

**SCHEDULE**  
**to the**  
**Master Agreement**  
**(Local Currency – Single Jurisdiction)**

dated as of August [ ], 2008

between

**City of Austin, Texas**

(the “Counterparty”)

**and**

**Morgan Keegan Financial Products, Inc.**

(the “Provider”)

(City of Austin, Texas Hotel Occupancy Tax Bonds)

## Part 1

## TERMINATION PROVISIONS

- (a) **“Specified Entity”** means in relation to the Provider for the purpose of:
- |  |           |
|--|-----------|
| Section 5(a)(v) (Default under Specified Transaction), | None;     |
| Section 5(a)(vi) (Cross Default),                      | None;     |
| Section 5(a)(vii) (Bankruptcy),                        | None; and |
| Section 5(b)(ii) (Credit Event Upon Merger),           | None;     |
- in relation to the Counterparty for the purpose of:
- |  |           |
|--|-----------|
| Section 5(a)(v) (Default under Specified Transaction), | None;     |
| Section 5(a)(vi) (Cross Default),                      | None;     |
| Section 5(a)(vii) (Bankruptcy),                        | None; and |
| Section 5(b)(ii) (Credit Event Upon Merger),           | None.     |
- (b) **“Specified Transaction”** means, in lieu of the meaning specified in Section 12, any contract or transaction, including an agreement with respect thereto (whether or not documented under or effected pursuant to a master agreement) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such party or any applicable Specified

Entity of such party), provided that, such term shall include only those transactions pursuant to which the Counterparty's obligations are payable in whole or in part from Pledged Revenues.

- (c) The “**Cross Default**” provisions of Section 5(a)(vi) of this Agreement will apply to the Counterparty and the Provider provided that:

(i) With respect to any Specified Indebtedness that is not capable of being declared due and payable as a result of the occurrence or existence of a default, event of default or other similar condition or event (however described) under the agreement or instrument relating to such Specified Indebtedness, the words “which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable” shall be deleted from clause (1) of such Section 5(a)(vi) and the words “and the bondholders or trustee are permitted to exercise any remedies under the agreements and instruments” shall be added in its place; and

(ii) The following language shall be added to the end thereof: “*provided, however, that, notwithstanding the foregoing, an Event of Default shall not occur under either (1) or (2) above if (A) (I) the default, or other similar event or condition referred to in (1) or the failure to pay referred to in (2) is a failure to pay or deliver caused by an error or omission of an administrative or operational nature, and (II) funds or the asset to be delivered were available to such party to enable it to make the relevant payment or delivery when due and (III) such payment or delivery is made within three (3) Local Business Days following receipt of written notice from an interested party of such failure to pay, or (B) such party was precluded from paying, or was unable to pay, using reasonable means, through the office of the party through which it was acting for purposes of the relevant Specified Indebtedness, by reason of force majeure, act of State, illegality or impossibility.*”

- (d) “**Specified Indebtedness**” has the meaning specified in Section 12, except that with respect to the Counterparty, such term shall include only those obligations payable in whole or in part from Pledged Revenues.

- (e) “**Threshold Amount**” means: (i) with respect to the Provider, U.S. \$10,000,000; (ii) with respect to any Credit Support Provider of such party, 1% of its shareholders' equity (determined in accordance with generally accepted accounting principles); and (iii) with respect to the Counterparty, U.S. \$10,000,000 (or the equivalent in another currency, currency unit or combination thereof).

- (f) **Bankruptcy.** Clause (6) of Section 5(a)(vii) of this Agreement is hereby amended to read in its entirety as follows:

“(6)(A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets or (B) in the case of the Counterparty, any Credit Support Provider of the Counterparty or any applicable Specified Entity of such Counterparty,

(I) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or (II) there shall be declared or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;”

- (g) **Merger Without Assumption.** Section 5(a)(viii) is hereby amended to read in its entirety as follows:

“(viii) ***Merger Without Assumption.*** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, in the case of the Counterparty, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, such party, or any Credit Support Provider of such party) and, at the time of such consolidation, amalgamation, merger, transfer, or succession:

(1) the resulting, surviving, transferee or successor entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving, transferee or successor entity of its obligations under this Agreement.

- (h) **“Credit Event Upon Merger”** applies to the Provider and the Counterparty. Section 5(b)(ii) is hereby deleted in its entirety and replaced by the following:

“(ii) ***Credit Event Upon Merger.*** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to another entity (or, without limiting the foregoing, if X is the Counterparty, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, X, any Credit Support Provider of X, or any applicable Specified Entity of X), and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of X or the resulting, surviving, transferee, or successor entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or”

- (i) The **“Automatic Early Termination”** provisions of Section 6(a) will apply to the Provider and will not apply to the Counterparty; *provided*, where an Event of Default under Section 5(a)(vii) with respect to the Provider arises solely by reason of an event or

condition that is directly attributable to its Credit Support Provider, then the Automatic Early Termination provisions of Section 6(a) will not apply to the Provider; and *provided further*, with respect to the Counterparty, where the Event of Default is specified in Section 5(a)(vii)(1), (3), (4), (5), (6) or to the extent analogous thereto, (8), and is governed by a system of law which does not permit termination to take place upon or after the occurrence of the relevant Event of Default in accordance with the terms of this Agreement, then the Automatic Early Termination provisions of Section 6(a) will apply to the Counterparty or (to the extent the preceding *proviso* is applicable) to the Provider, as the case may be.

(j) For purposes of Section 6(e): Market Quotation and the Second Method will apply, modified as provided in Part 5 below.

(k) **Additional Termination Event** will apply. Each of the following shall constitute an Additional Termination Event:

(i) Counterparty Credit Event. The occurrence at any time of a Counterparty Credit Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Counterparty. As used herein, "Counterparty Credit Event" shall mean that the long-term, public, unenhanced Bonds of the Counterparty shall cease to be rated at least "Baa3" by Moody's Investors Service, Inc. ("Moody's") or "BBB-" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), or such Bonds cease to be rated by Moody's or S&P or either of such ratings is withdrawn or suspended. Upon the occurrence of a Counterparty Credit Event, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions.

(ii) CSP Credit Event. The occurrence at any time of a CSP Credit Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Provider. As used herein, "CSP Credit Event" shall mean that, with respect to the CSP, the long-term, unsecured, unenhanced and unsubordinated indebtedness of the CSP shall cease to be rated at least "Baa3" by Moody's or "BBB-" by S&P, or such indebtedness ceases to be rated by Moody's or S&P or either of such ratings is withdrawn or suspended. Upon the occurrence of a CSP Credit Event, the Provider shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions.

(iii) Incipient Illegality. The occurrence at any time of an Incipient Illegality (as defined herein) shall be an Additional Termination Event with respect to the Counterparty. Upon the occurrence of an Incipient Illegality, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions.

(iv) Covered Agreement Amendment Event. The occurrence at any time of Covered Agreement Amendment Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Counterparty. As used herein, "Covered Agreement Amendment Event" shall occur when the Counterparty amends, repeals, or

otherwise modifies the Covered Agreement without the prior written consent of the Provider, and in the reasonable judgment of the Provider, as a result of such amendment, repeal or other modification, the ability of the Counterparty to comply with and perform its obligations under this Agreement or in respect of any Transaction hereunder shall be materially adversely affected. Upon the occurrence of a Covered Agreement Amendment Event, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions.

(v) **Counterparty Default Under Credit Support Annex.** The occurrence at any time of a Counterparty Default Under Credit Support Annex Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Counterparty. As used herein, “Counterparty Default Under Credit Support Annex Event” shall mean the occurrence at any time of an Event of Default under the Credit Support Annex where the Counterparty is the Defaulting Party. Upon the occurrence of a Counterparty Default Under Credit Support Annex Event, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions.

- (l) **Additional Event of Default.** Section 5(a) of the Agreement is hereby amended to include the following additional Events of Default with respect to the Counterparty, which shall be added as subparagraphs (ix) and (x) of such Section 5(a):

“(ix) **Authority; Repudiation.** The Counterparty shall cease to have authority to make payments under this Agreement or any Transaction subject to this Agreement, or any legislative body having jurisdiction over the Counterparty shall adopt any legislation which would have the effect of repudiating this Agreement or any Transaction subject to this Agreement.

(x) **Default under Reimbursement Agreement.** The occurrence and continuance of any event that constitutes an Event of Default with respect to the Counterparty under Section 6.01 (subject to any applicable right to cure such Events of Default as set forth therein) of the Reimbursement Agreement, dated as of August 1, 2008, between the Counterparty and Dexia Credit Local, relating to the Bonds, and any default provisions of any replacement or substitute reimbursement agreement (the “Reimbursement Agreement”).

## Part 2

### AGREEMENT TO DELIVER DOCUMENTS

For the purpose of Section 4(a), each party agrees to deliver the following documents, with each document to be delivered to the Provider also to be delivered to any Credit Support Provider of such party:

<b>Party required to deliver document</b>	<b>Form/Document/Certificate</b>	<b>Date by which to be delivered</b>	<b>Covered by Sec. 3(d) Representation</b>
the Counterparty	Either (1) a signature booklet	Upon or prior to the	Yes

<b><u>Party required to deliver document</u></b>	<b><u>Form/Document/Certificate</u></b>	<b><u>Date by which to be delivered</u></b>	<b><u>Covered by Sec. 3(d) Representation</u></b>
	containing secretary's certificate and resolutions ("authorizing resolutions") authorizing the Counterparty to enter into derivatives transactions of the type contemplated by the parties or (2) a secretary's certificate, authorizing resolutions and incumbency certificate, in either case, for the Counterparty reasonably satisfactory in form and substance to the Provider and any Credit Support Provider of the Provider	execution and delivery of this Agreement and, with respect to any Confirmation upon request by the Provider.	
the Provider	Evidence of the authority, incumbency and specimen signature of each person executing this Agreement or any Confirmation, Credit Support Document or other document entered into in connection with this Agreement on its behalf or on behalf of a Credit Support Provider or otherwise, as the case may be	Upon or prior to the execution and delivery of this Agreement and, with respect to any Confirmation upon request by the other party.	Yes
the Counterparty	A written opinion of legal counsel to the Counterparty and its Credit Support Provider, if any, addressed to the Provider, reasonably satisfactory in form and substance to the Provider and its Credit Support Provider.	Upon execution of this Agreement and upon the execution of each Confirmation	No
the Provider	A written opinion of legal counsel to the Provider and its Credit Support Provider addressed to the Counterparty,	Upon execution of this Agreement and upon the execution of each Confirmation	No

<b><u>Party required to deliver document</u></b>	<b><u>Form/Document/Certificate</u></b>	<b><u>Date by which to be delivered</u></b>	<b><u>Covered by Sec. 3(d) Representation</u></b>
	reasonably satisfactory in form and substance to the Counterparty.		
the Provider and the Counterparty	A duly executed copy of the Credit Support Documents specified in Part 3 of this Schedule	Upon the execution of this Agreement	No
the Provider and Counterparty	The Provider shall deliver a copy of the annual report of the CSP and the Counterparty shall deliver a copy of its own annual report. Such reports shall contain audited consolidated financial statements for each such fiscal year, certified by independent certified public accountants and prepared in accordance with generally accepted accounting principles	As soon as practicable after the execution of this Agreement and also within 120 days (or as soon as practicable after becoming publicly available) after the end of each of its fiscal years while there are any obligations outstanding under this Agreement	Yes
Counterparty	Certified copies of all resolutions adopted or other actions taken by Counterparty to authorize the execution, delivery and performance of this Agreement, along with such other documents, certificates, or other information with respect to such authorization as Provider may reasonably request, and in connection with any Transaction, any supplements to such authorization or additional authorization relating to such Transaction	Upon execution and delivery of this Agreement and, upon request of Provider, prior to the execution and delivery of any Confirmation	Yes
Counterparty	All documents evidencing the necessary authorizations,	On the Effective Date of any Bond-Related	Yes

<b><u>Party required to deliver document</u></b>	<b><u>Form/Document/Certificate</u></b>	<b><u>Date by which to be delivered</u></b>	<b><u>Covered by Sec. 3(d) Representation</u></b>
	determinations and approvals for the offering, sale and issuance of the Bonds	Transaction	
Counterparty	A reliance letter from Bond Counsel permitting the Provider and the CSP to rely on the opinion of Bond Counsel with respect to the Covered Agreement [unless included in other opinions]	On the Effective Date of any relevant Bond-Related Transaction	No
Counterparty	Covered Agreement and all other documents relating to the Incorporated Provisions	Upon execution of the Confirmation for the relevant Bond-Related Transaction	Yes
Counterparty	The official statement or similar disclosure document or other information provided in connection with the issuance of Bonds	On the Effective Date of the relevant Bond-Related Transaction and, otherwise, as soon as practicable but in any event not later than thirty (30) days after initial delivery or publication thereof	No
Counterparty	Evidence that proceedings authorizing this Agreement and each Transaction, to the extent required by law, have been approved by the Attorney General and registered by the Comptroller of Public Accounts of Texas	At execution of this Agreement and any Transaction hereunder	No



### Part 3

#### MISCELLANEOUS

- (a) **Address for Notices.** For the purpose of Section 10(a):

**Address for notice or communications to the Counterparty (with a mandatory copy to the CSP at the address for notices set forth below):**

City of Austin, Texas  
P.O. Box 2106  
Austin, Texas 78768  
Attention: City Treasurer  
Facsimile:(512) 370-3838

**Address for notice or communications to the Provider (with a mandatory copy to the CSP at the address for notices set forth below):**

Morgan Keegan Financial Products, Inc.  
50 North Front Street, 16<sup>th</sup> Floor  
Memphis, TN 38103  
Attention: Swap Desk  
Facsimile: (901) 579-4363

**Address for notice or communications to the CSP:**

Deutsche Bank AG, New York Branch  
60 Wall Street  
New York, NY 10005  
Attention: Patrick Marsh  
Facsimile: (212) 797-2210 or (212) 797-2218  
Email: Patrick.Marsh@db.com

No notice or communication required or permitted to be delivered under this Agreement shall be deemed effective unless and until it is also deemed effective with respect to the CSP.

- (b) **Calculation Agent.** The Calculation Agent is the Provider.
- (c) **Credit Support Document.** Details of any Credit Support Document:

Credit Support Document means in relation to the Counterparty: the Covered Agreement.

Credit Support Document means in relation to the Provider: the Replacement Transaction Agreement and the Credit Support Annex relating thereto.

(d) **Credit Support Provider.**

Credit Support Provider means in relation to the Counterparty: Not applicable.

Credit Support Provider means in relation to the Provider: the CSP.

(e) **Governing Law.** THIS AGREEMENT SHALL BE CONSTRUED, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED, IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

(f) **Submission to Jurisdiction.** Section 11(b) of this Agreement is hereby deleted in its entirety and replaced with the following: “[Intentionally Omitted]”.

(g) **Waiver of Jury Trial.** EACH OF THE PROVIDER AND THE COUNTERPARTY, TO THE FULLEST EXTENT PERMITTED BY THE TEXAS CONSTITUTION AND APPLICABLE LAW, WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ENFORCING OR DEFENDING ANY RIGHTS UNDER THIS AGREEMENT OR RELATING THERETO. EACH OF THE PROVIDER AND THE COUNTERPARTY ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION HAVE BEEN BARGAINED FOR AND THAT IT HAS BEEN REPRESENTED BY COUNSEL IN CONNECTION THEREWITH. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT OR THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH OF THE PROVIDER, AND THE COUNTERPARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH OF THE PROVIDER AND THE COUNTERPARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY IS WAIVING ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY A COURT (RATHER THAN BY A JURY) UNDER THIS AGREEMENT.

(h) **Netting of Payments.** Subparagraph (ii) of Section 2(c) will apply.

## Part 4

### OTHER PROVISIONS

- (a) **Accuracy of Specified Information.** Section 3(d) is hereby amended by adding in the third line thereof after the word “respect” and before the period, the phrase “or, in the case of audited or unaudited financial statements, a fair presentation of the financial condition of the relevant person.”

- (b) **Deferral of Payments and Deliveries in Connection with Default, Illegality and Incipient Illegality; Interest on Deferred Payments.** Section 2(a)(iii) is hereby amended to read in its entirety as follows:

(iii) Each obligation of each party (or any Credit Support Provider of such party) under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default, Illegality, Potential Event of Default or Incipient Illegality with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

- (c) **Representations.**

(i) The introductory clause of Section 3 is hereby amended to read in its entirety as follows:

“Each party represents to the other party (all of which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(a), at all times until the termination of this Agreement) that:”

(ii) Section 3(a)(ii) is hereby amended to read in its entirety as follows:

“(ii) **Powers.** It has the power (in the case of the Counterparty, pursuant to its Authorizing Law) to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party, and has taken all necessary action and made all necessary determinations and findings to authorize such execution, delivery and performance;”

(iii) Section 3(b) is hereby amended to read in its entirety as follows:

“(b) **Absence of Certain Events.** No Event of Default, Potential Event of Default, Incipient Illegality (in the case of the Counterparty) or Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its

obligations under this Agreement or any Credit Support Document to which it is a party.”

(iv) For purposes of Section 3, the following shall be added, immediately following paragraph (d) thereof:

“[(e) **Eligible Contract Participant.** It is an “eligible contract participant” as defined in Section 1a(12) of the Commodity Exchange Act (7 U.S.C. 1a), as amended by the Commodity Futures Modernization Act of 2000.]

(f) **Negotiations.** This Agreement has been subject to individual negotiation by it.

(g) **No Agency.** It is entering into this Agreement, any Credit Support Document to which it is a party, each Transaction and any other documentation relating to this Agreement or any Transaction as principal (and not as agent or in any other capacity, fiduciary or otherwise).

(i) **No Immunity.** Pursuant to Section 1371.059(c) of the Texas Government Code, the Counterparty is authorized to, and does hereby, waive immunity on the grounds of sovereignty or any other similar grounds from suit or remedies at law or in equity for enforcement of this Agreement.

(j) **Termination Payments.** It acknowledges that, pursuant to the terms of this Agreement (including, without limitation, Section 6(e)), it may owe a payment to the other party upon the designation of an Early Termination Date, even in the event such Early Termination Date is the result of an Event of Default or Termination Event (including Additional Termination Events) with respect to such other party.”

(d) **Additional Representations of the Counterparty.** The Counterparty hereby further represents to the Provider (which representations will be deemed to be repeated by the Counterparty at all times until the termination of this Agreement) that:

(i) **No Speculation.** This Agreement has been, and each Transaction hereunder will be (and, if applicable, has been), entered into for the purposes of managing its borrowings or investments and not for purposes of speculation.

(ii) **Perfection of Pledge.** The Counterparty has taken all steps necessary or advisable and has the authority to create and perfect the pledge and security interest required to be created pursuant to Part 4(e) of this Schedule and such pledge and security interest have been validly created and perfected.

(iii) **Necessary Approvals.** Any Transaction entered into pursuant to this Agreement together with any Transactions that the Counterparty has or may enter into with the Provider and/or with any or all other parties does not and will not violate or

exceed any limits or restrictions contained in any authorizations, approvals or resolutions of the Counterparty.

(iv) ***Governmental Purpose.*** The execution and delivery by the Counterparty of this Agreement, each Confirmation and any other documentation relating hereto, and the performance by the Counterparty of its obligations hereunder and thereunder, are in furtherance, and not in violation, of the governmental purposes for which the Counterparty is organized pursuant to the laws of the relevant state.

(v) ***No Prohibited Investment.*** This Agreement and each Transaction hereunder do not constitute any kind of investment by the Counterparty that is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which the Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

(vi) ***Legal Debt Limitations.*** The obligations of the Counterparty to make payments to the Provider under this Agreement and each Transaction (a) are not subject to appropriation or similar action and (b) do not (1) constitute any kind of indebtedness of the Counterparty or (2) create any kind of lien on or security interest in any property or revenues of the Counterparty which, in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which the Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

(vii) ***Governmental Body.*** The Counterparty is a state or political subdivision thereof, or an instrumentality, agency or department of either of the foregoing.

(viii) ***Nature of Obligations.*** The obligations of the Counterparty to make payments to the Provider under this Agreement and each Transaction (a) are not subject to appropriation or similar action and (b) do not (1) constitute any kind of indebtedness of the Counterparty or (2) create any kind of lien on or security interest in any property or revenues of the Counterparty which, in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Party B (or any of its officials in their respective capacities as such) or its property is subject.

(e) ***Source of Payments.*** The Counterparty agrees that its obligations hereunder are, and until the termination of this Agreement pursuant to the terms hereof shall remain (i) with respect to scheduled swap payments, payable solely from and secured by a lien on and pledge of Pledged Revenues in the manner and to the extent provided in Parts 3.10 and 5.01 of the Covered Agreement; and (ii) with respect to all other payments, payable and secured by a lien on the Pledged Revenues that is junior and subordinate to the lien on Pledged Revenues that secures the Parity Obligations. Payments of scheduled swap payments by the Counterparty shall be made in the manner and to the extent provided in

Section 3.10 of the Covered Agreement. The Counterparty agrees that until all obligations under this agreement have been satisfied, no money shall be released from the Covered Agreement except to make payments specifically secured and provided for by the Covered Agreement.

- (f) **Compliance with Covered Agreement.** The Counterparty will observe, perform and fulfill each covenant, term, and provision in the relevant Covered Agreement applicable to the Counterparty, as any of those covenants, terms, and provisions may be amended, supplemented or modified for the purposes of this Agreement with the prior written consent of the Provider, which consent shall not be unreasonably withheld, (the “Incorporated Provisions”), with the effect, among other things, and without limiting the generality of the foregoing, that the Provider will have the benefit of each of the Incorporated Provisions (including without limitation, covenants, right to consent to certain actions subject to consent under the relevant Covered Agreement and delivery of financial statements and other notices and information). In the event the relevant Covered Agreement ceases to be in effect for any reason, including, without limitation, defeasance of the Bonds issued in connection with such Covered Agreement, prior to the termination of this Agreement, the Incorporated Provisions (other than those provisions requiring payments in respect of bonds, notes, warrants or other similar instruments issued in connection with the relevant Covered Agreement) will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of the Counterparty under this Agreement and any obligations of the Counterparty have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of this Agreement to the same extent as if such provisions were set forth herein. For purposes of this Agreement, the Incorporated Provisions shall be construed as though (i) all references therein to any party making loans, extensions of credit or financial accommodations thereunder or commitments therefor (the “Financings”) were to the Provider and (ii) to the extent that such Incorporated Provisions are conditioned on or related to the existence of such Financings or the Counterparty having any obligations in connection therewith, all references to such Financings or obligations were to the obligations of the Counterparty under this Agreement. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions effected without the prior written consent of the Provider, which consent shall not be unreasonably withheld, shall be void *ab initio* and have no force and effect with respect to this Agreement. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement.
- (g) **Additional Definitions.** As used in this Schedule, the following terms shall have the following meanings:
- (i) **“Authorizing Law”** means Chapter 1371 of the Texas Government Code, as amended from time to time.
- (ii) **“Bond-Related Transaction”** means a Transaction entered into by or on behalf of the Counterparty in connection with the issuance of Bonds by the Counterparty,

and which is identified as such in the related Confirmation or to which the Confirmation is understood to relate.

(iii) “**Bonds**” means any bonds, notes, certificates or other indebtedness or securities identified in a Confirmation or to which the Confirmation is understood to relate.

(iv) “**Bond Counsel**” means the party so identified in a Confirmation for a Bond-Related Transaction.

(v) “**Covered Agreement**” means the Ordinance No. [ ] of the City Council of the Counterparty adopted on August 24, 2008, authorizing the issuance of the Related Bonds and the Credit Agreement.

(vi) “**Credit Agreement**” means the Reimbursement Agreement and any amendments or supplements thereto, together with any letter of credit, reimbursement, insurance policy or similar agreement between the Counterparty and any other provider of credit enhancement associated with Counterparty’s Bonds, and any amendments and supplements thereto; provided, however, that any such instrument or agreement shall require the prior written consent of the Provider and its CSP, which consent shall not be unreasonably withheld, in order to constitute a “Credit Agreement” if it would materially adversely affect the rights and benefits of the Provider and the CSP hereunder and under the Covered Agreement.

(vii) “**Credit Support Annex**” means the Credit Support Annex to the Schedule to the ISDA Master Agreement deemed entered into and binding pursuant to the Replacement Transaction Agreement, dated as of August [ ], 2008.

(viii) “**CSP**” means Deutsche Bank AG, New York Branch.

(ix) “**Incipient Illegality**” means (a) the enactment by any legislative body with competent jurisdiction over the Counterparty of legislation which, if adopted as law, would render unlawful (i) the performance by the Counterparty of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by the Counterparty with any other material provision of this Agreement relating to such Transaction or (ii) the performance by the Counterparty or a Credit Support Provider of the Counterparty of any contingent or other obligation which the Counterparty (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any assertion by the Counterparty in any proceeding, forum or action, in respect of the Counterparty or in respect of any entity located or organized under the laws of the state in which the Counterparty is located to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to the Counterparty or any Specified Entity of the Counterparty of any event that constitutes an Illegality.

(x) “**Pledged Revenues**” has the meaning specified in the Covered Agreement.

(xi) “**Related Bonds**” means the City of Austin, Texas, Hotel Occupancy Tax Subordinated Lien Variable Rate Revenue Refunding Bonds, Series 2008, to be issued in accordance with the Covered Agreement.”

(xii) “**Replacement Transaction Agreement**” means the Replacement Transaction Agreement dated as of the date hereof between the CSP, the Counterparty and the Provider.

(h) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, the Counterparty will, promptly upon becoming aware of it, notify the Provider and the CSP, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as the Provider or the CSP may reasonably require.

(i) **Confirmations.**

(i) The Provider will deliver to the Counterparty a Confirmation relating to each Transaction.

(ii) Each of the Provider and the Counterparty, agrees that no Transaction shall be subject to this Agreement unless and until the CSP has consented in writing to become a Credit Support Provider of the Provider with respect thereto and such Transaction is expressly subject to the Replacement Transaction Agreement.

(j) **Relationship Between Parties.** Each party will be deemed to represent to the other party on the date on which the parties enter into a Transaction that (absent a written agreement between the parties and, if applicable, any Credit Support Provider of any party that expressly imposes affirmative obligations to the contrary for that Transaction):

(i) **Non-Reliance.** Each of the parties is acting for its own account, and each of them has made its own independent decisions to enter into or approve, as applicable, that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party or any Credit Support Provider of such party, as applicable, as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party or any Credit Support Provider of such party, as applicable, shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.

(ii) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions, pricing and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.



(iii) **Status of Parties.** The other party and any Credit Support Provider of such party, as applicable, are not acting as a fiduciary for or an adviser to it in respect of that Transaction.

(iv) **CSP.** Counterparty hereby represents that the Counterparty has engaged in no discussions or negotiations with the CSP in connection with this Agreement.

(k) **Bankruptcy Code.** It is the express intention of the Provider, the Counterparty and each Credit Support Provider of any party that (i) this Agreement and all Transactions hereunder, the Replacement Transaction Agreement (including, without limitation, the option granted therein) and any Credit Support Annex that may be entered into between the Counterparty and the CSP shall collectively constitute a single agreement, (ii) the foregoing, together with a Replacement Master Agreement and Replacement Transactions thereunder (as such terms are defined in the Replacement Transaction Agreement) shall each constitute a “swap agreement” as defined in section 101(53B) of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”), and (iii) each of the parties constitutes a “swap participant” under section 101(53C) of the Bankruptcy Code, in each case subject to and entitled to the exemptions and protections afforded by, among other things, sections 362(b)(17), 362(o), 546(g), 548(d) and 560 of the Bankruptcy Code.

(l) **Replacement Transaction Agreement.** Notwithstanding anything contained herein to the contrary, the CSP shall have no obligations under this Agreement (other than in accordance with Part 4(m) below, if applicable) and shall only have such obligations as are expressly provided for in the Replacement Transaction Agreement and the Credit Support Annex to the Schedule to the Replacement Transaction Agreement. The parties hereto agree that the CSP shall be an express third party beneficiary of this Agreement, including but not limited to all of the representations, covenants, agreements and other obligations of the parties to this Agreement. In addition, notwithstanding anything contained herein to the contrary, the parties hereby agree that in the event the CSP is replaced as the “Credit Support Provider” by a Substitute CSP (as defined in the Replacement Transaction Agreement) under the Replacement Transaction Agreement in accordance with the terms thereof, then the Substitute CSP shall be deemed to be the Credit Support Provider hereunder and all references herein to the CSP shall be deemed to be references to such Substitute CSP.

(m) **Optional Assignment.**

(i) Notwithstanding Section 7 of this Agreement, the Provider, and the Counterparty each hereby acknowledges and agrees that (A) provided that the Provider is not a Defaulting Party or the sole Affected Party, the Provider shall have at any time, including, but not limited to, following the occurrence of an Event of Default where the Counterparty is the Defaulting Party or a Termination Event where the Counterparty is the Affected Party, the right to transfer and assign all of the Provider’s rights, interests and obligations in, to and under this Agreement and all Transactions hereunder to the CSP by written notice to the Counterparty and the CSP specifying the effective date (such effective date, the “Assignment Date”) of such transfer and assignment (and such transfer

and assignment shall automatically occur as of the Assignment Date without the need for further action by any party), and (B) the CSP shall have the right, at any time and for any reason in its sole discretion, to request that the Provider transfer and assign all of the Provider's rights, interests and obligations in, to and under this Agreement and all Transactions hereunder to the CSP by written notice to the Counterparty and the Provider specifying the Assignment Date of such transfer and assignment (and such transfer and assignment shall automatically occur as of the Assignment Date without the need for further action by any party).

(ii) On the Assignment Date of any transfer and assignment specified in accordance with Part 4(m)(i) above,

(A) the Provider shall be deemed to have transferred and assigned all of its rights, interests and obligations in, to and under this Agreement and all Transactions hereunder to the CSP;

(B) the CSP shall have all the rights that the Provider would have under this Agreement and all Transactions hereunder;

(C) the CSP shall be obligated to perform all existing and unperformed obligations of the Provider under this Agreement and all Transactions hereunder, including those obligations arising before the Assignment Date but not yet performed;

(D) the Counterparty shall remain obligated to perform all of its existing and unperformed obligations under this Agreement and all Transactions hereunder, including those obligations arising before the Assignment Date but not yet performed;

(E) the Provider and the Counterparty shall be released and discharged from all obligations to each other with respect to this Agreement and all Transactions hereunder, and their respective rights and obligations hereunder and thereunder shall be cancelled with no payments owed by either party to the other;

(F) on and after the Assignment Date, the provisions set forth in Exhibit B to the Replacement Transaction Agreement shall be applicable to this Agreement and all Transactions hereunder as if set forth herein;

(G) any Credit Support Annex between the Counterparty and the CSP relating to the Replacement Transaction Agreement shall instead automatically relate to this Agreement and all Transactions hereunder without the need for further action by any party thereto; and

(H) the Replacement Transaction Agreement shall simultaneously automatically terminate without the need for further action by any party thereto.

The Counterparty, the Provider and the CSP hereby agree to execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered

such further instruments and take such further action as may be reasonably necessary to effectuate the intention, performance and provisions of this Part 4(m).

- (n) **Consent to Recording.** Each party consents to the recording (with or without the use of a warning tone) of telephone conversations between the trading, marketing and other relevant personnel of the parties and their Affiliates in connection with this Agreement or any potential Transaction.
- (o) **Negative Pledge.** The Counterparty shall not pledge or grant a security interest in any of its revenues or other assets to secure its obligations under any interest rate swap or other derivative transaction without the Provider's prior written consent unless a parity pledge or security interest is granted to the Provider to secure the Counterparty's corresponding obligations under this Agreement.
- (p) **Transfer.** Section 7 of the Agreement is hereby modified by inserting the following after the word "party" but before the comma in the third line thereof:

“, provided, however, that such consent shall not be unreasonably withheld, and, provided, further, that, (i) no Potential Event of Default, Event of Default or Termination Event shall have occurred and be continuing with respect to the Counterparty, (ii) the transferee is organized under the laws of a jurisdiction and is a type of entity for which ISDA has distributed an opinion affirming the enforceability of Section 6 of the Master Agreement under the laws of such jurisdiction or the Counterparty shall have furnished to the Provider and the CSP such an opinion in form and substance and from counsel satisfactory to the Provider and the CSP and (iii) the Swap Transaction between the Provider and such transferee complies with the laws, rules and regulations applicable to the Provider and satisfies the internal policies, limits and procedures of the Provider in effect at the time of such transfer, including, without limitation, such policies, limits and procedures involving business relationship, credit, legal, accounting, tax and general prudential concerns.”

- (q) **Notices.** For the purposes of subsections (iii) and (v) of Section 10(a), the date of receipt shall be presumed to be the date sent if sent on a Local Business Day or, if not sent on a Local Business Day, the date of receipt shall be presumed to be the first Local Business Day following the date sent.

## **Part 5**

### **CREDIT SUPPORT PROVISIONS**

- (a) In the event that a Settlement Amount would be payable by the Provider to the Counterparty, the Counterparty agrees that (A) the termination of this Agreement concurrently with the entry by the CSP into a Replacement Transaction (as defined in Paragraph 2 of the Replacement Transaction Agreement) with the Counterparty in accordance with Paragraph 2 of the Replacement Transaction Agreement, (B) the

agreement by the Provider to pay such Settlement Amount to the CSP in consideration of the CSP entering into such Replacement Transaction (and the Provider hereby agrees to pay such Settlement Amount); *provided*, that the Replacement Transaction shall be effective irrespective of the nonpayment of such Settlement Amount by the Provider to the CSP, and (C) the payment by the CSP to the Counterparty of any net Unpaid Amounts owing to the Counterparty (which the CSP agrees to pay pursuant to the Replacement Transaction Agreement), shall constitute full satisfaction of any payment otherwise owing from the Provider to the Counterparty pursuant to Section 6(e), and that the Provider shall be fully discharged from any and all obligations under Section 6(e). In the event that any net Unpaid Amounts would be owing by the Counterparty to the Provider (such that clause (C) of the preceding sentence would not be applicable), the Provider hereby assigns to the CSP, absolutely and not for purposes of security, all of the Provider's right to receive any such net Unpaid Amounts from the Counterparty, and the Provider agrees that only the CSP shall be entitled to receive any such net Unpaid Amounts from the Counterparty, and that the Provider shall have no recourse to the Counterparty with respect thereto.

- (b) In the event that a Settlement Amount would be payable by the Counterparty to the Provider, the Provider agrees that (i) the termination of this Agreement concurrently with the entry by the CSP into a Replacement Transaction with the Counterparty in accordance with Paragraph 2 of the Replacement Transaction Agreement, (ii) the agreement by the CSP to pay such Settlement Amount to the Counterparty in consideration of the Counterparty entering into such Replacement Transaction (which the CSP agrees to pay pursuant to the Replacement Transaction Agreement); *provided*, that the Replacement Transaction shall be effective irrespective of the nonpayment of such Settlement Amount by the CSP to the Provider, (iii) the absolute assignment by the Counterparty to the Provider of the Counterparty's right to receive such Settlement Amount from the CSP, and (iv) the payment by the CSP to the Counterparty of any net Unpaid Amounts owing to the Counterparty (which the CSP agrees to pay pursuant to the Replacement Transaction Agreement) shall constitute full satisfaction of any payment otherwise owing from the Counterparty to the Provider pursuant to Section 6(e), and that the Counterparty shall be fully discharged from any and all obligations under Section 6(e). In accordance with clause (iii) of the preceding sentence, the Counterparty hereby assigns to the Provider, absolutely and not for purposes of security, all of the Counterparty's right to receive any such Settlement Amount from the CSP pursuant to clause (ii) of the preceding sentence, and the Provider agrees that only the CSP shall be obligated to pay such Settlement Amount to the Provider, and that the Provider shall have no recourse to the Counterparty with respect thereto. In the event that any net Unpaid Amounts would be owing by the Counterparty to the Provider (such that clause (iv) of the first sentence of this Part 5(b) would not be applicable), the Provider hereby assigns to the CSP, absolutely and not for purposes of security, all of the Provider's right to receive any such net Unpaid Amounts from the Counterparty, and the Provider agrees that only the CSP shall be entitled to receive any such net Unpaid Amounts from the Counterparty, and that the Provider shall have no recourse to the Counterparty with respect thereto.
- (c) In the event that a Settlement Amount is to be determined, the parties agree that such Settlement Amount shall be determined by the CSP on behalf of, and for the benefit of,

the Non-defaulting Party or the party which is not the Affected Party (as applicable), and that such Settlement Amount shall be conclusive. For purposes of determining such Settlement Amount, the CSP shall not be obligated to obtain quotations from more than one Reference Market-maker, which Reference Market-maker may be the CSP. Notwithstanding the foregoing, if an Event of Default or Termination Event shall have occurred with respect to which the Provider is the Defaulting Party or an Affected Party, and such Event of Default or Termination Event arises solely by reason of an event or condition that is directly attributable to the CSP or the Credit Support Document, then the Counterparty, and not the CSP, shall determine such Settlement Amount.

**IN WITNESS WHEREOF**, the parties have executed this Schedule by their duly authorized officers as of the date hereof

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name:  
Title:

MORGAN KEEGAN FINANCIAL  
PRODUCTS, INC.

By: \_\_\_\_\_  
Name:  
Title: