real and personal property taxes issued by the CRIM.

(v) A certificate of no debt, or payment plan and compliance therewith, for unemployment insurance, temporary disability (workmen's compensation) and chauffeur's social security issued by the Puerto Rico Department of Labor and Human Resources.

(vi) A certification issued by the Puerto Rico Child Support Administration reflecting that the Concessionaire is in compliance with the withholdings required to be made by employers under applicable Law.

Section 9.4 Non-Waiver. No investigations made by or on behalf of any Party at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Party in this Agreement or pursuant to this Agreement. No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

Section 9.5 Survival.

(a) *Authority's Representations and Warranties*. The representations and warranties of the Authority contained in Article 9 shall survive and continue in full force and effect for the benefit of the Concessionaire as follows: (i) as to the representations and warranties contained in Sections 9.1(a) through (h) (inclusive) without time limit; and (ii) as to all other matters, for the period that runs from the Closing Date until the first anniversary of the Closing,

unless a *bona fide* notice of a Claim under Section 12.2 shall have been given, in writing in accordance with Article 20, prior to the expiry of such period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim; *provided* such determination or settlement is being pursued diligently and in good faith by the applicable Party.

(b) *Concessionaire's Representations and Warranties.* The representations and warranties of the Concessionaire contained in Section 9.2 shall survive and continue in full force and effect for the benefit of the Authority as follows: (i) as to the representations and warranties contained in Sections 9.2(a) through (j) (inclusive), without time limit; and (ii) as to all other matters, for a period that runs from the Closing Date until the first anniversary of the Closing unless a *bona fide* notice of a Claim under Section 12.2 shall have been given, in writing in accordance with Article 20, prior to the expiry of such period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim; *provided* such determination or settlement is being pursued diligently and in good faith by the applicable Party.

Section 9.6 Operator. To the extent the Operator is not the Concessionaire, the Concessionaire shall cause the Operator to deliver to the Authority at the Closing a certificate executed by an officer of the Operator with knowledge of the matters contained therein in form and substance acceptable to the Authority in which the Operator represents and warrants as follows: (i) the Operator is duly organized, validly existing and in good standing under the laws of the state of its organization and is duly qualified to conduct business in the Commonwealth; (ii) except as disclosed in the written certification that the Concessionaire delivered to the Authority prior to the Bid Date (or, to the extent changes in ownership of the Operator are made prior to Closing that would be permitted under the definition of "Change in Control," the Closing Date), no Person owns, directly or indirectly, ten percent (10%) or more of the capital stock, units, partnership or membership interests and other equity interests or securities of the Operator (including options, warrants and other rights to acquire any such equity interests); (iii) the Operator has the power and authority to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in connection with its engagement by the Concessionaire; (iv) the Operator has all necessary expertise, qualifications, experience, competence, skills and know-how to perform the Toll Road Operations in accordance with this Agreement; (v) the Operator is not in breach of any applicable Law that could have a material adverse effect on its ability to operate the Toll Roads; (vi) neither the Operator, any Affiliate of the Operator controlled by Equity Participants nor any other Person who holds any shares of capital stock or securities of, or units, partnership, membership interests or other equity interest in the Operator, nor their respective directors, members, partners, officers, employees, or to the knowledge of the Operator, any of its Affiliates (other than Affiliates controlled by Equity Participants), their respective directors, members, partners, officers, employees, controlling shareholders, and any agents, representatives, or other persons acting on their behalf, are: (1) Sanctioned Persons; (2) located, organized, or ordinarily resident in a Sanctioned Jurisdiction; or (3) owned or controlled, directly or indirectly, individually or in aggregate, by any Sanctioned Persons. The Operator, any of its Affiliates controlled by Equity Participants, and their respective directors, members, partners, officers, employees, controlling shareholders, and to the knowledge of the Operator, any of its Affiliates

(other than Affiliates controlled by Equity Participants), their respective directors, members, partners, officers, employees, controlling shareholders, and any agents, representatives, or other persons acting on their behalf are in compliance with applicable Sanctions. Neither the Operator nor any of its Affiliates has been subject to any legal proceedings or made any disclosures to any Governmental Authority relating to violations of applicable Sanctions. Neither the Operator nor any of its Affiliates is an "Entidad rusa colaboradora" (collaborating Russian entity) as that term is defined in Section 5 of Puerto Rico Executive Order OE-2022-018; (vii) there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the best of the Operator's knowledge, threatened against the Operator, that would have a material adverse effect on the Operator's ability to operate the Toll Roads; and (viii) the Operator is in compliance with the Commonwealth Contractor Requirements and provides to the Authority the sworn statements and certificates required thereby. The same officer of the Operator shall also deliver to the Authority at the Closing the Sworn Statement for Closing.

ARTICLE 10

FINANCE OBLIGATIONS

Section 10.1 Concessionaire's Obligations. Except in those instances where the Authority is required to provide the funding of costs and expenses related to the Authority's obligations under Section 2.5(i), Article 4 or Modifications as contemplated by Article 5, the Concessionaire shall be responsible for obtaining any financing for the performance of its obligations under this Agreement, which financing shall comply with all requirements of this Agreement.

Section 10.2 Authority's Obligations.

(a) The Authority shall, to the extent consistent with applicable Law and at the sole cost and expense of the Concessionaire, cooperate with the Concessionaire with respect to documentation and other actions reasonably and customarily necessary to obtain, maintain, add to or replace financing (including any private activity bond financings and any full or partial refinancings of any existing financing) for the performance of the obligations of the Concessionaire hereunder. The Authority's cooperation shall include, but not be limited to, as applicable, (i) reviewing, approving, executing and delivering documents which substantiate the terms of this Agreement (including any consents, certificates and agreements necessary to confirm that the debt evidenced by the relevant financing constitutes Concession Mortgage Debt, if applicable), (ii) acting as a Conduit Issuer for purposes of any issuance of private activity bonds constituting Concession Mortgage Debt or facilitating the engagement of a Conduit Issuer for such purposes (to the extent any such facilitation is reasonably required if the Authority reasonably determines that it will not act as such Conduit Issuer), (iii) responding to reasonable requests for available information and material to furnish to any proposed Concession Mortgagee to facilitate financing to the extent permitted by applicable Law and contractual obligations with third parties and to the extent the Authority considers such requests reasonable under the circumstances, and (iv) providing certificates or other deliverables related to such financings as may be reasonably requested by the Concessionaire from the Authority as being required by applicable Law or contractual obligations with third parties and to the extent the Authority considers such requests reasonable under the circumstances; *provided, however*, that nothing

herein shall obligate the Authority to consent to service of process, to become subject to any legal process in any jurisdiction other than in the Commonwealth, or to enter into any agreement not governed by the Laws of the Commonwealth. Any agreement entered into under this Section 10.2 shall be subject to review for form and legality by the General Counsel of the Authority. If requested to do so by the Concessionaire, the Authority shall, at the sole cost and expense of the Concessionaire, use its Reasonable Efforts to cause the Authority's then independent public accountants to consent to the use and inclusion of certain financial information regarding the Toll Roads in connection with the Concessionaire's public or private offering of securities, as the case may be. In addition, the Authority shall, promptly upon the request of the Concessionaire or any Concession Mortgagee, execute, acknowledge and deliver to the Concessionaire, or any of the parties specified by the Concessionaire, standard consents and estoppel certificates with respect to this Agreement which may be qualified to the best of the knowledge and belief of a designated representative of the Authority. Nothing herein shall require the Authority to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with or in violation of any applicable Law or the provisions of this Agreement. Nothing in this Agreement shall prohibit or prevent the Authority from issuing bonds or entering into additional obligations to finance Modifications (*provided* that any and all works or improvements resulting from such Modification shall be for the sole use of the Concessionaire in accordance with this Agreement). The Authority acknowledges and agrees that any new debt or other obligations undertaken by the Authority after the Effective Date may not be secured by any of the Toll Road Land, the Toll Road Facilities or the Toll Road Assets or the Toll Road Revenues.

(b) If the Concessionaire reasonably believes that it is or may become eligible for federal financing or funding assistance in the performance of its obligations under this Agreement or that the Authority is or may become eligible for such federal financing or funding assistance with respect to the Toll Roads, it may request the assistance and cooperation of the Authority in seeking such assistance. In such event, upon agreement by the Concessionaire to reimburse the Authority for all related costs and expenses incurred by the Authority and subject to such other conditions and additional limitations as the Authority may require, the Authority shall use Reasonable Efforts to cooperate with the Concessionaire to obtain such financing or funding assistance. For purposes of this Section 10.2(b), "federal financing or funding assistance" shall mean (i) assistance under the Transportation Infrastructure Finance and Innovation Act of 1988, as amended, or any similar federal program, (ii) grant or other funding assistance from any federal agency, including under any emergency or disaster response or recovery program administered by the Federal Emergency Management Agency, and (iii) allocation of federal volume ceiling for tax-exempt private activity bonds for surface transportation projects by the United States Department of Transportation under Section 142(m)(2)(C) of the U.S. Code. Nothing in this Section 10.2(b) shall obligate the Authority (1) to advocate or recommend the enactment or adoption of any federal or Commonwealth legislation or regulations, (2) to make or recommend an allocation of the Commonwealth's private activity bond ceiling under Section 146 of the U.S. Code, or any similar provision, including provisions related to tax credit bonds, or (3) to cooperate with the Concessionaire in connection with obtaining any federal financing or funding assistance if (A) the Authority has, or reasonably expects to have, a competing application for such federal financing assistance that could be adversely impacted, (B) the Authority is required to commit to the expenditure or

allocation of Authority highway funds or other funds in connection with such request, or (C) such financing or funding assistance could reasonably be expected to have a material adverse effect on the credit rating of the Commonwealth or the Authority.

Section 10.3 Concessionaire's Obligation for Estoppel Certificates. The Concessionaire shall, promptly upon the request of the Authority, execute and deliver to the Authority, or any of the parties specified by the Authority, standard consents and estoppel certificates with respect to this Agreement which may be qualified to the best of the knowledge and belief of a designated representative of the Concessionaire. Nothing herein shall require the Concessionaire to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with applicable Law and the provisions of this Agreement.

ARTICLE 11

COMPLIANCE WITH LAWS

Section 11.1 Compliance with Laws.

(a) The Concessionaire shall, at all times and at its own cost and expense, observe and comply, in all material respects, and cause the Toll Road Operations to observe and comply, in all material respects, with all applicable Laws now existing or later in effect that are applicable to it or such Toll Road Operations, including those Laws expressly enumerated in this Article 11, and those that may in any manner apply with respect to the performance of the Concessionaire's obligations under this Agreement. The Concessionaire shall notify the Authority in writing within seven (7) days after receiving notice from a Governmental Authority that the Concessionaire may have violated any of the above.

(b) If, at any time during the Term, the FHWA promulgates or enforces a rule, regulation, requirement, standard, or recommendation that is not a Law but induces compliance through a program of financial incentives for compliance or financial disincentives for non-compliance, the Concessionaire shall not be obligated to observe or comply with such FHWA action. However, if the Concessionaire elects not to comply with any such FHWA action applicable to the Toll Roads the cost of which the Authority has elected to pay and the Authority suffers a financial disincentive as a result thereof with regard to any program, road, or highway within the Commonwealth other than the Toll Roads, the Concessionaire shall reimburse the Authority, within forty-five (45) days after the Concessionaire's receipt of a detailed invoice therefor, for the amount actually lost or suffered by the Authority as a result of such non-compliance. If the Concessionaire elects to comply with such FHWA action applicable to the Toll Roads and the Authority receives a financial incentive as a result thereof, the Authority shall pay to the Concessionaire, within forty-five (45) days thereafter, an amount equal to such incentive (or, if applicable, the fair share of such incentive attributable to the Toll Roads if any other program, road, or highway other than the Toll Roads is involved), to the fullest extent permitted by Law.

Section 11.2 Non-Discrimination Laws.

(a) The Concessionaire shall comply with all applicable Commonwealth and federal Laws regarding non-discrimination, including: (i) the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.* (1981); (ii) the Civil Rights Act of 1991, P.L. 102-166; (iii) Executive Order Number 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000(e) note, as amended by Executive Order Number 11375, 32 Fed. Reg. 14,303 (1967) and by Executive Order Number 12086, 43 Fed. Reg. 46,501 (1978); (iv) the Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); (v) the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34 (1967); (vi) the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); (vii) the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (1990); (viii) Act No. 100 of June 30, 1959, 29 P.R. Laws Ann. § 146 *et seq.*, as amended; (ix) Act No. 17 of April 22, 1988, 29 P.R. Laws Ann. § 155 *et seq.*, as amended; and (x) Act No. 69 of June 6, 1985, 29 P.R. Laws Ann. § 1321 *et seq.*, as amended.

(b) Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 *et seq.*, the Concessionaire understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Agreement or from activities provided for under this Agreement on the basis of the disability. The Concessionaire agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of the Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Authority through contracts with outside contractors. The Concessionaire shall be responsible for and agrees to indemnify and hold harmless the Authority from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Authority as a result of the Concessionaire's failure to comply with the provisions of this Section 11.2(b).

Section 11.3 Commonwealth Non-Discrimination/Sexual Harassment Clause. Pursuant to Act No. 100 of June 30, 1959, 29 P.R. Laws Ann. § 146 *et seq.*, as amended (Non-Discrimination Act), Act No. 17 of April 22, 1988, 29 P.R. Laws Ann. § 155 *et seq.*, as amended (Sexual Harassment Act), and Act No. 69 of June 6, 1985, 29 P.R. Laws Ann. § 1321 *et seq.*, as amended (Sexual Discrimination Act), the Concessionaire agrees as follows during the Term:

(a) In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under this Agreement or any subcontract, the Concessionaire, any Contractor or any Person acting on behalf of the Concessionaire or a Contractor shall not by reason of gender, race, creed, or color discriminate against any person who is qualified and available to perform the work to which the employment relates.

(b) Neither the Concessionaire nor any Contractor nor any Person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under this Agreement on account of gender, race, creed, or color.

(c) The Concessionaire and all Contractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy

must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

(d) The Concessionaire shall not discriminate by reason of gender, race, creed, or color against any Contractor or supplier who is qualified to perform the work to which the contract relates.

(e) The Concessionaire shall include the provisions of this Section 11.3 in every subcontract so that such provisions will be binding upon each Contractor.

(f) In the event that any Concessionaire Default results from a violation of the terms and conditions of this Section 11.3 as described in Section 16.1(b)(i), the Authority may cancel or terminate this Agreement in accordance with Section 16.1(b)(i). In addition, the Authority may proceed with debarment or suspension and may place the Concessionaire in any contractor responsibility file maintained by the Authority in accordance with the Authority's normal practice in matters of suspension and debarment.

Section 11.4 Non-Collusion and Acceptance. The Concessionaire attests, subject to the penalties for perjury, that no Representative of the Concessionaire, directly or indirectly, to the best of the Concessionaire's knowledge, entered into or offered to enter into any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Agreement other than that which is expressly set forth in this Agreement.

Section 11.5 Local Goods and Services. As required by Article 10 of Act No. 14 of the Legislative Assembly of Puerto Rico, enacted on January 8, 2004, 3 P.R. Laws Ann. § 930 *et seq.*, the Concessionaire shall use, to the extent available and applicable to the services provided hereunder, goods extracted, produced, assembled, packaged, bottled or distributed in the Commonwealth by businesses operating in the Commonwealth or distributed by agents established in the Commonwealth.

Section 11.6 Concessionaire Integrity.

(a) The Concessionaire shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of Commonwealth or federal Laws, regulations, or other requirements that govern contracting with the Authority. The Concessionaire certifies that it does not represent particular interests in cases or matters that would imply a conflict of interest or public policy between the Authority and the interests it represents.

(b) The Concessionaire and each Covered Party is in compliance with and shall continue to comply at all times with laws that prohibit corruption and regulate criminal acts involving public functions or public funds applicable to the Concessionaire under State or federal Law, including the Foreign Corrupt Practices Act. If a Covered Party after the Effective Date becomes indicted or convicted in a criminal procedure for any type of offense described in Section 9.2(g), the Concessionaire shall immediately notify the Authority thereof in writing as required by Act No. 2.

(c) The Concessionaire shall not disclose to others any confidential information gained by virtue of this Agreement in violation of the confidentiality agreement described in Section 2.5(g).

(d) The Concessionaire shall not, in connection with this Agreement or any other agreement with the Authority, directly, or indirectly, offer, confer or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion or violation of a known legal duty by any officer or employee of the Authority.

(e) The Concessionaire shall not, in connection with this Agreement or any other agreement with the Authority, directly or indirectly, offer, give or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Authority.

(f) The Concessionaire shall not accept or agree to accept from, or give or agree to give to, any Representative of the Authority, any gratuity from any person in connection with this Agreement that is intended by the provider thereof to be a material inducement to enter into this Agreement or any other agreement.

(g) The Concessionaire, upon being informed that any violation of the provisions of this Section 11.6 has occurred or may occur, shall immediately notify the Authority in writing.

(h) The Concessionaire, by execution of this Agreement and any request for compensation pursuant hereto, certifies and represents that it has not violated any of the provisions of this Section 11.6.

(i) The Concessionaire shall implement and administer policies and procedures designed to promote compliance with Sanctions and anti-bribery/anti-corruption laws and regulations.

(j) The Concessionaire, upon the inquiry or request of the Comptroller of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Comptroller of the Commonwealth. Such information may include the Concessionaire's business or financial records, documents or files of any type or form that refers to or concerns this Agreement. Such information shall be retained by the Concessionaire for a period of five (5) years unless otherwise provided by Law.

(k) In the event that any Concessionaire Default results from a violation of any of the provisions of this Section 11.6, the Authority may terminate this Agreement in accordance with Section 16.1(b)(i) (for the avoidance of doubt, subject to the cure periods set forth in Section 16.1(a)(i) and Section 16.1(b)(i)) and any other agreement with the Concessionaire, claim liquidated damages in an amount equal to the value of anything received by the Concessionaire in breach of these provisions, claim damages for all expenses incurred in obtaining another Concessionaire to complete performance hereunder and debar and suspend the

Concessionaire from doing business with the Authority. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Authority may have under Law, statute, regulation, or otherwise.

(l) For purposes of this Section 11.6 only, the words "confidential information," "consent," "Concessionaire" and "gratuity" shall have the following definitions:

(i) "confidential information" means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Authority;

(ii) "consent" means written permission signed by a duly authorized officer or employee of the Authority; *provided* that where the material facts have been disclosed, in writing, by prequalification, bid, proposal or contractual terms, the Authority shall be deemed to have consented by virtue of execution of this Agreement;

(iii) "Concessionaire" means the entity that has entered into this Agreement with the Authority; and

(iv) "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or contracts of any kind.

Section 11.7 Commonwealth Tax Liabilities. The Concessionaire shall inform the Authority if, at any time during the Term, it becomes delinquent in the payment of Taxes imposed by any Governmental Authority of the Commonwealth (other than Commonwealth Tax liabilities for which the Concessionaire is not responsible under Section 3.10(b)).

Section 11.8 Contractor and Supplier Contracts. The Concessionaire shall include the provisions of this Article 11 and Section 9.3 in every subcontract and supply contract so that they shall be binding on each Contractor.

Section 11.9 Practice of Engineering, Architecture and Other Professions in the Commonwealth. To the extent that performance of the Toll Road Operations involves performance of architectural, engineering, land surveying, and landscape architecture services governed by Act No. 173 of the Legislative Assembly of Puerto Rico, enacted on August 12, 1988, 20 P.R. Laws Ann. § 711 *et seq.*, as amended ("Act No. 173"), then (A) the Concessionaire shall comply (and shall require its subcontractors or agents, if any, to comply) with Act No. 173 and (B) the Concessionaire shall monitor compliance by its subcontractors and agents with Act No. 173.

Section 11.10 Governmental Contractor Code of Ethics. Concessionaire and the Operator shall comply with the requirements of the Code of Ethics.

Section 11.11 Certifications Required by Commonwealth Contractor Requirements. The Concessionaire has (i) certified that it has complied and is in compliance with the provisions

of the Public-Private Partnerships Authority's Ethical Guidelines and (ii) delivered the Sworn Statement and the Oversight Board Certification herewith.

Section 11.12 Duty to Inform. The Concessionaire shall inform the Authority if, at any time during the Term, it becomes subject to investigation in connection with any criminal or civil enforcement actions related to acts of corruption, the public treasury, the public trust, a public function, or charges involving public funds or property. The Concessionaire shall inform the Authority if, at any time during the Term, it becomes subject to Sanctions or, or to its knowledge, the subject of an investigation into potential violation by it of applicable Sanctions, unless prohibited by applicable law.

ARTICLE 12

INDEMNIFICATION

Section 12.1 Indemnification with Regard to Third Party Claims.

(a) *Indemnification by the Concessionaire*. To the fullest extent permitted by Law, the Concessionaire shall indemnify and hold harmless the Authority and each of its Representatives from and against any Losses actually suffered or incurred by the Authority or any such Representative as a result of any Third Party Claims arising from (i) any Assumed Liabilities; (ii) any tax or mortgage recording charge attributable to any Transfer of the Concessionaire Interest or any part thereof; or (iii) any liabilities borne by the Concessionaire pursuant to Section 5.4(d); *provided, however*, that such Third Party Claims are made in writing within a period of three (3) years from the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations.

(b) *Indemnification by the Authority*. To the fullest extent permitted by Law, the Authority shall indemnify and hold harmless the Concessionaire and each of its Representatives from and against any Losses actually suffered or incurred by the Concessionaire or any such Representative as a result of any Third Party Claims arising from (i) any Excluded Liabilities or (ii) pre-existing environmental conditions on Additional Lands described in Section 5.4 to the extent that the Authority requires the acquisition of Additional Lands under Section 5.2; *provided, however,* that such Third Party Claims are made in writing within a period of three (3) years of the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations.

(c) *Notice of Third Party Claim*. If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt notice thereof, but in any event no later than thirty (30) days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim in reasonable detail (and include a copy of any complaint or related documents) and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party. If the Third Party Claim involves an Excluded Environmental Liability, then the Authority shall have the right, in its discretion, to

undertake any remediation or other action required to be made in connection with such Third Party Claim, the costs of such remediation or other action to be borne solely by the Authority.

(d) *Defense of Third Party Claim.* The Indemnifier may participate in or assume the defense of any Third Party Claim by giving notice to that effect to the Indemnified Party not later than thirty (30) days after receiving notice of that Third Party Claim (the "Notice Period"); *provided, however,* that the Indemnifier shall not be permitted to assume the defense of such Third Party Claim to the extent such assumption would adversely impact any defense asserted by the Indemnified Party. The Indemnifier's right to do so shall be subject to the rights of any insurer or other Party who has potential responsibility with respect of that Third Party Claim. The Indemnifier agrees to pay all of its own expenses of participating in or assuming each defense. The Indemnified Party shall cooperate in good faith in the defense of each Third Party Claim, even if the defense has been assumed by the Indemnifier and may participate in such defense assisted by counsel of its own choice at its own expense. If the Indemnified Party has not received notice within the Notice Period that the Indemnifier has elected to assume the defense of such Third Party Claim, the Indemnified Party may assume such defense, assisted by counsel of its own choosing and the Indemnifier shall be responsible for all reasonable costs and expenses paid or incurred in connection therewith and any Loss suffered or incurred by the Indemnified Party with respect to such Third Party Claim.

(e) *Assistance for Third Party Claims.* The Indemnifier and the Indemnified Party will use all Reasonable Efforts to make available to the Party which is undertaking and controlling the defense of any Third Party Claim (the "Defending Party") (i) those employees whose assistance, testimony and presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim and (ii) to the extent permitted by Law, all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim, and shall otherwise co-operate with the Defending Party. The Indemnifier shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by the Indemnified Party to the Indemnifier hereunder, which expense shall not exceed the actual cost to the Indemnified Party associated with such employees.

(f) *Settlement of Third Party Claims.* If an Indemnifier elects to assume the defense of any Third Party Claim in accordance with Section 12.1(d), the Indemnifier shall not be responsible for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense of such Third Party Claim. However, if the Indemnifier fails to take reasonable steps necessary to defend diligently such Third Party Claim within thirty (30) days after receiving notice from the Indemnified Party that the Indemnified Party *bona fide* believes on reasonable grounds that the Indemnifier has failed to take such steps, the Indemnified Party may, at its option, elect to assume the defense of and to compromise or settle the Third Party Claim assisted by counsel of its own choosing and the Indemnifier shall be responsible for all reasonable costs and expenses paid or incurred in connection therewith. The Indemnified Party shall not settle or compromise any Third Party Claim without obtaining the prior written consent of the Indemnifier unless such settlement or compromise is made without any responsibility to, and does not require any action on the part of, the Indemnifier and does not in any way adversely affect the Indemnifier.

Section 12.2 Indemnification with Regard to Breaches of Covenants, Representations or Warranties.

(a) *Indemnification by the Concessionaire.* The Concessionaire shall indemnify and hold harmless the Authority and each of its Representatives from and against any Losses actually suffered or incurred by the Authority or any such Representative arising from (i) any failure by the Concessionaire, its Affiliates or their respective Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement or (ii) any breach by the Concessionaire of its representations or warranties set forth in Section 9.2; *provided, however,* that such representations and warranties continue to survive at such time as provided in Section 9.5(b) and a notice of a Claim shall have been given, in writing in accordance with Article 20, prior to the expiry of such survival period as provided in Section 9.5(b).

(b) *Indemnification by the Authority.*

(i) The Authority shall indemnify and hold harmless the Concessionaire and each of its Representatives from and against any Losses actually suffered or incurred by the Concessionaire or any such Representative arising from (A) any failure by the Authority or its Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement or any Other Authority Agreement or (B) any breach by the Authority of its representations or warranties set forth in Article 9 or in any Other Authority Agreement; *provided, however,* that such representations and warranties continue to survive at such time as provided in Section 9.5(a) or such Other Authority Agreement, as the case may be, and a notice of a Claim shall have been given, in writing in accordance with Article 20, prior to the expiry of such survival period as provided in Section 9.5(a) or such Other Authority Agreement, as the case may be.

(ii) No Claim may be made by the Concessionaire or the Concessionaire's Representatives against the Authority under Section 12.2(b)(i) for the breach of any representation or warranty made or given by the Authority in Article 9 or any Other Authority Agreement unless (A) the Loss suffered or incurred by the Concessionaire or its Representatives in connection with such breach is in excess of five hundred thousand dollars ($500,000) and (B) the aggregate of all Losses suffered or incurred by the Concessionaire or its Representatives exceeds ten million dollars ($10,000,000), in which event the amount of all such Losses in excess of such amount may be recovered by the Concessionaire or its Representatives; *provided, however*, that the maximum aggregate liability of the Authority to the Concessionaire or its Representatives in respect of such Losses in connection with breaches of the Authority's representations and warranties in Article 9 or any Other Authority Agreement shall not exceed ten percent (10%) of the Concession Fee and *provided further*, that this Section 12.2(b)(ii) shall not apply to Claims for a breach of representation or warranties in Sections 9.1(a), (b), (c), (d), (e), (f), (g) or (h) or to claims for fraud, intentional misrepresentation or intentional breach of the representations or warranties in Article 9 or any Other Authority Agreement.

Section 12.3 Losses Net of Insurance; Reductions and Subrogation.

(a) For purposes of this Article 12, the amount of any Losses for which indemnification is provided hereunder shall be reduced by any amounts actually recovered by the Indemnified Party under insurance policies with respect to such Losses, it being understood that the obligations of the Indemnifier hereunder shall not be so reduced to the extent that any such recovery results in an increase in the Indemnified Party's insurance premiums, or results in any other additional cost or expense to any such Indemnified Party.

(b) If the amount of any Loss incurred by an Indemnified Party at any time subsequent to the making of a payment required under this Article 12 on account of such Losses (an "Indemnity Payment") is reduced by any subsequent recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the amount of such reduction (less any costs, expenses (including Taxes) or premiums incurred or increased in connection therewith), together with interest thereon from the date of such recovery, settlement or reduction at the Bank Rate, shall promptly be repaid by the Indemnified Party to the Indemnifier.

(c) Upon making a full Indemnity Payment, the Indemnifier shall, to the extent of such Indemnity Payment, be subrogated to all rights of the Indemnified Party against any third party in respect of the Loss to which the Indemnity Payment relates. Until the Indemnified Party recovers full payment of its Loss, any and all claims of the Indemnifier against any such third party on account of such Indemnity Payment shall be postponed and subordinated in right of payment to the Indemnified Party's rights against such third party.

Section 12.4 Payment and Interest. All amounts to be paid by an Indemnifier hereunder shall bear interest at a rate per annum equal to the Bank Rate, calculated annually and payable monthly, both before and after judgment, from the date that the Indemnified Party disbursed funds, suffered damages or losses or incurred a loss or expense in respect of a Loss for which the Indemnifier is responsible to make payment pursuant to this Article 12, to the date of payment by the Indemnifier to the Indemnified Party.

Section 12.5 Offset Rights; Limitations on Certain Damages.

(a) Any other provision herein notwithstanding, each Party's obligations under this Agreement are subject to, and each Party shall have the benefit of, all defenses, counterclaims, rights of offset or recoupment or other claims and rights, including the right to deduct payments due to the other Party hereunder (collectively, "Offsets") which such Party may have at any time against such other Party (or any of their respective successors and assigns) or any transferee or assignee of any such other Party's rights hereunder (to the extent permitted hereunder) as against such Party or any part thereof or interest therein, whether the claim or right of such Party relied upon for such purpose is matured or unmatured, contingent or otherwise, and no transfer or assignment of this Agreement or any other obligation of such other Party, or of any rights in respect thereof, pursuant to any plan of reorganization or liquidation or otherwise shall affect or impair the availability to each Party of the Offsets; *provided* that in no event shall any Party's right to Offsets permit such Party to exercise such right in a manner that would reduce the Toll Road Concession Value to an amount that is less than the sum of the Concession

Mortgage Debt and any related Breakage Costs. The Parties acknowledge and agree that, notwithstanding any provision to the contrary herein, the Escrow Agreements, the Disbursement Instructions or elsewhere, the Concessionaire's right to Offsets pursuant to this Section 12.5 shall include the right to deduct from any payments due to the Authority under this Agreement the following: (i) any Concession Compensation due and payable by the Authority, (ii) any Delinquent Non-Cash Tolls that are due and payable, and (iii) any deficiency in the Required Balance on deposit in the Concessionaire Escrow Subaccount that has not been covered or replenished as provided in Section 3.16(d)(v).

(b) In no event shall any Party be responsible to the other Party under this Agreement for consequential, indirect, exemplary or punitive damages (except indemnification with respect to Third Party Claims pursuant to this Agreement), nor shall a Party be obligated to indemnify the other Party or any other Person with respect to any Losses or damages caused by the gross negligence, willful misconduct or fraud of such other Party or Person. The Parties agree that payment for lost Toll Road Revenues as part of Concession Compensation or the Toll Road Concession Value shall not constitute consequential, indirect, exemplary or punitive damages under the Act or otherwise.

(c) Except (i) in the event of a termination of this Agreement pursuant to Section 2.4(d), Section 14.2 or Section 16.2, (ii) in cases involving fraud or intentional misrepresentation subject to all of the terms and conditions hereof or (iii) with respect to any Compensation Event, the provisions of this Article 12 shall constitute the sole and exclusive right and remedy available to any Party hereto for any Third Party Claim or for any actual or threatened breach of any representation, warranty, covenant or agreement contained herein.

Section 12.6 Survival. This Article 12 shall remain in full force and effect in accordance with its terms and shall not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its representations, warranties or covenants hereunder or by any termination or rescission of this Agreement by any Party.

Section 12.7 Agency for Representatives. Each of the Authority and the Concessionaire agrees that it accepts each indemnity under the terms of this Agreement in favor of any of its Representatives or Affiliates, as applicable, as agent and trustee of such Representative or Affiliate, as applicable, and agrees that each of the Authority and the Concessionaire may enforce any such indemnity in favor of its Representatives or Affiliates, as applicable, on behalf of such Representative or Affiliate.

ARTICLE 13

INSURANCE

Section 13.1 Insurance Coverage Required. The Concessionaire shall maintain at the Concessionaire's own expense, or cause to be maintained, insurance of the types and limits required pursuant to this Section 13.1 and Section 13.2: (i) throughout the Term and (ii) with respect to any period in which the Concessionaire is required to return and perform any additional work after the Term, those coverages that would typically be obtained in accordance with standard industry practice (any dispute as to the need of a particular coverage shall be

resolved by an independent insurance consultant hired or approved by Authority and such coverage shall be obtained by the Concessionaire if the independent insurance consultant determines such insurance is needed) (the "Required Coverages").

(a) *Commercial General Liability Insurance.* The Concessionaire shall maintain under Insurance Services Office occurrence version Commercial General Liability Insurance including employers liability stop-gap, or equivalent coverage with limits of liability of not less than $25,000,000 per occurrence and $25,000,000 annual aggregate. This insurance policy shall (i) name the Authority and its officers, employees, and Representatives as additional insureds and (ii) be primary to any insurance or self-insurance programs otherwise covering the Persons described in clause (i) above. Any part of the required limit may be provided through umbrella or excess liability insurance.

(b) *Business Automobile Liability Insurance.* The Concessionaire shall maintain Insurance Services Office Business Automobile Policy or equivalent coverage with a limit of not less than $5,000,000 each accident. Such insurance shall include coverage for owned, non-owned and hired automobiles. Any part of the required limit may be provided through umbrella or excess liability insurance.

(c) *Workers Compensation Insurance.* The Concessionaire shall maintain (or cause to be maintained) the required workers compensation insurance as described by the Workers Compensation Act of Puerto Rico with the Corporación del Fondo del Seguro del Estado. The Concessionaire shall furnish the Authority with a certificate from the State Insurance Fund showing that all personnel employed in the work are covered.

(d) *Professional Liability.* The Concessionaire shall maintain professional liability with limits of not less than $5,000,000 per occurrence and in the aggregate when any architect, engineer, construction manager or other professional consultant performs work in connection with this Agreement (or, in the case of any professional consultant, a lower limit commensurate with the value of the contract pursuant to which such consultant is retained). Any retroactive date on the professional liability policy shall be the date the professional work commences or a date prior to the date the professional work commences. All claims-made policies shall remain in force for at least three (3) years beyond the date the consultant's professional work in connection with this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

(e) *Pollution Legal Liability.* The Concessionaire shall maintain pollution legal liability or equivalent coverage (including clean-up costs) with limits of not less than $5,000,000 per occurrence and in the aggregate for pollution conditions arising during the Term. If claims-made forms are used, such insurance shall remain in force for at least three (3) years beyond the date work in connection with this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

(f) *Directors and Officers Liability.* The Concessionaire shall maintain directors and officers liability with limits of liability of not less than $5,000,000 per occurrence and in the aggregate. Any retroactive date on the policy shall be on or before the Effective Date.

Policies written on a claims-made basis shall remain in force for at least three (3) years beyond the date this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

(g) *Employment Practices Liability.* The Concessionaire shall maintain employment practices liability with limits of liability of not less than $5,000,000 per occurrence and in the aggregate. Any retroactive date on the policy shall be on or before the Effective Date. Policies written on a claims-made basis shall remain in force for at least three (3) years beyond the date this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

(h) *Fiduciary Liability.* The Concessionaire shall maintain fiduciary liability with limits of liability of not less than $3,000,000 per occurrence and in the aggregate. Any retroactive date on the policy shall be on or before the Effective Date. Policies written on a claims-made basis shall remain in force for at least three (3) years beyond the date this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

(i) *Builders Risk Insurance.* When the Concessionaire undertakes any: (i) construction, (ii) major maintenance or (iii) major repairs with respect to the Toll Roads, for which Builder's Risk coverage would typically be obtained in accordance with standard industry practice, including improvements pursuant to this Agreement, the Concessionaire shall provide or cause to be provided All Risk Builder's Risk insurance or equivalent insurance. Such insurance shall (i) be at least as broad in scope as the coverage provided by the Insurance Services Office in its coverage form titled Causes-of-Loss: Special Form; (ii) be written in an amount equivalent to the full cost of construction, including foundations, footings and excavation costs; (iii) provide soft cost expense coverage, including coverage for (A) finance costs, loan interest and fees and (B) real estate fees, accounting fees, legal fees and any other increase in expense incurred as a result of covered damage; (iv) provide loss of income/rents coverage in an amount acceptable to the Authority; (v) have no coinsurance limitation or clause; (vi) name the Authority and all Contractors as insureds; (vii) include coverage for earthquake and flood; (viii) include full collapse coverage; (ix) include coverage for temporary offsite storage; (x) include coverage for pollutant cleanup; (xi) include coverage for debris removal; (xii) include law and ordinance coverage; (xiii) include equipment breakdown coverage during testing; (xiv) provide coverage for partial occupancy; and (xv) have a waiver of subrogation clause in favor of the Authority. If the parties dispute the need for Builder's Risk insurance with respect to any construction, maintenance or repairs, either party may submit the dispute to an independent insurance consultant hired or approved by the Authority, and Builder's Risk insurance shall be obtained by the Concessionaire if the independent insurance consultant provides an opinion that such insurance is needed.

(j) *Property Insurance.* The Concessionaire shall maintain property insurance for all buildings, bridges, tunnels, towers and other structures on the Toll Road Land; *provided* that, (i) for such buildings, bridges, tunnels, towers and other structures erected, constructed or placed on the Toll Road Land after the Time of Closing, the Concessionaire shall only be required to maintain such insurance at such time as such structure is no longer covered by builder's risk insurance, and (ii) the limits of coverage for all buildings, bridges, tunnels, towers and other structures on the Toll Road Land must be at least $150,000,000. During the Term, these limits may be modified by the Concessionaire based on a probable maximum loss analysis, subject to the Authority's Approval of such probable maximum loss analysis by an

independent insurance consultant that is reasonably acceptable to the Authority. In addition to the limits that may be required hereunder, such insurance shall (i) cover the full replacement cost of the property subject to the limits and probable maximum loss analysis permitted above; (ii) provide loss of income, extraordinary expenses, rents coverage in an amount reasonably acceptable to the Authority (except to the extent covered by the business interruption insurance maintained pursuant to Section 13.1(l)); (iii) have no coinsurance limitation or clause; (iv) name the Authority as an insured; (v) include waiver of subrogation in favor of the Authority; (vi) include coverage for fiber optic cable located below the ground surface; (vii) include coverage for tunnels and bridges; (viii) include coverage for communications towers; (ix) include coverage for electronic data processing equipment, data and media; (x) include coverage for earthquake, windstorm and flood; (xi) include coverage for Hazardous Substance cleanup; (xii) include coverage for debris removal; (xiii) include valuable papers coverage; and (xiv) include law and ordinance coverage. With regard to property insurance related to bridges, Concessionaire need not maintain coverage for any bridge whose replacement value is less than five hundred thousand dollars ($500,000).

(k) *Boiler & Machinery Insurance.* The Concessionaire shall maintain comprehensive boiler and machinery coverage or equipment breakdown coverage for completed structures housing pressure vessels, machinery, equipment and electrical systems with a total replacement value of $25,000 or more. Such insurance shall (i) include a limit at least equal to the total replacement cost of the equipment, plus 10%; (ii) include business interruption insurance in an amount reasonably acceptable to the Authority (except to the extent covered by the business interruption insurance maintained pursuant to Section 13.1(l)); (iii) include the Authority as an insured and (iv) include law and ordinance coverage.

(l) *Business Interruption Insurance.* The Concessionaire shall obtain business insurance against interruption or loss of projected Toll Revenues for at least six (6) months from the occurrence of the risk, resulting from physical damage to the insured property; *provided* that the limits of such coverage may be based on a maximum foreseeable loss analysis, subject to the Authority's approval of such maximum foreseeable loss analysis by an independent third party that is reasonably acceptable to the Authority, with such approval of the Authority not to be unreasonably withheld; and *provided further*, that the Authority and each Dependent Business shall be named as additional insureds thereunder.

(m) *Owners' and Contractors Protective Liability Insurance.* The Concessionaire shall obtain owners' and contractor's protective liability insurance or equivalent coverage with a limit of not less than $10,000,000 per occurrence. Such insurance shall include coverage against any negligent acts or omissions of independent contractors or subcontractors of the Concessionaire, whether resulting in bodily injury or injury to property of third parties.

(n) *Cyber Liability Insurance.* The Concessionaire shall obtain cyber liability insurance or its equivalent with a limit of not less than $5,000,000 per occurrence. Policies written on a claims-made basis shall remain in force for at least three (3) years beyond the date this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

Section 13.2 Additional Requirements.

(a) *Evidence of Insurance.* The Concessionaire shall, at the Time of Closing and throughout the Term:

(i) deliver or cause to be delivered to the Authority, or Representatives of the Authority, properly executed certificates of insurance that (A) clearly evidence all Required Coverages and provide that such insurance shall not be cancelled without ninety (90) days' notice to the Authority and (B) disclose all self-insured retentions;

(ii) at the request of the Authority, provide certified copies of policies and all policy endorsements;

(iii) provide a copy of endorsements adding any Person as an insured (or as an additional insured, as applicable) in accordance with Section 13.1(a)(i).

(iv) except as otherwise permitted under Section 13.1, notify the Authority of any deductibles and self-insured retentions that exceed two hundred fifty thousand dollars ($250,000); *provided* that (A) the Concessionaire shall not utilize deductibles or self-insured retentions in excess of (x) with respect to the insurance required by Section 13.1(i) and (j), ten percent (10%) of the total insured limit and (y) with respect to any other insurance required by this Agreement, two hundred fifty thousand dollars ($250,000), in each case, without the Approval of the Authority (which Approval shall be deemed as having been provided by the Authority if the Authority fails to respond within 10 Business Days of the receipt of a request for Approval to the extent that such request for Approval is accompanied by a supporting opinion of an independent insurance consultant) and (B) the payment of all deductibles and self-insured retentions shall be the sole responsibility of the Concessionaire;

(v) place insurance with insurers that have an A.M. Best (or equivalent) rating of no less than "A-, VII" and are authorized to do business in the Commonwealth; *provided*, that insurers that are not authorized to do business in Puerto Rico may be used as provided, and to the extent permitted, by the Puerto Rico Insurance Code, as in effect at the time that such insurance is placed;

(vi) except as otherwise stated in Section 13.1, maintain aggregate liability limits no less than the required "per occurrence" limit if aggregate liability limits apply to the insurance policy; and

(vii) notify the Authority of any proposed change in the provider of insurance required hereunder at least thirty (30) days in advance of the date of such proposed change.

(b) *Other Insurance.* The Authority shall have the right to require additional types of insurance and adjust limits of insurance to the extent necessary to reflect changes in exposure. The Concessionaire shall have the right to agree to such change or to request the Authority to provide the opinion of an independent insurance consultant or, upon receipt of the Authority's Approval, retain an independent consultant of its own, on the need for such

additional coverages or adjusted limits. The Concessionaire shall obtain such additional coverages or adjusted limits if the independent insurance consultant hired by the Authority or the Concessionaire, as the case may be, provides an opinion on the need for such additional coverages or adjusted limits. The Authority's failure to require additional coverages or adjust limits shall not relieve the Concessionaire of the Concessionaire's obligation to maintain reasonably prudent coverages and limits.

(c) *Insurance Requirements of Contractors*. The Concessionaire shall require each Contractor, tenant or subtenant to maintain coverages reasonably appropriate for its operations at limits sufficient to protect the Concessionaire, the Authority and the public at large. Such limits shall not be less than one million dollars ($1,000,000) per occurrence. Such insurance shall insure (in each case, as additional insureds) the interests of the Authority (and its officers, employees, elected officials and Representatives), the Concessionaire and any applicable tenants or subtenants of the Concessionaire with respect to the operations being performed. When requested by the Authority, the Concessionaire shall furnish certificates of insurance evidencing coverage that is reasonably acceptable in form and content to the Authority.

(d) *Cooperation*. The Authority and the Concessionaire shall do all acts, matters and things as may be reasonably necessary or required to expedite the adjustment of any loss or damage covered by insurance required hereunder so as to expedite the release and dedication of proceeds of such insurance in a manner and for the purposes herein contemplated.

(e) *Inflation Adjustment*. On each fifth (5th) anniversary of the Closing Date, the amounts of coverage required by Section 13.1 shall be adjusted by the greater of (i) zero and (ii) the percentage equal to the percentage increase in the Index between the Index for the month that is two months prior to the fifth (5th) anniversary of the Closing Date under review and the Index for the equivalent month of the fifth (5th) preceding year. The amounts to be adjusted shall be based on the results of the calculation from the preceding review period.

(f) *Commercial Availability*. The Concessionaire shall have the right to request the Authority to provide the opinion of an independent insurance consultant or, upon receipt of the Authority's Approval (which Approval shall be deemed as having been provided by the Authority if it fails to provide a response within 10 Business Days of the receipt of the request for Approval), retain an independent consultant of its own, on the availability of any insurance required hereunder (including the limits or deductibles thereof) at commercially reasonable rates. If such independent insurance consultant determines that such insurance is not available at commercially reasonable rates, the Concessionaire shall not be required to maintain such insurance so long as such insurance shall not be available at commercially reasonable rates; *provided* that during such period, the Concessionaire maintains the maximum amount of such insurance otherwise available at commercially reasonable rates.

Section 13.3 Damage and Destruction.

(a) *Obligations of Concessionaire*. If all or any part of any of the Toll Roads shall be destroyed or damaged during the Term in whole or in part by fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable),

ordinary or extraordinary, foreseen or unforeseen, the Concessionaire shall: (i) give the Authority notice thereof promptly after the Concessionaire receives actual notice of such casualty; (ii) at its sole cost and expense whether or not insurance proceeds, if any, shall be equal to the estimated cost of repairs, alterations, restorations, replacement and rebuilding (the "Casualty Cost"), proceed diligently to Restore the same and (iii) deposit all insurance proceeds received by the Concessionaire in connection with any Restoration with a Depositary; *provided, however,* that if at any time it is determined by the Authority that the net insurance proceeds received or to be received by the Concessionaire and deposited with the Depositary pursuant to (iii) are less than the Casualty Cost, then the Concessionaire shall deposit with the Depository such cash as is sufficient to cover the difference between the (A) Casualty Cost and (B) sum of (x) any Casualty Costs already incurred by the Concessionaire as of such time and (y) the net insurance proceeds received or to be received by the Concessionaire and deposited with the Depositary pursuant to (iii) (such net insurance proceeds and any additional cash deposited by the Concessionaire with the Depositary, together with any interest earned thereon, from time to time, the "Restoration Funds"); *provided further*, that the procedures of this clause (iii) of this Section 13.3(a) shall only apply to casualty events in which the Casualty Cost exceeds $500,000. The amount described in the proviso of the immediately preceding sentence shall be adjusted annually on each anniversary of the Closing Date by the greater of (i) zero and (ii) the percentage equal to the percentage increase in the Index between the Index for the month that is two months prior to the same month of the Closing Date for the anniversary period under review and the Index for the equivalent month for the immediately preceding year. The amount to be adjusted shall be based on the results of the calculation from the preceding review period.

(b) *Rights of Authority*. If (i) the Concessionaire shall fail or neglect to commence the diligent Restoration of the Toll Roads or the portion thereof so damaged or destroyed, (ii) having so commenced such Restoration, the Concessionaire shall fail to diligently complete the same in accordance with the terms of this Agreement or (iii) prior to the completion of any such Restoration by the Concessionaire, this Agreement shall expire or be terminated in accordance with the terms of this Agreement, the Authority may, but shall not be required to, complete such Restoration at the Concessionaire's expense and shall be entitled to be paid out of the Restoration Funds for the relevant Restoration costs incurred by the Authority. In any case where this Agreement shall expire or be terminated prior to the completion of the Restoration, the Concessionaire shall (A) account to the Authority for all amounts spent in connection with any Restoration which was undertaken, (B) immediately pay over or cause the Depositary to pay over to the Authority the remainder, if any, of the Restoration Funds received by the Concessionaire prior to such termination or cancellation and (C) pay over or cause the Depositary to pay over to the Authority, within five (5) Business Days after receipt thereof, any Restoration Funds received by the Concessionaire or the Depositary subsequent to such termination or cancellation. The Concessionaire's obligations under this Section 13.3(b) shall survive the expiration or any earlier termination of this Agreement.

(c) *Payment of Restoration Funds to Concessionaire.* Subject to the satisfaction by the Concessionaire of all of the terms and conditions of this Section 13.3, the Depositary shall pay to the Concessionaire from time to time, any Restoration Funds, but not more than the amount actually collected by the Depositary with respect to the relevant casualty, together with any interest earned thereon, after reimbursing itself therefrom, as well as the

Authority, to the extent, if any, of the reasonable expenses paid or incurred by the Depositary and the Authority in the collection of such monies, to be utilized by the Concessionaire solely for the Restoration, such payments to be made as follows:

(i) prior to commencing any Restoration, the Concessionaire shall furnish to the Authority for its Approval the estimated cost, estimated schedule and detailed plan for the completion of the Restoration, each prepared by an architect or engineer;

(ii) the Restoration Funds shall be paid to the Concessionaire in installments as the Restoration progresses, subject to Section 13.3(c)(iii), based upon requisitions to be submitted by the Concessionaire to the Depositary and the Authority in compliance with Section 13.3(d), showing the cost of labor and materials purchased for incorporation in the Restoration, or incorporated therein since the previous requisition, and due and payable or paid by the Concessionaire; *provided, however,* that if any lien (other than a Permitted Concessionaire Encumbrance described in clause (ii) and in clauses (iv) through (ix) of the definition thereof) is filed against the Toll Roads or any part thereof in connection with the Restoration, the Concessionaire shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise); *provided further*, that notwithstanding the foregoing, but subject to the provisions of Section 13.3(c)(iii), the existence of any such lien shall not preclude the Concessionaire from receiving any installment of Restoration Funds so long as such lien will be discharged with funds from such installment and at the time the Concessionaire receives such installment the Concessionaire delivers to the Authority and the Depositary a release of such lien executed by the holder of such lien or and in recordable form;

(iii) the amount of each installment to be paid to the Concessionaire shall be the aggregate amount of Casualty Costs theretofore incurred by the Concessionaire minus the aggregate amount of Restoration Funds theretofore paid to the Concessionaire in connection therewith; *provided* that the unapplied portion of the funds held by the Depositary are sufficient to complete the Restoration or immediately available from other sources; *provided further,* that all disbursements to the Concessionaire shall be made based upon an architect's or engineer's certificate for payment in accordance with Section 13.3(d)(iii), and disbursements may be made for advance deposits for materials and Contractors to the extent that such disbursements are customary in the industry and that the unapplied portion of the funds held by the Depositary or immediately available from other sources are sufficient to complete the Restoration; *provided, further*, that Concessionaire shall not be entitled to the disbursement of Restoration Funds to reimburse Casualty Costs incurred by the Concessionaire prior to the deposit of all Restoration Funds with the Depositary as required by Section 13.3(a); and

(iv) except as provided in Section 13.3(b), upon completion of and payment for the Restoration by the Concessionaire, subject to the rights of any Concession Mortgagee, the Depositary shall pay the balance of the Restoration Funds, if any, to the Concessionaire; *provided, however,* that if the insurance proceeds are insufficient to pay for the Restoration (or if there shall be no insurance proceeds), the Concessionaire shall nevertheless be required to make the Restoration and provide the deficiency in funds necessary to complete the Restoration as provided in Section 13.3(a)(iii).

(d) *Conditions of Payment*. The following shall be conditions precedent to each payment made to the Concessionaire as provided in Section 13.3(c):

(i) the Concessionaire shall have furnished the Authority with estimates of costs and schedule and a detailed plan for the completion of the Restoration, as provided for in Section 13.3(c)(i);

(ii) at the time of making such payment, there exists no Concessionaire Default that caused the casualty loss, destruction or damage addressed by such plan;

(iii) the Restoration shall be carried out under the supervision of the relevant architect or engineer (which has been Approved by the Authority), and there shall be submitted to the Depositary and the Authority the certificate of such architect or engineer stating that (A) the materials and other items which are the subject of the requisition have been delivered to the Toll Roads (except with respect to requisitions for advance deposits permitted under Section 13.3(c)(iii)), free and clear of all Encumbrances (other than a Permitted Concessionaire Encumbrance described in clause (ii) and in clauses (iv) through (ix) of the definition thereof), and no unsatisfied or unbonded mechanic's or other liens have been claimed, except for any mechanic's lien for claims that will be discharged, by bonding or otherwise, with funds to be received pursuant to such requisition (*provided* that a release of such lien is delivered to the Depositary in accordance with Section 13.3(c)(ii)), (B) the sum then requested to be withdrawn either has been paid by the Concessionaire or is due and payable to Contractors, engineers, architects or other Persons (whose names and addresses shall be stated), who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the several amounts so paid or due to each of such Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of such certificate, (C) no part of such expenditures has been made the basis, in any previous requisition (whether paid or pending), for the withdrawal of Restoration Funds or has been made out of the Restoration Funds received by the Concessionaire, (D) the sum then requested does not exceed the value of the services and materials described in the certificate, (E) the work relating to such requisition has been performed in accordance with this Agreement, (F) the balance of the Restoration Funds held by the Depositary or immediately available from other sources will be sufficient upon completion of the Restoration to pay for the same in full, and stating in reasonable detail an estimate of the cost of such completion and (G) in the case of the final payment to the Concessionaire, the Restoration has been completed in accordance with this Agreement.

(e) *Payment and Performance Bonds*. If the Concessionaire obtains payment or performance bonds related to a Restoration (which the Concessionaire may or may not obtain in its discretion), the Concessionaire shall name the Authority and the Concessionaire and the Concession Mortgagee, as their interests may appear, as additional indemnified parties, and shall deliver copies of any such bonds to the Authority promptly upon obtaining them.

(f) *Benefit of Authority*. The requirements of this Section 13.3 are for the benefit only of the Authority, and no Contractor or other Person shall have or acquire any claim against the Authority as a result of any failure of the Authority actually to undertake or complete

any Restoration as provided in this Section 13.3 or to obtain the evidence, certifications and other documentation provided for herein.

(g) *Investment of Restoration Funds*. Restoration Funds deposited with a Depositary shall be invested and reinvested in Eligible Investments, and all interest earned on such investments shall be added to the Restoration Funds.

(h) *Rights of Concession Mortgagee*. The Authority acknowledges and agrees that any Restoration Funds not applied to a Restoration as provided in this Section 13.3 shall be subject to the lien or liens of any Concession Mortgagee.

ARTICLE 14

ADVERSE ACTIONS

Section 14.1 Adverse Action.

(a) An "Adverse Action" shall occur if the Authority or any Governmental Authority established under the Laws of the Commonwealth takes action at any time during the Term (including enacting any law or ordinance or promulgating any rule or regulation) (including any such law, ordinance, rule or regulation affecting the tax exemption provided by the Act and the Administrative Determination) and the effect of such action is reasonably expected (i) to be principally borne by (A) the Concessionaire, (B) private operators of toll roads in the Commonwealth or (C) Contratantes and (ii) to have a material adverse effect on the fair market value of the Concessionaire Interest, except where such action (A) is in response to any act or omission on the part of the Concessionaire or its Representatives that (1) is illegal (other than an act or omission rendered illegal by virtue of the Adverse Action) or (2) constitutes nonperformance by the Concessionaire, (B) is otherwise permitted under this Agreement or (C) is mandated by action of the United States government (or any agency thereof); *provided, however*, that none of the following shall constitute an Adverse Action: (w) the exercise of law enforcement, subpoena or investigatory powers of the Authority or any Governmental Authority as permitted under this Agreement or applicable Law; (x) an increase in Taxes not directed solely at the Concessionaire, the Toll Roads, the users of the Toll Roads, private operators of toll roads in the Commonwealth or their users or Contratantes; (y) the enactment by any Governmental Authority of the Commonwealth of any law, ordinance, rule or regulation that has a material adverse impact on the exemption from taxes granted to the Concessionaire pursuant to Section 3.10(b); and (z) the development, redevelopment, construction, maintenance, modification, change in operation, opening or introduction of any existing or new mode of transportation (including, without limitation, any Competing Highway, managed lanes, any high-occupancy toll (HOT) lanes, any high-occupancy vehicle (HOV) lanes and any bus rapid transit (BRT) lanes); *provided, further*, that an action under Section 14.1(a)(i) that negatively affects the Commonwealth income tax treatment applicable to the Concessionaire or its Equity Participants pursuant to the Act and the Administrative Determination as in effect as of the Effective Date (but as supplemented by the Tax Matters Supplement) shall be deemed an Adverse Action without having to satisfy the requirements of Section 14.1(a)(ii).

(b) If an Adverse Action occurs, the Concessionaire shall have the right to receive from the Authority Concession Compensation with respect thereto (such Concession Compensation, the "AA-Compensation"); *provided, however*, that if the Adverse Action constitutes an expropriation, sequestration or requisition of all or a material part of the Toll Roads, the Toll Road Assets, the Toll Road Revenues and the Concessionaire Interest (or any of them) or materially impedes, substantially frustrates or renders impossible the Concessionaire's ability to perform its obligations hereunder continuously for ninety (90) days, then the Concessionaire shall have the right either (i) to be paid the AA-Compensation with respect thereto or (ii) to terminate this Agreement and be paid by the Authority any AA-Termination Damages, in each case by giving notice in the manner described in Section 14.1(c).

(c) As soon as practicable and in no event later than thirty (30) days following the date on which the Concessionaire first became aware of the Adverse Action, the Concessionaire shall give notice (the "AA-Preliminary Notice")to the Authority, which notice shall include (i) a statement of which Adverse Action the claim is based upon and (ii) details of the event, including a specific explanation of the reasons that the event constitutes an Adverse Action under the terms of this Agreement. Within one hundred eighty (180) days following the date of delivery of the AA-Preliminary Notice, the Concessionaire shall give the Authority another notice (the "AA-Notice") setting forth (i) details of the effect of said occurrence that is principally borne by the Concessionaire generally or principally borne by private operators of toll roads in the Commonwealth or Contratantes and not by others, (ii) details of the material adverse effect of said occurrence on the fair market value of the Concessionaire Interest, (iii) a statement as to which right referred to in Section 14.1(b) the Concessionaire has exercised and (iv) if the Concessionaire elects to exercise the right to Concession Compensation under Section 14.1(b), the amount claimed as AA-Compensation and details of the calculation thereof. The Authority shall, after receipt of the AA-Notice, be entitled by notice to require the Concessionaire to provide such further supporting particulars as the Authority may reasonably consider necessary. If the Authority wishes to dispute the occurrence of an Adverse Action or the amount of AA-Compensation, if any, claimed in the AA-Notice, it shall give notice of dispute (the "AA-Dispute Notice") to the Concessionaire within thirty (30) days following the date of receipt by it of the AA-Notice stating in reasonable detail the grounds for such dispute. If neither the AA-Notice nor the AA-Dispute Notice has been withdrawn within thirty (30) days following the date of receipt of the AA-Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure in Article 19.

(d) If the Concessionaire has the right to receive AA-Compensation, the Authority shall provide the AA-Compensation claimed by the Concessionaire within sixty (60) days following the date of receipt of the AA-Notice, or if an AA-Dispute Notice has been given, then not later than sixty (60) days following the date of determination of the AA-Compensation (together with interest at the rate set forth in Section 20.9 from the date of receipt of the AA-Dispute Notice to the date on which payment is made); *provided* that the Authority shall provide the AA-Compensation in accordance with Section 15.1(b) as if the related AA-Notice were a CE-Notice; and *provided further*, that subject to the right of the Concessionaire to receive interest thereon at the rate set forth in Section 20.9 from the date of receipt of the AA-Dispute Notice to the date on which payment is made, the Authority may defer any such payment for an additional one hundred twenty (120) days if the Authority determines, in its discretion, that such

additional period is necessary in order to obtain financing or otherwise to obtain the necessary funds to make such a payment.

(e) For the avoidance of doubt, the placement in service of a Competing Highway shall constitute a Compensation Event with respect to which Concession Compensation shall be provided in accordance with Section 15.1(f).

Section 14.2 Termination.

(a) If the Concessionaire has the right to terminate this Agreement in connection with an Adverse Action pursuant to Section 14.1(b) and the Concessionaire has exercised such right, this Agreement, subject to Section 14.3, shall terminate one hundred twenty (120) days following the date of receipt of the AA-Notice by the Authority, and on the Reversion Date the Authority shall pay to the Concessionaire pursuant to Section 14.1(b) compensation equal to the aggregate, without duplication, of (i) the Toll Road Concession Value as of the date of termination, plus (ii) the reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire as a direct result of such termination (including payments made by the Concessionaire to its Equity Participant or other Affiliates pursuant to contracts entered into on an arm's-length basis), plus (iii) the Concession Compensation calculated for the period between the date of the Adverse Action and the date of termination less (iv) any insurance or condemnation proceeds payable (or that (1) should have been payable but for (x) the breach of an obligation to take out or maintain insurance by the Concessionaire under this Agreement or (y) the invalidity or breach of any insurance policy caused by the Concessionaire under which policy such proceeds would have been paid or (2) would have been paid but for deductibles or self-insured retentions approved by the Authority pursuant to Section 13.2(a)(iv)) with respect to all or any portion of the Toll Roads as a result of the occurrence of such Adverse Action (collectively, the "AA-Termination Damages") or, if the AA-Termination Damages are determined on a date subsequent to the Reversion Date, then not later than sixty (60) days following the date of determination of the AA-Termination Damages (together with interest at the rate set forth in Section 20.9 from the Reversion Date to the date on which payment is made); *provided* that, subject to the right of the Concessionaire to receive interest at the rate set forth in Section 20.9 on the payment owed by the Authority from the Reversion Date to the date on which payment is made, the Authority may defer any such payment for an additional one hundred twenty (120) days if the Authority reasonably determines that such additional period is necessary to obtain financing or required approvals to make such a payment; *provided, however*, that any amounts received by the Concessionaire or any Concession Mortgagee from any insurance policies payable as a result of damage or destruction to the Toll Roads that has not been remedied prior to the Reversion Date shall, to the extent not used to remedy such effects, be deducted from the amount payable by the Authority to the Concessionaire so long as the Authority has not received any such amounts pursuant to Article 13.

(b) Any dispute arising out of the determination of the AA-Termination Damages shall be submitted to the dispute resolution procedure in Article 19.

(c) No AA-Notice given by the Concessionaire to the Authority in which the Concessionaire states that it elects to exercise its right of termination of this Agreement shall be valid for any purpose unless, if any Concession Mortgage Debt remains outstanding and if and to

the extent required by the terms of any Concession Mortgage, the Concessionaire has first obtained and delivered to the Authority the written consent of the Concession Mortgagee to such AA-Notice.

(d) This Section 14.2 shall survive the expiration or any earlier termination of this Agreement.

Section 14.3 Right of the Authority to Remedy an Adverse Action. If the Authority wishes to remedy the occurrence or effects of an Adverse Action, the Authority shall give notice thereof to the Concessionaire within thirty (30) days following the date of receipt of the AA-Notice. If the Authority gives such notice, then the Authority must remedy such Adverse Action within one hundred eighty (180) days following the date of receipt of the AA-Notice or, if a AA-Dispute Notice has been given, within one hundred eighty (180) days following the final decision pursuant to Article 19 to the effect that an Adverse Action occurred or, in either case, within such longer period as may be agreed to by the Concessionaire. If the Authority remedies the occurrence or effects within the applicable period of time, the right of the Concessionaire shall be limited to a claim for AA-Compensation with respect to such Adverse Action.

Section 14.4 Discharge of Liability. Notwithstanding anything in this Agreement to the contrary, payment of the entire sum of AA-Termination Damages by the Authority pursuant to Section 14.2(a), or provision by the Authority of AA-Compensation pursuant to Section 14.1(b), shall constitute full and final satisfaction of all amounts that may be claimed by the Concessionaire for and with respect to the occurrence of the Adverse Action and, upon such payment or provision, as applicable, the Authority shall be released and forever discharged by the Concessionaire from any and all liability with respect to such Adverse Action.

ARTICLE 15

CONCESSION COMPENSATION; DELAY EVENTS

Section 15.1 Payment of Concession Compensation.

(a) *Notice.* Except as otherwise provided herein, if a Compensation Event occurs, the Concessionaire shall give notice (the "CE-Preliminary Notice") to the Authority as soon as practicable and in no event later than thirty (30) days following the date on which the Concessionaire first became aware of the Compensation Event, which notice shall include (i) a statement of which Compensation Event the claim is based upon and (ii) details of the event, including a specific explanation of the reasons that the event constitutes a Compensation Event under the terms of this Agreement. Within thirty (30) days following the date of delivery of the CE-Preliminary Notice, the Concessionaire shall give the Authority another notice (the "CE-Notice") setting forth (i) further details of the Compensation Event, if applicable, and (ii) the amount claimed as Concession Compensation and details of the calculation thereof. If the Authority wishes to dispute the occurrence of a Compensation Event or the amount of the Concession Compensation claimed in the CE-Notice, it shall give notice of dispute (the "CE-Dispute Notice") to the Concessionaire within sixty (60) days following the date of receipt by it of the CE-Notice stating the grounds for such dispute. If neither the CE-Notice nor the CE-Dispute Notice has been withdrawn within thirty (30) days following the date of receipt of the

CE-Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure in Article 19.

(b) *Payment*. Within sixty (60) days following the date of receipt of a CE-Notice, or if a CE-Dispute Notice has been given as provided in Section 15.1(a) and not withdrawn (and the CE-Notice is not otherwise withdrawn by the Concessionaire), then not later than sixty (60) days following the date of determination of the related Concession Compensation (the later of such dates being referred to herein as a "Compensation Date"), the Authority (except to the extent the Authority elects to provide the related Concession Compensation in accordance with Section 15.1(c)), shall pay the related Concession Compensation to the Concessionaire in cash, which Concession Compensation shall be then due and payable to the Concessionaire (except as otherwise provided in Section 15.1(e)); *provided* that, subject to the right of the Concessionaire to receive interest at the rate set forth in Section 20.9 on the Concession Compensation owed by the Authority from the date of receipt of the CE-Notice to the date on which Concession Compensation is provided to the Concessionaire, the Authority may defer the provision of any such Concession Compensation for an additional one hundred twenty (120) days if the Authority reasonably determines that such additional period is necessary to obtain financing or required approvals to provide such Concession Compensation to the Concessionaire; *provided further*, that, notwithstanding the foregoing, in the event of a dispute regarding the amount of Concession Compensation which the Authority is required to pay to the Concessionaire in accordance with this Section 15.1(b), the Authority shall provide to the Concessionaire any undisputed portion of such Concession Compensation and any portion of such Concession Compensation that is subsequently agreed between the Parties, in each case not later than sixty (60) days following the date that the Parties have agreed to such portion (together with interest at the rate set forth in Section 20.9 from the date of receipt of the CE-Dispute Notice to the date on which Concession Compensation is provided) (even if a dispute regarding a portion of the amount claimed by the Concessionaire is still pending); *provided* that the Authority shall have the right to defer providing such Concession Compensation for an additional one hundred twenty (120) days under the terms set forth in the first preceding proviso.

(c) *Term or Toll Option*. Notwithstanding anything to the contrary in Article 2, Article 7 or Schedule 4, and to the extent such Concession Compensation is not payable as part of Termination Damages and is not otherwise paid pursuant to Section 15.1(b), the Authority may elect (subject to the proviso below) to provide all or any portion of any Concession Compensation due to the Concessionaire hereunder by:

(i) extending the Term for a period of time that would be sufficient to restore the Concessionaire to the same economic position in which it would have been had such Compensation Event not occurred (subject to the prior receipt of any approval or Authorization necessary to extend the Term under the Act and otherwise in compliance with applicable Law); or

(ii) authorizing the Concessionaire to increase tolls on the Toll Roads for a period of time that would be sufficient to restore the Concessionaire to the same economic position in which it would have been had such Compensation Event not occurred (in which case Schedule 4 shall be amended to permit such increase in tolls on the Toll Roads for such period of time);

provided that, in each case:

(A) the Authority shall make such election by notice delivered to the Concessionaire not later than the related Compensation Date, such notice shall specify the amount of Concession Compensation to be provided pursuant to this Section 15.1(c) and the Authority's preference as to whether such compensation shall be provided pursuant to such clause (i) or (ii) above (which preference shall be binding subject to clause (B) below);

(B) notwithstanding the preference of the Authority specified by notice pursuant to such clause (A) above, the Concessionaire shall have the right within fifteen (15) days after its receipt of such notice to specify its own preference as to whether such compensation shall be provided pursuant to such clause (i) or (ii) above, and such preference shall be binding if different from that specified by the Authority;

(C) the Authority may not elect to provide (unless otherwise agreed in writing by the Concessionaire) Concession Compensation pursuant to this Section 15.1(c) in an amount that: (1) cumulatively with all other amounts of Concession Compensation previously provided pursuant to this Section 15.1(c), would exceed twenty-five million dollars ($25,000,000) during the Term; (2) cumulatively with all other amounts of Concession Compensation previously provided pursuant to this Section 15.1(c), would exceed ten million dollars ($10,000,000) prior to the fifth (5th) anniversary of the Closing; or (3) in any year after the fifth (5th) anniversary of the Closing, cumulatively with all other amounts of Concession Compensation previously provided in such year pursuant to this Section 15.1(c), would exceed one million dollars ($1,000,000) in such year; in each case increased by a percentage each year equal to the sum of (x) one and one-half percent (1.5%) on each anniversary of the Closing during the Term and (y) the percentage increase, if any, in the Index during such year ; and

(D) the Authority may not provide Concession Compensation pursuant to this Section 15.1(c) in respect of the Compensation Events contemplated by Section 2.5(i)(iii)(B) or Section 5.2(a).

(d) *Calculation*. Concession Compensation shall be sufficient to compensate the Concessionaire for (i) all documented Losses (including increased operating, financing and capital and maintenance costs but excluding any costs and expenses that the Concessionaire would otherwise expend or incur in order to comply with this Agreement or in the Ordinary Course of the performance of the Toll Road Operations or the carrying on of business in the Ordinary Course) that are reasonably attributable to such Compensation Event and (ii) any documented Losses of the Concessionaire's present and future Toll Road Revenues that are reasonably attributable to such Compensation Event, after taking into account (A) any insurance proceeds payable (or that should have been payable but for (x) the insurer's inability to pay, (y) the breach of an obligation to take out or maintain insurance by the Concessionaire under this Agreement or (z) the invalidity or breach of any insurance policy caused by the Concessionaire under which policy such proceeds would have been paid) in connection with the Compensation Event, if applicable, and (B) any increases in future Toll Road Revenues that are reasonably attributable to such Compensation Event, if applicable. If the Concessionaire is required to

expend its own funds (whether from operating cash flows or the proceeds of any debt or equity financing or otherwise) with respect to any Compensation Event prior to receipt or financing of the corresponding Concession Compensation or if the payment of Concession Compensation is deferred under Section 15.1(b), then the determination of Concession Compensation shall, in addition to the components described above, include such additional amounts as may be necessary to permit the Concessionaire to earn an after-Tax rate of return thereon at the then-applicable market-based rate of return to be agreed by the Concessionaire and the Authority.

(e) *Future Losses.* Any Concession Compensation payable pursuant to Section 15.1(b) with respect to lost Toll Road Revenues or documented Losses (including increased operating, financing, capital and maintenance costs) that will not occur until the future shall be due solely when such lost Toll Road Revenues would otherwise become due or such Losses are actually incurred or suffered or promptly thereafter. If the Authority elects, notwithstanding the foregoing, to pay Concession Compensation with respect to lost Toll Road Revenues or documented Losses that will occur in the future as a lump sum payment, the amount of such lump sum payment shall be based on a determination of the net present value of the impact of such Compensation Event over the remainder of the Term utilizing a discount factor that is reasonably determined by the Concessionaire (subject to the confirmation as to its reasonableness by the Authority).

(f) *Competing Highways.* The placement in service of a Competing Highway shall constitute a Compensation Event with respect to which Concession Compensation shall be provided by the Authority to the Concessionaire on or before March 15 of each year thereafter pursuant to this Section 15.1; *provided* that, notwithstanding anything to the contrary in this Section 15.1, such Concession Compensation shall be provided only to the extent of the actual, reasonably documented decrease in net income suffered by the Concessionaire during the preceding calendar year as the sole and direct result of such Competing Highway. For avoidance of doubt, PR-9, including any projects with respect thereto, shall not be considered a Competing Highway.

(g) *Minimum Claim.* Notwithstanding the foregoing provisions of this Section 15.1, the Concessionaire may not make a claim for Concession Compensation unless the amount of such claim exceeds one hundred thousand dollars ($100,000).

Section 15.2 Delay Events.

(a) *Notice.* If the Concessionaire is affected by a Delay Event, it shall give notice as soon as practicable and in no event later than thirty (30) days following the date on which it first became aware of such Delay Event to the Authority (*provided* that in the case of the same Delay Event being a continuing cause of delay, only one notice shall be necessary), which notice shall include (i) a statement of which Delay Event the claim is based upon, (ii) details of the circumstances from which the delay arises and (iii) an estimate of the delay in the performance of obligations under this Agreement attributable to said Delay Event and information in support thereof, if known at that time. The Authority shall, after timely receipt of a Delay Event notice, be entitled by notice to require the Concessionaire to provide such further supporting information or details as the Authority may reasonably consider necessary. The

Concessionaire shall notify the Authority as soon as practicable and in no event later than thirty (30) days following the date on which it first became aware that a Delay Event has ceased.

(b) *Excuse*. Subject to the Concessionaire giving the notice required in Section 15.2(a), a Delay Event shall excuse the Concessionaire from performing the particular obligations prevented by the Delay Event referred to in such notice (and, if applicable, extend any deadline established by this Agreement related to the performance of such obligations) for such appropriate number of days as the Authority and the Concessionaire jointly determine and Noncompliance Points shall not be assessed against the Concessionaire as a result of the Concessionaire's inability to perform such obligation due solely and directly to, and during the duration of, the Delay Event. If the Authority and the Concessionaire cannot agree upon the period of delay, then either Party shall be entitled to refer the matter to the dispute resolution procedure set forth in Article 19. This Section 15.2(b) shall neither (i) excuse the Concessionaire from the performance and observance under this Agreement of any obligations and covenants not affected by the Delay Event nor (ii) prevent any of the Authority or its Representatives (or their respective designee) from exercising its rights under Section 3.7. Notwithstanding the occurrence of a Delay Event, the Concessionaire shall continue its performance and observance under this Agreement of all of its obligations and covenants to the extent that it is reasonably able to do so and shall use its Reasonable Efforts to minimize the effect and duration of the Delay Event. Nothing herein shall permit or excuse noncompliance with a change to applicable Laws.

(c) *Compensation*. If a Delay Event occurs that has the effect of (i) causing physical damage or destruction to the Toll Roads that results in the Toll Roads or any material portion thereof being substantially unavailable for Highway Purposes or (ii) suspending toll collection on the Toll Roads or any material portion thereof, and, in either case, such effect continues for a period in excess of ninety (90) consecutive days and has a material adverse effect on the fair market value of the Concessionaire Interest, and insurance proceeds payable (or that should have been payable but for (x) the insurer's inability to pay, (y) the breach of an obligation to take out or maintain insurance by the Concessionaire under this Agreement or (z) the invalidity or breach of any insurance policy caused by the Concessionaire under which policy such proceeds would have been paid) or condemnation or other similar proceeds are insufficient to restore the Concessionaire to the same economic position in which it would have been had such event not occurred, then the Delay Event shall be a Compensation Event, and the Concessionaire, without in any way limiting its obligations pursuant to Section 13.3, shall be entitled to Concession Compensation (a "Delay Event Remedy"); *provided* that the Concessionaire shall give notice (a "Delay Event Notice") to the Authority, within thirty (30) days following the date on which the Concessionaire first became aware of its right to the Delay Event Remedy occurring, setting forth (i) the details of the Delay Event and its effect on either causing physical damage or destruction to the Toll Roads that results in the Toll Roads or any material portion thereof being substantially unavailable for Highway Purposes or suspending toll collection on the Toll Roads, (ii) the relief claimed as compensation to restore the Concessionaire to the same economic position in which it would have been had such Delay Event not occurred (including the details of the calculation thereof) and (iii) the details of the relationship between such compensation and the Delay Event Remedy that it proposes. The Authority shall, after receipt of the Delay Event Notice, be entitled by notice to require the

Concessionaire to provide such further supporting information and details as the Authority may reasonably consider necessary. If the Authority wishes to dispute the occurrence of a Delay Event or the Delay Event Remedy claimed in the Delay Event Notice, the Authority shall give notice of dispute (the "Delay Event Dispute Notice") to the Concessionaire within thirty (30) days following the date of receipt of the Delay Event Notice stating the grounds for such dispute, and if neither the Delay Event Notice nor the Delay Event Dispute Notice has been withdrawn within thirty (30) days following the date of receipt of the Delay Event Dispute Notice by the Concessionaire, the matter shall be submitted to the dispute resolution procedure in Article 19.

ARTICLE 16

DEFAULTS; HANDBACK LETTERS OF CREDIT

Section 16.1 Default by the Concessionaire.

(a) *Events of Default.* The occurrence of any one or more of the following events during the Term shall constitute a "Concessionaire Default" under this Agreement:

(i) if the Concessionaire fails to comply with, perform or observe (A) any material obligation, covenant, agreement, term or condition in this Agreement (other than any failure to comply with respect to which a Noncompliance Point was or could have been assessed and other than in respect of a Persistent Concessionaire Default), or (B) the requirements or directives of a final decision in a matter submitted to dispute resolution in accordance with Article 19, and such failure continues unremedied for a period of ninety (90) days following notice thereof (giving particulars of the failure in reasonable detail) from the Authority to the Concessionaire or for such longer period as may be reasonably necessary to cure such failure; *provided* that, in the latter case, where such longer cure period applies, the Concessionaire has demonstrated to the satisfaction of the Authority, acting reasonably, that (x) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure, (y) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to the Authority, acting reasonably and (z) such failure is in fact cured within such period of time;

(ii) there occurs any Persistent Concessionaire Default, of which the Authority has given notice to the Concessionaire, and either (a) the Concessionaire fails to deliver to the Authority a proposed Remedial Plan within forty-five (45) days after receiving such notice (which Remedial Plan shall, for the avoidance of doubt, be subject to Approval by the Authority in its discretion), and such failure is not cured within fifteen (15) days after the Authority gives notice of such failure to the Concessionaire, or (b) the Concessionaire fails to fully comply in any material respect with the schedule or specific elements of, or actions required under, such Remedial Plan, and such failure is not cured within thirty (30) days after the Authority gives notice of such failure to the Concessionaire;

(iii) if this Agreement or all or any portion of the Concessionaire Interest or an initial Equity Participant's equity interest in the Concessionaire is Transferred in contravention of Article 17;

(iv) if the Concessionaire (A) admits, in writing, that it is unable to pay its debts as such become due, (B) makes an assignment for the benefit of creditors, (C) files a voluntary petition under Title 11 of the United States Code, or if the Concessionaire files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Concessionaire, or of all or any substantial part of its properties or of the Toll Roads or any interest therein, or (D) takes any corporate action in furtherance of any action described in this Section 16.1(a)(iv);

(v) if within sixty (60) days after the commencement of any proceeding against the Concessionaire seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within sixty (60) days after the appointment, without the consent or acquiescence of the Concessionaire, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Concessionaire or of all or any substantial part of its properties or of the Toll Roads or any interest therein, such appointment has not been vacated or stayed on appeal or otherwise, or if within ninety (90) days after the expiration of any such stay, such appointment has not been vacated; and

(vi) if a levy under execution or attachment has been made against all or any material part of the Toll Roads or any interest therein as a result of any Encumbrance (other than a Permitted Concessionaire Encumbrance) created, incurred, assumed or suffered to exist by the Concessionaire or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of sixty (60) days, unless such levy resulted from actions or omissions of the Authority or its Representatives.

(b) *Remedies of the Authority Upon Concessionaire Default.* Upon the occurrence and during the continuance of a Concessionaire Default, the Authority may, by notice to the Concessionaire with a copy to the Concession Mortgagee in accordance with the terms hereof, declare the Concessionaire to be in default and may, subject to rights of the Concession Mortgagee pursuant to Sections 18.3 and 18.4 and the provisions set forth in Articles 18, 19 and 20, do any or all of the following as the Authority, in its discretion, shall determine:

(i) The Authority may terminate this Agreement (without the need for reentry or any other action on behalf of the Authority) by giving ninety (90) days' prior notice to the Concessionaire upon the occurrence of (A) a Concessionaire Default that consists of a failure to comply with, perform or observe any Operating Standard if such Concessionaire Default creates a material danger to the safety of Toll Road Operations or a material impairment to the Toll Roads or to the continuing use of the Toll Roads for transportation purposes, or (B) any other Concessionaire Default (including a Concessionaire Default under Section 16.1(a)(ii); *provided, however*, that the Concessionaire shall be entitled to cure a Concessionaire Default pursuant to Section 16.1(a)(i) by providing the Authority with a proposed Remedial Plan within such ninety 90-day period outlining the actions by which the Concessionaire will ensure future

compliance with either (x) the obligation, covenant, agreement, term or condition in this Agreement or (y) the requirements or directives of the issued final decision in accordance with Article 19 that the Concessionaire failed to perform or observe, which Remedial Plan shall, for the avoidance of doubt, be subject to Approval by the Authority, but any failure of the Concessionaire to comply in any material respect with such Remedial Plan following ninety (90) days' notice of such failure from the Authority to the Concessionaire shall be deemed to be a Concessionaire Default described in Section 16.1(a)(i) and the entitlement of the Concessionaire to cure such Concessionaire Default by the delivery of a Remedial Plan shall not apply thereto; *provided further*, that the Authority shall not exercise the remedy provided in this clause (i) if the Concessionaire Default consists solely of a violation of any of the provisions of Section 11.2 through Section 11.12 (inclusive) unless such violation is systematic or persistent or the exercise of such remedy is required by law; *provided further*, that remedies for rescission or termination of this Agreement pursuant to Section 16.6 shall be exclusively as provided in such section; *provided further*, that violation of Section 11.2 through Section 11.12 (inclusive) shall subject the Concessionaire to such fines or penalties otherwise applicable to such violation as they be imposed by the appropriate Governmental Authority or to the imposition of a requirement on the Concessionaire to demonstrate to the Authority that the Concessionaire has or will implement all actions considered necessary by the Authority (which may, at the option of the Authority, include delivery by the Concessionaire of a Remedial Plan) to remedy such violation;

(ii) if the Concessionaire Default is by reason of the failure to pay any monies, the Authority may (without obligation to do so) make payment on behalf of the Concessionaire of such monies, and any amount so paid by the Authority shall be payable by the Concessionaire to the Authority within three (3) Business Days after written demand therefor;

(iii) the Authority may cure the Concessionaire Default (but this shall not obligate the Authority to cure or attempt to cure a Concessionaire Default or, after having commenced to cure or attempted to cure a Concessionaire Default, to continue to do so), and all costs and expenses reasonably incurred by the Authority in curing or attempting to cure the Concessionaire Default, together with an administrative fee equal to fifteen percent (15%) of such costs and expenses, shall be payable by the Concessionaire to the Authority within three (3) Business Days after written demand therefor; *provided, however*, that (A) the Authority shall not incur any liability to the Concessionaire for any act or omission of the Authority or any other Person in the course of remedying or attempting to remedy any Concessionaire Default (other than as a result of negligence or willful misconduct) and (B) the Authority's cure of any Concessionaire Default shall not affect the Authority's rights against the Concessionaire by reason of the Concessionaire Default;

(iv) the Authority may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a Concessionaire Default;

(v) the Authority may seek to recover its Losses arising from such Concessionaire Default and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt;

(vi) the Authority may, subject to applicable Law, distrain against any of the Concessionaire's goods situated on the Toll Roads and the Concessionaire waives any statutory protections and exemptions in connection therewith;

(vii) subject to the rights of the Concession Mortgagee under the Concession Mortgage and this Agreement, the Authority may close any and all portions of the Toll Roads;

(viii) the Concessionaire may be debarred or suspended for ten (10) years in accordance with Section 10(a)(xv)(C) of the Act; and

(ix) the Authority may exercise any of its other rights and remedies provided for hereunder or at law or equity.

Section 16.2 Defaults by the Authority.

(a) *Events of Default.* The occurrence of any one or more of the following events during the Term shall constitute an "Authority Default" under this Agreement:

(i) if (A) the Authority fails to comply with or observe (1) any material obligation, covenant, agreement, term or condition in this Agreement (other than an Adverse Action) and, without prejudice to subsection (iv) below, the Escrow Agreements and the Disbursement Instructions (including the obligations of the Authority pursuant to Section 3.16(d)),or (2) the requirements or directives of a final decision in a matter submitted to dispute resolution in accordance with Article 19; or (B) the Authority or the Commonwealth (or any Government Authority thereof) fails to maintain or implement the current administrative practice or requirement of collecting any unpaid tolls as a condition precedent to the issuance or renewal of a vehicle registration; and, in each case, such failure or breach continues unremedied for a period of ninety (90) days following notice thereof (giving particulars of the failure in reasonable detail) from the Concessionaire to the Authority or for such longer period as may be reasonably necessary to cure such failure; *provided* that, in the latter case where such a longer cure period applies, the Authority has demonstrated to the satisfaction of the Concessionaire, acting reasonably, that (x) it is proceeding with all due diligence to cure or cause to be cured such failure, (y) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to the Concessionaire, acting reasonably and (z) such failure is in fact cured within such period of time;

(ii) if a levy under execution or attachment has been made against all or any material part of the Toll Roads or the Concessionaire Interest as a result of any Encumbrance (other than a Permitted Authority Encumbrance) created, incurred, assumed or suffered to exist by the Authority or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of sixty (60) days, unless such levy resulted from actions or omissions of the Concessionaire or its Representatives or if all or any material part of the Toll Roads shall be subject to a condemnation or similar taking by the Authority or any Governmental Authority;

(iii) if the Authority Transfers any or all of its interest in the Toll Roads or this Agreement other than in compliance with Section 17.2; and

(iv) if the Authority, at any time, issues any instructions or revokes any existing instructions, in each case, in any manner contradictory to or inconsistent with the Disbursement Instructions or the New Escrow Agreement, or otherwise contests the validity or enforceability of (or take any actions in furtherance of the same) or takes any repudiatory or similar action in respect of the agreements, including the authority of the Escrow Agent, contained in the Disbursement Instructions or the New Escrow Agreement.

(b) *Remedies of Concessionaire Upon Authority Default.* Upon the occurrence and during the continuance of an Authority Default, the Concessionaire may by notice to the Authority declare the Authority to be in default and may, subject to the provisions of Article 19, do any or all of the following as the Concessionaire, in its discretion, shall determine:

(i) the Concessionaire is entitled to receive from the Authority the Concession Compensation with respect thereto;

(ii) the Concessionaire is entitled to terminate this Agreement by giving ninety (90) days' prior notice to the Authority; *provided, however*, that the Authority shall be entitled to cure an Authority Default pursuant to Section 16.2(a)(i) by providing the Concessionaire with a written work plan within such ninety (90)-day period outlining the actions by which the Authority will ensure future compliance with either (A) the obligation, covenant, agreement, term or condition in this Agreement or (B) the requirement or directive of the final decision in accordance with Article 19 that the Authority failed to perform or observe, which work plan is approved by the Concessionaire (which approval shall not be unreasonably withheld, delayed or conditioned), but any failure of the Authority to comply in any material respect with such approved work plan following ninety (90) days' notice of such failure from the Concessionaire to the Authority shall be deemed to be an Authority Default described in Section 16.2(a)(i) and the entitlement of the Authority to cure such Authority Default by the delivery of an approved work plan shall not apply thereto; and upon such termination by the Concessionaire, the Authority shall be obligated to pay on the Reversion Date to the Concessionaire in cash an amount equal to the aggregate, without duplication, of (w) the Toll Road Concession Value as of the date of termination, plus (x) the reasonable out-of-pocket and documented costs and expenses incurred by the Concessionaire as a direct result of such termination (including payments made by the Concessionaire to its Equity Participant or other Affiliates pursuant to contracts entered into on an arm's-length basis), plus (y) the Concession Compensation calculated for the period between the date of the Authority Default and the date of termination, less (z) any insurance proceeds payable (or that should have been payable but for (1) the breach of an obligation to take out or maintain insurance by the Concessionaire under this Agreement or (2) the invalidity or breach of any insurance policy caused by the Concessionaire under which policy such proceeds would have been paid) to the Concessionaire or condemnation or similar proceeds with respect to all or any portion of the Toll Roads as a result of the occurrence of such Authority Default (collectively, the "AD-Termination Damages") or, if the AD-Termination Damages are determined on a date subsequent to the Reversion Date, then not later than ninety (90) days following the date of determination of the AD-Termination Damages (together with interest at

the rate set forth in Section 20.9 from the Reversion Date to the date on which payment is made); *provided* that, subject to the right of the Concessionaire to receive interest at the rate set forth in Section 20.9 on the payment owed by the Authority from the Reversion Date to the date on which payment is made, the Authority may defer any such payment for an additional one hundred twenty (120) days if the Authority reasonably determines that such additional period is necessary to obtain financing or required approvals to make such a payment; *provided, however*, that any amounts received by the Concessionaire or any Concession Mortgagee from any insurance policies payable as a result of damage or destruction to the Toll Roads that has not been remedied prior to the Reversion Date, shall, to the extent not used to remedy such effects, be deducted from the amount payable by the Authority to the Concessionaire so long as the Authority has not received any such amounts pursuant to Article 13;

(iii) the Concessionaire is entitled to exercise any of its rights and remedies at law or in equity;

(iv) the Concessionaire is entitled to seek to recover its Losses and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt by the Authority; and

(v) the Concessionaire is entitled to exercise any of its other rights and remedies provided for hereunder.

(c) Any dispute arising out of the determination of the AD-Termination Damages shall be submitted to the dispute resolution procedure in Article 19.

(d) No notice given by the Concessionaire to the Authority in which the Concessionaire states that it elects to exercise its right of termination of this Agreement shall be valid for any purpose unless, if any Concession Mortgage Debt remains outstanding and if and to the extent required by the terms of any Concession Mortgage, the Concessionaire has first obtained and delivered to the Authority the written consent of the Concession Mortgagee to such notice.

Section 16.3 Handback Letters of Credit; Capital Costs Reserve.

(a) The Concessionaire shall deliver no later than the first day of the Concession Year that is five (5) years prior to the final Concession Year of the Term, a Letter of Credit in the amount then to be calculated equal to the amount that the Independent Operating Engineer reasonably determines is appropriate to cover all costs of capital improvements for the remainder of the Term as set forth in the Operating Standards.

(b) Subject to Section 16.3(c), such Letter of Credit shall be replaced on every anniversary of such Concession Year until the date that is three (3) years after the later of (i) the expiration of the Term and (ii) such time as there is no unresolved dispute with respect to the Concessionaire's compliance with or performance or observation of any obligation, covenant, agreement, term or condition in this Agreement with a Replacement Letter of Credit in the amount of the undrawn balance of such Letter of Credit plus the amount of interest that would have been earned on such balance if invested for the next 12-month period at the Bank Rate.

The required amount of any Letter of Credit may be adjusted from time to time (at intervals that may be shorter than one Concession Year) by the amount that the Independent Operating Engineer reasonably determines is appropriate (taking into account progress by the Concessionaire made toward the completion of capital improvements and changes in costs of remaining capital improvements) such that the amount of the Letter of Credit after such adjustment remains sufficient to cover all costs of capital improvements for the remainder of the Term as required by the Operating Standards. Upon the occurrence of a Concessionaire Default (or if there is a dispute as to the occurrence of a Concessionaire Default, upon a final decision pursuant to Article 19 that a Concessionaire Default has occurred), the Authority shall have the right (in addition to all other rights and remedies provided in this Agreement, but with the understanding that any other monetary damages that the Authority may recover will be reduced by the amount so drawn, and without the Authority's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform and whether or not this Agreement is thereby terminated), with three (3) Business Days' prior notice to the Concessionaire, to draw against such Letter of Credit or any replacement thereof, upon presentation of a sight draft and a certificate confirming that the Authority has the right to draw under such Letter of Credit in the amount of such sight draft, up to the amount due to the Authority with respect to such Concessionaire Default. Upon the expiration of this Agreement at the end of the Term, any Letter of Credit, Replacement Letter of Credit, surety bond or other form of security delivered pursuant to Section 16.3(h) will remain in effect until a determination by the Authority that the Concessionaire's obligations under this Section 16.3 have been fully satisfied.

(c) The Concessionaire shall replace each Letter of Credit with a replacement Letter of Credit (the "Replacement Letter of Credit") at least sixty (60) days prior to the expiry date of a Letter of Credit which is expiring. If the Concessionaire does not deliver to the Authority a Replacement Letter of Credit within such time period, the Authority shall have the right (in addition to all other rights and remedies provided in this Agreement and without the Authority's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform and whether or not this Agreement is thereby terminated) to draw immediately the full amount of the Letter of Credit upon presentation of a sight draft and a certificate confirming that the Authority has the right to draw under such Letter of Credit in the amount of such sight draft. After the Concessionaire delivers to the Authority a Replacement Letter of Credit complying with the provisions of this Agreement, the Authority shall deliver in accordance with the Concessionaire's reasonable instructions the Letter of Credit being replaced (*provided* that at such time no sight draft under such Letter of Credit is outstanding and unpaid). Any Replacement Letter of Credit shall be upon the same terms and conditions as the Letter of Credit replaced and satisfy the requirements for a Letter of Credit, but in any event (i) the amount of each Replacement Letter of Credit, except as provided in Section 16.3(b), shall equal or exceed the amount of the Letter of Credit being replaced at the time of replacement and (ii) the date of the Replacement Letter of Credit shall be its date of issuance. The expiry date of the Replacement Letter of Credit, as referred to in the opening paragraph of such Replacement Letter of Credit, shall be not earlier than one year later than the expiry date of the Letter of Credit being replaced or such other period acceptable to the Authority.

(d) If this Agreement is terminated by the Authority prior to the expiration of the Term as a result of a Concessionaire Default in accordance with the terms hereof, the

Authority shall have the right (in addition to all other rights and remedies provided in this Agreement and without the Authority's exercise of such right being deemed a waiver or a cure of the Concessionaire's failure to perform), with three (3) Business Days' prior notice to the Concessionaire, to draw against any Letter of Credit, upon presentation of a sight draft and a certificate confirming that the Authority has the right to draw under such Letter of Credit in the amount of such sight draft, up to the amount due to the Authority pursuant to the terms of this Agreement. The Parties acknowledge that the damages suffered by the Authority as a result of such termination would be impossible to ascertain and that the amount of the Letter of Credit posted in accordance with this Section 16.3 is a reasonable estimate thereof and is not intended as a penalty.

(e) The Authority will accept the Letters of Credit to be delivered pursuant to this Section 16.3 (and pursuant to Section 2.3) as security for the Concessionaire's obligations under this Agreement, in place of a cash deposit in the same amount. The Concessionaire's sole remedy in connection with the improper presentment or payment of sight drafts drawn under the Letter of Credit shall be the right to obtain from the Authority a refund of the amount of any sight draft the proceeds of which were drawn inappropriately or misapplied and the reasonable costs incurred by the Concessionaire as a result of such draw or misapplication (including, for the avoidance of doubt, interest thereupon); *provided, however*, that at the time of such refund, the Concessionaire increases the amount of the Letter of Credit to the amount (if any) then required under the applicable provisions of this Agreement. The Concessionaire acknowledges that the presentment of sight drafts drawn under the Letter of Credit could not under any circumstances cause the Concessionaire injury that could not be remedied by an award of money damages, and that the recovery of money damages would be an adequate remedy therefor. The Concessionaire shall not request or instruct the issuer of the Letter of Credit to refrain from paying any sight draft drawn under a Letter of Credit.

(f) If the Authority desires to assign its rights and obligations in accordance with Section 17.2 of this Agreement, the Concessionaire shall cooperate so that concurrently with the effectiveness of such assignment, either Replacement Letters of Credit as described in Section 16.3(c) for, or appropriate amendments to, the Letters of Credit then held by the Authority, in either case identifying as beneficiary the appropriate party after the assignment becomes effective, shall be delivered to the Authority, at no cost to the Concessionaire.

(g) The Concessionaire shall obtain and furnish all Letters of Credit and Replacement Letters of Credit at its sole cost and expense and shall pay all charges imposed in connection with the Authority's presentation of sight drafts and drawing against the Letters of Credit or Replacement Letters of Credit.

(h) In lieu of any Letter of Credit to be provided by the Concessionaire pursuant to the terms of this Section 16.3, whether in whole or in part, the Concessionaire shall, at the Concessionaire's discretion, have the option:

(i) to provide a surety bond or other similar form of security (in each case, consistent (including as to form and credit quality of issuer) with the requirements set forth herein for Letters of Credit) or to deposit with a Depositary for the benefit of the Authority, as

collateral security, cash or Eligible Investments in an amount equal to the amount of such Letter of Credit, or relevant part thereof, at the time of such deposit, or

(ii) to create and maintain a reserve account (the "Capital Costs Reserve") in such amount as may be required by, and under the control of, the Concession Mortgagee for the purpose of providing for the payment, whether in whole or in part, of the costs of capital improvements required by the Operating Standards for the remainder of the Term; *provided* that the terms under which such Capital Costs Reserve is established and maintained under the applicable financing agreements will ensure its availability to the Authority in the case of a Concessionaire Default, subject only to the rights of the Concession Mortgagee under Section 18.3. In the event the Concessionaire opts to establish a deposit pursuant to Section 16.3(h)(i), the Depositary shall invest and reinvest such amounts in Eligible Investments at the discretion of the Authority; *provided* that earnings thereon shall be paid to the Concessionaire. If, at any time during the Term, the Authority would have the right to draw any amount on a Letter of Credit for which the Concessionaire has substituted cash or Eligible Investments or the Capital Costs Reserve pursuant to this Section 16.3(h)(ii), the Concessionaire shall cause the Depositary to pay such amount to the Authority from such cash deposit or Eligible Investments or the Concessionaire shall cause the Concession Mortgagee to pay such amount to the Authority from the Capital Costs Reserve, as the case may be, in accordance with the terms of this Section 16.3, and all rights and remedies of the Authority and the Concessionaire with respect to such cash deposits or, Eligible Investments, if any, and Capital Costs Reserve (subject to the rights of the Concession Mortgagee in the Capital Costs Reserve) shall be the same as those provided in this Section 16.3, with respect to any Letter of Credit; *provided, however*, that the certification that would have been provided by the Authority with the sight draft had cash or Eligible Investments not been so substituted shall be made to the Depositary and delivered to the Depositary together with the Authority's written demand for payment.

(i) If Letters of Credit shall not in the future be available at commercially reasonable terms and rates or shall not be a commercially reasonable form of security in similar transactions, the Concessionaire shall furnish the Authority with comparable security instruments or Eligible Investments that then are commonly used in similar transactions and which are Approved by the Authority; and if no such security instruments shall be available, the Concessionaire shall deposit with the Authority cash as security.

(j) In the event that the issuer of a Letter of Credit, a Replacement Letter of Credit, a surety bond or any other form of security delivered pursuant to Section 16.3(h) no longer meets the credit rating requirements for such issuer set forth in this Agreement, then the Concessionaire shall have the obligation to replace such Letter of Credit, Replacement Letter of Credit, surety bond or other security with an instrument that meets the requirements set forth in this Agreement. If the Concessionaire shall not have replaced such Letter of Credit, Replacement Letter of Credit, surety bond or other security with an instrument that meets the requirements set forth in this Agreement within thirty (30) days, the Authority shall have the right (in addition to all other rights and remedies provided for in this Agreement, without the Authority's exercise of such right to be deemed a waiver or cure of the Concessionaire's failure to perform and whether or not this Agreement is thereby terminated), with two (2) Business Days' prior notice to the Concessionaire, to draw against such Letter of Credit, Replacement

Letter of Credit, surety bond or other security in accordance with its terms in the full amount available thereunder, but with the understanding that any other monetary damages that the Authority may recover will be reduced by the amount so drawn.

(k) Any Letter of Credit, Replacement Letter of Credit, surety bond or other form of security delivered pursuant to Section 16.3(h) shall provide that the Authority may draw on such Letter of Credit, Replacement Letter of Credit, surety bond or other security in accordance with its terms in the circumstances set forth in Section 16.3(j).

Section 16.4 Consequences of Termination or Reversion. Upon the termination of this Agreement and, in the event of termination pursuant to Section 14.2, Section 16.2(b)(ii), Section 16.6 or Section 16.5, concurrently with the payment to the Concessionaire of all Termination Damages due as a result of such termination (notwithstanding any claims the Parties may have against each other and subject to Section 16.2(b)(iv), Section 9.5 and Article 18), the following provisions shall apply:

(a) the Concessionaire shall, without action whatsoever being necessary on the part of the Authority, well and truly surrender and deliver to the Authority the Toll Roads (including all improvements on the Toll Road Land comprising the Toll Road Facilities), the Toll Road Assets and all tangible and intangible personal property (including inventories) located on the Toll Roads or used in connection with the Toll Road Operations (except in the case of a termination in the circumstances contemplated by Section 13.3(b)) in good order, condition and repair (reasonable wear and tear excepted), determined reasonably in accordance with then applicable Operating Standards, free and clear of all Encumbrances other than (A) Permitted Concessionaire Encumbrances set forth in clause (iv) of the definition of that term, (B) Permitted Authority Encumbrances affecting title to the Toll Roads existing at the Time of Closing, (C) those created by or suffered to exist or consented to by the Authority or any Person claiming through it, and (D) with respect to any property added to the Toll Roads after the Time of Closing, title defects affecting such property in existence on the date such property is added to the Toll Roads;

(b) the Concessionaire hereby waives any notice now or hereafter required by Law with respect to vacating the Toll Roads on the Reversion Date;

(c) the Authority shall, as of the Reversion Date, assume full responsibility for the Toll Road Operations, and as of such date, the Concessionaire shall have no liability or responsibility for the provision of Toll Road Services or the performance of Toll Road Operations occurring after such date;

(d) the Concessionaire shall be responsible for all costs, expenses and other amounts for which it is responsible hereunder incurred or arising up to but not including the Reversion Date, and the Authority shall be responsible for all costs, expenses and amounts incurred or arising in connection with the Toll Road Operations on and after the Reversion Date;

(e) the Authority shall have the option by providing notice of the same to the Concessionaire, to require that the Concessionaire assign (to the extent assignable), without warranty or recourse to the Concessionaire, all of its right, title and interest in, to and under all or

any of the Operating Agreements then in effect (including any Assigned Contract then in effect) and all Authorizations to the Authority or its designee for the remainder of their respective terms; *provided, however,* that if the Authority exercises such option, the right, title and interest of the Concessionaire in, to and under such Operating Agreements and Authorizations shall be assigned to the Authority or its nominee as of the Reversion Date and the Concessionaire shall surrender the Toll Roads to the Authority and shall cause all Persons claiming under or through the Concessionaire to do likewise, and the Authority shall assume in writing, pursuant to an assumption agreement reasonably satisfactory to the Concessionaire, the Concessionaire's obligations under the Operating Agreements that arise in respect of, or relate to, any period of time falling on and after the Reversion Date; *provided further*, that if the Authority does not exercise such option, the Concessionaire shall, unless the Authority has granted to a Concession Mortgagee or its nominee a new concession agreement containing the same provisions as are contained in this Agreement, take such steps as are necessary to terminate the Operating Agreements;

(f) all plans, drawings, specifications and models prepared in connection with construction of the Toll Roads and in the Concessionaire's possession and all "as-built" drawings shall become the sole and absolute property of the Authority, and the Concessionaire shall promptly deliver to the Authority all such plans, drawings, specifications and models and all such "as-built" drawings (but may keep copies of those plans, drawings, specifications and models that were developed by the Concessionaire or its Representatives);

(g) the Concessionaire, at its sole cost and expense, shall promptly deliver to the Authority copies of all records and other documents relating to the Toll Road Revenues that are in the possession of the Concessionaire or its Representatives and all other than existing records and information relating to the Toll Roads as the Authority, acting reasonably, may request;

(h) the Concessionaire shall execute and deliver to the Authority a release or other instrument reasonably required by the Authority to evidence such expiration or termination;

(i) the Concessionaire shall assist the Authority in such manner as the Authority may reasonably require to ensure the orderly transition of control, operation, management, maintenance, rehabilitation and tolling of the Toll Roads, and shall, if appropriate and if requested by the Authority, take all steps as may be necessary to enforce the provisions of the Operating Agreement pertaining to the surrender of the Toll Roads;

(j) the Authority and the Concessionaire shall make appropriate adjustments, including adjustments relating to any Operating Agreements assigned to the Authority, tolls, fees and other similar charges collected on and after the Reversion Date that are incurred prior to the Reversion Date, and utilities, and any adjustments and payment therefor shall be made by the appropriate Party on the Reversion Date, but shall be subject to readjustment if necessary because of error in matters such as information, calculation, payments and omissions that are identified within the period of one hundred eighty 180 days following the Reversion Date; *provided, however,* that the Authority and the Concessionaire acknowledge that certain adjustments or readjustments may have to be made when a third party provides to the Authority

or the Concessionaire a final adjustment amount in respect of a matter, and for such matters the adjustment and readjustment date shall each be correspondingly extended;

(k) if this Agreement is terminated as a result of an Adverse Action, the payment by the Authority to the Concessionaire of the amounts required under Article 14 or Article 19 shall constitute full and final settlement of any and all Claims the Concessionaire may have against the Authority for and in respect of the termination of this Agreement and upon such payment, the Concessionaire shall execute and deliver all such releases and discharges as the Authority may reasonably require to give effect to the foregoing; and

(l) the Authority shall have the right to purchase from the Concessionaire, for fair market value determined pursuant to a written appraisal (at the Authority's expense and by an independent third party appraiser described under "Toll Road Concession Value"), a nonexclusive, irrevocable, fully transferable and fully paid up license in respect of any Proprietary Intellectual Property developed by the Concessionaire, its Contractors, subcontractors, Affiliates or Representatives after the Closing Date for use in connection with the operation of the Toll Roads.

This Section 16.4 shall survive the expiration or any earlier termination of this Agreement.

Section 16.5 Termination Other Than Pursuant to Agreement. If this Agreement is terminated other than pursuant to this Article 16, or is canceled, rescinded or voided during the Term for any reason over the objection or without action by the Concessionaire, any Concession Mortgagee or their respective Affiliates (other than by reason of the application of Section 16.6), the Authority shall pay to the Concessionaire the AD-Termination Damages in accordance with Section 16.2. The Authority hereby acknowledges and agrees that it may only terminate this Agreement in accordance with the express terms hereof and shall not, in any event, have the right to terminate this Agreement for convenience. This Section 16.5 shall survive the expiration or any earlier termination of this Agreement.

Section 16.6 Termination Required by Act No. 2, Public Integrity Crimes, and Misrepresentations in Oversight Board Certification.

(a) This Agreement shall automatically be rescinded by operation of Act No. 2 if the Concessionaire or any subsidiary or *alter ego* thereof is convicted or enters a plea of guilty in respect of any Specified Public Integrity Crime, or if any other Covered Party is convicted or enters a plea of guilty in respect of any Specified Public Integrity Crime while in the employ of the Concessionaire.

(b) The Authority may terminate this Agreement as permitted or required by Act No. 237 or Act No. 2, if the Concessionaire is convicted of a Public Integrity Crime that is not a Specified Public Integrity Crime.

(c) The Authority, in consultation with the Oversight Board, may terminate this Agreement in the event of any misrepresentation, inaccuracy or falseness with respect to a material fact in the Oversight Board Certification. In addition, the Authority, after disclosure to

and consultation with the Oversight Board, may provide, in its discretion, an opportunity to the Concessionaire to attempt to cure such misrepresentation, inaccuracy or falseness and the Authority, after disclosure to and consultation with the Oversight Board, shall determine whether any such cure is acceptable in its discretion.

(d) If this Agreement is rescinded or terminated during the Term pursuant to clause (a) or (b) of this Section 16.6 and, in the case of a rescission caused by the conviction or the entering of a plea of guilty for a Specified Public Integrity Crime, such crime was not committed in connection with the procurement of this Agreement, then the Authority shall be obligated to pay to the Concessionaire an amount equal to the lesser of (i) the Toll Road Concession Value and (ii) the Unamortized Concession Fee, in each case calculated as of the End Date (the "PIC-Termination Damages"); *provided* that, (x) subject to the right of the Concessionaire to receive interest at the rate set forth in Section 20.9 on the payment owed by the Authority from the End Date to the date on which payment is made, the Authority may defer any such payment for an additional one hundred twenty (120) days if the Authority reasonably determines that such additional period is necessary to obtain financing or required approvals to make such payment and (y) if the amount of the PIC-Termination Damages is less than or equal to the sum of the Concession Mortgage Debt and any related Breakage Costs as of the End Date, then the Authority shall enter into a New Agreement with the Concession Mortgagee, or its designee or nominee, subject to and in accordance with Section 18.5 (and subject to clause (e) of this Section 16.6), and the Authority shall be released from any obligation to pay PIC-Termination Damages or any other compensation to the Concessionaire in connection with such rescission or termination.

(e) If this Agreement (i) is rescinded during the Term pursuant to clause (a) of this Section 16.6 as a result of a Specified Public Integrity Crime committed in connection with the procurement of this Agreement or (ii) terminated by the Authority pursuant to clause (c) of this Section 16.6, then the Authority shall enter into a New Agreement with the Concession Mortgagee, or its designee or nominee, subject to and in accordance with Section 18.5 (and subject to clause (f) of this Section 16.6), and the Concessionaire shall not be entitled to receive any PIC-Termination Damages or other compensation of any form or amount from the Authority in connection with such rescission.

(f) Notwithstanding anything to the contrary herein, in the event the Authority is required to enter into any New Agreement pursuant to Section 16.6(d) or Section 16.6(e), the Authority may elect, in its sole option by notice to the Concessionaire at any time prior to the execution and delivery of such New Agreement, to pay to the Concessionaire a sum equal to the Concession Mortgage Debt and any related Breakage Costs, and upon such notice the Authority shall be (i) released from the obligation to enter into such New Agreement and (ii) obligated to pay such sum to the Concessionaire in cash; *provided* that, subject to the right of the Concessionaire to receive interest at the rate set forth in Section 20.9 on the payment owed by the Authority from the End Date to the date on which payment is made, the Authority may defer any such payment for an additional one hundred twenty (120) days if the Authority reasonably determines that such additional period is necessary to obtain financing or required approvals to make such payment.

(g) If this Agreement is rescinded or terminated during the Term pursuant to this Section 16.6, then the Authority shall recover from the Concessionaire all of the Authority's reasonable out-of-pocket expenses and Financing Costs, if any, arising in connection with such rescission or termination, together with any reasonable Re-Tender Costs relating to any Re-Tender of the Toll Roads following such rescission or termination.

(h) Without limiting the obligation of the Concessionaire to make any payment in accordance with clause (g) of this Section 16.6 or any other payment then expressly due under any other provision of this Agreement, the Authority and the Concessionaire acknowledge and agree that if this Agreement is rescinded or terminated pursuant to this Section 16.6, the Concessionaire shall not be liable as a result of such rescission or termination to return any Toll Road Revenues or other amounts received by it in accordance with this Agreement during the Term. The provisions of this Section 16.6 shall survive the termination of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 16.6 were a separate and independent contract made by the Authority with each of the Concession Mortgagee and the Concessionaire.

ARTICLE 17

RESTRICTIONS ON TRANSFERS

Section 17.1 Transfers by the Concessionaire.

(a) The Concessionaire shall not Transfer, or otherwise permit the Transfer of, any or all of the Concessionaire Interest to or in favor of any Person (a "Transferee"), unless (i) the Authority has Approved (based upon a determination in accordance with Section 17.1(b)) such proposed Transferee (unless it is the Concession Mortgagee or its designee or nominee permitted under Article 18) and (ii) the proposed Transferee (unless it is the Concession Mortgagee or its designee or nominee permitted under Article 18) enters into an agreement with the Authority in form and substance reasonably satisfactory to the Authority wherein the Transferee acquires the rights and assumes the obligations of the Concessionaire and agrees to perform and observe all of the obligations and covenants of the Concessionaire under this Agreement. Any Transfer made in violation of the foregoing provision shall be null and void *ab initio* and of no force and effect; *provided* that, while any Concession Mortgage is outstanding, the Authority shall not agree to any Transfer of any or all of the Concessionaire Interest to or in favor of any Person without the previous written confirmation from the Concession Mortgagee that such Transfer is permitted under all outstanding Concession Mortgages.

(b) The Authority's Approval of a proposed Transferee may be withheld only if the Authority reasonably determines that (i) the proposed Transfer is prohibited by applicable Law, (ii) such proposed Transferee's entering into this Agreement with the Authority is prohibited by Law, (iii) such proposed Transfer would result in a violation of Law, (iv) such proposed Transfer would result in a Tax obligation of the Authority (unless the Authority shall have received an obligation of payment with respect thereto from the Concessionaire or such proposed Transferee, as determined by the Authority, acting reasonably), (v) such proposed Transferee fails to satisfy any requirements set forth in Article 11 or (vi) such proposed Transferee is not capable of performing the obligations and covenants of the Concessionaire

under this Agreement, which determination shall be based upon and take into account the following factors: (A) the financial strength and integrity of the proposed Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners and each of their respective Affiliates; (B) the experience of the proposed Transferee or the Operator to be engaged by the proposed Transferee in operating Comparable Highways that are toll roads and performing other relevant projects; (C) the background and reputation of the proposed Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present performance on other projects), and (D) the Operator engaged by the proposed Transferee (based upon a determination in accordance with Section 3.3(b)).

(c) No Transfer of all or any of the Concessionaire Interest (except a Transfer to a Concession Mortgagee or its nominee upon the Concession Mortgagee's exercise of remedies under its Concession Mortgage as provided in Article 18 and any subsequent Transfer to the Transferee of the Concession Mortgagee or its nominee that has been Approved under Section 17.1(b)) shall be made or have any force or effect if, at the time of such Transfer, there has occurred and is continuing a Concessionaire Default that has not been remedied or an event that with the lapse of time, the giving of notice or otherwise would constitute a Concessionaire Default.

(d) A Change in Control of the Concessionaire or the Operator (other than a Change in Control occasioned by the exercise by any Concession Mortgagee or any holder of Qualified Debt of its remedies under any pledge of shares, limited liability company interests or partnership interests) shall be deemed to be a Transfer of the Concessionaire Interest for purposes of the foregoing provisions; *provided* that Section 17.1(a)(ii) shall not apply to a deemed Transfer under this Section 17.1(d) and *provided further*, that clauses (v) and (vi) of Section 17.1(b) shall apply (i) to the entity exercising control after the Change in Control and (ii) with respect to the Operator if the Change in Control results in a change of the Operator or a material change in the operations of the Operator. The Authority's judgment as to such Approval shall be based upon the Change in Control and the party or parties obtaining control and not upon considerations that do not arise out of the Change in Control.

(e) Nothing contained in the foregoing shall be deemed to prohibit or limit the Concessionaire from changing its organizational form or status (including a change from a limited liability company to a corporation or limited partnership); *provided* in each case that such change in organizational form or status does not result in a Change in Control of the Concessionaire.

(f) Neither (i) a change of ownership that is attributable to a lease, sublease, concession, management agreement, operating agreement or other similar arrangement that is subject and subordinate in all respects to the rights of the Authority under this Agreement nor (ii) the creation of a trust or any other transaction or arrangement that is solely a transfer of all or part of the Concessionaire's economic interest under this Agreement to another entity shall be deemed to be a Transfer of the Concessionaire Interest for purposes of this Section 17.1.

Section 17.2 Assignment by the Authority. The Authority shall have the right to Transfer any or all of the Authority's interest in the Toll Roads and this Agreement; *provided* that (a) it shall be jointly and severally obligated with the Transferee (unless the Transferee is the Authority's successor, in which case such successor shall be liable) for the performance and observance of the obligations and covenants of the Authority under this Agreement, each Other Authority Agreement, each Authority Capital Improvement Contract and any other agreement entered into by the Authority under this Agreement (including agreeing directly with any Concession Mortgagee to be bound by the agreement entered into in accordance with Section 18.3), and (b) that any such Transfer by the Authority shall not materially limit or reduce any of the Concessionaire's other rights, benefits, remedies or privileges under this Agreement or negatively affect the fair market value of the Concessionaire Interest. Without limiting the generality of the foregoing, the Concessionaire acknowledges and agrees that any action that may be taken under this Agreement by the Authority may be taken by the Authority or any other department, instrumentality or agency of any Governmental Authority of or in the Commonwealth and that any action taken by the Authority or any other department, instrumentality or agency of any Governmental Authority of or in the Commonwealth shall be deemed to have been taken by the Authority for purposes of this Agreement; *provided* that the Authority or any such other department, instrumentality or agency shall comply with the obligations of the Authority as set forth in this Agreement and under applicable Law.

Section 17.3 Transfers by Initial Equity Partners. Notwithstanding anything in Section 17.1 to the contrary, the Concessionaire covenants and shall ensure that, prior to the Concessionaire's completion of the Tier 1 Works and the Tier 2 Works, no initial Equity Participant as of the Effective Date shall either (i) Transfer all or any portion of its direct equity interests in the Concessionaire to any Person, except for any Transfers of such direct equity interests to another initial Equity Participant so long as no Change in Control of the Concessionaire results, or (ii) undergo a Change in Control, in either such case except with the Approval of the Authority which may be withheld in the Authority's discretion; *provided*, that any transfer of the direct equity interests in the Concessionaire to the Concession Mortgagee or its designee or nominee permitted under Article 18 shall not require the Authority's consent.

ARTICLE 18

LENDER'S RIGHTS AND REMEDIES

Section 18.1 Concession Mortgages. The Concessionaire shall have the right, at its sole cost and expense, to grant one or more (subject to Section 18.7) Concession Mortgages, if at the time any such Concession Mortgage is executed and delivered to the Concession Mortgagee, no Concessionaire Default exists unless any such Concessionaire Default will be cured pursuant to Section 18.3 in connection with entering into such Concession Mortgage, and upon and subject to the following terms and conditions:

(a) the Concessionaire shall have provided the form of the Concession Mortgage and related financing documentation to the Authority, all of which shall be consistent with the terms and conditions of this Section 18.1, and the Authority shall be reasonably satisfied with any additional obligations or burdens to which it may be subject under such Concession Mortgage or related financing documentation;

(b) a Concession Mortgage may not cover any property of, or secure any debt issued or guaranteed by, any Person other than the Concessionaire or a Lessor in connection with a Leveraged Lease (or a financial institution providing a financial guaranty or similar credit enhancement in respect of any debt of the Concessionaire); *provided* that it may cover shares or equity interests in the capital of the Concessionaire or any cash reserves or deposits held in the name of the Concessionaire;

(c) no Person other than an Institutional Lender or a Conduit Issuer acting in its capacity as such shall be entitled to the benefits and protections accorded to a Concession Mortgagee in this Agreement; *provided, however*, that creditors and other lenders to the Concessionaire, including any financial insurers, shall be entitled to the benefits and protections accorded to a Concession Mortgagee in this Agreement so long as any Concession Mortgage securing the relevant debt or financial insurance provided by such Persons is held by an Institutional Lender acting as collateral agent or trustee with the customary powers given collateral agents or trustees in similar commercial financing transactions;

(d) no Concession Mortgage or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge or security interest on or against any or all of the Concessionaire Interest shall extend to or affect the fee simple interest in the Toll Roads or the Authority's interest hereunder (other than a Permitted Concessionaire Encumbrance);

(e) the Authority shall have no liability whatsoever for payment of the principal sum secured by any Concession Mortgage, or any interest accrued thereon or any other sum secured thereby or accruing thereunder, and, except for violation by the Authority of the express obligations to the Concession Mortgagee set forth in this Article 18 and for any remedies of the Concession Mortgagee provided by Law, the Concession Mortgagee shall not be entitled to seek any damages or other amounts against the Authority for any or all of the same;

(f) the Authority shall have no obligation to any Concession Mortgagee in the enforcement of the Authority's rights and remedies herein and by Law provided, except as expressly set forth in this Agreement or in a consent agreement entered into among the Authority, the Concessionaire and the Concession Mortgagee pursuant to Section 18.1(l), and unless such Concession Mortgagee has provided the Authority with notice of its Concession Mortgage in accordance with the Concession Mortgagee Notice Requirements;

(g) each Concession Mortgage shall provide that if an event of default under the Concession Mortgage has occurred and is continuing and the Concession Mortgagee gives notice of such event of default to the Concessionaire, then the Concession Mortgagee shall give notice of such event of default to the Authority;

(h) subject to the terms of this Agreement and except as specified herein, all rights acquired by a Concession Mortgagee under any Concession Mortgage shall be subject and subordinate to all of the provisions of this Agreement and to all of the rights of the Authority hereunder;

(i) while any Concession Mortgage is outstanding, the Authority shall not agree to any amendment to or modification of this Agreement that could reasonably be expected

to have a material adverse effect on the rights or interests of the Concession Mortgagee or agree to a voluntary surrender or termination of this Agreement by the Concessionaire without the consent of the Concession Mortgagee;

(j) notwithstanding any enforcement of the security of any Concession Mortgage, the Concessionaire shall remain responsible to the Authority for the payment of all sums owing to the Authority under this Agreement and the performance and observance of all of the Concessionaire's covenants and obligations under this Agreement;

(k) a Concession Mortgagee shall not, by virtue of its Concession Mortgage, acquire any greater rights or interest in the Toll Roads than the Concessionaire has at any applicable time under this Agreement, other than such rights or interest as may be granted or acquired in accordance with Sections 18.2, 18.3, 18.4 or 18.5; and

(l) each Concession Mortgagee, the Authority and the Concessionaire shall enter into a consent agreement in a form acceptable to all parties whereby all parties consent to the assignment of this Agreement to an agent in connection with the financing of the Concession Mortgage; *provided* that such consent agreement shall be in a customary form and shall include the rights and protections provided to the Concession Mortgagee in this Agreement (including, but not limited to, those provided in Section 16.6 and this Article 18) and such other customary terms to which the parties may agree. Nothing herein shall obligate the Authority to consent to service of process, become subject to any legal process in any jurisdiction other than in the Commonwealth, or enter into any agreement not governed by the Laws of the Commonwealth.

Section 18.2 Notices and Payments to Concession Mortgagees. Whenever a Concession Mortgage exists as to which the Authority has been provided notice by the holder thereof in accordance with the Concession Mortgagee Notice Requirements, the Authority shall, simultaneously with providing the Concessionaire any required notice under this Agreement, provide a copy of such notice to such Concession Mortgagee, and no such notice to the Concessionaire shall be effective against the Concession Mortgagee until a copy thereof is duly provided to such Concession Mortgagee at its address specified in its notice given to the Authority in accordance with the Concession Mortgagee Notice Requirements (or any subsequent change of address notice given to the Authority pursuant to the requirements of Article 20). With respect to a Concession Mortgage regarding which the Authority has been provided notice in accordance with the Concession Mortgagee Notice Requirements, unless the Concession Mortgagee recognized by the Authority pursuant to Section 18.7 has otherwise advised the Authority in writing, and solely to the extent so required pursuant to the terms of the financing secured by such Concession Mortgage, all payments to the Concessionaire to be made by the Authority under this Agreement shall be made to the Concession Mortgagee or to the institution acting as the collateral agent or depository under the financing provided by such Concession Mortgagee.

Section 18.3 Concession Mortgagee's Right to Cure. The Concession Mortgagee shall have a period of one hundred and eighty (180) days with respect to any Concessionaire Default beyond any cure period expressly provided to the Concessionaire pursuant to the first proviso in Section 16.1(b)(i), in which to cure or cause to be cured any such Concessionaire Default; *provided, however,* that such one hundred and eighty (180)-day period shall be extended

if the Concessionaire Default is nonmonetary, is not a Concessionaire Default described in Section 16.1(a)(iv) or Section 16.1(a)(v) and may be cured but cannot reasonably be cured within such period of one hundred and eighty (180) days, and the Concession Mortgagee begins to cure such default within such one hundred and eighty (180)-day period (or if possession is necessary in order to effect such cure, the Concession Mortgagee, within such one hundred and eighty (180)-day period, files the appropriate legal action to commence foreclosure on the liens of the Concession Mortgage) and thereafter proceeds with all due diligence to cure such Concessionaire Default (including by proceeding with all due diligence to affect such foreclosure and during such foreclosure action (to the extent practicable) and thereafter to effect such a cure) within a reasonable period of time acceptable to the Authority, acting reasonably. If a Concession Mortgagee is acting to cure a Concessionaire Default in accordance with this Section 18.3, then the Authority shall not exercise its right to terminate this Agreement by reason of such Concessionaire Default; *provided, however,* that the Authority may exercise any of its other rights and remedies provided for hereunder at law or in equity so long as the exercise of such rights does not interfere with the Concession Mortgagee's rights hereunder. In furtherance of the foregoing, the Authority shall permit the Concession Mortgagee and its Representatives the same access to the Toll Roads as is permitted to the Concessionaire hereunder; *provided* that any actions taken by a Concession Mortgagee or its Representatives pursuant to this Section 18.3 shall be undertaken in accordance with the provisions of this Agreement that would be applicable to the Concessionaire were it taking such actions. The Authority shall accept any such performance by a Concession Mortgagee or its nominee as though the same had been done or performed by the Concessionaire. Any payment to be made or action to be taken by a Concession Mortgagee hereunder as a prerequisite to keeping this Agreement in effect shall be deemed properly to have been made or taken by the Concession Mortgagee if such payment is made or action is taken by a nominee, agent or assignee of the rights of such Concession Mortgagee. Any exercise of the Concession Mortgagee's rights to cure hereunder shall not result in the assumption by such Concession Mortgagee of the Concessionaire's obligations hereunder.

Section 18.4 Rights of the Concession Mortgagee.

(a) Subject to the provisions of this Agreement, a Concession Mortgagee may (i) enforce any Concession Mortgage in any lawful way, (ii) acquire the Concessionaire Interest in any lawful way or (iii) take possession of in any lawful way and manage the Toll Roads and conduct Toll Road Operations. Upon foreclosure of the Concession Mortgage (or without foreclosure upon exercise of any contractual or statutory power of sale under such Concession Mortgage or an assignment in lieu) and subject to the provisions of Article 17 (applied to the Concession Mortgagee as if it were the Concessionaire), a Concession Mortgagee may Transfer the Concessionaire Interest; *provided, however*, that no Transfer by a Concession Mortgagee shall be effective unless the Transfer is made in accordance with Article 17. Any Person to whom the Concession Mortgagee Transfers the Concessionaire Interest (including such Concession Mortgagee) shall take the Concessionaire Interest subject to any of the Concessionaire's obligations under this Agreement. The Concession Mortgagee is not permitted in connection with its enforcement of its lien to do anything that would materially and adversely affect the Toll Roads or the Toll Road Operations.

(b) Except as provided in Section 18.3, unless and until a Concession Mortgagee (other than a Lessor, so long as the Concessionaire, as the lessee of the Lessor, remains responsible for all of the obligations of the Concessionaire under this Agreement as its lessee) (i) forecloses or has otherwise taken ownership of the Concessionaire Interest or (ii) has taken possession or control of the Concessionaire Interest, whether directly or by an agent or a receiver or receiver and manager has taken possession or control of the Concessionaire Interest by reference to the Concession Mortgage, the Concession Mortgagee shall not be responsible for any of the Concessionaire's obligations under this Agreement or be entitled to any of the Concessionaire's rights and benefits contained in this Agreement, except by way of security. During any period in which the Concession Mortgagee itself or by an agent or a receiver or a receiver and manager is the owner (other than a Lessor, so long as the Concessionaire, as the lessee of the Lessor, remains responsible for all of the obligations of the Concessionaire under this Agreement as its lessee), or is in control or possession of, the Concessionaire Interest, it shall be bound by all liabilities and obligations of the Concessionaire accruing under this Agreement during such period (including the obligation to engage an Operator). Once the Concession Mortgagee goes out of ownership or control of the Concessionaire Interest or Transfers the Concessionaire Interest to another Person in accordance with the provisions of this Agreement, the Concession Mortgagee shall cease to be responsible for any of the Concessionaire's obligations under this Agreement accruing thereafter, and to the extent assumed by any Transferee or any other Person acceptable to the Authority, for any of the Concessionaire's obligations under this Agreement accrued during the period in which the Concession Mortgagee itself or by an agent or a receiver and manager was the owner, or was in control of, the Concessionaire Interest, and shall cease to be entitled to any of the Concessionaire's rights and benefits contained in this Agreement, except, if the Concession Mortgage remains outstanding, by way of security.

Section 18.5 Authority's Termination of this Agreement; New Agreement.

(a) Without prejudice to the rights of a Concession Mortgagee under Section 18.3, if this Agreement is (x) terminated prior to the expiration of the Term due to a Concessionaire Default (in which case the Authority shall notify the Concession Mortgagee of such termination and deliver to the Concession Mortgagee, together with such notice, a Statement of Estimated Liabilities), (y) rejected or disaffirmed pursuant to any bankruptcy Law or proceeding or other similar Law or proceedings affecting creditors' rights generally with respect to a bankruptcy proceeding relating to the Concessionaire or otherwise, or (z) is rescinded or terminated pursuant to Section 16.6 as the result of a Public Integrity Crime in circumstances where the provisions of Section 16.6(d) or Section 16.6(e) are applicable, then the Authority agrees, if there are outstanding obligations to a Concession Mortgagee (but subject, in the case of clause (z), to Section 16.6(f)), upon the written request of the Concession Mortgagee to enter into a new concession agreement of the Toll Roads with the Concession Mortgagee (or its designee or nominee; *provided* that such designee or nominee either is controlled by the Concession Mortgagee or is Approved by the Authority as Transferee under Article 17) for the remainder of the Term upon all of the covenants, agreements, terms, provisions and limitations of this Agreement, including all of the agreements, terms, provisions and limitations relating to the engagement of an Operator (the "New Agreement"), effective as of the date of such termination. The Authority's obligation to enter into a new concession agreement of the Toll

Roads pursuant to the preceding sentence is subject to the satisfaction of all of the following requirements and conditions: (i) such Concession Mortgagee commits in writing to the Authority, in a notice delivered to the Authority, within thirty (30) days after the Authority delivers the termination notice and Statement of Estimated Liabilities to the Concession Mortgagee (or, if later, upon the termination of any cure period granted to the Concession Mortgagee pursuant to Section 18.3) or within ten (10) days after the effective date of such rejection or disaffirmance referred to in clause (y) or such rescission or termination referred to clause (z) of this Section 18.5(a), as the case may be, that the Concession Mortgagee (or its designee or nominee) will enter into the New Agreement, which notice is accompanied by a copy of such New Agreement, duly executed and acknowledged by the Concession Mortgagee (or its designee or nominee); (ii) reasonably in advance of the execution of any New Agreement pursuant to clause (x) of this Section 18.5(a), the Concession Mortgagee (or its designee or nominee) pays or causes to be paid to the Authority, at the time of the execution and delivery of such New Agreement, (A) all amounts set forth in the Statement of Estimated Liabilities which, at the time of the execution and delivery thereof, would have been past-due or due and payable in accordance with the provisions of this Agreement but for such termination and (B) all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements set forth in the Statement of Estimated Liabilities paid or incurred by the Authority in connection with such defaults and termination, the recovery of possession from the Concessionaire, and the preparation, execution and delivery of the New Agreement and related agreements; and (iii) in the case of any New Agreement pursuant to clause (x), such Concession Mortgagee (or its designee or nominee), at the time of such written request, cures all Concessionaire Defaults under this Agreement (curable by the payment of money) that are existing immediately prior to the termination of this Agreement set forth in the Statement of Estimated Liabilities, or, if such defaults cannot be cured by the payment of money, such Concession Mortgagee (or its designee or nominee) commits to the Authority in the New Agreement to proceed both promptly and diligently, upon the execution of the New Agreement, to cure all such other Concessionaire Defaults (to the extent curable) set forth in the Statement of Estimated Liabilities and, if possession is necessary in order to cure such other Concessionaire Defaults, to proceed both promptly and diligently to obtain the possession required to cure any such other defaults to the extent curable (and such cure shall be a covenant of the Concession Mortgagee in the New Agreement). The omission from a Statement of Estimated Liabilities of (i) any amounts payable to the Authority under this Agreement, (ii) any unperformed obligations of the Concessionaire hereunder or (iii) any other costs of the Authority shall not excuse the payment of such amounts or costs or the performance of such unperformed obligations.

(b) Nothing contained in this Section 18.5 shall be deemed to limit or affect the Authority's interest in and to the Toll Roads upon the expiration of the Term of the New Agreement. The provisions of this Section 18.5 shall survive the termination of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 18.5 were a separate and independent contract made by the Authority, the Concessionaire and the Concession Mortgagee and, if the Concession Mortgagee satisfies the conditions to a New Agreement from the effective date of such termination of this Agreement to the date of execution and delivery of the New Agreement, the Concession Mortgagee may use and enjoy the exclusive concession created by this Agreement (and all other rights and benefits provided to the

Concessionaire hereunder) without hindrance by the Authority, but only on and subject to the terms and provisions of this Agreement.

(c) The Concession Mortgagee shall be entitled to request that the Authority pre-qualify pursuant to Article 17 one or more potential transferees of the Concessionaire Interest in connection with any prospective exercise of the Concession Mortgagee's rights hereunder; *provided* that the Concession Mortgagee reimburses the Authority for the reasonable cost and expense of such pre-qualification. Any such approval by the Authority of such a potential transferee shall be valid for one year after approval, *provided* that the Concession Mortgagee shall be obligated to notify the Authority if the Concession Mortgagee becomes aware during such one-year period of a reasonable basis for the Authority to withhold its approval under Section 17.1(b) and *provided further*, that the Authority may rescind such approval if the Authority becomes aware during such one-year period (through the Concession Mortgagee or otherwise) of a reasonable basis for the Authority to withhold its approval under Section 17.1(b).

Section 18.6 Right to Dispute Resolution. In each case specified in this Agreement in which resort to dispute resolution is authorized, the Concession Mortgagee shall have the right and privilege if an event of default under the Concession Mortgage then exists and notice has been given to the Authority as contemplated by Section 18.1(g), in the Concessionaire's name, place and stead, to obtain and participate in such dispute resolution upon notice to the Authority in accordance with Article 19; *provided* that the Concession Mortgagee agrees to be bound by the outcome of the dispute resolution process.

Section 18.7 Recognition by the Authority of Concession Mortgagee. Notwithstanding anything in this Agreement to the contrary, if there is more than one Concession Mortgagee, only that Concession Mortgagee, to the exclusion of all other Concession Mortgagees, whose notice was earliest received by the Authority pursuant to the Concession Mortgagee Notice Requirements, shall have the rights as a Concession Mortgagee under this Article 18, or otherwise under this Agreement, unless such Concession Mortgagee has designated in writing another Concession Mortgagee to exercise such rights; *provided, however,* that such notice may name more than one Concession Mortgagee and the rights referred to in this Section 18.7 may extend to all Concession Mortgagees named therein if such notice is submitted by a representative of all such Concession Mortgagees (which representative may itself be a Concession Mortgagee). Any references in this Agreement to the "Concession Mortgagee" shall be references to the Concession Mortgagee or representative of more than one Concession Mortgagee, acting on behalf of such Concession Mortgagees, whose notice was earliest received by the Authority pursuant to the Concession Mortgagee Notice Requirements unless the context otherwise requires.

Section 18.8 Authority's Right to Purchase Concession Mortgage.

(a) If (i) any event of default by the Concessionaire has occurred under a Concession Mortgage and is continuing and (ii) the Concession Mortgagee recognized by the Authority pursuant to Section 18.7 is entitled, pursuant to the intercreditor arrangements then in force and effect, to declare all or part of the indebtedness secured by such Concession Mortgage to be immediately due and payable, then for thirty (30) days commencing on the date that is ten

(10) days after the date on which such Concession Mortgagee shall serve notice upon the Authority in writing with a copy to all other Concession Mortgagees ("Concession Mortgagee's Notice") that such Concession Mortgagee intends and is entitled, pursuant to the intercreditor arrangements then in force and effect, to commence proceedings to foreclose the Concession Mortgage (stating the calculation of the purchase price pursuant to Section 18.8(c)) during such thirty (30)-day period, the Authority shall have the right and option (the "Authority's Option") to purchase from all Concession Mortgagees their Concession Mortgages, upon the terms and subject to the conditions contained in this Section 18.8.

(b) The Authority's Option shall be exercised by written notice served upon the Concessionaire and all Concession Mortgagees within such thirty (30)-day period. Time shall be of the essence as to the exercise of the Authority's Option. If the Authority's Option is duly and timely exercised, the Authority shall purchase all Concession Mortgages and all Concession Mortgagees shall assign their Concession Mortgages to the Authority (or its designee) on the date which is sixty (60) days after the date on which a Concession Mortgagee's Notice is served upon the Authority. The closing shall take place at a mutually convenient time and place.

(c) The purchase price payable by the Authority shall be one hundred percent (100%) of the aggregate amounts secured by or due under such Concession Mortgages (including principal, interest, fees, expenses, premiums, Breakage Costs, termination value or similar obligations (with respect to a Leveraged Lease) and other costs, expenses (including reasonable attorneys' fees) and any other amounts secured thereby or due thereunder) as of the closing date of the purchase. The purchase price shall be paid in full in cash at closing by wire transfer or other immediately available funds. The purchase price shall be paid by the Authority to each respective Concession Mortgagee, to be applied by the Concession Mortgagee to the amounts secured by the Concession Mortgage owed to such Concession Mortgagee, subject to the priorities of lien of such Concession Mortgages.

(d) At the closing and upon payment in full of the purchase price, each Concession Mortgagee shall assign its Concession Mortgage to the Authority, together with any security interest held by it in the Concessionaire's interest in the Toll Roads, without recourse, representations, covenants or warranties of any kind; *provided* that such Concession Mortgages and security interests shall be deemed modified to secure the amount of the aggregate purchase price paid by the Authority to all Concession Mortgagees (rather than the indebtedness theretofore secured thereby) payable on written demand, with interest and upon the other items referred to in this Section 18.8(d). Each such assignment shall be in form for recordation or filing, as the case may be. The Authority shall be responsible for paying any Taxes payable to any Governmental Authority upon such assignment. Such assignment shall be made subject to such state of title of the Toll Roads as shall exist at the date of exercise of the Authority's Option.

(e) Any Concession Mortgage shall contain an agreement of the Concession Mortgagee to be bound by the provisions of this Section 18.8.

(f) The Authority shall have the right to receive (and each Concession Mortgage shall contain an agreement of the Concession Mortgagee to deliver) all notices of

default under any Concession Mortgage contemporaneously with the delivery of such notices to the Concessionaire, but the Authority shall not have the right to cure any default under any Concession Mortgage, except to the extent provided in this Section 18.8.

ARTICLE 19

DISPUTE RESOLUTION

Section 19.1 Scope. Any dispute between the Parties arising out of, relating to, or in connection with this Agreement, including any question regarding its existence, validity or termination or any question as to whether such dispute is subject to the provisions contained in this Article 19, shall be resolved as set forth in this Article 19.

Section 19.2 Informal Dispute Resolution Procedures. The Parties agree that, at all times, they will attempt in good faith to resolve all disputes that may arise under this Agreement. The Parties further agree that, upon receipt of written notice of a dispute from a Party, the Parties shall refer the dispute to the Designated Person of each Party. The Designated Persons shall negotiate in good faith to resolve the dispute, conferring as often as they deem reasonably necessary, and shall gather and in good faith furnish to each other the information pertinent to the dispute. Statements made by Representatives of the Parties during the dispute resolution mechanisms set forth in this Section 19.2 and documents specifically created for such dispute resolution mechanisms shall be considered part of settlement negotiations and shall not be admissible in evidence in any proceeding without the mutual written consent of the Parties.

Section 19.3 Mediation.

(a) If either Party believes that it has a claim against the other under this Agreement, such Party shall notify the other of the same within six (6) months of the date that it became aware of facts giving rise to the claim. The notice given pursuant to the preceding sentence shall state the general nature of the claim, the estimated relief (if any) owed to the Party making the claim, and the nature of the remedies sought by such Party.

(b) Each Party to this Agreement agrees that it may not initiate a civil action as provided in Section 19.5 and Section 19.6 (other than provisional remedies sought on an expedited basis) unless (i) the matter in question has been submitted to mediation in accordance with the provisions of Section 19.3(c) or (ii) such Party would be barred from asserting its claim in a civil action if it were required to submit to mediation pursuant to Section 19.3(c).

(c) Mediation of a dispute under this Agreement may not be commenced until the earlier of: (i) such time as both of the Designated Persons, after following the procedures set forth in Section 19.2, conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or (ii) thirty (30) days after the notice referring the dispute to the Designated Persons, pursuant to Article 19 (the "Negotiation Period"). If, after such time period, the dispute remains unresolved, either Party shall refer the dispute to a mediator, who shall be an attorney in good standing with the Puerto Rico Supreme Court or, if the matter in dispute is an engineering or technical dispute, the Parties shall refer the dispute to the Independent Operating Engineer, subject to the rights of the Parties pursuant to Section 19.4.

With respect to the selection of a mediator, the Parties, through their respective Designated Persons, shall attempt in good faith to agree on a mediator. If the Parties cannot so agree within thirty (30) days after it is determined that the Designated Persons cannot resolve the dispute or after the end of the Negotiation Period, the Parties shall promptly apply to the American Arbitration Association ("AAA") for appointment of a single mediator in accordance with the Commercial Mediation Procedures of the AAA without there being a requirement of previously filing a request for mediation thereunder. The mediator selected by the AAA shall be an attorney authorized to practice law in the United States or the Commonwealth. The mediator or the Independent Operating Engineer, as the case may be, shall be paid for the mediation services, and shall be reimbursed for all reasonable out-of-pocket costs incurred in carrying out the mediation duties hereunder, including the costs of consultants. All fees and costs of the mediation (including payment for the services of the mediator or the Independent Operating Engineer and reimbursement of all reasonable out-of-pockets costs (including the costs of consultants) of the mediator or the Independent Operating Engineer) shall be shared equally by the Parties. The Parties shall request that the mediator schedule the mediation within thirty (30) days of the mediator's appointment (or in the case of the Independent Operating Engineer, within thirty (30) days after the Parties refer the dispute to the Independent Operating Engineer), and shall comply with all procedures the mediator or the Independent Operating Engineer establishes for the conduct of the mediation.

Section 19.4 Arbitration.

(a) *Arbitration of Required Modifications.* If the procedures described in Section 19.2 and Section 19.3 do not result in resolution of a dispute arising under Section 5.2 within thirty (30) Business Days from a reference to mediation, the dispute shall be exclusively and finally settled by arbitration in accordance with the Commercial Arbitration Rules for the AAA then in effect (the "AAA Commercial Rules"). Either Party may initiate the arbitration, as provided in the AAA Commercial Rules. The place of arbitration shall be San Juan, Puerto Rico, unless the Parties otherwise agree. Pursuant to Section 20.6, the arbitral panel shall determine the rights and obligations of the Parties in accordance with the substantive laws of the Commonwealth and without regard to the conflict of laws principles thereof. Except as agreed by the Parties, the arbitral panel shall have no power to alter or modify any terms or provisions of this Agreement or to render any award that, by its terms or effects, would alter or modify any term or provision of this Agreement. The arbitral panel shall be composed of three arbitrators, one to be selected by the Authority, one to be selected by the Concessionaire and the third to be selected by the two previously-selected arbitrators. If the two previously-selected arbitrators cannot agree on the selection of the third arbitrator, within thirty (30) days from their appointment by the Parties, either Party may file an action in the Puerto Rico Court of First Instance in San Juan, Puerto Rico, pursuant to 32 L.P.R.A. § 3205, and request that said Court appoint the third arbitrator. Once the arbitral panel has been composed, the arbitrators shall act as neutrals and not as party arbitrators, and no Party shall engage in any *ex parte* communication with any member of the arbitral panel. Each Party shall bear equally the costs of the arbitral panel and attorneys' fees as determined by the arbitral panel. The award shall include interest pursuant to Section 20.9 from the date of any breach or violation of this Agreement or the incurring of any obligation as determined in the arbitral award until paid in full. The award shall

be in writing and state the reasons upon which it is based. The award shall be final and binding on the Parties. Judgment on the award may be entered by any court of competent jurisdiction.

(b) *Technical Arbitration.* Any engineering or technical dispute arising under or related to this Agreement shall be exclusively and finally settled in accordance with the Construction Industry Arbitration Rules for the AAA then in effect (the "AAA Technical Arbitration Rules") without submitting such dispute to mediation by the Independent Operating Engineer pursuant to Section 19.3 and without submitting the dispute to arbitration pursuant to Section 19.4(a). Either Party may initiate the arbitration as provided in the AAA Technical Arbitration Rules. Such engineering arbitration shall be conducted by an Independent Engineering Arbitrator that is acceptable to the Authority and the Concessionaire. If the Parties fail to agree upon the Independent Engineering Arbitrator within five (5) Business Days after the Parties agree to submit the dispute to engineering arbitration, then the Authority and the Concessionaire shall each appoint an Independent Engineering Arbitrator and both such arbitrators shall be instructed to select a third Independent Engineering Arbitrator to conduct the engineering arbitration (unless the Parties agree in writing for the dispute to be heard by one Independent Engineering Arbitrator, who will then be selected by the AAA). If the two previously selected Independent Engineering Arbitrators cannot agree on the selection of the third Independent Engineering Arbitrator, the third Independent Engineering Arbitrator shall be selected by the AAA. The Parties shall each bear their own costs with respect to the arbitration of any such engineering dispute and shall bear equally the cost of retaining such Independent Engineering Arbitrator(s). The award of the Independent Engineering Arbitrator(s) shall be in writing and state the reasons upon which it is based. The award of the Independent Engineering Arbitrator(s) shall be final and binding on the Parties.

(c) *Disputes Regarding Arbitrability.* Any dispute between the Parties as to whether a dispute shall be submitted to arbitration under Section 19.4(a) or Section 19.4(b) shall be resolved by initiation of an action in the Commonwealth Court of First Instance, San Juan Part (the "Commonwealth Court") pursuant to Section 19.5.

Section 19.5 Court Action. In the event that the Parties fail to resolve the dispute within ninety (90) days after the date the mediator is selected pursuant to the procedures set forth in Section 19.3 (or such longer period as the Parties may mutually agree), either Party may initiate a civil action in Commonwealth Court and in accordance with all applicable rules of civil procedure; *provided* that any engineering or technical dispute or claim regarding any Required Modification that is not resolved by mediation pursuant to Section 19.3 within the time period described in this Section 19.5 shall be submitted to arbitration pursuant to Section 19.4. The Parties acknowledge and understand that, to resolve any and all claims arising out of this Agreement (other than any engineering or technical claim or claim regarding any Required Modification), they may file a civil action, including actions in equity, in Commonwealth Court.

Section 19.6 Provisional Remedies. No Party shall be precluded from initiating a proceeding in Commonwealth Court for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Agreement, including temporary and preliminary injunctive relief, restraining orders, and the appointment of a receiver or manager in connection with the collection and retention of Toll Road Revenues.

Section 19.7 Tolling. If a Party receiving a notice of default under this Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this Article 19, any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final decision.

Section 19.8 Submission to Jurisdiction. Subject to Section 19.3 and Section 19.4, any judicial action or proceeding against the Concessionaire or the Authority relating in any way to this Agreement shall be brought and enforced in Commonwealth Court, and each of the Concessionaire and the Authority hereby irrevocably submits to the jurisdiction of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter have to the jurisdiction and venue of any such action or proceeding therein and any claim that any such action or proceeding brought therein has been brought in an inconvenient forum. Service of process on the Authority shall be made in accordance with the Laws of the Commonwealth on the Executive Director of the Authority at the address specified in Article 20 and the Attorney General of the Commonwealth. The foregoing shall not constitute the consent by the Authority to receive service of process for actions or proceedings brought and enforced in any court other than the Commonwealth Court. Service of process on the Concessionaire may be made either by registered or certified mail addressed as provided for in Article 20 or by delivery to the Concessionaire's registered agent for service of process in the Commonwealth.

Section 19.9 Request for Documents; Subpoena *Duces Tecum*. If the Concessionaire is presented with a request for documents by any administrative agency or with a subpoena *duces tecum* regarding any documents that may be in its possession by reason of this Agreement, the Concessionaire shall, to the extent permitted by Law, give prompt notice to the Authority at the addresses specified for the Authority in Article 20. The Authority may contest such process by any means available to it before such records or documents are submitted to a court or other third party; *provided, however*, that the Concessionaire shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Law, unless the subpoena or request is quashed or the time to produce is otherwise extended.

ARTICLE 20

MISCELLANEOUS

Section 20.1 Notice. All notices, requests for approvals, approvals and other communications, required or permitted by this Agreement shall be in English and in writing and shall be delivered, sent by courier or sent by either certified or registered mail (return receipt requested and postage prepaid) or email, addressed as follows:

(a) in the case of the Authority:

Puerto Rico Highways and Transportation Authority
Roberto Sánchez Vilella Government Center
300 De Diego Avenue, South Building, Floor 10
Santurce, Puerto Rico 00911
Attention: Executive Director
Telephone: (787) 721-8787
Facsimile: (787) 727-5456

Email: info@act.pr.gov

with a copy to:

Puerto Rico Highways and Transportation Authority
Roberto Sánchez Vilella Government Center
300 De Diego Avenue, South Building, Floor 10
Santurce, Puerto Rico 00911
Attention: Legal Department
Telephone: (787) 721-8787
Facsimile: (787) 727-5456

Email: legalnotification@act.pr.gov

and a copy to:

Puerto Rico Public-Private Partnerships Authority
Roberto Sánchez Vilella Government Center
De Diego Avenue, Stop 22
Santurce, Puerto Rico 00907
Attention: Executive Director
Telephone: (787) 722-2525

Email: info@p3.pr.gov

(b) in the case of the Concessionaire:

Puerto Rico Tollroads, LLC
PO Box 12004
San Juan, PR 00922
Attention: General Counsel
Telephone: (787) 474-5999
Facsimile: (787) 474-5998

Email: legal@metropistas.com

and a copy to:

Abertis Infraestructuras, S.A.
Paseo de la Castellana 89, 9th Floor,
28046 Madrid, Spain
Attention: Carlos Garcia Cabrera
Telephone: +34 93 230-5588

Email: carlos.garcia@abertis.com

or such other persons or addresses as either Party may from time to time designate by notice to the other. A notice, other communication or approval shall be deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

Section 20.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree (i) that each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) that the provisions and language of this Agreement have been fully negotiated and (iii) that no provision of this Agreement shall be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

Section 20.3 Amendment. This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties.

Section 20.4 Waiver of Rights. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

Section 20.5 Severability. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable Law. The invalidity of any one or more phrases, sentences, clauses or Sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof. If any provision of this Agreement or the application thereof to any Person or circumstances is held or deemed to be or determined to be invalid, inoperative or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any

applicable Law, or public policy, or for any other reason, (i) such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever, and (ii) the Parties shall negotiate in good faith to amend this Agreement to implement the provisions set forth herein. If the Parties cannot agree on an appropriate amendment, either Party may refer the matter for determination pursuant to the dispute resolution procedure in Article 19. If, by means of the dispute resolution procedure, the Parties are unable, as a result of applicable Law, to resolve the matter in a manner that effectively entitles the Authority to have the same rights, after the aforesaid determination of invalidity or unenforceability as before, the Authority shall have the right to enact, and cause to come into force, any Law to provide for the same or substantially the same rights as were determined to be invalid or unenforceable; *provided* that the rights of the Concessionaire shall in no event be diminished by any such Law.

Section 20.6 Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the Commonwealth Laws in force (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

Section 20.7 Further Acts. The Parties shall do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Agreement, including, without limitation, submission of this Agreement for filing with the Office of the Comptroller of the Commonwealth, pursuant to the provisions of Act. No. 18. The obligations pursuant to this Agreement shall not be enforceable until it shall have been submitted for filing with the Office of the Comptroller of the Commonwealth as provided by Act No. 18. Without limiting the foregoing, each Party will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and take such further actions as may be reasonably requested by the other Party in order to cure any defect in the execution or delivery of this Agreement.

Section 20.8 Costs. Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with performing and observing its obligations and covenants under this Agreement.

Section 20.9 Interest. Any amount payable under this Agreement and not paid when due under this Agreement shall bear interest both before and after judgment at the legal rate of interest provided for under Regulation No. 78-1 (Puerto Rico Regulation No. 3702 of October 25, 1988) of the Office of the Commissioner of Financial Institutions, from the date such payment is due until payment.

Section 20.10 Inurement and Binding Effect. This Agreement shall inure to the benefit of the Parties and their respective permitted successors and assigns and be binding upon the Parties and their respective successors and assigns.

Section 20.11 No Partnership or Third Party Beneficiaries. Nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between the Authority and the Concessionaire. Except as expressly provided herein to the contrary (including with respect to such rights as are expressly granted to each

Concession Mortgagee or any Indemnified Party pursuant to this Agreement), no term or provision hereof shall be construed in any way to grant, convey or create any rights or interests to or in any Person not a Party to this Agreement.

Section 20.12 Cumulative Remedies. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 20.13 Counterparts; Facsimile Execution. This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission. Such Party shall be deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

Section 20.14 Waiver of Sovereign Immunity. The Authority acknowledges that under its enabling act, it is not entitled to raise the defense of sovereign immunity with respect to claims arising out of this Agreement. Under its enabling act, the Authority does not have sovereign immunity (and any defense based thereon) as to it and its property in respect of the enforcement and execution of any award or other relief (pecuniary or otherwise) rendered against it in accordance with the provisions of this Agreement.

Section 20.15 Commonwealth Obligations. THE OBLIGATIONS OF THE AUTHORITY UNDER THIS AGREEMENT SHALL NOT BE DEEMED OBLIGATIONS OF THE COMMONWEALTH OR OF ANY INSTRUMENTALITY OF THE COMMONWEALTH OTHER THAN THE AUTHORITY.

Section 20.16 Most Favored Nation. The Authority hereby covenants and agrees that in the event that the Authority shall have, at any time following the date hereof, agreed to provide to any private toll road operator other than the Concessionaire, directly or indirectly (any such agreement or arrangement, the "Other Agreement") protection, compensation, collateral or other support in respect of toll violations, fines or other enforcement mechanisms related to such violations including any consent rights related to the designation of any ETC Service Provider (the "Enforcement Benefits"), the Authority shall provide to the Concessionaire written notice of such Other Agreement no later than 30 days following the date on which such Other Agreement shall have been executed by the Authority (the "Initial MFN Notice"), together with a copy of such Other Agreement (which copy may be redacted at the Authority's discretion). No later than 30 days following receipt of the Initial MFN Notice, the Concessionaire shall provide notice to the Authority (the "MFN Benefits Notice") confirming whether the Concessionaire considers that such Other Agreement contains an Enforcement Benefit that is more beneficial to such other private operator than the Concessionaire (such better protection, compensation, collateral or other support, the "MFN Benefits"); *provided* that any difference in the dollar amount of any such cash collateral similar to the Concessionaire Escrow Subaccount shall not constitute an MFN Benefit. In the event that the MFN Benefits Notice shall assert the existence of any MFN Benefit, no later than 30 days following the delivery thereof, the Authority shall notify the

Concessionaire whether it agrees with the Concessionaire or whether it disputes the assertion made by the Concessionaire. In the event of a disagreement, the matter shall be referred to the dispute resolution procedure set forth in Section 19. In the event that no such dispute exists, the Authority and the Concessionaire shall proceed diligently to implement such MFN Benefits into this Agreement by amending the terms hereof to reflect the same.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, the Authority and the Concessionaire each has caused this Agreement to be duly executed as of the day and year first above written.

Puerto Rico Tollroads, LLC

By: _____
Name: Julián Fernández Rodes
Title: Authorized Signatory
Federal Employer ID #: 66-1035816

Puerto Rico Highways and Transportation Authority

By: _____
Name: Edwin E. González Montalvo, PhD, PE
Title: Executive Director