

## NEW ISSUE



**\$55,605,000**  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**SAMARITAN MEDICAL CENTER**  
**REVENUE BONDS, SERIES 2009**

**Consisting of:**  
**\$31,660,000 Series 2009A CUSIP No.: 649905 DD5**  
**\$23,945,000 Series 2009B CUSIP No.: 649905 DE3**

**Dated: Date of Delivery**                      **Price: 100%**                      **Due: November 1, 2036 (Series 2009A Bonds)**  
**November 1, 2036 (Series 2009B Bonds)**

**Payment and Security:** Samaritan Medical Center Revenue Bonds, Series 2009A (the "Series 2009A Bonds") and Samaritan Medical Center Revenue Bonds, Series 2009B (the "Series 2009B Bonds" and together with the Series 2009A Bonds, the "Series 2009 Bonds") are special obligations of the Dormitory Authority of the State of New York (the "Authority") payable solely from certain payments to be made by the Banks (as hereinafter defined) under the respective Letters of Credit (as hereinafter defined) and, if such amounts are insufficient, the Revenues (as hereinafter defined) and secured by a pledge of (i) certain payments to be made under the Loan Agreement (the "Loan Agreement"), dated as of March 25, 2009, by and between Samaritan Medical Center (the "Institution") and the Authority, and (ii) all funds and accounts (except the Arbitrage Rebate Fund, the Purchase and Remarketing Fund and the Credit Facility Repayment Fund) established for the respective series under the Authority's Samaritan Medical Center Revenue Bond Resolution, adopted March 25, 2009 (the "Resolution"), the respective Series Resolutions, adopted on March 25, 2009, authorizing each such Series of Series 2009 Bonds (the "Series Resolutions") and the respective Bond Series Certificates, dated as of April 8, 2009 (the "Bond Series Certificates" and, collectively with the Resolution and the Series Resolutions, the "Resolutions"). Each Series of Series 2009 Bonds is separately secured by the funds and accounts for such Series of Series 2009 Bonds under the Resolutions.

From the date of original issuance of the Series 2009 Bonds through April 8, 2014, unless extended or earlier terminated or replaced, principal, Redemption Price and Purchase Price of, and interest on the respective Series of Series 2009 Bonds will be payable from amounts drawn under irrevocable direct pay letters of credit (each, a "Letter of Credit" and together, the "Letters of Credit") issued by



KeyBank National Association ("KeyBank") with respect to the Series 2009A Bonds and HSBC Bank USA, National Association ("HSBC" and together with KeyBank, the "Banks") with respect to the Series 2009B Bonds, each in favor of U.S. Bank National Association, as trustee and tender agent (the "Trustee") for the holders of the respective Series of Series 2009 Bonds. The Letters of Credit provide for payment of an amount not to exceed the principal of and up to 35 days' interest on the respective Series of Series 2009 Bonds, at a maximum rate of 10% per annum, and the Purchase Price of the Series 2009 Bonds tendered for purchase for which remarketing proceeds are not available. The Letters of Credit will expire on April 8, 2014, unless terminated, extended or replaced prior to such date, in accordance with their respective terms. Each Letter of Credit secures the payment only of the principal, Redemption Price and Purchase Price of, and interest on, the Series of Series 2009 Bonds with respect to which it is issued. The Institution, KeyBank National Association, as administrative agent (in such capacity, the "Agent Bank") and the Banks will enter into a Letter of Credit Reimbursement Agreement, dated as of April 1, 2009 (the "Reimbursement Agreement"), providing for reimbursement to the Banks of amounts drawn under the respective Letter of Credit. See "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS – The Letters of Credit."

**The Series 2009 Bonds will not be a debt of the State of New York (the "State") and the State will not be liable on the Series 2009 Bonds. The Authority has no taxing power.**

**Description:** The Series 2009 Bonds will be issued initially as fully registered Variable Interest Rate Bonds and Option Bonds in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof payable at the principal corporate trust office of the Trustee. The Series 2009 Bonds will initially bear interest from their date of delivery at the Weekly Rate. Interest on the Series 2009 Bonds is payable on May 1, 2009 and thereafter on the first Business Day of each month for as long as the Series 2009 Bonds bear interest at the Weekly Rate. **This Official Statement generally describes the terms of the Series 2009 Bonds only in the Weekly Rate Mode.**

While the Series 2009 Bonds are in the Weekly Rate Mode, the Series 2009 Bonds are subject to optional and mandatory tender for purchase as described herein. KeyBank Capital Markets Inc. is the remarketing agent for the Series 2009 Bonds (the "Remarketing Agent").

The Series 2009 Bonds will be issued initially under a Book-Entry Only System, registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"). Individual purchases of beneficial interests in the Series 2009 Bonds will be made in Book-Entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2009 Bonds, payments of the principal, Redemption Price and Purchase Price of and interest on such Series 2009 Bonds will be made directly to DTC or its nominee. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC participants. See "PART 3 – THE SERIES 2009 BONDS – Book-Entry Only System" herein.

**Tender and Redemption:** The Series 2009 Bonds are subject to optional and mandatory tender and to redemption prior to maturity as more fully described herein.

**Tax Exemption:** In the opinion of Harris Beach PLLC, Bond Counsel to the Authority, under existing statutes, regulations, administrative rulings and court decisions, and assuming compliance with the tax covenants described herein, interest on the Series 2009 Bonds is excluded from gross income for federal income tax purposes pursuant to section 103 of the Internal Revenue Code of 1986, as amended, is not an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals and corporations and, pursuant to the American Recovery and Reinvestment Tax Act of 2009, enacted into law on February 17, 2009, is not included in "adjusted current earnings" for purposes of calculating the federal alternative minimum tax liability of corporations. See "PART 12-TAX MATTERS" herein regarding certain other related federal tax considerations. Bond Counsel is also of the opinion that, under existing statutes, including the Act (as defined herein), interest on the Series 2009 Bonds is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof. Bond Counsel expresses no opinion regarding any other consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Series 2009 Bonds.

*The Series 2009 Bonds are offered when, as, and if issued and received by the Underwriter. The offer of the Series 2009 Bonds may be subject to prior sale, or withdrawn or modified at any time without notice. The offer is subject to the approval of legality by Harris Beach PLLC, Rochester, New York, Bond Counsel to the Authority, and to certain other conditions. Certain legal matters will be passed upon for the Institution by its counsel, Hancock & Estabrook, LLP, Syracuse, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York. Certain legal matters will be passed upon for the Banks by their counsel, Phillips Lytle LLP, New York, New York and Calfee Halter & Griswold LLP, Cleveland, Ohio. The Authority expects to deliver the Series 2009 Bonds in definitive form in Albany, New York, on or about April 9, 2009.*



Dated: April 3, 2009

No dealer, broker, salesperson or other person has been authorized by the Authority, the Agent Bank, the Banks, the Institution or the Underwriter to give any information or to make any representations with respect to the Series 2009 Bonds, other than the information and representations contained in this Official Statement. If given or made, any such information or representations must not be relied upon as having been authorized by the Authority, the Agent Bank, the Banks, the Institution or the Underwriter.

This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be a sale of the Series 2009 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. Certain information in this Official Statement has been supplied by the Institution, the Banks and other sources that the Authority believes are reliable. Neither the Authority nor the Underwriter guarantee the accuracy or completeness of such information, and such information is not to be construed as a representation of the Authority or of the Underwriter.

The Institution has reviewed the parts of this Official Statement describing the Institution, the Principal and Interest Requirements, the Series 2009 Project, the Plan of Finance and the Estimated Sources and Uses of Funds. As a condition to delivery of the Series 2009 Bonds, the Institution will certify that as of the date of this Official Statement and of delivery of the Series 2009 Bonds, that such parts do not contain any untrue statements of a material fact and do not omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading. The Institution makes no representation as to the accuracy or completeness of any other information included in this Official Statement.

Other than with respect to information concerning the Banks hereto contained under the captions "PART 1 – INTRODUCTION – The Letters of Credit," "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS – The Letters of Credit," "– Reduction and Reinstatement of Letters of Credit" and "– The Reimbursement Agreement," "PART 4 – THE BANKS" and "Appendix D – Summary of Certain Provisions of the Reimbursement Agreement" herein, none of the information in this Official Statement has been supplied or verified by the Agent Bank or the Banks, and the Agent Bank and the Banks make no representation or warranty, express or implied, as to (i) the accuracy or completeness of such information; (ii) the validity of the Series 2009 Bonds; or (iii) the tax status of the interest on the Series 2009 Bonds.

The Underwriter has reviewed the information in this Official Statement pursuant to its responsibilities to investors under the federal securities law, but the Underwriter does not guarantee the accuracy or completeness of such information.

References in this Official Statement to the Act, the Resolution, the Series Resolutions, the Bond Series Certificates, the Loan Agreement, the Mortgage, the Intercreditor Agreement, the Reimbursement Agreement and the Letters of Credit do not purport to be complete. Investors should refer to the Act, the Resolution, the Series Resolutions, the Bond Series Certificates, the Loan Agreement, the Mortgage, the Intercreditor Agreement, the Reimbursement Agreement and the Letters of Credit for full and complete details of their provisions. Copies of the Resolution, the Series Resolutions, the Bond Series Certificates, the Loan Agreement, the Mortgage, the Intercreditor Agreement, the Reimbursement Agreement, and the Letters of Credit are on file with the Authority and the Trustee.

The order and placement of material in this Official Statement, including its appendices, are not to be deemed a determination of relevance, materiality or importance, and all material in this Official Statement, including its appendices, must be considered in its entirety.

Under no circumstances will the delivery of this Official Statement or any sale made after its delivery create any implication that the affairs of the Authority, the Agent Bank, the Banks or the Institution have remained unchanged after the date of this Official Statement.

**IN CONNECTION WITH THE OFFERING OF THE SERIES 2009 BONDS, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICES OF THE SERIES 2009 BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.**

**THE SERIES 2009 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE RESOLUTIONS HAVE NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2009 BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF LAWS OF THE STATES IN WHICH SERIES 2009 BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE SERIES 2009 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.**

CUSIP data contained herein is provided by Standard & Poor's, CUSIP Service Bureau, a division of the McGraw-Hill Companies, Inc. The CUSIP numbers indicated have been assigned by an independent company not affiliated with the Authority and is provided solely for the convenience of the holders of the Series 2009 Bonds at the

*time of issuance of the Series 2009 Bonds. No representations are made with respect to such numbers nor does any party undertake any responsibility for the accuracy of the CUSIP numbers now or at any time in the future. The Authority is not responsible for the selection or uses of the CUSIP numbers, and no representation is made as to the correctness of the CUSIP numbers on the Series 2009 Bonds or as shown on the cover page of this Official Statement.*

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**DORMITORY AUTHORITY – STATE OF NEW YORK**  
**PAUL T. WILLIAMS, JR. –EXECUTIVE DIRECTOR**

**515 BROADWAY, ALBANY, N.Y. 12207**  
**GAIL H. GORDON, ESQ. – CHAIR**

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**OFFICIAL STATEMENT RELATING TO**  
**\$55,605,000**  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**SAMARITAN MEDICAL CENTER**  
**REVENUE BONDS, SERIES 2009**

**Consisting of:**

**\$31,660,000 Series 2009A CUSIP No.: 649905 DD5**  
**\$23,945,000 Series 2009B CUSIP No.: 649905 DE3**

**PART 1 – INTRODUCTION**

**Purpose of the Official Statement**

The purpose of this Official Statement, including the cover page and appendices, is to provide information in connection with the offering by the Authority of \$55,605,000 aggregate principal amount of its Samaritan Medical Center Revenue Bonds, Series 2009, consisting of \$31,660,000 principal amount of its Samaritan Medical Center Revenue Bonds, Series 2009A (the “Series 2009A Bonds”) and \$23,945,000 principal amount of its Samaritan Medical Center Revenue Bonds, Series 2009B (the “Series 2009B Bonds”) and together with the Series 2009A Bonds, the “Series 2009 Bonds”).

The following is a brief description of certain information concerning the Series 2009 Bonds, the Authority, the Banks (as hereinafter defined) and the Institution (as hereinafter defined). A more complete description of such information and additional information that may affect decisions to invest in the Series 2009 Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain terms used in this Official Statement are defined in Appendix A hereto.

**Purpose of the Issue**

The Series 2009 Bonds are being issued for the purpose of providing funds which, together with other available funds, will be used to (i) finance a project that consists of the following, including all necessary and usual attendant and related facilities, equipment, furnishings and fixtures, together with related demolition, site improvements and utility work: (A) the construction of a new 4-level, approximately 355 space parking garage with a helipad located on the top level; (B) the construction of a new 4-story, approximately 128,066 square foot patient tower to include a new main entrance/lobby and emergency department (Level 1), new surgical suites and central sterilization (Level 2), new Critical Care Center with 10 Intensive Care Unit/Critical Care Unit beds and 20 Progressive Care Unit private rooms (Level 3) and 36 private rooms for medical surgical patients (Level 4); and (C) the refunding of the Institution’s allocable share of the New York State Housing Finance Agency Hospital and Health Care Project Revenue Bonds, 1998 Series A (the “1998 Bonds”) and (ii) pay the Costs of Issuance of the Series 2009 Bonds. See “PART 5 — THE SERIES 2009 PROJECT” and “PART 7 — ESTIMATED SOURCES AND USES OF FUNDS”.

## **Authorization of Issuance**

The Resolution authorizes the issuance of Bonds pursuant to separate Series Resolutions for the benefit of the Institution. The Series 2009 Bonds will be issued pursuant to the Act, the Resolution, the Series Resolutions and the Bond Series Certificates. The Series 2009 Bonds are the first Series of Bonds to be issued under the Resolution. In addition to the Series 2009 Bonds, the Resolution authorizes the issuance of other Series of Bonds (collectively, the “Bonds”) to pay other costs of one or more Projects, to pay certain Costs of Issuance of such Series of Bonds and to refund all or a portion of Outstanding Bonds or other notes or bonds issued on behalf of the Institution. The Series Resolutions authorize the issuance of the Series 2009A Bonds and Series 2009B Bonds, respectively, in an aggregate principal amount not to exceed \$62,000,000. Each Series of Bonds will be separately secured from each other Series of Bonds. There is no limit on the amount of additional Bonds that may be issued under the Resolution, which Bonds may be issued at any time prior to or after the scheduled delivery date of the Series 2009 Bonds. See “PART 3 — THE SERIES 2009 BONDS.”

## **The Series 2009 Bonds**

The Series 2009 Bonds will be dated the date of their initial delivery, will bear interest from that date and will mature, subject to prior redemption or tender for purchase, as described herein. Commencing on the date of delivery, the Series 2009 Bonds will bear interest in the Weekly Rate Mode as determined by the Remarketing Agent on or before the date of delivery until the Series 2009 Bonds are converted to a Daily Rate, a Term Rate or a Fixed Rate. All Series 2009A Bonds and Series 2009B Bonds, respectively, Outstanding at the time of a conversion of such Series of Bonds are to be converted to the same Rate Mode. See “PART 3 — THE SERIES 2009 BONDS — Description of the Series 2009 Bonds.”

**This Official Statement generally describes the Series 2009 Bonds only in the Weekly Rate Mode.**

Interest on the Series 2009 Bonds while in the Weekly Rate Mode is payable on May 1, 2009 and thereafter on the first Business Day of each month.

The Series 2009 Bonds are subject to mandatory tender on each Conversion Date. The expiration of the Letters of Credit (as hereinafter defined), the delivery of a Substitute Credit Facility or the occurrence of certain Events of Default under the Reimbursement Agreement (and election by the Banks to effect a mandatory tender in connection therewith) will cause a mandatory tender of all Series 2009 Bonds. While the Series 2009 Bonds bear interest at the Weekly Rate, Bondholders will have the right to tender the Series 2009 Bonds (or portion thereof under certain circumstances) as described herein. See “PART 3 — THE SERIES 2009 BONDS — Tender of the Series 2009 Bonds.”

## **Payment of the Series 2009 Bonds**

The Series 2009 Bonds are special obligations of the Authority payable solely from certain payments to be made by the Banks under the respective Letters of Credit and, if such amounts are insufficient, the Revenues, which consist of certain payments to be made by the Institution under the Loan Agreement. The Loan Agreement is a general obligation of the Institution. See “PART 2 — SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS— Payment of the Series 2009 Bonds.”

## **Security for the Series 2009 Bonds**

***The Letters of Credit are the primary source of payment for the Series 2009 Bonds. Purchasers of the Series 2009 Bonds should make their decision to invest in the Series 2009 Bonds based solely upon their assessment of the creditworthiness of the Banks. Only limited information on the Institution is presented in this Official Statement and it is insufficient to enable purchasers of the Series 2009 Bonds to fully assess the creditworthiness of the Institution.***

The Series 2009 Bonds will be secured by the payments described above to be made under the respective Letters of Credit. The Series 2009 Bonds will be secured by all funds and accounts established for such Series of Series 2009 Bonds under the Resolutions (with the exception of the Arbitrage Rebate Fund, the Purchase and Remarketing Fund and the Credit Facility Repayment Fund), a fee and leasehold mortgage on the Mortgaged Property (the “Mortgage”) and by the Pledged Revenues under the Loan Agreement. With the prior approval of the Authority, the Department of Health and the Bank, but without the consent of the Holders of the Series 2009 Bonds,

the Institution may incur additional indebtedness secured on a parity with respect to the security interests in the Pledged Revenues and the Mortgaged Property securing the Series 2009 Bonds. The security interests in the Pledged Revenues and the Mortgaged Property are also expected to secure, on a parity basis, the obligations of the Institution under the Swap Agreements (as defined herein). The security interest in the Pledged Revenues is subordinate to certain prior security interests in such revenues, including a pledge granted to secure the Institution's obligations to KeyBank under certain outstanding commercial lines of credit. Further, the Mortgage is subordinate to the mortgage lien granted to secure certain of the Institution's outstanding obligations to KeyBank and certain other Permitted Encumbrances. See "PART 2 — SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS — Security for the Series 2009 Bonds."

The respective rights, remedies and obligations of the Authority, the Trustee, as assignee of the Authority, and the Agent Bank are set forth in an Intercreditor Agreement (the "Intercreditor Agreement") by and among the Authority, the Trustee, the Agent Bank and the Banks. See "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS – Security for the Series 2009 Bonds."

### **The Letters of Credit**

The respective Letters of Credit are the primary source of payment for the Series 2009 Bonds. Pursuant to the Letter of Credit Reimbursement Agreement, dated as of April 1, 2009, by and among the Institution, the Agent Bank and the Banks (the "Reimbursement Agreement"), (i) KeyBank National Association ("KeyBank") will deliver its irrevocable transferable direct pay letter of credit (the "KeyBank Letter of Credit"), dated the date of the Series 2009A Bonds, pursuant to which KeyBank will be obligated, subject to the terms and conditions of the KeyBank Letter of Credit, to pay, when due, an amount not to exceed the principal of and up to 35-days interest (at the maximum interest rate of 10% per annum) on the Series 2009A Bonds and the Purchase Price of such Series 2009A Bonds tendered for purchase pursuant to the Resolution and the applicable Series Resolution and Bond Series Certificate but not remarketed, and (ii) HSBC Bank USA, National Association ("HSBC" and together with KeyBank, the "Banks") will deliver its irrevocable transferable direct pay letter of credit (the "HSBC Letter of Credit" and together with the KeyBank Letter of Credit, the "Letters of Credit") dated the date of the Series 2009B Bonds, pursuant to which HSBC will be obligated, subject to the terms and conditions of the HSBC Letter of Credit, to pay, when due, an amount not to exceed the principal of and up to 35-days interest (at the maximum interest rate of 10% per annum) on the Series 2009B Bonds and the Purchase Price of such Series 2009B Bonds tendered for purchase pursuant to the Resolution and the applicable Series Resolution and Bond Series Certificate but not remarketed. The KeyBank Letter of Credit does not secure the Series 2009B Bonds; the HSBC Letter of Credit does not secure the Series 2009A Bonds. See "PART 2 — SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS — The Letters of Credit."

While in the Weekly Rate Mode, the Series 2009 Bonds are subject to optional and mandatory tender for purchase as described herein. Pursuant to the respective Letters of Credit, the Banks will be obligated to purchase applicable Series of Series 2009 Bonds tendered for purchase pursuant to the respective Bond Series Certificates and not remarketed. The Letters of Credit will expire on April 8, 2014 unless renewed or extended or terminated pursuant to their respective terms. See "PART 2 — SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS — The Letters of Credit" and "— Reduction and Reinstatement of Letters of Credit."

### **The Series 2009 Project**

The proceeds of the Series 2009 Bonds will be used primarily to undertake the Series 2009 Project. See "PART 5 — THE SERIES 2009 PROJECT."

### **Refunding the 1998 Bonds**

A portion of the proceeds of the Series 2009 Bonds will be used, together with other available funds, to refund the Institution's allocable share of the 1998 Bonds issued in 1998 for the benefit of the Institution. See "PART 6 – THE PLAN OF FINANCE."

### **The Institution**

*The Letters of Credit are the primary source of payment for the Series 2009 Bonds. Purchasers of the Series 2009 Bonds should make their decision to invest in the Series 2009 Bonds based solely upon their assessment of the creditworthiness of the Banks. Only limited information on the Institution is presented in this*

***Official Statement and it is insufficient to enable purchasers of the Series 2009 Bonds to fully assess the creditworthiness of the Institution.***

The Institution is a not-for-profit corporation providing a broad range of adult and pediatric inpatient services, as well as ambulatory and emergency care services. See “PART 8- THE INSTITUTION.”

**The Authority**

The Authority is a public benefit corporation of the State, created for the purpose of financing and constructing a variety of public-purpose facilities for certain educational, healthcare, governmental and not-for-profit institutions. See “PART 9 — THE AUTHORITY.”

**PART 2 — SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS**

*Set forth below is a narrative description of certain contractual provisions relating to the source of payment of and security for the Series 2009 Bonds. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Act, the Loan Agreement, the Resolution, the Series Resolutions, the Bond Series Certificates, the Mortgage, the Reimbursement Agreement, the Letters of Credit and the Intercreditor Agreement. Copies of the Loan Agreement, the Resolution, the Series Resolutions, the Bond Series Certificates, the Mortgage, the Reimbursement Agreement, the Letters of Credit and the Intercreditor Agreement are on file with the Authority and the Trustee. See also “Appendix B — Summary of Certain Provisions of the Loan Agreement,” “Appendix C — Summary of Certain Provisions of the Resolution” and “Appendix D — Summary of Certain Provisions of the Reimbursement Agreement” for a more complete statement of the rights, duties and obligations of the parties thereto.*

**Payment of the Series 2009 Bonds**

The Series 2009 Bonds will be special obligations of the Authority payable from proceeds received by the Trustee from drawings under the respective Letters of Credit and, if such amounts are insufficient, the Revenues. The Revenues consist of payments required to be made by the Institution under the Loan Agreement on account of principal, Sinking Fund Installments and interest on the respective Series of Series 2009 Bonds.

Payments of principal and interest on the Series 2009 Bonds are expected to be made to the Holders of the Series 2009 Bonds from funds drawn under the respective Letters of Credit and, in the case of the Purchase Price of Tendered Bonds, from remarketing proceeds or, if remarketing proceeds are insufficient, from funds drawn on the respective Letters of Credit as described herein.

The Loan Agreement is a general obligation of the Institution. The Loan Agreement obligates the Institution to make payments to satisfy the principal and Redemption Price of and interest on Outstanding Series 2009 Bonds to the extent that moneys are not otherwise available therefor. Payments made by the Institution in respect of interest on the Series 2009 Bonds that bear interest at variable interest rates, are to be made on or before the tenth (10<sup>th</sup>) day of the month prior to an interest payment date on such Series 2009 Bonds, assuming that, to the extent the interest rate is not known on such date for the remaining period until the interest payment date, such Series 2009 Bonds will, from and after the next succeeding date on which the rates at which such Series 2009 Bonds bear interest are to be determined, bear interest at a rate per annum equal to the rate per annum on such Series 2009 Bonds on the immediately preceding Business Day, plus one percent (1.0%). Payments by the Institution in respect of principal are to be made on the 10th day of each month commencing on the 10th day of May, 2009 in an amount equal to a proportionate share of the principal and Sinking Fund Installments coming due on the next succeeding November 1. The Loan Agreement also obligates the Institution to pay, at least forty-five (45) days prior to a redemption date or purchase date of Series 2009 Bonds called for redemption or contracted to be purchased, with certain exceptions, the amount, if any, required to pay the purchase price or Redemption Price of such Bonds. See “PART 3 — THE SERIES 2009 BONDS — Redemption and Purchase in Lieu of Redemption.”

The Authority has directed the Institution, and the Institution has agreed, to make such payments directly to the Trustee. Such payments are to be applied by the Trustee to repay the Banks with respect to draws under the Letters of Credit or, if such amounts drawn under the Letters of Credit are insufficient to pay Bondholders, to pay the principal, Sinking Fund Installments, Purchase Price and Redemption Price of and interest on the Series 2009 Bonds.

## **Security for the Series 2009 Bonds**

The Series 2009 Bonds will be secured by the payments described above to be made under the Letters of Credit, the Revenues and all funds and accounts established under the Resolution (with the exception of the Arbitrage Rebate Fund, the Purchase and Remarketing Fund and the Credit Facility Repayment Fund). The Revenues and the right to receive them have been pledged to the Trustee for the benefit of the Banks and the Holders of the Series 2009 Bonds. Each Series of Bonds issued pursuant to the Resolution will be separately secured from each other Series of Bonds. See “Appendix C – Summary of Certain Provisions of the Resolution.”

As security for its obligations under the Loan Agreement, the Institution has granted to the Authority a security interest in the Pledged Revenues, subject to the Prior Pledges, consisting of, during any year all receipts, revenues, income and other money received by the Institution from any source and all rights to receive the same (including, without limitation, operating revenues and non-operating revenues determined in accordance with generally accepted accounting principles), whether in the form of accounts, accounts receivable, contract rights, chattel paper, general intangibles, instruments or other rights, and the proceeds thereof, and any insurance thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Institution subject only to the Prior Pledges; provided, however, that there shall be excluded from Pledged Revenues gifts, grants, bequests, donations and contributions heretofore or hereafter made, designated at the time of making thereof by the donor or maker as being for certain specific purposes, and the income derived therefrom, to the extent required by such designation. The Prior Pledges consist of certain prior security interests in such revenues, including a pledge granted to secure the Institution’s obligations to KeyBank under certain outstanding commercial lines of credit.

In order to secure the obligations of the Authority under the Resolutions and to secure the payment of all amounts due and owing by the Authority to the Holders of the Bonds, the Authority will assign to the Trustee all of its rights under the Loan Agreement including its security interest in the Pledged Revenues (subject to certain reserved rights of the Authority). In addition, in order to secure the Institution’s payment obligations under the Reimbursement Agreement, the Loan Agreement will also be assigned to the Agent Bank, subject to certain reserved rights of the Authority. The respective rights of the Authority, the Trustee and the Agent Bank on behalf of the Banks will be governed by the provisions of the Intercreditor Agreement.

The security interest in the Pledged Revenues is expected to secure, on a parity basis, the obligations of the Institution under the Swap Agreements.

To further secure the payment and performance of its obligations under the Loan Agreement and the Reimbursement Agreement, the Institution will grant the Authority and the Banks a fee and leasehold mortgage on the Mortgaged Property (as defined in the Mortgage) pursuant to the terms and conditions of the Mortgage. At the time of delivery of the Series 2009 Bonds, the Authority will assign its interest in the Mortgage to the Trustee for the benefit of the Bondholders and to the Agent Bank pursuant to a Collateral Assignment of Mortgage. The Mortgage will constitute a first lien on the mortgaged property subject only to Permitted Liens. The Mortgage will be subordinate to the existing mortgage lien securing certain of the Institution’s outstanding obligations to KeyBank. With the prior approval of the Authority, the Department of Health and the Bank, but without the consent of the Holders of the Series 2009 Bonds, the Institution may incur additional indebtedness secured on a parity with respect to the security interests in the Pledged Revenues and the Mortgaged Property. The Pledged Revenues and the Mortgage are also expected to secure, on a parity basis, the Institution’s obligations under the Swap Agreements. See “PART 3 - THE SERIES 2009 BONDS - The Swap Agreements.” Pursuant to the Intercreditor Agreement, as long as the Letters of Credit are in effect and no event has occurred which would limit the Banks’ rights under the Intercreditor Agreement, the Agent Bank shall have the sole right (subject to certain reserved rights of the Authority) to grant any approval, consent or waiver required, and sole control of remedies under, the Loan Agreement (other than with respect to the Authority’s reserved rights) and under the Mortgage.

### **The Letters of Credit**

*The following description of the Letters of Credit should not be considered a full statement thereof. Reference is hereby made to the Letters of Credit for the detailed terms and provisions thereof.*

An irrevocable direct pay Letter of Credit will be issued by KeyBank with respect only to the Series 2009A Bonds and by HSBC with respect only to the Series 2009B Bonds. The Letter of Credit securing the Series 2009A Bonds will be issued in an original stated amount of \$31,963,590 (the “Series 2009A Letter of Credit Commitment”)



of which \$31,660,000 shall be with respect to the principal of the Series 2009A Bonds or the portion of the Purchase Price corresponding to the principal thereof, and \$303,590 shall be with respect to thirty-five (35) days of accrued interest on the Series 2009A Bonds or the portion of the Purchase Price corresponding to interest thereon, calculated at a rate of 10% per annum based on the actual number of days elapsed in a year using a 365 day divisor. The Letter of Credit securing the Series 2009B Bonds will be issued in an original stated amount of \$24,174,610 (the "Series 2009B Letter of Credit Commitment" and together with the Series 2009A Letter of Credit Commitment, the "Letters of Credit Commitment") of which \$23,945,000 shall be with respect to the principal of the Series 2009B Bonds or the portion of the Purchase Price corresponding to the principal thereof, and \$229,610 shall be with respect to thirty-five (35) days of accrued interest on the Series 2009B Bonds or the portion of the Purchase Price corresponding to interest thereon, calculated at a rate of 10% per annum based on the actual number of days elapsed in a year using a 365 day divisor.

The respective Letters of Credit shall terminate automatically on the earliest of (i) the payment by the Banks to the Trustee of the final drawing available to be made under the respective Letters of Credit; (ii) receipt by the applicable Bank of the original applicable Letter of Credit and all amendments thereto and a certificate signed by an officer of the Trustee stating that no Bonds of the applicable Series of Series 2009 Bonds remain outstanding and that such officer is duly authorized to sign such certificate; (iii) receipt by the applicable Bank of the original applicable Letter of Credit and all amendments thereto and a certificate signed by an officer of the Trustee stating that a Substitute Credit Facility in substitution for such Letter of Credit has been accepted by the Trustee and is in effect and that such officer is duly authorized to sign such certificate; (iv) receipt by the applicable Bank of the original applicable Letter of Credit and all amendments thereto and a certificate signed by an officer of the Trustee stating that all bonds of the applicable Series of Series 2009 Bonds have been converted to a Rate Mode other than the Weekly Rate Mode effective as of the date set forth in such certificate and that such officer is duly authorized to sign such certificate; or (v) the Expiration Date of the respective Letters of Credit.

#### **Reduction and Reinstatement of Letters of Credit**

Drawings may be made under the Letters of Credit in order to pay the principal, Sinking Fund Installments and Redemption Price of and interest on the applicable Series of Series 2009 Bonds when due and the Purchase Price, consisting of the principal amount of and accrued and unpaid interest on the Series 2009 Bonds tendered pursuant to the Resolutions and the Bond Series Certificates, to the extent remarketing proceeds are not available for such purpose (a "Remarketing Drawing"). Multiple drawings may be made under the Letters of Credit, provided that drawings in the aggregate shall not exceed the Letters of Credit Commitment, as the Letters of Credit Commitment may be reduced or reinstated pursuant to the Letters of Credit.

The amount available under the respective Letters of Credit for the purpose of paying interest on the Series 2009 Bonds (the "Interest Component") shall be reduced in an amount equal to any draw to pay interest on the respective Series of Series 2009 Bonds. At the close of business on the day on which payment of a drawing is made for the purpose of paying interest on the Series 2009 Bonds, the Interest Component shall be reinstated by an amount equal to the amount of such drawing (other than a Remarketing Drawing) for the purpose of paying interest on the Series 2009 Bonds.

The amount available under the respective Letters of Credit for the purpose of paying principal on the applicable Series of Series 2009 Bonds (the "Principal Component") shall be reduced in an amount equal to any draw to pay principal on (including the purchase price of) the applicable Series of Series 2009 Bonds. The respective Banks will reinstate amounts drawn under the respective Letters of Credit pursuant to a Remarketing Drawing, as to the Principal Component and the Interest Component, to the extent that money is received by the respective Banks (other than from drawings on the Letters of Credit) from the Trustee reimbursing amounts drawn pertaining to such Remarketing Drawing or upon the Trustee's certification that the Trustee is holding for such Bank's benefit applicable Series 2009 Bonds together with an amount of money equal to or greater than the amount of the principal portion of the Remarketing Drawing.

No drawing under the Letters of Credit shall be honored in an amount exceeding the amount available to be drawn under such Letter of Credit at the time of such drawing, and, pursuant to the Resolutions and the Bond Series Certificates, no drawing shall be made in order to pay the principal, Sinking Fund Installments and Redemption Price of or interest when due on, or the Purchase Price of, the Series 2009 Bonds owned by the Institution or pledged by the Institution or an Affiliate of the Institution pursuant to the Reimbursement Agreement or, at the direction of the applicable Bank, owned by such Bank.

## **The Reimbursement Agreement**

The Letters of Credit are being issued pursuant to the Reimbursement Agreement, under which the Institution will be obligated, among other things, to reimburse the Banks, with interest, for each drawing under the Letters of Credit.

The Reimbursement Agreement contains various representations, warranties and covenants of the Institution and establishes various events of default thereunder, see “Appendix D – Summary of Certain Provisions of the Reimbursement Agreement.”

The terms of the Reimbursement Agreement and certain related documents may be modified, amended or supplemented by the Agent Bank, the Banks and the Institution from time to time without giving notice to or obtaining the consent of the Bondholders. Any amendment, modification or supplement to the Reimbursement Agreement may contain amendments or modifications to the covenants of the Institution or additional covenants of the Institution and these amended or modified covenants may be more or less restrictive than those in effect at the date of issuance of the Series 2009 Bonds. See “Appendix D - Summary of Certain Provisions of the Reimbursement Agreement.”

## **Substitute Credit Facility**

The Authority may replace either or both of the Letters of Credit with a Substitute Credit Facility upon written notice to the Agent Bank and the applicable Bank. The Institution may, at any time, at its option with the prior written consent of the Authority and upon written notice to the Agent Bank and the applicable Bank, deliver or cause to be delivered to the Trustee a Substitute Credit Facility in accordance with the applicable Bond Series Certificate.

The replacement of a Letter of Credit with a Substitute Credit Facility will cause a mandatory tender of only the applicable Series 2009 Bonds. In no event shall a Letter of Credit be surrendered to the applicable Bank upon delivery of a Substitute Credit Facility until a drawing to pay the Purchase Price of the Series 2009 Bonds tendered for purchase and not remarketed has been honored by the applicable Bank and the applicable Bank certifies that the Institution has complied with the requirements of the then-existing Letter of Credit and Reimbursement Agreement. No such Substitute Credit Facility shall be or become effective unless it meets the requirements set forth in the applicable Bond Series Certificate.

## **Events of Default and Acceleration**

The following are events of default under the Resolution: (i) a default by the Authority in the payment of the principal, Sinking Fund Installment or Redemption Price of any Bond; (ii) a default by the Authority in the payment of interest on any Bond; (iii) a default by the Authority in the due and punctual performance of any covenant or agreement contained in the Series Resolutions to comply with the provisions of the Code (as hereinafter defined) necessary to maintain the exclusion of interest on such Bonds from gross income for purposes of federal income taxation; (iv) a default by the Authority in the due and punctual performance of any covenants, conditions, agreements or provisions contained in the Bonds or in the Resolution or in the applicable Series Resolution which continues for thirty (30) days after written notice thereof is given to the Authority by the Trustee (such notice to be given in the Trustee’s discretion or at the written request of the Holders of not less than 25% in principal amount of Outstanding Bonds) or if such default is not capable of being cured within thirty (30) days, if the Authority fails to commence within thirty (30) days and diligently prosecute the cure thereof; (v) the Authority shall have notified the Trustee that an “Event of Default” as defined in the Loan Agreement has occurred and is continuing and all sums payable by the Institution under the Loan Agreement have been declared immediately due and payable (unless such declaration shall have been annulled) or (vi) the Agent Bank shall have notified the Trustee of the occurrence of an event of default under the Reimbursement Agreement (and election by the Agent Bank to effect a mandatory tender in connection therewith). Unless all sums payable by the Institution under the Loan Agreement are declared immediately due and payable, an event of default under the Loan Agreement is not an event of default under the Resolution.

The Resolution provides that, if an event of default (other than as described in clause (iii) of the preceding paragraph) occurs and continues, the Trustee may, and upon the written request of Holders of not less than 25% in principal amount of the Outstanding Series 2009 Bonds, shall, by a written notice to the Authority, declare the principal of and interest on all the Outstanding Series 2009 Bonds to be immediately due and payable. At the

expiration of thirty (30) days from the giving of such notice, such principal and interest will become and be immediately due and payable. At any time after the principal of the Series 2009 Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Resolution, the Trustee shall, with the written consent of the Holders of not less than 25% in principal amount of Series 2009 Bonds not yet due by their terms and then Outstanding, by written notice to the Authority, annul such declaration and its consequences under the terms and conditions specified in the Resolution with respect to such annulment.

The Resolution provides that the Trustee is to give notice in accordance with the Resolution of each event of default known to the Trustee to the Institution and to the Banks within five (5) days, and to the Holders within thirty (30) days, in each case after obtaining knowledge of the occurrence thereof, unless such default has been remedied or cured before the giving of such notice; provided, however, that, except in the case of default in the payment of principal, Sinking Fund Installments or Redemption Price of or interest on any of the Series 2009 Bonds, the Trustee will be protected in withholding such notice thereof to the Holders if and so long as the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Series 2009 Bonds.

### **Bank Consent Rights**

If no Credit Facility Issuer Default has occurred and is then continuing, the Agent Bank on behalf of the Banks, and not the actual Holders of the Series 2009 Bonds, shall be deemed to be the Holder of the Series 2009 Bonds for the purpose of exercising any right or power, consenting to an amendment, modification or waiver, or requesting or directing the Trustee to take or not to take any action under the Resolutions and the Bond Series Certificates. If a Credit Facility Issuer Default has occurred and is continuing as to one but not both Banks, then the rights of the parties are governed by the Intercreditor Agreement.

### **The Intercreditor Agreement**

The respective rights and remedies of the Authority, the Trustee, the Banks and the Agent Bank, on behalf of the Banks, under the Loan Agreement and the Mortgage are controlled by the terms of the Intercreditor Agreement, pursuant to which the Authority will, upon the issuance of the Series 2009 Bonds, assign to the Trustee and the Agent Bank, the Authority's rights under the Loan Agreement (other than certain reserved rights of the Authority) and under the Mortgage. The Intercreditor Agreement provides that so long as the Letters of Credit are in effect and no Credit Facility Issuer Default has occurred and is continuing, the Agent Bank shall have the sole right to grant any approval, consent or waiver required and sole control of remedies in the Loan Agreement (other than with respect to the Authority's reserved rights) and under the Mortgage.

In the event of a Credit Facility Issuer Default by one of the Banks, but not both Banks, the right to take any action, exercise any right granted to the Banks, the Authority or the Trustee and to pursue remedies, including the commencement and prosecution of a foreclosure action with respect to the Mortgage, or to realize on the security interest in Pledged Revenues, shall require the agreement of the non-defaulting Bank and the Authority. The non-defaulting Bank shall maintain its rights under the Reimbursement Agreement, including the right to declare an event of default under the Reimbursement Agreement and to direct the Trustee to cause a mandatory tender of the applicable Series of Series 2009 Bonds. Any proceeds realized through the exercise of any rights and remedies shall be distributed to the Agent Bank and the Authority pro rata.

### **Issuance of Additional Bonds**

In addition to the Series 2009 Bonds, the Resolution authorizes the issuance of other Series of Bonds to finance one or more Projects and for other specified purposes, including refunding Outstanding Bonds or other notes or bonds issued on behalf of the Institution. The Bonds which may be issued include Capital Appreciation Bonds, Deferred Income Bonds, Option Bonds, Variable Interest Rate Bonds and Fixed Rate Bonds. Each Series of Bonds will be separately secured from each other Series of Bonds; provided, however, that each Series of Bonds may be equally and ratably secured by the Pledged Revenues and/or the Mortgaged Property. There is no limit on the amount of additional Bonds that may be issued under the Resolution, which Bonds may be issued at any time prior to or after the scheduled delivery date of the Series 2009 Bonds. The Series 2009 Bonds will be the first Series of Bonds issued under the Resolution.

## General

The Series 2009 Bonds will not be a debt of the State and the State will not be liable on the Series 2009 Bonds. The Authority has no taxing power. The Authority has never defaulted in the timely payment of principal of or interest on its bonds or notes. See “PART 9 — THE AUTHORITY.”

### PART 3 — THE SERIES 2009 BONDS

*Set forth below is a narrative description of certain provisions relating to the Series 2009 Bonds. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Resolutions and the Loan Agreement, copies of which are on file with the Authority and the Trustee. See also “Appendix B — Summary of Certain Provisions of the Loan Agreement” and “Appendix C — Summary of Certain Provisions of the Resolution” for a more complete description of certain provisions of the Series 2009 Bonds.*

#### Description of the Series 2009 Bonds

The Series 2009 Bonds will be issued pursuant to the Act, the Resolution, the Series Resolutions and the Bond Series Certificates. The Series 2009 Bonds will be dated the date of their initial delivery, and will bear interest at the Weekly Rate established for the Series 2009 Bonds for each Weekly Rate Period while in the Weekly Rate Mode until such time, if ever, as the Rate Mode for such Series 2009 Bonds is changed, as described herein. All Bonds of each Series must bear interest at the same Rate Mode. Under the Bond Series Certificates, the Series 2009A Bonds and the Series 2009B Bonds must bear interest at the same Rate Mode. Additionally, under the Bond Series Certificates, the term Weekly Rate Period means a period commencing on a Conversion Date or the Thursday of a calendar week and extending to and including the next succeeding Wednesday. While in the Weekly Rate Mode, interest on the Series 2009 Bonds is payable on May 1, 2009 and the first Business Day of each month thereafter. Interest on Series 2009 Bonds payable during the Weekly Rate Mode shall be computed on the basis of a year of 365 or 366 days, as appropriate, for the actual number of days elapsed.

**As a general matter, this Official Statement describes the terms of the Series 2009 Bonds only in the Weekly Rate Mode.**

The Series 2009 Bonds, when issued, will be registered in the name of and held by Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”). So long as DTC or its nominee, Cede & Co., is the registered owner of the Series 2009 Bonds, payments of the principal, Redemption Price and Purchase Price of and interest on the Series 2009 Bonds will be made by the Trustee directly to Cede & Co. Disbursement of such payments to the Direct Participants (as hereinafter defined) is the responsibility of DTC and disbursement of such payments to the Beneficial Owners (as hereinafter defined) of the Series 2009 Bonds is the responsibility of the Direct Participants and the Indirect Participants (as hereinafter defined). See “—Book-Entry Only System.”

The Series 2009 Bonds will be issued in denominations of \$100,000 or any integral multiples of \$5,000 in excess thereof. The Series 2009 Bonds may be exchanged for other Series 2009 Bonds in any other authorized denominations upon surrender thereof at the corporate trust office of the Trustee, duly executed by the registered owner or his representative.

Interest shall be payable on each Interest Payment Date during the Weekly Rate Mode in immediately available funds payable by check mailed to each registered owner of a Series 2009 Bond on the Record Date immediately preceding such Interest Payment Date to the address thereof as it appears on the registry books of the Authority, or, at the request of a registered owner, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has not later than five (5) days prior to the Record Date immediately preceding such Interest Payment Date directed the Trustee to wire such interest payment. Notwithstanding the foregoing, interest payable on any Interest Payment Date during which the Series 2009 Bonds are Book Entry Bonds shall be paid by wire transfer to the Depository for the Series 2009 Bonds or its nominee, at the wire transfer address therefore.

Interest payable on each Interest Payment Date shall be the interest accrued and unpaid to and including the day preceding such Interest Payment Date.

## Determination of Weekly Rate

Each Series 2009 Bond in a Weekly Rate Mode (other than a Bank Bond) will bear interest at the Weekly Rate(s) established for such Series of Series 2009 Bonds. The Weekly Rate is required to be determined by the Remarketing Agent to be the rate of interest that, if borne for such Weekly Rate Period for such Series, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for bonds or other securities the interest on which is excludable from gross income for federal income tax purposes of the same general nature as the Series 2009 Bond and that are comparable as to credit and maturity or tender dates with the credit and maturity or tender dates, would be the lowest interest rate that would enable the Series 2009 Bond to be sold on the first day of the applicable Weekly Rate Period at a price of par, plus accrued interest, if any. Each Series of Series 2009 Bonds is payable from proceeds received by the Trustee from drawings under the respective Letters of Credit. Each Letter of Credit secures the payment only of the principal, Redemption Price and Purchase Price of, and interest on, the Series of Series 2009 Bonds with respect to which it is issued. As a result, each Series of Series 2009 Bonds will have its own Rate and the determination of an appropriate Weekly Rate by the Remarketing Agent for one Series of Series 2009 Bonds will not affect the Weekly Rate determination for the other Series of Series 2009 Bonds.

The Remarketing Agent will make the respective Weekly Rate(s) available to any Holder, the Trustee, the Tender Agent, the Authority and the Bank requesting the same.

The Remarketing Agent is required to determine a Weekly Rate for each Weekly Rate Period by 5:00 p.m., New York City time, on Wednesday of each week, or the next succeeding Business Day if any Wednesday is not a Business Day. If for any reason (i) the Weekly Rate for a Weekly Rate Period is not established as aforesaid, (ii) no Remarketing Agent is serving under the applicable Bond Series Certificate, (iii) the Weekly Rate so established is held to be invalid or unenforceable with respect to a Weekly Rate Period or (iv) pursuant to the Remarketing Agreement the Remarketing Agent is not then required to establish a Weekly Rate, then the Weekly Rate for such Weekly Rate Period shall be the SIFMA Municipal Index on the date such Weekly Rate was to have been determined by the Remarketing Agent.

No Series 2009 Bonds (other than a Bank Bond) will bear interest at a rate that exceeds the Maximum Rate.

## Redemption and Purchase in Lieu of Redemption

The Series 2009 Bonds will be subject to redemption prior to maturity as provided below; provided, however, that any Series 2009 bonds which are Bank Bonds shall be redeemed prior to any other Series 2009 Bonds.

*Optional Redemption.* The Series 2009 Bonds in the Weekly Rate Mode are subject to redemption prior to maturity at the election of the Authority upon the request of the Institution and with the consent of the Agent Bank, in whole or in part, on any Business Day at a Redemption Price equal to 100% of the principal amount of each Series 2009 Bond or portion thereof to be redeemed, plus accrued interest to the redemption date.

*Mandatory Sinking Fund Redemption.* The Series 2009 Bonds shall be subject to redemption, in part, through application of Sinking Fund Installments beginning on November 1, 2009, upon notice given as prescribed in the Resolution and the Bond Series Certificates, at a Redemption Price equal to 100% of the principal amount of each Series 2009 Bond or portion thereof to be redeemed, plus accrued interest, if any, to the date of redemption. Unless none of the Series 2009 Bonds of a maturity to be so redeemed are then Outstanding and, subject to the provisions of the Bond Series Certificates permitting amounts to be credited to part or all of any one or more Sinking Fund Installments, there shall be due and the Authority shall be required to pay for the retirement of the Series 2009 Bonds maturing on November 1 of each of the years set forth in the following table, the amount set forth opposite such year:

<u>Series 2009A Bonds</u>		<u>Series 2009B Bonds</u>	
<u>Year</u>	<u>Sinking Fund Installments</u>	<u>Year</u>	<u>Sinking Fund Installments</u>
2009	\$ 100,000	2009	\$ 295,000
2010	150,000	2010	590,000
2011	615,000	2011	965,000

2012	645,000	2012	910,000
2013	675,000	2013	960,000
2014	710,000	2014	725,000
2015	745,000	2015	495,000
2016	785,000	2016	520,000
2017	825,000	2017	545,000
2018	865,000	2018	575,000
2019	910,000	2019	605,000
2020	950,000	2020	635,000
2021	1,000,000	2021	670,000
2022	1,050,000	2022	705,000
2023	1,105,000	2023	740,000
2024	1,160,000	2024	780,000
2025	1,215,000	2025	820,000
2026	1,280,000	2026	865,000
2027	1,340,000	2027	910,000
2028	1,410,000	2028	955,000
2029	1,480,000	2029	1,005,000
2030	1,555,000	2030	1,060,000
2031	1,630,000	2031	1,115,000
2032	1,710,000	2032	1,170,000
2033	1,800,000	2033	1,235,000
2034	1,890,000	2034	1,295,000
2035	1,980,000	2035	1,365,000
2036*	2,080,000	2036*	1,435,000

\* Final maturity.

*Redemption of Bank Bonds.* Any Series 2009 Bonds that are Bank Bonds shall remain subject to redemption prior to maturity as provided in the Bond Series Certificates.

*Special Redemption.* The Series 2009 Bonds are also subject to redemption prior to maturity, in whole or in part, at 100% of the principal amount thereof plus accrued interest to the date of redemption, at the option of the Authority on any Interest Payment Date, (i) from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Project, and (ii) from unexpended proceeds of the Series 2009 Bonds upon the abandonment of all or a portion of the Project due to a legal or regulatory impediment, subject in each case while a Credit Facility is in place, to the provisions of the applicable Bond Series Certificate with respect to draws on the Letters of Credit.

*Notice of Redemption.* Each notice of redemption of Series 2009 Bonds in the Weekly Rate Mode to be redeemed shall be given not less than fifteen (15) nor more than thirty (30) days prior to the redemption date. Each notice of redemption of Series 2009 Bonds in the Weekly Rate Mode to be redeemed at the option of the Authority may state, in addition to any other condition, that the redemption is conditioned upon the availability on the redemption date of moneys sufficient to pay the Redemption Price of the Series 2009 Bonds to be redeemed.

*Purchase In Lieu of Redemption.* Any Series 2009 Bond which is subject to optional redemption may be purchased by the Trustee at the direction of the Institution with the consent of the Authority and the Agent Bank. Such Series 2009 Bond need not be cancelled upon purchase, but may be resold with the same terms or such different terms as may be agreed upon by the Institution and the purchasers with the consent of the Authority. If the Institution elects to purchase Series 2009 Bonds, the Institution shall give written notice to the Authority, the Trustee, the Agent Bank and the Banks of such election, which notice shall set forth the Bonds to be purchased.

*Selection of Series 2009 Bonds to be Redeemed.* If less than all of the Outstanding Series 2009 Bonds of like maturity are to be redeemed or purchased in lieu of redemption as described herein, Bank Bonds, if any, shall be redeemed first. Thereafter, the Trustee shall select for redemption Bonds of such Series of Series 2009 Bonds, using such method of selection as it deems proper in its discretion, in accordance with the Resolution.

## **Tender of the Series 2009 Bonds**

*Optional Tender of Book-Entry Bonds.* For so long as a Series 2009 Bond bears interest in a Weekly Rate Mode during which such Series 2009 Bond is a Book-Entry Bond, a Direct Participant, acting on behalf of a Beneficial Owner, has the right to tender all or any portion, in an Authorized Denomination, of the principal amount of such Beneficial Owner's interest in any Series 2009 Bond for purchase on any Optional Tender Date, by giving or delivering to the Remarketing Agent and the Tender Agent at their respective principal offices a Tender Notice stating (i) the aggregate principal amount in an Authorized Denomination of each Series 2009 Bond or portion thereof to be purchased, and (ii) that such principal amount of the Series 2009 Bond (in an Authorized Denomination) must be purchased on such Optional Tender Date pursuant to the applicable Bond Series Certificate. Optional Tender Date means any Business Day while the Series 2009 Bonds bear interest in the Weekly Rate Mode.

Such Tender Notice must be delivered in the case of Series 2009 Bonds bearing interest a Weekly Rate, not later than 5:00 P.M., New York City time, on the seventh (7<sup>th</sup>) business day prior to the Optional Tender Date.

Any Tender Notice so given or delivered shall be irrevocable and shall be binding on the Direct Participant, the Beneficial Owner on whose behalf such notice was given and any transferee of such Beneficial Owner. The principal amount of the Series 2009 Bonds for which a Tender Notice has been given or delivered shall be deemed tendered on the Optional Tender Date without presentation or surrender of the Series 2009 Bonds to the Tender Agent. If there is on deposit with the Tender Agent on the Optional Tender Date an amount sufficient to pay the Purchase Price of the aggregate principal amount of Series 2009 Bonds to be tendered on such Optional Tender Date pursuant to a Tender Notice given pursuant to this paragraph, ownership of such aggregate principal amount of Series 2009 Bonds shall be recorded in the records of DTC as transferred in accordance with the provisions of the Bond Series Certificates.

*Optional Tender of Other Bonds.* For so long as the Series 2009 Bonds bear interest in a Daily Rate Mode or a Weekly Rate Mode during which the Series 2009 Bonds are not Book Entry Bonds, the Holders of the Series 2009 Bonds shall have the right to tender any Series 2009 Bond (or portion thereof in an Authorized Denomination) to the Tender Agent for purchase on any Optional Tender Date upon delivery of a Tender Notice in accordance with the applicable Bond Series Certificate.

*Mandatory Tenders.* The respective Series of Series 2009 Bonds in the Weekly Rate Mode are subject to mandatory tender and purchase at the Purchase Price on the following dates:

- (i) on each Conversion Date;
- (ii) on a date that is not less than three (3) Business Days prior to the Expiration Date of the applicable Letter of Credit, which Letter of Credit will be drawn upon to pay the Purchase Price of Tendered Bonds (or if such day is not a Business Day, on the immediately preceding Business Day), unless such Letter of Credit has been extended at least twenty (20) days prior to such expiration date;
- (iii) on the effective date of a Substitute Credit Facility delivered with respect to a Series of Series 2009 Bonds; provided, however, the respective Letter of Credit shall be drawn upon to pay the Purchase Price of Tendered Bonds that have not been remarketed; and
- (iv) on the date specified in a notice delivered by the Agent Bank to the Trustee, the Remarketing Agent and the Authority stating that:
  - (A) an Event of Default has occurred under the Reimbursement Agreement or there has not been a reinstatement of a draw on the Letter of Credit (other than a draw relating to a permanent reduction of the stated amount of the Letter of Credit),
  - (B) the applicable Bank has elected to require a mandatory tender of the applicable Series 2009 Bonds as provided in the Reimbursement Agreement, and
  - (C) the mandatory tender will occur on a date which is not less than two (2), or more than ten (10), Business Days after the receipt by the Trustee, the Remarketing Agent and the Authority of such notice.

*Notices of Mandatory Tenders.* The Tender Agent will give notice of the mandatory tender to the Remarketing Agent and the Depository:

- (i) when the Series 2009 Bonds are to be tendered for purchase on Conversion to a new Rate Mode, not more than three (3) Business Days after the Conversion Notice is received;
- (ii) when the Series 2009 Bonds are to be tendered for purchase on the Expiration Date of the Letter of Credit or in connection with the delivery of a Substitute Credit Facility, not less than five (5) Business Days prior to the earlier of the Expiration Date of the Letter of Credit or the effective date of the Substitute Credit Facility; and
- (iii) when the Series 2009 Bonds are to be tendered for purchase at the direction of the applicable Bank, not less than one (1) Business Day prior to the date of the mandatory tender specified by such Bank.

If the Series 2009 Bonds are not held by a Depository, notices will be sent by first class mail to the Holders of the Series 2009 Bonds.

*Tendered and Deemed Tendered Bonds.* If a Bondholder fails to deliver to the Tender Agent, on or before the applicable Tender Date, all or any portion of a Series 2009 Bond subject to mandatory tender for purchase or any Series 2009 Bond, other than a Book Entry Bond, for which an election to tender has been duly made, such Series 2009 Bond (or portion thereof in an Authorized Denomination) shall be deemed to have been properly tendered to the Tender Agent. To the extent that there is on deposit with the Tender Agent on the purchase date thereof an amount sufficient to pay the Purchase Price of the Tendered Bonds, such Tendered Bonds will cease to constitute or represent a right to payment of principal or interest thereon and will constitute and represent only the right to the payment of the Purchase Price payable on such date. The foregoing shall not limit the right of any person who on a Record Date is the Holder of a Series 2009 Bond to receipt of interest, if any, due thereon on the date such Series 2009 Bond is required to be purchased.

*Purchase of Tendered Bonds.* On each Tender Date the Tendered Bonds shall be purchased (but solely from Available Moneys) at the applicable Purchase Price, which will be paid by 3:00 P.M., New York City time, on the Tender Date. The Purchase Price for the Tendered Bonds shall be paid by the Tender Agent from Available Moneys and in the following order of priority: the proceeds of remarketing of the Tendered Bonds; amounts drawn on the applicable Letter of Credit or certain other Available Moneys, if any, under the applicable Bond Series Certificate. No Tendered Bond so purchased with moneys made available by the Bank shall cease to be Outstanding solely by reason of the purchase thereof.

Default by either Bank under their respective Letter of Credit may result in insufficient revenues being available to pay the Purchase Price of, and interest on tendered Series 2009A Bonds or Series 2009B Bonds, as the case may be. In such event, Tendered Bonds may not be purchased. See “PART 3 – THE SERIES 2009 BONDS – Special Considerations Relating to the Series 2009 Bonds Bearing Interest at a Weekly Rate – *There are certain risks related to the Letters of Credit.*”

*Remarketing of Series 2009 Bonds.* Upon receipt of any notice given pursuant to the respective Bond Series Certificates that any Series 2009 Bonds will be or are required to be tendered for purchase, the Remarketing Agent shall use its best efforts to remarket such Tendered Bond on its Tender Date at a price equal to the Purchase Price.

Notwithstanding any other provision of the Series Resolutions or the Bond Series Certificates to the contrary, so long as any Series 2009 Bond is registered in the name of Cede & Co, as nominee of DTC, all payments with respect to principal of, interest, Purchase Price and premium, if any, and all deliveries to be made and all notices to be delivered with respect to such Series 2009 Bonds shall be made and given, respectively, pursuant to DTC’s rules and procedures.

### **Conversion to Other Rate Modes**

The Authority, at the direction of the Institution and with the consent of the Agent Bank may, from time to time, by written direction to the Remarketing Agent, the Repository, the Trustee, the Tender Agent, the Agent Bank, and each Rating Service maintaining a rating on the Series 2009 Bonds, elect that all (but not less than all) of the



Series 2009 Bonds be converted from the Weekly Rate Mode to a Daily Rate Mode, a Term Rate Mode or a Fixed Rate Mode. A Series of Series 2009 Bonds may not be converted to a different Rate Mode unless the other Series of Series 2009 Bonds is also so converted. Upon such direction, the Authority shall, not less than fifteen (15) days prior to any Conversion Date, deliver a written notice specifying (A) the Conversion Date, (B) the Rate Mode that will be effective upon such Conversion, (C) if the Conversion is to a Term Rate Mode, the Term Rate Period, and (D) the ratings expected to be effective on the Series 2009 Bonds after such Conversion. At the time of a conversion from the Weekly Rate Mode to a different Rate Mode, the Series 2009 Bonds are subject to mandatory tender for purchase at the Purchase Price as described herein. See “Appendix C – Summary of Certain Provisions of the Resolution.”

The Bond Series Certificates provide that no conversion of a Rate Mode will occur thereunder unless (i) on the Conversion Date no event of default under the Resolution has occurred and is continuing, (ii) the Authority receives a favorable opinion from Bond Counsel with respect to the proposed conversion, and (iii) such other requirements as are set forth in the Bond Series Certificates are met.

In the event the requirements described in the preceding sentence are not met, or the Remarketing Agent notifies the Trustee, the Authority, the Institution and the applicable Bank, that the Series 2009 Bonds to be converted cannot be remarketed, or the Authority notifies the Remarketing Agent, the applicable Bank and the Trustee in writing that it does not want the Series 2009 Bonds to be converted to a new Rate Mode, the succeeding Rate Mode shall be the Weekly Rate Mode and the Rate thereon shall be calculated without regard to the proposed conversion.

#### **Amendments to the Bond Series Certificate**

The provisions of the Bond Series Certificates may be amended in any way without the consent of the Holders of the Series 2009 Bonds, but with the consent of the Banks: (i) on any Mandatory Tender Date; and (ii) at any time during the Weekly Rate Mode provided that notice of such amendment is given by first class mail to each Holder of Series 2009 Bonds at least thirty (30) days prior to the effective date of such amendment.

#### **The Remarketing Agent**

The Authority, at the request of the Institution, has appointed KeyBanc Capital Markets Inc. as the Remarketing Agent for the Series 2009 Bonds. In accordance with the Resolutions, the Bond Series Certificates and the Remarketing Agreement, the Remarketing Agent will use its best efforts to remarket Tendered Bonds. The Remarketing Agent can be contacted at 127 Public Square, Cleveland, Ohio 44114.

*Limitations on Remarketings.* Remarketing of the Series 2009 Bonds is subject to the following limitations:

(i) The Remarketing Agent shall not, during any period during which the applicable Letter of Credit is in effect, remarket Tendered Bonds if:

(A) upon such remarketing the amount available to be drawn under the Letter of Credit, together with amounts on deposit in the Credit Facility Account of the Debt Service Fund, for the payment of the principal or Purchase Price of the Outstanding Series 2009 Bonds to which such Letter of Credit relates is less than the principal of such Series 2009 Bonds that are not Bank Bonds, or an amount available to be drawn under such Letter of Credit for payment of the interest on such Outstanding Series 2009 Bonds, is less than the minimum amount required to be available under the Letter of Credit in accordance with the Bond Series Certificate;

(B) the Letter of Credit then in effect will expire or terminate within twenty (20) days after the Tender Date of the Tendered Bonds, unless and until the Letter of Credit has been extended or a Substitute Credit Facility has been delivered to the Tender Agent; provided, however, that the restriction on remarketing contained in this paragraph (B) shall not apply to any remarketing of the Series 2009 Bonds in a Fixed Rate Mode; or

(C) the Tendered Bonds were tendered pursuant to a mandatory tender required by the Agent Bank following an Event of Default under the Reimbursement Agreement.

(ii) In accordance with the Bond Series Certificates, no Tendered Bonds shall be remarketed by the Remarketing Agent for purchase by the Authority or the Institution, unless there has been delivered to the Trustee an opinion of Bond Counsel to the effect that payment of the Purchase Price of Tendered Bonds from moneys paid by or on behalf of the Authority or the Institution for the purchase of such Tendered Bonds will not constitute a voidable preference under Section 547 of the United States Bankruptcy Code in a proceeding commenced by or against the Authority or the Institution thereunder.

In addition, the Remarketing Agreement provides that the Remarketing Agent shall have the right in its sole discretion, to refuse to remarket or to suspend the remarketing of Series 2009 Bonds if:

(i) any Event of Default specified in Section 11.02 of the Resolution or Section 30 of the Loan Agreement shall have occurred and be continuing;

(ii) it shall have determined, in its sole discretion upon consultation with counsel, that either (A) a disclosure document is required by applicable law to be distributed to prospective purchasers and that such document is not available or, if available, is not reasonably satisfactory to the Remarketing Agent in form or substance or (B) a continuing disclosure undertaking is required by applicable law and that such undertaking is either not then in effect or is not reasonably satisfactory to the Remarketing Agent in form or substance; or

(iii) it shall receive an opinion of Bond Counsel (a copy of which shall be furnished to the Institution and the Authority) that substantial grounds exist upon which the exclusion from gross income of interest on the Series 2009 Bonds for federal income tax purposes or the exemption from registration under the Securities Act of 1933, as amended (the "Securities Act"), or the exemption from qualification of the Resolutions under the Trust Indenture Act of 1939, as amended, can be challenged; or

(iv) there shall occur any outbreak or escalation of hostilities or any national or international calamity or crises or a financial crises the effect of which on the financial markets of the United States is, in the reasonable judgment of the Remarketing Agent, to materially, adversely affect the remarketing by the Remarketing Agent of the Series 2009 Bonds; or

(v) each of the Resolutions, the Bond Series Certificates and the Loan Agreement shall not be in full force and effect or shall have been amended, modified or supplemented in any way which would materially and adversely affect the remarketing of the Series 2009 Bonds, except as may have been agreed to in writing by the Remarketing Agent.

In the event the Remarketing Agent elects to refuse to remarket or to suspend the remarketing of the Series 2009 Bonds, the Remarketing Agent shall provide notice of such election within one (1) Business Day to the Authority, the applicable Bank and the Institution. The Remarketing Agent will also suspend remarketing of the Series 2009 Bonds when requested by the Authority (with, as long as no Event of Default has occurred and is continuing, and no event has occurred that, with the giving of notice or time elapsed, or both, would constitute an Event of Default, the consent of the Institution) or the Institution (with the consent of the Authority).

### **Special Considerations Relating to the Series 2009 Bonds Bearing Interest at a Weekly Rate**

***The Remarketing Agent Is Paid by the Institution.*** The Remarketing Agent's responsibilities include determining the interest rate(s) from time to time and using best efforts to remarket Series 2009 Bonds that are optionally or mandatorily tendered by the owners thereof (subject, in each case, to the terms of the Remarketing Agreement and the Bond Series Certificates), as further described in this Official Statement. The Remarketing Agent is appointed by the Authority and is paid by the Institution for its services. As a result, the interests of the Remarketing Agent may differ from those of existing Bondholders and potential purchasers of Series 2009 Bonds.

***The Remarketing Agent Routinely Purchases Bonds for Its Own Account.*** The Remarketing Agent acts as remarketing agent for a variety of variable rate demand obligations and, in its sole discretion, routinely purchases such obligations for its own account. The Remarketing Agent is permitted, but not obligated, to purchase tendered Series 2009 Bonds for its own account and, in its sole discretion, routinely acquires such tendered Series 2009 Bonds in order to achieve a successful remarketing of the Series 2009 Bonds (*i.e.*, because there otherwise are not enough buyers to purchase the Series 2009 Bonds) or for other reasons. However, the Remarketing Agent is not obligated to purchase Series 2009 Bonds, and may cease doing so at any time without notice. The Remarketing

Agent may also make a market in the Series 2009 Bonds by routinely purchasing and selling Series 2009 Bonds other than in connection with an optional or mandatory tender and remarketing. Such purchases and sales may be at or below par. However, the Remarketing Agent is not required to make a market in the Series 2009 Bonds. The Remarketing Agent may also sell any Series 2009 Bonds it has purchased to one or more affiliated investment vehicles for collective ownership or enter into derivative arrangements with affiliates or others in order to reduce its exposure to the Series 2009 Bonds. The purchase of Series 2009 Bonds by the Remarketing Agent may create the appearance that there is greater third party demand for the Series 2009 Bonds in the market than is actually the case. The practices described above also may result in fewer Series 2009 Bonds being tendered in a remarketing.

***Bonds May Be Offered at Different Prices on Any Date Including a Rate Determination Date.*** Pursuant to the Remarketing Agreement, the Remarketing Agent is required to use its best efforts to determine the applicable rate of interest that, in its judgment, is the lowest rate that would permit the sale of the Series 2009 Bonds bearing interest at the applicable interest rate at par plus accrued interest, if any, on and as of the applicable Reset Date. The interest rate will reflect, among other factors, the level of market demand for the Series 2009 Bonds (including whether the Remarketing Agent is willing to purchase Series 2009 Bonds for its own account). There may or may not be Series 2009 Bonds tendered and remarketed on a Reset Date, the Remarketing Agent may or may not be able to remarket any Series 2009 Bonds tendered for purchase on such date at par and the Remarketing Agent may sell Series 2009 Bonds at varying prices to different investors on such date or any other date. The Remarketing Agent is not obligated to advise purchasers in a remarketing if it does not have third party buyers for all of the Series 2009 Bonds at the remarketing price. In the event the Remarketing Agent owns any Series 2009 Bonds for its own account, it may, in its sole discretion in a secondary market transaction outside the tender process, offer such Series 2009 Bonds on any date, including the Reset Date, at a discount to par to some investors.

***The Ability to Sell the Series 2009 Bonds Other Than through Tender Process May Be Limited.*** The Remarketing Agent may buy and sell Series 2009 Bonds other than through the tender process. However, it is not obligated to do so and may cease doing so at any time without notice and may require Holders that wish to tender their Series 2009 Bonds to do so through the Tender Agent with appropriate notice. Thus, investors who purchase the Series 2009 Bonds, whether in a remarketing or otherwise, should not assume that they will be able to sell their Series 2009 Bonds other than by tendering the Series 2009 Bonds in accordance with the tender process.

***Under Certain Circumstances, the Remarketing Agent May be Removed, Resign or Cease Remarketing the Series 2009 Bonds, Without a Successor Being Named.*** Under certain circumstances the Remarketing Agent may be removed or have the ability to resign or cease its remarketing efforts, without a successor having been named, subject to the terms of the Remarketing Agreement and the Bond Series Certificates. In the event there is no Remarketing Agent, the Trustee may assume such duties as described in the Resolutions and the Bond Series Certificates, which are limited to accepting notices of tender.

***There are Certain Risks Related to the Letters of Credit.*** The Banks' obligation under the respective Letters of Credit will be a general obligation of the respective Banks. There can be no assurance that the respective Banks will maintain their present financial condition or that an adverse change in such condition will not adversely affect their ability to honor future drawings under the respective Letters of Credit. A change in the creditworthiness of the respective Banks or of any subsequent provider of a Substitute Letter of Credit could result in a change in the rating on the applicable Series of Series 2009 Bonds. Default by the respective Banks under the Letters of Credit may result in insufficient revenues being available to pay the principal and Purchase Price and interest on the respective Series of Series 2009 Bonds. See "Appendix D – Summary of Certain Provisions of the Reimbursement Agreement".

### **Book-Entry Only System**

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Series 2009 Bonds. The Series 2009 Bonds will be issued as fully-registered securities in the name of Cede & Co. (DTC's partnership nominee), or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2009 Bond certificate will be issued for each maturity of the Series 2009 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and

provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Series 2009 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2009 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2009 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2009 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2009 Bonds, except in the event that use of the book-entry system for the Series 2009 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2009 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2009 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2009 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2009 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2009 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2009 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2009 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2009 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, the Bank or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct

Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Series 2009 Bond tendered for purchase, through its Participant, to the Tender Agent and the Remarketing Agent, and shall effect delivery of such Series 2009 Bond by causing the Direct Participant to transfer the Participant's interest in the Series 2009 Bond, on DTC's records, to the Tender Agent. The requirement for physical delivery of Series 2009 Bonds in accordance with an optional tender for purchase will be deemed satisfied when the ownership rights in the Series 2009 Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Series 2009 Bonds to the Tender Agent's DTC account.

The Authority and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2009 Bonds registered in its name for the purposes of payment of the principal and redemption premium, if any, of, or interest on, the Series 2009 Bonds, giving any notice permitted or required to be given to registered owners under the Resolution, registering the transfer of the Series 2009 Bonds, or other action to be taken by registered owners and for all other purposes whatsoever. The Authority and the Trustee shall not have any responsibility or obligation to any Direct or Indirect Participant, any person claiming a beneficial ownership interest in the Series 2009 Bonds under or through DTC or any Direct or Indirect Participant, or any other person which is not shown on the registration books of the Authority (kept by the Trustee) as being a registered owner, with respect to the accuracy of any records maintained by DTC or any Direct or Indirect Participant; the payment by DTC or any Direct or Indirect Participant of any amount in respect of the principal, redemption premium, if any, or interest on the Series 2009 Bonds; any notice which is permitted or required to be given to registered owners thereunder or under the conditions to transfers or exchanges adopted by the Authority; or other action taken by DTC as registered owner. Interest, redemption premium, if any, and principal will be paid by the Trustee to DTC, or its nominee. Disbursement of such payments to the Direct or Indirect Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the Direct or Indirect Participants.

DTC may discontinue providing its service as depository with respect to the Series 2009 Bonds at any time by giving reasonable notice to the Authority and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, the Series 2009 Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, the Series 2009 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Authority believes to be reliable, but the Authority takes no responsibility for the accuracy thereof.

Each person for whom a Participant acquires an interest in the Series 2009 Bonds, as nominee, may desire to make arrangements with such Participant to receive a credit balance in the records of such Participant, and may desire to make arrangements with such Participant to have all notices of redemption or other communications of DTC, which may affect such persons, to be forwarded in writing by such Participant and to have notification made of all interest payments. **NEITHER THE AUTHORITY NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2009 BONDS.**

So long as Cede & Co. is the registered owner of the Series 2009 Bonds, as nominee for DTC, references herein to the Bondholders or registered owners of the Series 2009 Bonds (other than under the caption "PART 12 — TAX MATTERS" herein) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Series 2009 Bonds.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference only relates to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they will be sent by the Trustee to DTC only.

For every transfer and exchange of Series 2009 Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

The Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2009 Bonds if the Authority determines that (i) DTC is unable to discharge its responsibilities with respect to the Series 2009 Bonds. or (ii) a continuation of the requirement that all of the Outstanding Series 2009 Bonds be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, is not in the best interests of the Beneficial Owners. In the event that no substitute securities depository is found by the Authority or restricted registration is no longer in effect, Series 2009 Bond certificates will be delivered as described in the Resolutions and the Bond Series Certificate.

NEITHER THE AUTHORITY NOR THE BANK NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT, (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2009 BONDS UNDER THE RESOLUTIONS; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2009 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2009 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2009 BONDS; OR (VI) ANY OTHER MATTER.

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## Principal and Interest Requirements

The following table sets forth the amounts, after giving effect to the issuance of the Series 2009 Bonds, required to be paid by the Institution during each twelve month period ending October 31 of the years shown for the payment of the principal of and interest on the Series 2009 Bonds, other indebtedness issued on behalf of the Institution, and the total thereof.

<b>Period Ending</b>	<b>Principal</b>	<b>Interest(1)</b>	<b>Total Debt Service on the Series 2009 Bonds</b>
11/01/2009	\$ 395,000	\$ 936,017	\$ 1,331,017
11/01/2010	740,000	1,656,300	2,396,300
11/01/2011	1,580,000	1,634,100	3,214,100
11/01/2012	1,555,000	1,586,700	3,141,700
11/01/2013	1,635,000	1,540,050	3,175,050
11/01/2014	1,435,000	1,491,000	2,926,000
11/01/2015	1,240,000	1,447,950	2,687,950
11/01/2016	1,305,000	1,410,750	2,715,750
11/01/2017	1,370,000	1,371,600	2,741,600
11/01/2018	1,440,000	1,330,500	2,770,500
11/01/2019	1,515,000	1,287,300	2,802,300
11/01/2020	1,585,000	1,241,850	2,826,850
11/01/2021	1,670,000	1,194,300	2,864,300
11/01/2022	1,755,000	1,144,200	2,899,200
11/01/2023	1,845,000	1,091,550	2,936,550
11/01/2024	1,940,000	1,036,200	2,976,200
11/01/2025	2,035,000	978,000	3,013,000
11/01/2026	2,145,000	916,950	3,061,950
11/01/2027	2,250,000	852,600	3,102,600
11/01/2028	2,365,000	785,100	3,150,100
11/01/2029	2,485,000	714,150	3,199,150
11/01/2030	2,615,000	639,600	3,254,600
11/01/2031	2,745,000	561,150	3,306,150
11/01/2032	2,880,000	478,800	3,358,800
11/01/2033	3,035,000	392,400	3,427,400
11/01/2034	3,185,000	301,350	3,486,350
11/01/2035	3,345,000	205,800	3,550,800
11/01/2036	3,515,000	105,450	3,620,450

(1) The interest payments for Series 2009 Bonds assume an estimated interest rate of 3% based on current market conditions for interest rate swap agreements. See “PART 3 – THE SERIES 2009 BONDS – The Swap Agreements.”

## The Swap Agreements

The Institution may enter into two interest rate swap agreements, consisting of an ISDA Master Agreement and an accompanying schedule, a credit support annex and a confirmation (the “Swap Agreement”), with the Banks (the “Counterparty”) to hedge the Institution’s interest rate exposure on the Series 2009 Bonds. The Swap Agreements are expected to provide that the Institution will pay the Counterparty interest on a notional amount at a fixed rate, and the Counterparty will pay the Institution a variable rate of interest on such notional amount equal to a market based interest rate index. It is expected that the notional amount under the Swap Agreements will be equivalent to the par amount of the Series 2009 Bonds and that such notional amount will be reduced in the same amount and at the same time the corresponding principal of the Series 2009 Bonds is scheduled to be paid upon

redemption or at maturity. The Institution's obligations under the Swap Agreements are expected to be secured by the Mortgage and the Pledged Revenues.

If entered into, the Swap Agreements would not alter the Institution's continuing underlying obligations under the Loan Agreement and the Resolution to pay the principal of, premium, if any and interest on the Series 2009 Bonds when due. The respective Counterparty would have no obligation to make any payments with respect to the principal of, premium, if any, or interest on the Series 2009 Bonds, and would only be obligated to make certain payments to the Institution pursuant to the terms of the Swap Agreements. The Swap Agreements are expected to provide that they may be terminated under certain circumstances, at which time the Institution might be required to make a termination payment to the Counterparty.

## **PART 4 — THE BANKS**

*The following information has been provided by the respective Banks (at times referred to hereinafter as "KeyBank National Association" or "HSBC Bank USA, National Association," respectively) for use in this Official Statement. Such information is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Authority, the Institution, the Underwriter, the Remarketing Agent, the Agent Bank (in its capacity as Agent Bank) or a Bank (with respect to information provided by the other Bank). This information has not been independently verified by the Authority, the Institution, the Underwriter, the Remarketing Agent, the Agent Bank (in its capacity as Agent Bank) or a Bank (with respect to information provided by the other Bank). No representation is made by the Authority, the Institution, the Underwriter, the Remarketing Agent, the Agent Bank (in its capacity as Agent Bank) or a Bank (with respect to information provided by the other Bank) as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.*

### **KeyBank National Association**

#### *General*

KeyBank National Association ("KeyBank") is a national banking association headquartered in Cleveland, Ohio serving markets throughout the United States. KeyBank provides customized financial services to individuals, businesses and other institutions.

At December 31, 2008, KeyBank had total assets of approximately \$101.9 billion and total shareholder's equity of approximately \$8.7 billion. The Statement of Condition of KeyBank at December 31, 2008, is set forth on the following page.

All of KeyBank's capital stock is owned by KeyCorp, a publicly-held multi-line financial services company headquartered in Cleveland, Ohio, the common stock of which is registered under the Securities Exchange Act of 1934. At December 31, 2008, KeyBank represented approximately 97% of the assets of KeyCorp. KeyCorp files annual and other reports containing audited, consolidated financial and other information with the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20659 and copies of this information may be obtained from the Commission upon payment of copying charges, or examined at the Commission's offices without charge. **THE KEYBANK LETTER OF CREDIT IS AN UNSECURED OBLIGATION OF KEYBANK AND NOT OF KEYCORP. KEYCORP HAS NOT GUARANTEED KEYBANK'S OBLIGATION UNDER THE KEYBANK LETTER OF CREDIT OR THE REIMBURSEMENT AGREEMENT AND IS NOT AND WILL NOT BECOME OBLIGATED IN ANY MANNER WITH RESPECT THERETO.**

KeyBank will supply, without charge to any person to whom this Official Statement is delivered, a copy of the KeyCorp Form 10-K for the year ended December 31, 2008, as well as copies of reports on Forms 10-Q or 8-K as filed with the Securities and Exchange Commission, by calling our Toll Free Financial Report Request Line 1-888-539-3322.

#### *Limitation of Responsibilities*

KeyBank is responsible only for the information contained under the heading KeyBank National Association and did not participate in the preparation of, or in any way verify the information contained in any other part of the Official Statement.



Accordingly, KeyBank assumes no responsibility for and makes no representation or warranty as to the accuracy or completeness of information contained in any other part of the Official Statement.

**KEYBANK NATIONAL ASSOCIATION**  
**Consolidated Statement of Condition**  
**December 31, 2008**

	In thousands
<b>ASSETS</b>	
Cash and balances due from depository institutions	\$ 6,290,692
U. S. Treasury securities	2,163
U. S. Government agency obligations	782
Mortgage-backed securities	8,090,288
Asset-backed securities	191,005
Securities issued by states and political subdivisions in the U.S.	94,816
Investments in mutual funds and other equity securities with readily determinable fair values	1,618
Other debt securities	22,083
Federal funds sold and securities purchased under agreements to resell	30,636
Loans and lease financing receivables, net of unearned income and allowance	75,589,885
Trading assets	2,254,215
Premises and fixed assets	746,625
Other real estate owned	106,790
Intangible assets	1,293,856
Investments in unconsolidated subsidiaries and associated companies	958,414
Other assets	6,194,742
Total Assets	\$101,868,610
<b>LIABILITIES</b>	
Deposits	
In domestic offices	
Individuals, partnerships and corporations	\$ 57,324,410
U. S. Government	23,632
States and political subdivisions in the U.S.	6,407,630
Commercial banks and other depository institutions in the U.S.	462,136
Banks in foreign countries	3,138
In foreign offices, Edge and Agreement subsidiaries, and IBFs	5,921,275
Total Deposits	70,142,221
Federal funds purchased and securities sold under agreements to repurchase	1,357,883
Trading liabilities	1,038,162
Other borrowed money	13,831,687
Subordinated notes and debentures	3,596,538
Minority interest in consolidated subsidiaries	988,682
Other liabilities	2,259,103
Total Liabilities	93,214,276
<b>EQUITY CAPITAL</b>	
Common stock	50,000
Surplus	4,016,121
Retained earnings	4,175,611
Accumulated other comprehensive income	412,602
Total Equity Capital	8,654,334
Total Liabilities and Equity Capital	\$ 101,868,610

## **HSBC Bank USA, National Association**

HSBC Bank USA, National Association (“HSBC”) is the principal subsidiary of HSBC USA Inc. (“HSBC USA”), a New York state-based bank holding company registered under the Bank Holding Company Act of 1956, as amended. HSBC USA had its origin in Buffalo, New York in 1850 as The Marine Trust Company, which later became Marine Midland Banks, Inc. In 1980, The Hongkong and Shanghai Banking Corporation (now HSBC Holdings plc (“HSBC Holdings”)) acquired 51 percent of the common stock of Marine Midland Banks, Inc. and the remaining 49 percent in 1987. In December 1999, HSBC Holdings acquired Republic New York Corporation and merged it with HSBC USA. In 2006, HSBC USA formed HSBC National Bank USA (“HBMD”), a national banking association established to support HSBC USA’s retail branch expansion strategy. HBMD was merged with and into HSBC in December 2008, at which time HSBC relocated its principal office from Wilmington, Delaware to McLean, Virginia.

HSBC USA and HSBC are indirect wholly owned subsidiaries of HSBC Holdings. HSBC Holdings, headquartered in London, England, is one of the largest banking and financial services organizations in the world. HSBC Holdings’ ordinary shares are listed or admitted to trading on the London Stock Exchange, and are listed on the Hong Kong Stock Exchange, Euronext Paris, the New York Stock Exchange and the Bermuda Stock Exchange. The shares are listed on the New York Stock Exchange in the form of American Depositary Shares.

HSBC is chartered as a national banking association under the laws of the United States and, as such, is regulated primarily by the OCC. HSBC’s deposits are insured by the FDIC up to applicable limits. HSBC’s domestic operations are primarily in New York State. HSBC also has banking branch offices and/or representative offices in Florida, California, New Jersey, Delaware, Pennsylvania, Washington, Oregon, Massachusetts, Virginia, Washington, D.C., Connecticut, Illinois, Maryland and Texas. In addition to its domestic offices, HSBC maintains foreign branch offices, subsidiaries and/or representative offices in the Caribbean, Europe, Panama, Asia, Latin America, Australia and Canada.

HSBC offers a full range of commercial banking products and services to individuals, including high net worth individuals, small businesses, corporations, institutions and governments. The affiliation with HSBC Holdings enables HSBC to offer its customers access to global markets and services. In turn, HSBC plays a role in the delivery and processing of other HSBC products. HSBC also has mortgage banking operations and is an international dealer in derivative instruments denominated in U.S. dollars and other currencies, focusing on structuring transactions to meet client needs, as well as for proprietary purposes.

At December 31, 2008, HSBC represented approximately 98% of the consolidated assets of HSBC USA and had assets of approximately \$182 billion, total liabilities of approximately \$169 billion, including approximately \$126 billion in deposits and approximately \$15 billion of long-term debt, and shareholder’s equity of approximately \$13 billion.

At March 9, 2009, the long-term debt of HSBC had a rating of AA by Standard & Poor’s and Aa3 by Moody’s Investors Services. The short-term debt of HSBC had a rating of A-1+ by Standard & Poor’s and P-1 by Moody’s Investors Services.

HSBC is required to submit to the FDIC certain reports entitled “Consolidated Reports of Condition and Income” (each, a “Call Report” and collectively, the “Call Reports”). HSBC’s Call Reports are prepared in accordance with regulatory instructions issued by the Federal Financial Institutions Examination Council and consist of a balance sheet, income statement, changes in equity capital and other supporting schedules as of the end of the period to which each such Call Report relates. The publicly available portions of HSBC’s Call Reports are available (i) on the FDIC’s website at [www.fdic.gov](http://www.fdic.gov) and (ii) at the FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

HSBC USA files annual, quarterly and special reports, information statements and other information with the Securities and Exchange Commission (the “SEC”) under File No. 1-7436. Copies of HSBC USA’s SEC filings (including the reports referred to above) are available (i) on the SEC’s website at <http://www.sec.gov> and (ii) at the SEC’s public reference room at 100 F Street, N.E., Washington D.C. 20549.

### *Limitation of Responsibilities*

HSBC is responsible only for the information contained under the heading HSBC Bank USA, National Association and did not participate in the preparation of, or in any way verify the information contained in any other

part of the Official Statement. Accordingly, HSBC assumes no responsibility for and makes no representation or warranty as to the accuracy or completeness of information contained in any other part of the Official Statement.

### **PART 5 — THE SERIES 2009 PROJECT**

The proceeds of the Series 2009 Bonds shall be applied, together with other available funds, to undertake the Series 2009 Project which consists of the following, including all necessary and usual attendant and related facilities, equipment, furnishings and fixtures, together with related demolition, site improvements and utility work: (A) the construction of a new 4-level, approximately 355 space parking garage with a helipad located on the top level; (B) the construction of a new 4-story, approximately 128,066 square foot patient tower to include a new main entrance/lobby and emergency department (Level 1), new surgical suites and central sterilization (Level 2), new Critical Care Center with 10 Intensive Care Unit/Critical Care Unit beds and 20 Progressive Care Unit private rooms (Level 3) and 36 private rooms for medical surgical patients (Level 4); and (C) the refunding of the Institution’s allocable share of the New York State Housing Finance Agency Hospital and Health Care Project Revenue Bonds, 1998 Series A (the “1998 Bonds”) and (ii) pay the Costs of Issuance of the Series 2009 Bonds.

The proceeds of the 1998 Bonds were used to currently refund the Institution’s allocable share of the New York State Housing Finance Agency Hospital and Nursing Home Project Bonds 1972 Series A and New York State Housing Finance Agency Hospital and Nursing Home Project Bonds 1977 Series A, the proceeds of which were used to finance the renovation and expansion of the Institution’s then existing facilities to a 5-story, 258-bed acute care hospital facility on the Institution’s campus.

### **PART 6 — THE PLAN OF FINANCE**

The Series 2009 Bonds are being issued for the purpose of providing funds which, together with other available funds, will be used to finance the Series 2009 Project, including to refund the Institution’s allocable share of the 1998 Bonds and pay for the Costs of Issuance of the Series 2009 Bonds.

### **PART 7 — ESTIMATED SOURCES AND USES OF FUNDS**

The estimated sources and uses of funds are as follows:

**Sources of Funds**

Principal Amount of Series 2009 Bonds .....	\$ 55,605,000
Other Sources.....	307,485
Institution Equity .....	<u>16,216,348</u>
 Total Sources .....	 <u>\$ 72,128,833</u>

**Uses of Funds**

Refunding of 1998 Bonds .....	\$ 2,524,134
Deposit to Series 2009 Construction Fund....	62,979,012
Capitalized Interest .....	2,481,995
Costs of Issuance <sup>1</sup> .....	<u>4,143,692</u>
 Total Uses .....	 <u>\$ 72,128,833</u>

<sup>1</sup> Includes legal, consulting and security fees, letter of credit fees, Underwriter’s discount, state bond issuance charge and associated costs relating to the Series 2009 Bonds.

### **PART 8 — THE INSTITUTION**

*The Letters of Credit are the primary source of payment for the Series 2009 Bonds. Purchasers of the Series 2009 Bonds should make their decision to invest in the Series 2009 Bonds based solely upon their assessment of the creditworthiness of the Banks. Only limited information on the Institution is presented in this Official Statement and it is insufficient to enable purchasers of the Series 2009 Bonds to fully assess the creditworthiness of the Institution.*

Samaritan Medical Center (the “Institution”) was founded in 1881. The Institution is a not-for-profit corporation that provides a broad range of adult and pediatric inpatient services, as well as ambulatory care and emergency care services to meet the diverse healthcare needs of Northern New York residents. The Institution is located in the City of Watertown and provides healthcare services in Jefferson, Lewis, St. Lawrence and northern Oswego counties.

The Institution is an acute care facility and serves as a regional referral center for Northern New York. The Institution provides a full array of medical, surgical and emergency care, including medical/surgical beds, critical care services, pediatrics, maternity, and a state-of-the-art emergency department. The Institution also provides inpatient mental health and acute physical rehabilitation services.

The Institution offers a variety of specialized services typically associated only with larger urban healthcare centers. Specialty services available locally include comprehensive cancer treatment, physical medicine and rehabilitation, high risk maternity and level II neonatal intensive care, cardiac rehabilitation, cardiac and pulmonary care, diagnostic cardiac catheterization and ambulatory surgery.

## **PART 9 — AUTHORITY**

### **Background, Purposes and Powers**

The Authority is a body corporate and politic constituting a public benefit corporation. The Authority was created by the Act for the purpose of financing and constructing a variety of facilities for certain independent colleges and universities and private hospitals, certain not-for-profit institutions, public educational institutions including The State University of New York, The City University of New York and Boards of Cooperative Educational Services (“BOCES”), certain school districts in the State, facilities for the Departments of Health and Education of the State, the Office of General Services, the Office of General Services of the State on behalf of the Department of Audit and Control, facilities for the aged and certain judicial facilities for cities and counties. The Authority is also authorized to make and purchase certain loans in connection with its student loan program. To carry out this purpose, the Authority was given the authority, among other things, to issue and sell negotiable bonds and notes to finance the construction of facilities of such institutions, to issue bonds or notes to refund outstanding bonds or notes and to lend funds to such institutions.

On September 1, 1995, the Authority through State legislation (the “Consolidation Act”) succeeded to the powers, duties and functions of the New York State Medical Care Facilities Finance Agency (the “Agency”) and the Facilities Development Corporation (the “Corporation”), each of which will continue its corporate existence in and through the Authority. Under the Consolidation Act, the Authority has also acquired by operation of law all assets and property, and has assumed all the liabilities and obligations, of the Agency and the Corporation, including, without limitation, the obligation of the Agency to make payments on its outstanding bonds, and notes or other obligations. Under the Consolidation Act, as successor to the powers, duties and functions of the Agency, the Authority is authorized to issue and sell negotiable bonds and notes to finance and refinance mental health services facilities for use directly by the New York State Department of Mental Hygiene and by certain voluntary agencies. As such successor to the Agency, the Authority has acquired additional authorization to issue bonds and notes to provide certain types of financing for certain facilities for the Department of Health, not-for-profit corporations providing hospital, medical and residential health care facilities and services, county and municipal hospitals and nursing homes, not-for-profit and limited profit nursing home companies, qualified health maintenance organizations and health facilities for municipalities constituting social services districts. As successor to the Corporation, the Authority is authorized, among other things, to assume exclusive possession, jurisdiction, control and supervision over all State mental hygiene facilities and to make them available to the Department of Mental Hygiene, to provide for construction and modernization of municipal hospitals, to provide health facilities for municipalities, to provide health facilities for voluntary non-profit corporations, to make its services available to the State Department of Correctional Services, to make its services available to municipalities to provide for the design and construction of local correctional facilities, to provide services for the design and construction of municipal buildings, and to make loans to certain voluntary agencies with respect to mental hygiene facilities owned or leased by such agencies.

The Authority has the general power to acquire real and personal property, give mortgages, make contracts, operate dormitories and other facilities and fix and collect rentals or other charges for their use, contract with the holders of its bonds and notes as to such rentals and charges, make reasonable rules and regulations to assure the

maximum use of facilities, borrow money, issue negotiable bonds or notes and provide for the rights of their holders and adopt a program of self-insurance.

In addition to providing financing, the Authority offers a variety of services to certain educational, governmental and not-for-profit institutions, including advising in the areas of project planning, design and construction, monitoring project construction, purchasing of furnishings and equipment for projects, designing interiors of projects and designing and managing projects to rehabilitate older facilities. In succeeding to the powers, duties and functions of the Corporation as described above, the scope of design and construction services afforded by the Authority has been expanded.

**Outstanding Indebtedness of the Authority (Other than Indebtedness Assumed by the Authority)**

At March 31, 2009, the Authority had approximately \$37.9 billion aggregate principal amount of bonds and notes outstanding, excluding indebtedness of the Agency assumed by the Authority on September 1, 1995 pursuant to the Consolidation Act. The debt service on each such issue of the Authority’s bonds and notes is paid from moneys received by the Authority or the trustee from or on behalf of the entity having facilities financed with the proceeds from such issue or from borrowers in connection with its student loan program.

The Authority’s bonds and notes include both special obligations and general obligations of the Authority. The Authority’s special obligations are payable solely from payments required to be made by or for the account of the institution for which the particular special obligations were issued or from borrowers in connection with its student loan program. Such payments are pledged or assigned to the trustees for the holders of respective special obligations. The Authority has no obligation to pay its special obligations other than from such payments. The Authority’s general obligations are payable from any moneys of the Authority legally available for the payment of such obligations. However, the payments required to be made by or for the account of the institution for which general obligations were issued generally have been pledged or assigned by the Authority to trustees for the holders of such general obligations. The Authority has always paid the principal of and interest on its special and general obligations on time and in full.

The total amounts of the Authority bonds and notes (excluding debt of the Agency assumed by the Authority on September 1, 1995 pursuant to the Consolidation Act) outstanding at March 31, 2009 were as follows:

<b>Public Programs</b>	<b>Bonds Issued</b>	<b>Bonds Outstanding</b>	<b>Notes Outstanding</b>	<b>Bonds and Notes Outstanding</b>
State University of New York Dormitory Facilities.....	\$ 2,250,196,000	\$ 974,760,000	\$ 0	\$ 974,760,000
State University of New York Educational and Athletic Facilities.....	12,287,697,999	5,284,232,634	0	5,284,232,634
Upstate Community Colleges of the State University of New York.....	1,431,000,000	604,840,000	0	604,840,000
Senior Colleges of the City University of New York.....	9,663,821,762	2,934,864,213	0	2,934,864,213
Community Colleges of the City University of New York.....	2,364,178,350	508,140,787	0	508,140,787
BOCES and School Districts.....	2,000,366,208	1,488,605,000	0	1,488,605,000
Judicial Facilities.....	2,161,277,717	731,557,717	0	731,557,717
New York State Departments of Health and Education and Other.....	5,198,240,000	3,551,125,000	0	3,551,125,000
Mental Health Services Facilities.....	6,811,595,000	3,676,845,000	0	3,676,845,000
New York State Taxable Pension Bonds.....	773,475,000	0	0	0
Municipal Health Facilities Improvement Program.....	985,555,000	782,980,000	0	782,980,000
<b>Totals Public Programs.....</b>	<b>\$ 45,927,403,036</b>	<b>\$ 20,537,950,351</b>	<b>\$ 0</b>	<b>\$ 20,537,950,351</b>
		<b>Bonds Outstanding</b>	<b>Notes Outstanding</b>	<b>Bonds and Notes Outstanding</b>
<b>Non-Public Programs</b>	<b>Bonds Issued</b>			
Independent Colleges, Universities and Other Institutions.....	\$ 16,855,471,020	\$ 8,270,366,644	\$191,005,000	\$ 8,461,371,644
Voluntary Non-Profit Hospitals.....	13,459,114,309	7,866,030,000	0	7,866,030,000

Facilities for the Aged.....	1,996,020,000	1,002,860,000	0	1,002,860,000
Supplemental Higher Education Loan Financing Program.....	<u>95,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals Non-Public Programs.....	<u>\$ 32,405,605,329</u>	<u>\$ 17,139,256,644</u>	<u>\$191,005,000</u>	<u>\$ 17,330,261,644</u>
Grand Totals Bonds and Notes .....	<u>\$ 78,333,008,365</u>	<u>\$ 37,677,206,995</u>	<u>\$191,005,000</u>	<u>\$ 37,868,211,995</u>

**Outstanding Indebtedness of the Agency Assumed by the Authority**

At March 31, 2009, the Agency had approximately \$370.4 million aggregate principal amount of bonds outstanding, the obligations as to all of which have been assumed by the Authority. The debt service on each such issue of bonds is paid from moneys received by the Authority (as successor to the Agency) or the trustee from or on behalf of the entity having facilities financed with the proceeds from such issue.

The total amounts of the Agency’s bonds (which indebtedness was assumed by the Authority on September 1, 1995) outstanding at March 31, 2009 were as follows:

<b><u>Public Programs</u></b>	<b><u>Bonds Issued</u></b>	<b><u>Bonds Outstanding</u></b>
Mental Health Services Improvement Facilities.....	<u>\$ 3,817,230,725</u>	<u>\$ 0</u>
<b><u>Non-Public Programs</u></b>	<b><u>Bonds Issued</u></b>	<b><u>Bonds Outstanding</u></b>
Hospital and Nursing Home Project Bond Program.....	<u>\$ 226,230,000</u>	<u>\$ 3,255,000</u>
Insured Mortgage Programs .....	<u>6,625,079,927</u>	<u>359,484,720</u>
Revenue Bonds, Secured Loan and Other Programs.....	<u>2,414,240,000</u>	<u>7,670,000</u>
Total Non-Public Programs.....	<u>\$ 9,265,549,927</u>	<u>\$ 370,409,720</u>
Total MCFFA Outstanding Debt.....	<u>\$ 13,082,780,652</u>	<u>\$ 370,409,720</u>

**Governance**

The Authority carries out its programs through an eleven-member board, a full-time staff of approximately 660 persons, independent bond counsel and other outside advisors. Board members include the Commissioner of Education of the State, the Commissioner of Health of the State, the State Comptroller or one member appointed by him or her who serves until his or her successor is appointed, the Director of the Budget of the State, one member appointed by the Temporary President of the State Senate, one member appointed by the Speaker of the State Assembly and five members appointed by the Governor, with the advice and consent of the Senate, for terms of three years. The Board member position that is filled by an appointment from the Temporary President of the State Senate is currently vacant. The Commissioner of Education of the State, the Commissioner of Health of the State and the Director of the Budget of the State each may appoint a representative to attend and vote at Authority meetings. The members of the Authority serve without compensation, but are entitled to reimbursement of expenses incurred in the performance of their duties.

The Governor of the State appoints a Chair from the members appointed by him or her and the members of the Authority annually choose the following officers, of which the first two must be members of the Authority: Vice-Chair, Secretary, Treasurer, Assistant Secretaries and Assistant Treasurers.

The current members of the Authority are as follows:

GAIL H. GORDON, Esq., *Chair*, Slingerlands.

Gail H. Gordon was appointed as a Member of the Authority by the Governor on May 10, 2004. Ms. Gordon served as Deputy Commissioner and General Counsel for the Office of Children and Family Services from September 15, 1997 to December 31, 2006. She previously was of counsel to the law firm of Helm, Shapiro, Anito & McCale, P.C., in Albany, New York, where she was engaged in the private practice of law. From 1987 to 1993, Ms. Gordon served as Counsel to the Comptroller of the State of New York where she directed a legal staff of approximately 40 attorneys, was responsible for providing legal and policy advice to the State Comptroller and his deputies in all areas of the State Comptroller’s responsibilities, including the supervision of accounts of public authorities and in the administration, as sole trustee, of the New York State Employees Retirement System and the Policemen’s and Firemen’s Retirement System. She served as Deputy Counsel to the Comptroller of the State of

New York from 1983 to 1987. From 1974 to 1983, Ms. Gordon was an attorney with the law firm of Hinman, Howard & Kattell, Binghamton, New York, where she concentrated in areas of real estate, administrative and municipal law. Ms. Gordon holds a Bachelor of Arts degree from Smith College and a Juris Doctor degree from Cornell University School of Law. Ms. Gordon's term expired on March 31, 2007 and by law she continues to serve until a successor shall be chosen and qualified.

JOHN B. JOHNSON, JR., *Vice-Chair*, Watertown.

John B. Johnson, Jr. was appointed as a Member of the Authority by the Governor on April 26, 2004. Mr. Johnson is Chairman of the Board and Chief Executive Officer of the Johnson Newspaper Corporation, which publishes the Watertown Daily Times, Batavia Daily News, Malone Telegram, Catskill Daily Mail, Hudson Register Star, Ogdensburg Journal, Massena-Potsdam Courier Observer, seven weekly newspapers and three shopping newspapers. He is director of the New York Newspapers Foundation, a member of the Development Authority of the North Country and the Fort Drum Regional Liaison Committee, a trustee of Clarkson University and president of the Bugbee Housing Development Corporation. Mr. Johnson has been a member of the American Society of Newspaper Editors since 1978, and was a Pulitzer Prize juror in 1978, 1979, 2001 and 2002. He holds a Bachelor's degree from Vanderbilt University, and Master's degrees in Journalism and Business Administration from the Columbia University Graduate School of Journalism and Business. Mr. Johnson was awarded an Honorary Doctor of Science degree from Clarkson University. Mr. Johnson's term expires on March 31, 2010.

JACQUES JIHA, Ph.D., Woodbury.

Jacques Jiha was appointed as a Member of the Authority by the Governor on December 15, 2008. Mr. Jiha is an Executive Vice President and the Chief Financial Officer of Earl G. Graves, Ltd., a multi-media company that includes *Black Enterprise* magazine. He is also a member of the Investment Advisory Committee of the New York Common Retirement Fund. Mr. Jiha has previously served as Deputy Comptroller for Pension Investment and Public Finance in the Office of the New York State Comptroller and as Co-Executive Director of the New York Local Government Assistance Corporation (LGAC). Prior thereto, Mr. Jiha was Nassau County Deputy Comptroller for Audits and Finances. He also worked for the New York City Office of the Comptroller in increasingly responsible positions: first as Chief Economist and later as Deputy Comptroller for Budget. Mr. Jiha has served as Executive Director of the New York State Legislative Tax Study Commission and as Principal Economist for the New York State Assembly Committee on Ways and Means. He holds a Ph.D. and a Master's degree in Economics from the New School University and a Bachelor's degree in Economics from Fordham University. His current term expires on March 31, 2010.

BRIAN RUDER, Scarsdale.

Mr. Ruder was appointed as a Member of the Authority on June 23, 2006. He is Chief Executive Officer of Skylight Partners, a strategic marketing and business development consulting group that he founded in 2001. Prior to Skylight Partners, Mr. Ruder served for four years as Executive Vice President of Global Marketing for Citigroup. He spent 16 years at the H.J. Heinz Co. in progressively responsible positions, including President of Heinz USA, President of Weight Watchers Food Company and corporate Vice President of Worldwide Infant Feeding. He also served as Director of Marketing, New Products and Sales for Pepsi USA in the mid-1980s. Mr. Ruder is a member of the board of the New York State Foundation for Science, Technology and Academic Research (NYSTAR), and also serves as chair of the board of the Adirondack Council, board member and secretary of the New York Metro Chapter of the World Presidents' Organization, and an advisory board member of PNC Private Client Advisors. Mr. Ruder earned a Bachelor of Arts degree in American History in 1976 from Washington University in St. Louis, Mo., and a Master of Business Administration degree in Marketing in 1978 from the Tuck School at Dartmouth College. His current term expires on March 31, 2009.

ANTHONY B. MARTINO, CPA, Buffalo.

Mr. Martino was appointed as a Member of the Authority by the Governor on April 26, 2004. A certified public accountant with more than 37 years of experience, Mr. Martino is a retired partner of the Buffalo CPA firm Lumsden & McCormick, LLP. He began his career at Price Waterhouse where he worked in the firm's Buffalo and Washington, DC, offices. Mr. Martino is a member of the American Institute of CPAs and the New York State Society of CPAs. Long involved in community organizations, he serves on the boards of the Buffalo Niagara Medical Campus as Vice Chairman, Mount Calvary Cemetery as Chair of the Investment Committee, Cradle Beach Camp of which he is a former Chair, the Kelly for Kids Foundation and Key Bank. Mr. Martino received a

Bachelor of Science degree in accounting from the University at Buffalo. Mr. Martino's current term expires on August 31, 2010.

SANDRA M. SHAPARD, Delmar.

Ms. Shapard was appointed as a Member of the Authority by the State Comptroller on January 21, 2003. Ms. Shapard served as Deputy Comptroller for the Office of the State Comptroller from January, 1995 until her retirement in 2001, during which time she headed the Office of Fiscal Research and Policy Analysis and twice served as Acting First Deputy Comptroller. Previously, Ms. Shapard held the positions of Deputy Director and First Deputy Director for the New York State Division of Budget, from 1991 to 1994, and Deputy Assistant Commissioner for Transit for the State Department of Transportation, from 1988 to 1991. She began her career in New York State government with the Assembly in 1975 where, over a thirteen year period, she held the positions of Staff Director of the Office of Counsel to the Majority, Special Assistant to the Speaker, and Deputy Director of Budget Studies for the Committee on Ways and Means. Ms. Shapard also served as Assistant to the County Executive in Dutchess County. A graduate of Mississippi University for Women, Ms. Shapard received a Masters of Public Administration from Harvard University, John F. Kennedy School of Government, where she has served as visiting lecturer, and has completed graduate work at Vanderbilt University.

ROMAN B. HEDGES, Ph.D., Delmar.

Dr. Hedges was appointed as a Member of the Authority by the Speaker of the State Assembly on February 24, 2003. Dr. Hedges serves on the Legislative Advisory Task Force on Demographic Research and Reapportionment. He is the former Deputy Secretary of the New York State Assembly Committee on Ways and Means. Dr. Hedges previously served as the Director of Fiscal Studies of the Assembly Committee on Ways and Means. He was an Associate Professor of Political Science and Public Policy at the State University of New York at Albany where he taught graduate and undergraduate courses in American politics, research methodology, and public policy. Dr. Hedges holds a Doctor of Philosophy and a Master of Arts degree from the University of Rochester and a Bachelor of Arts degree from Knox College.

RICHARD P. MILLS, *Commissioner of Education of the State of New York, Albany; ex-officio.*

Dr. Mills became Commissioner of Education on September 12, 1995. Prior to his appointment, Dr. Mills served as Commissioner of Education for the State of Vermont since 1988. From 1984 to 1988, Dr. Mills was Special Assistant to Governor Thomas H. Kean of New Jersey. Prior to 1984, Dr. Mills held a number of positions within the New Jersey Department of Education. Dr. Mills' career in education includes teaching and administrative experience at the secondary and postsecondary education levels. Dr. Mills holds a Bachelor of Arts degree from Middlebury College and a Master of Arts, a Master of Business Administration and a Doctor of Education degree from Columbia University.

LAURA L. ANGLIN, *Budget Director of the State of New York, Albany; ex-officio.*

Ms. Anglin was appointed Budget Director on January 1, 2008. As Budget Director, she is responsible for the overall development and management of the State's fiscal policy, including overseeing the preparation of budget recommendations for all State agencies and programs, economic and revenue forecasting, tax policy, fiscal planning, capital financing and management of the State's debt portfolio, as well as pensions and employee benefits. Ms. Anglin previously served as First Deputy Budget Director from January 2007 to December 2007. She was appointed Deputy Comptroller of the Division of Retirement Services in January 2003 and was responsible for overseeing the administration and managing the operations of the New York State and Local Retirement System. From 1996-2003, Ms. Anglin worked in the New York State Assembly where she served as Director of Budget Studies for the Assembly Ways and Means Committee and as First Deputy Fiscal Director for the Committee. Ms. Anglin has also held the position of Econometrician in the Department of Taxation and Finance from 1992-1996 and began her career as an Economist for the Department of Environmental Conservation. Ms. Anglin holds a Bachelor of Arts degree and a Masters degree in Economics from the State University of New York at Albany.

RICHARD F. DAINES, M.D., *Commissioner of Health, Albany; ex-officio.*

Richard F. Daines, M.D., became Commissioner of Health on March 21, 2007. Prior to his appointment he served as President and CEO at St. Luke's-Roosevelt Hospital Center since 2002. Before joining St. Luke's-Roosevelt Hospital Center as Medical Director in 2000, Dr. Daines served as Senior Vice President for Professional



Affairs of St. Barnabas Hospital in the Bronx, New York since 1994 and as Medical Director from 1987 to 1999. Dr. Daines received a Bachelor of History degree from Utah State University in 1974 and served as a missionary for the Church of Jesus Christ of Latter-day Saints in Bolivia, 1970-1972. He received his medical degree from Cornell University Medical College in 1978. He served a residency in internal medicine at New York Hospital and is Board Certified in Internal Medicine and Critical Care Medicine.

The principal staff of the Authority is as follows:

PAUL T. WILLIAMS, JR. is the Executive Director and chief administrative and operating officer of the Authority. Mr. Williams is responsible for the overall management of the Authority's administration and operations. He most recently served as Senior Counsel in the law firm of Nixon Peabody LLP. Prior to working at Nixon Peabody, Mr. Williams helped to establish a boutique Wall Street investment banking company. Prior thereto, Mr. Williams was a partner in, and then of counsel to, the law firm of Bryan Cave LLP. He was a founding partner in the law firm of Wood, Williams, Rafalsky & Harris, which included a practice in public finance and served there from 1984-1998. Mr. Williams began his career as an associate at the law firm of Walker & Bailey in 1977 and thereafter served as a counsel to the New York State Assembly. Mr. Williams is licensed to practice law in the State of New York and holds professional licenses in the securities industry. He holds a Bachelor's degree from Yale University and a Juris Doctor degree from Columbia University School of Law.

MICHAEL T. CORRIGAN is the Deputy Executive Director of the Authority, and assists the Executive Director in the administration and operation of the Authority. Mr. Corrigan came to the Authority in 1995 as Budget Director, and served as Deputy Chief Financial Officer from 2000 until 2003. He began his government service career in 1983 as a budget analyst for Rensselaer County, and served as the County's Budget Director from 1986 to 1995. Immediately before coming to the Authority, he served as the appointed Rensselaer County Executive for a short period. Mr. Corrigan holds a Bachelor's degree in Economics from the State University of New York at Plattsburgh and a Master's degree in Business Administration from the University of Massachusetts.

PORTIA LEE is the Managing Director of Public Finance and Portfolio Monitoring. She is responsible for supervising and directing Authority bond issuance in the capital markets, through financial feasibility analysis and financing structure determination for Authority clients; as well as implementing and overseeing financing programs, including interest rate exchange and similar agreements; overseeing the Authority's compliance with continuing disclosure requirements and monitoring the financial condition of existing Authority clients. Ms. Lee previously served as Senior Investment Officer at the New York State Comptroller's Office where she was responsible for assisting in the administration of the long-term fixed income portfolio of the New York State Common Retirement Fund, as well as the short-term portfolio, and the Securities Lending Program. From 1995 to 2005, Ms. Lee worked at Moody's Investors Service where she most recently served as Vice President and Senior Credit Officer in the Public Finance Housing Group. In addition, Ms. Lee has extensive public service experience working for over 10 years in various positions in the Governor's Office, NYS Department of Social Services, as well as the New York State Assembly. She holds a Bachelor's degree from the State University of New York at Albany.

JOHN G. PASICZNYK is the Chief Financial Officer of the Authority. Mr. Pasicznyk is responsible for investment management and accounting, as well as the development of the financial policies for the Authority. Before joining the Authority in 1985, Mr. Pasicznyk worked in audit positions at KPMG Peat Marwick and Deloitte & Touche. He holds a Bachelor's degree from Syracuse University and a Master of Business Administration degree from the Fuqua School of Business at Duke University.

JEFFREY M. POHL is General Counsel to the Authority. Mr. Pohl is responsible for all legal services including legislation, litigation, contract matters and the legal aspects of all Authority financings. He is a member of the New York State Bar, and most recently served as a counsel in the public finance group of a large New York law firm. Mr. Pohl had previously served in various capacities in State government with the Office of the State Comptroller and the New York State Senate. He holds a Bachelor's degree from Franklin and Marshall College and a Juris Doctor degree from Albany Law School of Union University.

STEPHEN D. CURRO, P.E. is the Managing Director of Construction. In that capacity, he is responsible for the Authority's construction groups, including design, project management, purchasing, contract administration, interior design, and engineering and other technology services. Mr. Curro joined the Authority in 2001 as Director of Technical Services, and most recently served as Director of Construction Support Services. He is a registered Professional Engineer in New York and Rhode Island and has worked in the construction industry for over 20 years as a consulting structural engineer and a technology solutions provider. Mr. Curro is also an Adjunct Professor at

Hudson Valley Community College and Bryant & Stratton College. He holds a Bachelor of Science in Civil Engineering from the University of Rhode Island, a Master of Engineering in Structural Engineering from Rensselaer Polytechnic Institute and a Master of Business Administration from Rensselaer Polytechnic Institute's Lally School of Management.

CARRA WALLACE is the Managing Director of the Office of Executive Initiatives (OEI). In that capacity, she oversees the Authority's Communications and Marketing, Opportunity Programs, Environmental Initiatives, Client Outreach, Training, Executive Projects, and Legislative Affairs units. Ms. Wallace is responsible for strategic efforts in developing programs, maximizing the utilization of Minority and Women Owned Businesses, and communicating with Authority clients, the public and governmental officials. She possesses more than twenty years of senior leadership experience in diverse private sector businesses and civic organizations. Ms. Wallace most recently served as Executive Vice President at Telwares, a major telecommunications service firm. Prior to her service at Telwares, Ms. Wallace served as Executive Vice President of External Affairs at the NYC Leadership Academy. She holds a Bachelor of Science degree in management from the Pepperdine University Graziadio School of Business and Management.

### **Claims and Litigation**

Although certain claims and litigation have been asserted or commenced against the Authority, the Authority believes that these claims and litigation are covered by the Authority's insurance or by bonds filed with the Authority should the Authority be held liable in any of such matters, or that the Authority has sufficient funds available or the legal power and ability to seek sufficient funds to meet any such claims or judgments resulting from such litigation.

### **Other Matters**

#### *New York State Public Authorities Control Board*

The New York State Public Authorities Control Board (the "PACB") has authority to approve the financing and construction of any new or reactivated projects proposed by the Authority and certain other public authorities of the State. The PACB approves the proposed new projects only upon its determination that there are commitments of funds sufficient to finance the acquisition and construction of the projects. The Authority has obtained the approval of the PACB for the issuance of the Series 2009 Bonds.

#### *Legislation*

From time to time, bills are introduced into the State Legislature which, if enacted into law, would affect the Authority and its operations. The Authority is not able to represent whether such bills will be introduced or become law in the future. In addition, the State undertakes periodic studies of public authorities in the State (including the Authority) and their financing programs. Any of such periodic studies could result in proposed legislation which, if adopted, would affect the Authority and its operations.

#### *Environmental Quality Review*

The Authority complies with the New York State Environmental Quality Review Act and with the New York State Historic Preservation Act of 1980, and the respective regulations promulgated thereunder respecting the Project to the extent such acts and regulations are applicable.

#### *Independent Auditors*

The accounting firm of KPMG LLP audited the financial statements of the Authority for the fiscal year ended March 31, 2008. Copies of the most recent audited financial statements are available upon request at the offices of the Authority.

## **PART 10 — LEGALITY OF THE SERIES 2009 BONDS FOR INVESTMENT AND DEPOSIT**

Under New York State law, the Series 2009 Bonds are securities in which all public officers and bodies of the State and all municipalities and municipal subdivisions, all insurance companies and associations, all savings

banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees, committees, conservators and other fiduciaries in the State may properly and legally invest funds in their control.

The Series 2009 Bonds may be deposited with the State Comptroller to secure deposits of State moneys in banks, trust companies and industrial banks.

## **PART 11 — NEGOTIABLE INSTRUMENTS**

The Series 2009 Bonds are negotiable instruments as provided in the Act, subject to the provisions for registration and transfer contained in the Resolution and in the Series 2009 Bonds.

## **PART 12 — TAX MATTERS**

### **Federal Income Taxes**

In the opinion of Harris Beach PLLC, Bond Counsel to the Authority, under existing statutes, regulations, administrative rulings and court decisions as of the date of such opinion, and assuming compliance with the representations, certifications and covenants described in the immediately succeeding paragraph, interest on the Series 2009 Bonds is excluded from gross income for federal income tax purposes. Furthermore, Bond Counsel is of the opinion that interest on the Series 2009 Bonds is not an “item of tax preference” for purposes of computing the federal alternative minimum tax imposed on individuals and corporations and, pursuant to the American Recovery and Reinvestment Tax Act of 2009, enacted into law on February 17, 2009, is not included in “adjusted current earnings” for purposes of calculating the federal alternative minimum tax imposed on corporations.

The Internal Revenue Code of 1986, as amended (the “Code”) establishes certain requirements which must be met at the time of, and subsequent to, the issuance and delivery of the Series 2009 Bonds in order that interest on the Series 2009 Bonds be and remain excluded from gross income for federal income tax purposes. Included among these continuing requirements are certain restrictions and prohibitions on the use of bond proceeds, restrictions on the investment of bond proceeds and other moneys or properties, required ownership of a facility by an organization described in Section 501(c)(3) of the Code or a governmental unit, and the rebate to the United States of certain earnings in respect of investments. Noncompliance with such continuing requirements may cause the interest on the Series 2009 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2009 Bonds irrespective of the date on which such noncompliance occurs. In the Resolutions and the Loan Agreement and accompanying documents, exhibits and certificates, the Authority and the Institution have made certain representations and certifications, and have covenanted to comply with certain procedures, designed to assure compliance with the requirements of the Code. In rendering the above-described opinion, Bond Counsel has assumed the accuracy of such representations and certifications and the continuing compliance by the Authority and the Institution with such covenants.

Bond Counsel expresses no opinion regarding any other federal tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on, the Series 2009 Bonds. The proposed form of the approving opinion of Bond Counsel is attached to this Official Statements as Appendix E.

In addition to the matters referred to in the preceding paragraphs, prospective purchasers of the Series 2009 Bonds should be aware that the accrual or receipt of tax-exempt interest on the Series 2009 Bonds may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences may depend upon the recipient’s particular tax status or other items of income or deduction. Bond Counsel expresses no opinion regarding any such consequences. Examples of collateral federal income tax consequences of acquiring or holding the Series 2009 Bonds include, without limitation, that (i) with respect to certain insurance companies, the Code reduces the deduction for loss reserves by a portion of the sum of certain items, including interest on the Series 2009 Bonds, (ii) interest on the Series 2009 Bonds earned by certain foreign corporations doing business in the United States may be subject to a branch profits tax imposed by the Code, (iii) passive investment income, including interest on the Series 2009 Bonds, may be subject to federal income taxation under the Code for certain S corporations that have certain earnings and profits, and (iv) the Code requires recipients of certain Social Security and certain other federal retirement benefits to take into account in determining gross income, receipts or accruals of interest on the Series 2009 Bonds. In addition, the Code denies the interest deduction for indebtedness incurred or continued by a taxpayer, including without limitation, banks, thrift institutions, and certain other financial

institutions to purchase or carry tax-exempt obligations, such as the Series 2009 Bonds. All prospective purchasers of the Series 2009 Bonds should consult with their tax advisors in order to understand the implications of the Code as to these and other federal and state tax consequences, as well as any local tax consequences, of purchasing or holding the Series 2009 Bonds.

Certain requirements and procedures contained or referred to in the Resolution and other relevant documents may be changed, and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of a nationally recognized bond counsel. Bond Counsel expresses no opinion as to any tax consequences with respect to the Series 2009 Bonds, or the interest thereon, if any such change occurs or actions are taken upon the advice or approval of bond counsel other than Harris Beach PLLC.

### **State and Local Income Tax**

Bond Counsel is also of the opinion that under existing statutes, including the Act, interest on the Series 2009 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof.

Any noncompliance with the Federal income tax requirements set forth above would not, however, affect the exemption of interest on the Series 2009 Bonds from personal income taxes imposed by New York State or any political subdivision thereof.

Bond Counsel expresses no opinion regarding any other state or local tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on, the Series 2009 Bonds.

Interest on the Series 2009 Bonds may or may not be subject to state or local income taxes in jurisdictions other than the State of New York under applicable state or local tax laws. Bond Counsel expresses no opinion, however, as to the tax treatment of the Series 2009 Bonds under other state or local jurisdictions. Each purchaser of Series 2009 Bonds should consult his or her own tax advisor regarding the taxable status of the Series 2009 Bonds in a particular state or local jurisdiction other than the State of New York.

### **Other Considerations**

Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Series 2009 Bonds may adversely affect the value of, or the tax status of, interest on, the Series 2009 Bonds.

No assurance can be given that any future legislation, including amendments to the Code or the State income tax laws, regulations, administrative rulings, or court decisions, will not, directly or indirectly, cause interest on the Series 2009 Bonds to be subject to federal, State or local income taxation, or otherwise prevent Bondholders from realizing the full current benefit of the tax status of such interest. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any judicial decision or action of the Internal Revenue Service or any State taxing authority, including but not limited to a regulation or ruling, or the selection of the Series 2009 Bonds for audit examination or the course or result of an audit examination of the Series 2009 Bonds or of obligations which present similar tax issues, will not affect the market price or marketability of the Series 2009 Bonds. Prospective purchasers of the Series 2009 Bonds should consult their own tax advisors regarding the forgoing matters.

All summaries and explanations of provisions of law do not purport to be complete and reference is made to such laws for full and complete statements of their provisions.

## **PART 13 — STATE NOT LIABLE ON THE SERIES 2009 BONDS**

The Act provides that notes and bonds of the Authority are not a debt of the State, that the State is not liable on them and that such notes and bonds are not payable out of any funds other than those of the Authority. The Resolution specifically provides that the Series 2009 Bonds are not a debt of the State and that the State is not liable on them.

## **PART 14 — COVENANT BY THE STATE**

The Act states that the State pledges and agrees with the holders of the Authority's notes and bonds that the State will not limit or alter the rights vested in the Authority to provide projects, to establish and collect rentals therefrom and to fulfill agreements with the holders of the Authority's notes and bonds or in any way impair the rights and remedies of the holders of such notes or bonds until such notes or bonds and interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of such notes or bonds are fully met and discharged. Notwithstanding the State's pledges and agreements contained in the Act, the State may in the exercise of its sovereign power enact or amend its laws which, if determined to be both reasonable and necessary to serve an important public purpose, could have the effect of impairing these pledges and agreements with the Authority and with the holders of the Authority's notes or bonds.

## **PART 15 — LEGAL MATTERS**

Certain legal matters incidental to the authorization and issuance of the Series 2009 Bonds by the Authority are subject to the approval of Harris Beach PLLC, Rochester, New York, Bond Counsel to the Authority, whose approving opinion will be delivered with the issuance of the Series 2009 Bonds. The proposed form of the approving opinion is set forth in Appendix E hereto.

Certain legal matters will be passed upon for the Institution by its Counsel, Hancock & Estabrook, LLP, Syracuse, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York. Certain legal matters will be passed upon for the Banks by their counsel, Phillips Lytle LLP, New York, New York and Calfee Halter & Griswold LLP, Cleveland, Ohio.

There is not now pending any litigation restraining or enjoining the issuance or delivery of the Series 2009 Bonds or questioning or affecting the validity of the Series 2009 Bonds or the proceedings and authority under which they are to be issued.

## **PART 16 — UNDERWRITING**

KeyBanc Capital Markets Inc. (the "Underwriter"), will agree, subject to certain conditions, to purchase the Series 2009 Bonds from the Authority at an aggregate purchase price of \$55,422,086 and to make a public offering of Series 2009 Bonds at prices that are not in excess of the public offering prices stated on the cover of this Official Statement. The Underwriter will be obligated to purchase all such Series 2009 Bonds if any are purchased.

The Series 2009 Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter.

KeyBanc Capital Markets Inc. is also serving as Remarketing Agent with respect to the Series 2009 Bonds.

## **PART 17 — CONTINUING DISCLOSURE**

The Series 2009 Bonds are, upon their issuance in the Weekly Rate Mode, exempt from Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, and the Authority, the Institution and the Bank will not be required to provide any continuing disclosure in accordance with the Rule.

## **PART 18 — RATINGS**

Moody's Investors Service, Inc. ("Moody's"), has assigned a rating of "A1/VMIG-1" to the Series 2009A Bonds and "Aa3/VMIG-1" to the Series 2009B Bonds, with the understanding that upon delivery of the Series 2009 Bonds, the Letters of Credit will be issued by the Banks. Such ratings reflect only the views of such organization and any desired explanation of the significance of such ratings should be obtained from Moody's at 99 Church Street, New York, New York 10007. There is no assurance that such ratings will prevail for any given period of time or that they will not be revised downward or withdrawn entirely by any or all of such rating agencies if, in the

judgment of any or all of them, circumstances so warrant. Any such downward revision or withdrawal of such rating or ratings may have an adverse effect on the market price of the Series 2009 Bonds.

## **PART 19 — MISCELLANEOUS**

References in this Official Statement to the Act, the Resolution, the Series Resolution, the Bond Series Certificate, the Loan Agreement, the Mortgage, the Reimbursement Agreement, the Letters of Credit and the Intercreditor Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series Resolution, the Bond Series Certificate, the Loan Agreement, the Mortgage, the Reimbursement Agreement, the Letters of Credit and the Intercreditor Agreement for full and complete details of their provisions. Copies of the Resolution, the Series Resolution, the Bond Series Certificate, the Loan Agreement, the Mortgage, the Reimbursement Agreement, the Letters of Credit and the Intercreditor Agreement are on file with the Authority and the Trustee.

The agreements of the Authority with Holders of the Series 2009 Bonds are fully set forth in the Resolution and the Bond Series Certificate. Neither any advertisement of the Series 2009 Bonds nor this Official Statement is to be construed as a contract with purchasers of the Series 2009 Bonds.

Any statements in this Official Statement involving matters of opinion, whether or not expressly stated, are intended merely as expressions of opinion and not as representations of fact.

The information regarding the Institution was supplied by the Institution. The Authority believes that this information is reliable, but the Authority makes no representations or warranties whatsoever as to the accuracy or completeness of this information.

The information regarding DTC and DTC's book-entry only system has been furnished by DTC. The Authority believes that this information is reliable, but makes no representations or warranties whatsoever as to the accuracy or completeness of this information.

The information regarding the respective Banks and the Letters of Credit has been furnished by the respective Banks. No representation is made herein by the Authority, the Institution, the Underwriter, the Agent Bank (in its capacity as Agent Bank) or a Bank (with respect to information provided by the other Bank) as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof. None of the Authority, the Institution or the Underwriter has made any independent investigation of any Bank or its Letter of Credit.

"Appendix A — Certain Definitions," "Appendix B — Summary of Certain Provisions of the Loan Agreement," "Appendix C — Summary of Certain Provisions of the Resolution" and "Appendix E — Form of Approving Opinions of Bond Counsel to the Authority" have been prepared by Harris Beach PLLC, Rochester, New York, Bond Counsel to the Authority.

"Appendix D — Summary of Certain Provisions of the Reimbursement Agreement" has been prepared by Phillips Lytle LLP, New York, Bank Counsel.

The Institution has reviewed the parts of this Official Statement describing the Institution, the Principal and Interest Requirements, the Series 2009 Project, the Plan of Finance and the Estimated Sources and Uses of Funds. The Institution, as a condition to issuance of the Series 2009 Bonds, is required to certify that as of the date of this Official Statement, such parts do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading.

The Institution has agreed to indemnify the Authority, the Underwriter and certain others against losses, claims, damages and liabilities arising out of any untrue statements or omissions of statements of any material fact as described in the preceding paragraph.

The execution and delivery of this Official Statement by an Authorized Officer have been duly authorized by the Authority.

**DORMITORY AUTHORITY OF  
THE STATE OF NEW YORK**

By: /s/ Michael T. Corrigan  
Authorized Officer

**CERTAIN DEFINITIONS**



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## CERTAIN DEFINITIONS

The following are definitions of certain of the terms defined in the Resolution or Loan Agreement and used in this Official Statement.

**Accreted Value** means with respect to any Capital Appreciation Bond (i) as of any Valuation Date, the amount set forth for such date in the Applicable Series Resolution authorizing such Capital Appreciation Bond or the Applicable Bond Series Certificate relating thereto and (ii) as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Accreted Values for such Valuation Dates.

**Account Control Agreement** shall have the meaning given such term in Section 11 of the Loan Agreement.

**Act** means the Dormitory Authority Act (being Chapter 524 of the Laws of 1944 of the State, and constituting Title 4 of Article 8 of the Public Authorities Law), as the same may be amended from time to time, including, but not limited to, the Health Care Financing Consolidation Act and as incorporated thereby the New York State Medical Care Facilities Finance Agency Act being Chapter 392 of Laws of New York 1973, as amended.

**Annual Administrative Fee** means the fee payable during each Bond Year for the general administrative and supervisory expenses of the Authority in an amount more particularly described in the Loan Agreement.

**Applicable** means (i) with respect to any Construction Fund, Arbitrage Rebate Fund, Debt Service Fund, Debt Service Reserve Fund, or any other fund or account therein, the fund or account so designated and established by an Applicable Series Resolution or Bond Series Certificate authorizing an Applicable Series of Bonds relating to a particular Project, (ii) with respect to any Debt Service Reserve Fund Requirement, the said requirement established in connection with a Series of Bonds by the Applicable Series Resolution or Bond Series Certificate, (iii) with respect to any Series Resolution, such Series Resolution relating to a particular Series of Bonds, (iv) with respect to any Series of Bonds, the Series of Bonds issued under a Series Resolution for particular Projects, (v) with respect to any Loan Agreement, such Loan Agreement by and between the Authority and the Institution and the contractual obligations contained therein relating to particular Projects, (vi) with respect to a Bond Series Certificate, such certificate authorized pursuant to an Applicable Series Resolution, (vii) with respect to any Credit Facility, or Reserve Fund Facility and Provider thereof, if any, such Credit Facility, Reserve Fund Facility or Provider relating to an Applicable Series of Bonds and (viii) with respect to any other item or document, agreement or instrument, such other item or document, agreement or instrument relating to an Applicable Series of Bonds.

**Appreciated Value** means with respect to any Deferred Income Bond (i) as of any Valuation Date, the amount set forth for such date in the Applicable Series Resolution authorizing such Deferred Income Bond or the Applicable Bond Series Certificate relating thereto and (ii) as of any date other than a Valuation Date, the sum of (a) the Appreciated Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Appreciated Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Appreciated Values for such Valuation Dates, and (iii) as of any date of computation on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date.

**Arbitrage Rebate Fund** means the fund so designated and established by a Series Resolution pursuant to the Resolution.

**Authority** means the Dormitory Authority of the State of New York, a body corporate and politic constituting a public benefit corporation of the State created by the Act, or any body, agency or instrumentality of the State which shall succeed to the rights, powers, duties and functions of the Authority.

**Authority Fee** means the fee payable to the Authority consisting of all of the Authority's internal costs and overhead expenses attributable to the issuance of the Bonds and the construction of the Project, as more particularly described in Schedule B to the Loan Agreement.

**Authorized Newspaper** means *The Bond Buyer* or any other newspaper of general circulation printed in the English language and customarily published at least once a day for at least five (5) days (other than legal holidays) in each calendar week in the Borough of Manhattan, City and State of New York, designated by the Authority.

**Authorized Officer** means (i) in the case of the Authority, the Chair, the Vice-Chair, the Treasurer, an Assistant Treasurer, the Secretary, an Assistant Secretary, the Executive Director, the Deputy Executive Director, the Chief Financial Officer, a Managing Director and the General Counsel, and when used with reference to any act or document also means any other person authorized by a resolution or the by-laws of the Authority to perform such act or execute such document; (ii) in the case of the Institution, when used with reference to any act or document, means the person or persons authorized by a resolution or the by-laws of the Institution to perform such act or execute such document; and (iii) in the case of the Trustee, the President, a Vice President, an Assistant Vice President, a Corporate Trust Officer, an Authorized Signatory, an Assistant Corporate Trust Officer, a Trust Officer or an Assistant Trust Officer of the Trustee, and when used with reference to any act or document also means any other person authorized to perform any act or sign any document by or pursuant to a resolution of the Board of Directors of the Trustee or the by-laws of the Trustee.

**Bond or Bonds** means any of the bonds of the Authority authorized and issued pursuant to the Resolution and to a Series Resolution, and for purposes of Appendix B, means the Series 2009 Bonds.

**Bond Counsel** means Harris Beach PLLC, or an attorney or other law firm appointed by the Authority with respect to a Series of Bonds, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

**Bond Series Certificate** means a certificate of an Authorized Officer of the Authority fixing terms, conditions and other details of Bonds of a Series in accordance with the delegation of power to do so under the Resolution or under a Series Resolution, as it may be amended from time to time.

**Bond Year** means, unless otherwise stated in a Series Resolution, a period of twelve (12) consecutive months beginning November 1 in any calendar year and ending on October 31 of the succeeding calendar year.

**Bondholder, Holder of Bonds or Holder** or any similar term, when used with reference to a Bond or Bonds of a Series, means the registered owner of any Bonds of such Series.

**Book Entry Bond** means a Bond of a Series authorized to be issued, and issued to and registered in the name of, a Depository for the participants in such Depository or the beneficial owner of such Bond.

**Business Day** means, unless otherwise defined in connection with Bonds of a particular Series, any day which is not a Saturday, Sunday or a day on which the Trustee or banking institutions chartered by the State or the United States of America are legally authorized to close in The City of New York.

**Capital Appreciation Bond** means any Bond as to which interest is compounded on each Valuation Date for such Bond and is payable only at the maturity or prior redemption thereof.

**Capitalized Interest Account** means the Capitalized Interest Account, if any, within the Construction Fund authorized to be established pursuant to the Resolution and the Applicable Series Resolution or Bond Series Certificate with respect to a Series of Bonds.

**Code** means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

**Collateral** shall mean the Mortgage, the funds and accounts held by the Trustee under the Resolution (except the Arbitrage Rebate Fund, the Credit Facility Repayment Fund, if any, and the Purchase and Remarketing Fund, if any) and all amounts received or receivable under the Loan Agreement.

**Collateral Assignment of Mortgage** means the Collateral Assignment of Mortgage, dated the date of issuance of the Bonds, from the Authority to the Trustee and the Credit Facility Issuer.

**Construction Fund** means the fund so designated and established by a Series Resolution pursuant to the Resolution.

**Continuing Disclosure Agreement** means the agreement, if any, entered into in connection with the issuance of the Bonds, by and among the Authority, the Institution and the Trustee, or such other parties thereto designated at such times, providing for continuing disclosure.

**Contract Documents** means any general contract or agreement for the construction of the Project, notice to bidders, information for bidders, form of bid, general conditions, supplemental general conditions, general requirements, supplemental general requirements, bonds, plans and specifications, addenda, change orders, and any other documents entered into or prepared by or on behalf of the Institution relating to the construction of the Project, and any amendments to the foregoing.

**Cost or Costs of Issuance** means the items of expense incurred in connection with the authorization, sale and issuance of Bonds of a Series, which items of expenses shall include, but not be limited to, document printing and reproduction costs, filing and recording fees, costs of credit ratings, initial fees and charges of the Trustee, a Provider or a Depository, legal fees and charges, professional consultants' fees, fees and charges for execution, transportation and safekeeping of such Bonds, premiums, fees and charges for insurance on such Bonds, commitment fees or similar charges relating to a Credit Facility, a Liquidity Facility, a Reserve Fund Facility, an Interest Rate Exchange Agreement or a Remarketing Agreement, costs and expenses in connection with the refunding of Bonds or other bonds or notes of the Authority, costs and expenses incurred pursuant to a remarketing agreement and other costs, charges and fees, including those of the Authority, in connection with the foregoing.

**Cost or Costs of the Project** means when used in relation to a Project the costs and expenses or the refinancing of costs and expenses determined by the Authority to be necessarily or appropriately incurred in connection with the Project, including, but not limited to, (i) costs and expenses of the acquisition of the title to or other interest in real property, including easements, rights-of-way and licenses, (ii) costs and expenses incurred for labor and materials and payments to contractors, builders and materialmen, for the acquisition, construction, reconstruction, rehabilitation, repair and improvement of the Project, (iii) the cost of surety bonds and insurance of all kinds, including premiums and other charges in connection with obtaining title insurance, that may be required or necessary prior to completion of the Project, which is not paid by a contractor or otherwise provided for, (iv) the costs and expenses for design, environmental inspections and assessments, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction of the Project, (v) costs and expenses required for the acquisition and installation of equipment or machinery, (vi) all other costs which the Institution shall be required to pay or cause to be paid for the acquisition, construction, reconstruction, rehabilitation, repair, improvement and equipping of the Project, (vii) any sums required to reimburse the Institution or the Authority for advances made by them for any of the above items or for other costs incurred and for work done by them in connection with the Project (including interest on money borrowed from parties other than the Institution), (viii) interest on the Bonds of a Series, bonds, notes or other obligations of the Authority issued to finance Costs of the Project that accrued prior to, during and for a reasonable period after completion of the acquisition, construction, reconstruction, rehabilitation, repair, improvement or equipping of the Project, and (ix) fees, expenses and liabilities of the Authority incurred in connection with the Project or pursuant to the Resolution or to the Applicable Loan Agreement or the Applicable Mortgage, or to a Credit Facility, a Liquidity Facility or a Remarketing Agreement in connection with Option Bonds or Variable Interest Rate Bonds.

**Credit Facility** means, with respect to a Series of Bonds, an irrevocable letter of credit, surety bond, loan agreement, or other agreement, facility or insurance or guaranty arrangement pursuant to which the Authority is

entitled to obtain money to pay the principal and Sinking Fund Installments of and interest on particular Bonds whether or not the Authority is in default under the Resolution, which is issued or provided by:

- (i) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank or a saving and loan association;
- (ii) an insurance company or association chartered or organized under the laws of any state of the United States of America;
- (iii) the Government National Mortgage Association or any successor thereto;
- (iv) the Federal National Mortgage Association or any successor thereto; or
- (v) any other federal agency or instrumentality approved by the Authority.

Any such Credit Facility may also constitute a Liquidity Facility if it also meets the requirements of the definition of a Liquidity Facility contained in the Resolution.

**Credit Facility Issuer** means the bank or financial institution which has issued its irrevocable direct-pay letter of credit to the Trustee in support of the Series 2009A Bonds, the bank or financial institution which has issued its irrevocable direct-pay letter of credit to the Trustee in support of the Series 2009B Bonds, and shall be a Provider as defined in the Resolution; provided however that any two or more such Credit Facility Issuers may designate a bank or financial institution to exercise their rights on behalf of the Credit Facility Issuers as administrative agent (the “Agent”). Such designation as Agent confers no additional independent rights on the Agent. KeyBank National Association has issued its irrevocable direct-pay letter of credit to the Trustee in support of the Series 2009A Bonds and HSBC Bank USA, National Association, has issued its irrevocable direct-pay letter of credit to the Trustee in support of the Series 2009B Bonds. KeyBank National Association (or its successor) has been designated as the Agent for itself and for HSBC Bank USA, National Association in connection with the initial credit facilities issued for the Bonds.

**Credit Facility Repayment Fund** means the Credit Facility Repayment Fund, if any, authorized to be established pursuant to Section 5.02 of the Resolution and the Applicable Bond Series Certificate with respect to a Series of Bonds.

**Debt Service Fund** means the fund so designated and established by a Series Resolution pursuant to the Resolution.

**Debt Service Reserve Fund** means the fund, if any, so designated and established by a Series Resolution pursuant to the Resolution.

**Debt Service Reserve Fund Requirement** means the amount of moneys, if any, required to be on deposit in the Debt Service Reserve Fund, if any, as determined in accordance with a Series Resolution.

**Defeasance Security** means any of the following:

- (i) a Government Obligation of the type described in clauses (i), (ii), (iii) or (iv) of the definition of Government Obligation;
- (ii) a Federal Agency Obligation described in clauses (i) or (ii) of the definition of Federal Agency Obligation;

(iii) an Exempt Obligation, provided such Exempt Obligation (i) is not subject to redemption prior to maturity other than at the option of the holder thereof or as to which irrevocable instructions have been given to the trustee of such Exempt Obligation by the obligor thereof to give due notice of redemption and to call such Exempt Obligation for redemption on the date or dates specified in such instructions and such Exempt Obligation is not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof, (ii) is secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or Government Obligations, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date thereof or the redemption date specified in the irrevocable instructions referred to in clause (i) above, (iii) as to which the principal of and interest on the direct obligations of the United States of America which have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (i) above, and (iv) is rated by at least two Rating Services in the highest rating category for such Exempt Obligation; and

(iv) any other Permitted Investments acceptable to the Rating Service(s);

*provided, however,* that such term shall not include (1) any interest in a unit investment trust or mutual fund or (2) any obligation that is subject to redemption prior to maturity other than at the option of the holder thereof.

**Deferred Income Bond** means any Bond as to which interest accruing thereon prior to the Interest Commencement Date of such Bond is compounded on each Valuation Date for such Deferred Income Bond, and as to which interest accruing after the Interest Commencement Date is payable semiannually on November 1 and May 1 of each Bond Year.

**Department of Health** means the Department of Health of the State of New York.

**Depository** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Applicable Series Resolution authorizing a Series of Bonds or a Bond Series Certificate relating to a Series of Bonds to serve as securities depository for the Bonds of such Series.

**Event of Default**, when used in connection with the Resolution, means each event summarized in Appendix C under the heading “**Events of Default**” and, when used in connection with the Loan Agreement, means each event summarized in Appendix B under the heading “**Defaults and Remedies.**”

**Excess Earnings** means, with respect to a Series of Bonds, the amount equal to the rebatable arbitrage and any income attributable to the rebatable arbitrage as required by the Code.

**Exempt Obligation** means any of the following:

(i) an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, the interest on which is excludable from gross income under Section 103 of the Code, which is not a “specified private activity bond” within the meaning of Section 57(a)(5) of the Code and which, at the time an investment therein is made or such obligation is deposited in any fund or account under the Resolution, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services,

(ii) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on any of the foregoing; and

(iii) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

**Federal Agency Obligation** means any of the following:

(i) an obligation issued by any federal agency or instrumentality approved by the Authority;

(ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by a federal agency approved by the Authority;

(iii) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and

(iv) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

**Government Obligation** means any of the following:

(i) a direct obligation of the United States of America;

(ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by the United States of America;

(iii) an obligation to which the full faith and credit of the United States of America are pledged;

(iv) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and

(v) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

**Governmental Requirements** means any present and future laws, rules, orders, ordinances, regulations, statutes, requirements and executive orders applicable to the Project or the Mortgaged Property of the United States, the State and any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of any of them, now existing or created after the Loan Agreement, and having or asserting jurisdiction over the Project or the Mortgaged Property or any part thereof including, but not limited to, Article 28, Article 28-A or Article 28-B, as applicable, of the Public Health Law of the State of New York.

**Gross Proceeds** means, with respect to any Series of Bonds, the interest on which is tax-exempt, unless inconsistent with the provisions of the Code, (i) amounts received by the Authority from the sale of such Series of Bonds (other than amounts used to pay underwriters' fees and other expenses of issuing such Series of Bonds), (ii)

amounts treated as transferred proceeds of such Series of Bonds in accordance with the Code, (iii) amounts treated as proceeds under the provisions of the Code relating to invested sinking funds, including any necessary allocation between two or more Series of Bonds in the manner required by the Code, (iv) amounts in the Debt Service Reserve Fund, if any, (v) securities or obligations pledged by the Authority or the Institution as security for payment of debt service on such Bonds, (vi) amounts received with respect to obligations acquired with Gross Proceeds, (vii) amounts used to pay debt service on such Series of Bonds, and (viii) amounts received as a result of the investment of Gross Proceeds at a yield equal to or less than the yield on such Series of Bonds as such yield is determined in accordance with the Code.

**Indebtedness** means (i) all indebtedness of the Institution for borrowed money, (ii) all installment sales, conditional sales and capital lease obligations incurred or assumed by the Institution, and (iii) all guaranties, whether constituting Long-Term Indebtedness or short-term Indebtedness.

**Institution** means Samaritan Medical Center, a not-for-profit corporation duly organized and existing under the laws of the State, and its successors and assigns.

**Insurance Consultant** means a person or firm which is qualified to survey risks and to recommend insurance coverage for Institution facilities and services and organizations engaged in like operations and which is selected by the Institution, which may include qualified in house risk management officers employed by the Institution, unless, with respect to any self-insurance program, the Authority has reasonably determined that the Institution's balance sheet may be materially adversely affected by such program and has requested in writing that the Institution engage a person or firm who is not an employee or officer of the Institution as such consultant.

**Intercreditor Agreement** means the Intercreditor Agreement by and among the Authority, the Trustee, each Credit Facility Issuer and the Agent and defining their respective rights and obligations relating to the Resolution, the Loan Agreement, the Mortgage and the Reimbursement Agreement.

**Interest Commencement Date** means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof specified in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond, after which interest accruing on such Bond shall be payable on the interest payment date immediately succeeding such Interest Commencement Date and semiannually thereafter, unless otherwise set forth in the Applicable Series Resolution, on November 1 and May 1 of each Bond Year.

**Interest Rate Exchange Agreement** means (i) any agreement entered into by the Authority or the Institution in connection with the issuance of or which relates to Bonds of a Series which provides that during the term of such agreement the Authority or the Institution is to pay to the counterparty thereto interest accruing at a fixed or variable rate per annum on an amount equal to a principal amount of such Bonds and that such counterparty is to pay to the Authority or the Institution an amount based on the interest accruing on a principal amount equal to the same principal amount of such Bonds at a fixed or variable rate per annum, in each case computed according to a formula set forth in such agreement, or that one shall pay to the other any net amount due under such agreement or (ii) any interest rate cap agreements, interest rate floor agreements, interest rate collar agreements and any other interest rate related hedge agreements or arrangements.

**Investment Agreement** means any repurchase agreement or other agreement for the investment of money with a Qualified Financial Institution.

**Letter of Representation** means the Letter of Representation of the Institution, dated the date of the sale of the Bonds, addressed to the Authority and the underwriter of the Bonds.

**Liquidity Facility** means, with respect to a Series of Bonds, an irrevocable letter of credit, a surety bond, a loan agreement, a Standby Purchase Agreement, a line of credit or other agreement or arrangement pursuant to which money may be obtained upon the terms and conditions contained therein for the purchase of such Bonds tendered for purchase in accordance with the terms of a Series Resolution authorizing such Bonds or a Bond Series Certificate relating to such Bonds, which is issued or provided by:



- (i) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a savings bank, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank or a savings and loan association;
- (ii) an insurance company or association chartered or organized under the laws of any state of the United States of America;
- (iii) the Government National Mortgage Association or any successor thereto;
- (iv) the Federal National Mortgage Association or any successor thereto; or
- (v) any other federal agency or instrumentality approved by the Authority.

**Loan Agreement** means the Applicable Loan Agreement, between the Authority and the Institution in connection with the issuance of a Series of Bonds, as the same from time to time shall have been amended, supplemented or otherwise modified as permitted by the Resolution and by such Loan Agreement.

**Long-Term Indebtedness** means all Indebtedness having a maturity longer than one year incurred or assumed by the Institution, including:

- (i) money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, longer than one year,
- (ii) leases which are required to be capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, longer than one year;
- (iii) installment sale or conditional sale contracts having an original term in excess of one (1) year;
- (iv) short-term Indebtedness if a commitment by a financial lender exists to provide financing to retire such short-term Indebtedness and such commitment provides for the repayment of principal on terms which should, if such commitment were implemented, constitute Long-Term Indebtedness; and
- (v) the current portion of Long-Term Indebtedness.

**Maximum Interest Rate** means, with respect to any particular Series of Variable Interest Rate Bond, the numerical rate of interest, if any, set forth in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond as the maximum rate at which such Series of Bonds may bear interest at any time.

**Minimum Interest Rate** means, with respect to any particular Series of Variable Interest Rate Bond, a numerical rate of interest, if any, set forth in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bonds as the minimum rate at which such Series of Bonds may bear interest at any time.

**Mortgage** means a mortgage, if any, or modification or amendment thereto granted by the Institution to the Authority pursuant to an Applicable Loan Agreement, in form and substance satisfactory to the Authority and the Applicable Provider of a Credit Facility, on the Mortgaged Property mortgaged in connection therewith, as security for the performance of the Institution's obligations under an Applicable Loan Agreement as such Mortgage may be

amended or modified from time to time as provided for therein or in the Applicable Loan Agreement. With respect to the Series 2009 Bonds, “Mortgage” means one or more mortgages, as such mortgage may be amended or modified from time to time, granted by the Institution to the Authority in accordance with the Loan Agreement, in form and substance satisfactory to an Authorized Officer of the Authority, on the Mortgaged Property, as security for the performance of the Institution’s obligations under the Loan Agreement with respect to the Bonds and assigned to the Trustee and the Agent pursuant to the Collateral Assignment of Mortgage as security for the Institution’s obligations under Reimbursement Agreement with respect to the Credit Facility.

**Mortgaged Property** means the land or other real estate interest described in a Mortgage and the buildings and improvements thereon or erected after Resolution thereon and the fixtures, furnishings and equipment owned or leased by the Institution and now or after the Resolution located therein or thereon, as from time to time amended, supplemented or otherwise modified.

**Official Statement** means an official statement or other offering document relating to and in connection with the sale, remarketing or reoffering of the Bonds.

**Option Bond** means any Bond of a Series which by its terms may be or is required to be tendered by and at the option of the Holder thereof for redemption by the Authority prior to the stated maturity thereof or for purchase by the Authority prior to the stated maturity thereof or the maturity of which may be extended by and at the option of the Holder thereof in accordance with the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate related to such Bonds.

**Outstanding**, when used in reference to Bonds of a Series, means, as of a particular date, all Bonds of such Series authenticated and delivered under the Resolution and under a Series Resolution except:

- (i) any Bond canceled by the Trustee at or before such date;
- (ii) any Bond deemed to have been paid in accordance with the provisions of the Resolution;
- (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to the provisions of the Resolution; and
- (iv) any Option Bond tendered or deemed tendered in accordance with the provisions of the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided in the Resolution and in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond.

**Parity Indebtedness** means any indebtedness issued by the Institution or any other issuer on behalf of the Institution to the extent permitted pursuant to a Series Resolution and secured equally and ratably by the Applicable Mortgaged Property and/or the Applicable Pledged Revenues.

**Paying Agent** means, with respect to a Series of Bonds, the Trustee and any other bank or trust company and its successor or successors, appointed pursuant to the provisions of the Resolution or of a Series Resolution, a Bond Series Certificate or any other resolution of the Authority adopted prior to authentication and delivery of such Series of Bonds for which such Paying Agent or Paying Agents shall be so appointed.

**Permitted Collateral** means any of the following:

- (i) Government Obligations described in clauses (i), (ii) or (iii) of the definition of Government Obligation;

(ii) Federal Agency Obligations described in clauses (i) or (ii) of the definition of Federal Agency Obligation;

(iii) commercial paper that (a) matures within two hundred seventy (270) days after its date of issuance, (b) is rated in the highest short term rating category by at least one Rating Service and (c) is issued by a domestic corporation whose unsecured senior debt is rated by at least one Rating Service no lower than in the second highest rating category;

(iv) financial guaranty agreements, surety or other similar bonds or other instruments of an insurance company that has an equity capital of at least \$125,000,000 and is rated by Bests Insurance Guide or a Rating Service in the highest rating category; and

(v) bankers' acceptances issued by a bank rated in the highest short term rating category by at least one nationally recognized rating organization and having maturities of not longer than three hundred sixty-five (365) days from the date they are pledged.

**Permitted Encumbrances** means when used in connection with the Mortgaged Property any of the following:

(i) The Mortgage and the Collateral Assignment of Mortgage;

(ii) The lien of taxes and assessments which are not delinquent;

(iii) The lien of taxes and assessments which are delinquent but the validity of which is being contested in good faith unless thereby the property or the interest of the Authority therein may be in danger of being lost or forfeited;

(iv) Minor defects and irregularities in the title to such property which do not in the aggregate materially impair the use of such property for the purposes for which it is or may be reasonably be expected to be held;

(v) Easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may be reasonably be expected to be held;

(vi) Any liens or encumbrances set forth on Schedule E to the Loan Agreement;

(vii) Any instrument recorded pursuant to Section 21 of the Loan Agreement summarized in Appendix B under the heading "Restrictions on Religious Use"; and

(viii) Such other liens, encumbrances, defects, and irregularities to which the prior written consent of the Authority, the Department of Health and the Credit Facility Issuer have been obtained.

**Permitted Investments** means any of the following:

(i) Government Obligations;

(ii) Federal Agency Obligations;

(iii) Exempt Obligations;

(iv) uncollateralized certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation and issued by a banking organization authorized to do business in the State;

(v) collateralized certificates of deposit that are (a) issued by a banking organization authorized to do business in the State that has an equity capital of not less than \$125,000,000, whose unsecured senior debt, or debt obligations fully secured by a letter or credit, contract, agreement or surety bond issued by it, are rated by at least one Rating Services in at least the second highest rating category, and (b) fully collateralized by Permitted Collateral;

(vi) commercial paper issued by a domestic corporation rated in the highest short term rating category by at least one Rating Service and having maturities of not long than two hundred seventy (270) days from the date of purchase;

(vii) bankers' acceptances issued by a bank rated in the highest short term rating category by at least one Rating Service and having maturities of not longer than three hundred sixty-five (365) days from the date they are purchased;

(viii) Investment Agreements that are fully collateralized by Permitted Collateral; and

(ix) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, whose objective is to maintain a constant share value of \$1.00 per share and that is rated in the highest short term rating category by at least one nationally recognized rating organization.

**Pledge Fund** shall have the meaning given such term in Section 11 of the Loan Agreement.

**Pledged Revenues** means all receipts, revenues, income and other money received by the Institution from any source and all rights to receive the same (including, without limitation, operating revenues and non-operating revenues determined in accordance with generally accepted accounting principles), whether in the form of accounts, accounts receivable, contract rights, chattel paper, general intangibles, instruments or other rights, and the proceeds thereof, and any insurance thereon, whether now existing or coming into existence after the Loan Agreement and whether now owned or held or acquired after the Loan Agreement by the Institution subject only to the Prior Pledges; provided, however, that there shall be excluded from Pledged Revenues gifts, grants, bequests, donations and contributions made before or after the Loan Agreement, designated at the time of making thereof by the donor or maker as being for certain specific purposes, and the income derived therefrom, to the extent required by such designation.

**Prior Pledges** means, with respect to all property of the Institution constituting the Pledged Revenues, the right to receive the same and the proceeds thereof, any lien, charge or encumbrance thereupon, pledge thereof or security interest therein, which lien, charge, encumbrance, pledge or security interest is existing at the date such property, or the right to receive such property, is pledged to secure Indebtedness of the Institution, all as more specifically described in the Loan Agreement.

**Project** means the Project described in Schedule C to the Loan Agreement.

**Provider** means the issuer or provider of a Credit Facility, a Liquidity Facility or Reserve Fund Facility and as otherwise defined in a Series Resolution with respect to a Series of Bonds.

**Provider Payments** means the amount, certified by a Provider to the Trustee, payable to such Provider by the Institution on account of amounts advanced by it under a Credit Facility, a Liquidity Facility or Reserve Fund Facility, including interest on amounts advanced and fees and charges with respect thereto.

**Qualified Financial Institution** means any of the following entities that has an equity capital of at least \$125,000,000 or whose obligations are unconditionally guaranteed by an affiliate or parent having an equity capital of at least \$125,000,000:

(i) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, and (a) that is on the Federal Reserve Bank of New York list of primary government securities dealers and (b) whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; provided, however, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds of a Series;

(ii) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of the United States of America, any state of the United States of America or any foreign nation, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; provided, however, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds of a Series;

(iii) a corporation affiliated with or which is a subsidiary of any entity described in (i) or (ii) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; provided, however, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds of a Series;

(iv) the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority; or

(v) a corporation whose obligations, including any investments of any money held under the Resolution purchased from such corporation, are insured by an insurer that meets the applicable rating requirements set forth above.

**Rating Service(s)** means each of Moody's Investors Service, Inc., Standard & Poor's Ratings Services, and Fitch Ratings, or their respective successors and assigns, in each case, which has, at the time of reference, assigned a rating to Outstanding Bonds at the request of the Authority.

**Record Date** means, unless a Series Resolution authorizing Variable Interest Rate Bonds or Option Bonds or a Bond Series Certificate relating thereto provides otherwise with respect to such Variable Interest Rate Bonds or Option Bonds, the fifteenth (15th) day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

**Redemption Price**, when used with respect to a Bond of a Series, means the principal amount of such Bond plus the applicable premium, if any, payable upon redemption prior to maturity thereof pursuant to the Resolution or to the Applicable Series Resolution or Bond Series Certificate.

**Refunding Bonds** means all Bonds, whether issued in one or more Series of Bonds, authenticated and delivered on original issuance pursuant to the Resolution, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Resolution.

**Reimbursement Agreement** means any agreement pursuant to which a Provider of a Credit Facility agrees to issue its Credit Facility and the Institution agrees to reimburse the Provider of a Credit Facility or cause the Provider of a Credit Facility to be reimbursed for draws on the Credit Facility. With respect to the Series 2009 Bonds, "Reimbursement Agreement" means the Letter of Credit Reimbursement Agreement, dated as of April 1, 2009, by and among the Institution, each Credit Facility Issuer and the Agent pursuant to which each Credit Facility Issuer provides the Applicable Credit Facility.

**Related Agreements** means each Remarketing Agreement, Interest Rate Exchange Agreement, or agreement entered into in connection with a Liquidity Facility or Credit Facility, to which the Institution is a party, including without limitation, the Reimbursement Agreement.

**Remarketing Agent** means the person appointed by or pursuant to a Series Resolution authorizing the issuance of Option Bonds to remarket such Option Bonds tendered or deemed to have been tendered for purchase in accordance with such Series Resolution or Bond Series Certificate relating to such Option Bonds.

**Remarketing Agreement** means, with respect to Option Bonds of a Series, an agreement either between the Authority and the Remarketing Agent, or among the Authority, the Institution and the Remarketing Agent, relating to the remarketing of such Bonds.

**Reserve Fund Facility** means a surety bond, insurance policy, letter of credit or other financial guaranty or instrument, authorized by or pursuant to a Series Resolution establishing a Debt Service Reserve Fund, to be delivered in lieu of or substitution for all or a portion of the moneys otherwise required to be held in such Debt Service Reserve Fund

**Resolution** means the Authority's Samaritan Medical Center Revenue Bond Resolution, adopted on March 24, 2009, as the same may be amended, supplemented or otherwise modified pursuant to the terms of the Resolution.

**Restricted Gift** means, when used in connection with the Project, any gift, grant or bequest of money or other property made or given by any person the use of which has been restricted by such person to paying any cost or expense that constitutes a Cost of the Project.

**Revenues** means, with respect to a Series of Bonds, all payments received or receivable by the Authority that pursuant to the Applicable Loan Agreement, except as provided in the Applicable Intercreditor Agreement, are required to be paid to the Trustee for such Series of Bonds (except payments to the Trustee for the administrative costs and expenses or fees of the Trustee and payments to the Trustee for deposit to the Arbitrage Rebate Fund, the Credit Facility Repayment Fund, if any, or the Purchase and Remarketing Fund, if any).

**Serial Bonds** means the Bonds so designated in a Series Resolution or a Bond Series Certificate.

**Series** means all of the Bonds authenticated and delivered on original issuance and pursuant to the Resolution and to the Applicable Series Resolution authorizing such Bonds as a separate Series of Bonds or a Bond

Series Certificate, and any Bonds of such Series thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Resolution, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**Series Resolution** means a resolution of the Authority authorizing the issuance of a Series of Bonds adopted by the Authority pursuant to the Resolution.

**Series 2009 Bonds** means the Series 2009A Bonds and the Series 2009B Bonds.

**Series 2009 Resolution** means the Series 2009A Resolution and the Series 2009B Resolution.

**Series 2009A Bonds** means the Authority's Samaritan Medical Center Revenue Bonds, Series 2009A authorized to be issued under the Series 2009A Resolution.

**Series 2009A Resolution** means the Series 2009A Resolution Authorizing Samaritan Medical Center Revenue Bonds, Series 2009A adopted by the Authority on March 25, 2009.

**Series 2009B Bonds** means the Authority's Samaritan Medical Center Revenue Bonds, Series 2009B authorized to be issued under the Series 2009B Resolution.

**Series 2009B Resolution** means the Series 2009B Resolution Authorizing Samaritan Medical Center Revenue Bonds, Series 2009B adopted by the Authority on March 25, 2009.

**Sinking Fund Installment** means, with respect to a Series of Bonds, as of any date of calculation:

(i) when used with respect to any Bonds of such Series, other than Option Bonds or Variable Interest Rate Bonds, so long as any such Bonds are Outstanding, the amount of money required by the Applicable Series Resolution pursuant to which such Bonds were issued or by the Applicable Bond Series Certificate relating thereto to be paid on a single future November 1 for the retirement of any Outstanding Bonds of said Series which mature after said future November 1, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future November 1 is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Bonds are deemed to be Bonds entitled to such Sinking Fund Installment; and

(ii) when used with respect to Option Bonds or Variable Interest Rate Bonds of a Series, so long as such Bonds are Outstanding, the amount of money required by the Applicable Series Resolution pursuant to which such Bonds were issued or by the Applicable Bond Series Certificate relating thereto to be paid on a single future date for the retirement of any Outstanding Bonds of said Series which mature after said future date, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future date is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Option Bonds or Variable Interest Rate Bonds of such Series are deemed to be Bonds entitled to such Sinking Fund Installment.

**Standby Purchase Agreement** means, with respect to a Series of Bonds, an agreement pursuant to which a person is obligated to purchase an Option Bond or a Variable Interest Rate Bond tendered for purchase.

**State** means the State of New York.

**Sub-Series** means the grouping of the Bonds of a Series established pursuant to the Applicable Series Resolution or the Applicable Bond Series Certificate.

**Supplemental Resolution** means any resolution of the Authority amending or supplementing the Resolution, any Series Resolution or any Supplemental Resolution adopted and becoming effective in accordance with the terms and provisions of the Resolution.

**Tax Certificate** means the certificate of the Authority, including the appendices, schedules and exhibits thereto, executed in connection with the issuance of the Bonds in which the Authority makes representations and agreements as to arbitrage and compliance with the provisions of Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986, or any similar certificate, agreement or other instrument made, executed and delivered in lieu of said certificate, in each case as the same may be amended or supplemented.

**Term Bonds** means, with respect to a Series of Bonds, the Bonds so designated in a Series Resolution or a Bond Series Certificate and payable from Sinking Fund Installments.

**Trustee** means the bank or trust company appointed as Trustee for a Series of Bonds pursuant to a Series Resolution or Bond Series Certificate delivered under the Resolution and having the duties, responsibilities and rights provided for in the Resolution with respect to such Series, and its successor or successors and any other bank or trust company which may at any time be substituted in its place pursuant to the Resolution.

**Valuation Date** means (i) with respect to any Capital Appreciation Bond, each date set forth in the Applicable Series Resolution authorizing such Capital Appreciation Bond or in the Applicable Bond Series Certificate relating to such Bond on which a specific Accreted Value is assigned to such Capital Appreciation Bond, and (ii) with respect to any Deferred Income Bond, the date or dates prior to the Interest Commencement Date and the Interest Commencement Date set forth in the Applicable Series Resolution authorizing such Bond or in the Applicable Bond Series Certificate relating to such Bond on which specific Appreciated Values are assigned to such Deferred Income Bond.

**Variable Interest Rate** means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing such interest rate or rates specified in the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate relating to such Bonds and which shall be based on:

- (i) a percentage or percentages or other function of an objectively determinable interest rate or rates (e.g., a prime lending rate) which may be in effect from time to time or at a particular time or times; or
- (ii) a stated interest rate that may be changed from time to time as provided in such Series Resolution or Bond Series Certificate;

*provided, however,* that in each case such variable interest rate may be subject to a Maximum Interest Rate and a Minimum Interest Rate as provided in the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate relating thereto, and that Series Resolution or Bond Series Certificate shall also specify either (x) the particular period or periods of time or manner of determining such period or periods of time for which each variable interest rate shall remain in effect or (y) the time or times at which any change in such variable interest rate shall become effective or the manner of determining such time or times.

**Variable Interest Rate Bond** means any Bond of a Series which bears a Variable Interest Rate; provided, however, that a Bond the interest rate on which shall have been fixed for the remainder of the term thereof shall no longer be a Variable Interest Rate Bond.

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**SUMMARY OF CERTAIN PROVISIONS  
OF THE LOAN AGREEMENT**

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## **SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT**

The following is a brief summary of certain provisions of the Loan Agreement. This summary does not purport to be complete and reference is made to the Loan Agreement for full and complete statements of such and all provisions. The headings below are not part of the Loan Agreement but have been added for ease of reference. Defined terms used herein shall have the meaning ascribed to them in Appendix A.

### **Construction of the Project**

The Institution agrees that, whether or not there are sufficient moneys available to it under the provisions of the Resolution and the Series Resolutions and under the Loan Agreement, the Institution shall complete the acquisition, design, construction, reconstruction, rehabilitation and improving or otherwise providing and furnishing and equipping of the Project, substantially in accordance with the Contract Documents related to such Project. Subject to the conditions of the Loan Agreement, the Authority will, to the extent of moneys available in the Construction Fund, cause the Institution to be reimbursed for, or pay, any costs and expenses incurred by the Institution which constitute Costs of the Project, provided such costs and expenses are approved by the Authority and the Department of Health, which approval shall not be unreasonably withheld, and provided such costs and expenses are approved in writing by the Credit Facility Issuer with a Credit Facility issued and existing with respect to the Bonds.

*(Section 5)*

### **Amendment of the Project**

The Institution, with the prior written consent of the Authority, the Department of Health and the Credit Facility Issuer, which consent will not be unreasonably withheld, may amend the Project to decrease, increase or otherwise modify the scope thereof. Any such increase may provide for the addition of any further acquisition, design, construction, reconstruction, rehabilitation, renovation, improving, or otherwise providing, furnishing and equipping of the Project which the Authority is authorized to undertake. Following the date of execution and delivery of the Loan Agreement, the Institution shall not enter into, amend or modify, by change order or otherwise, any Contract Document that materially affects the scope or nature of the Project, without the prior written approval of the Authority, the Department of Health and the Credit Facility Issuer, which approval shall not be unreasonably withheld. The Institution shall deliver to the Authority and the Credit Facility Issuer copies of such change orders as the Authority may from time to time request. The Institution shall provide such moneys as in the reasonable judgment of the Authority may be required for the cost of completing the Project in excess of the moneys in the Construction Fund established for such Project, whether such moneys are required as a result of an increase in the scope of the Project or otherwise. Such moneys shall be paid to the Trustee for deposit in the Construction Fund within fifteen (15) days after receipt by the Institution of written notice from the Authority that such moneys are required.

*(Section 6)*

### **Financial Obligations**

Except to the extent that moneys are available therefor under the Resolution or the Applicable Series Resolution or the Loan Agreement, including moneys in the Debt Service Fund (but excluding any moneys from a draw under a Credit Facility), and interest accrued but unpaid on investments held in the Debt Service Fund, the Institution, pursuant to the Loan Agreement, unconditionally agrees to pay or cause to be paid, so long as Bonds are Outstanding, to or upon the order of the Authority, from its general funds or any other moneys legally available to it:

(i) On or before the date of delivery of the Bonds (A) the Authority Fee agreed to by the Authority and the Institution in connection with issuance of the Bonds and (B) payment of the Department of Health fee;

(ii) On or before the date of delivery of Bonds, such amount, if any, as is required, in addition to the proceeds of such Bonds available therefor, to pay the Costs of Issuance of the Bonds, and other costs in connection with the issuance of the Bonds;

(iii) On or before the tenth (10th) day of the month prior to an interest payment date on Outstanding Variable Interest Rate Bonds, the interest coming due on such Variable Interest Rate Bonds on such interest payment date, assuming that, to the extent the interest rate is not known on such date for the remaining period until the interest payment date, such Bonds will, from and after the next succeeding date on which the rates at which such Bonds bear interest are to be determined, bear interest at a rate per annum equal to the rate per annum for such Bonds on the immediately preceding Business Day, plus one percent (1%) per annum;

(iv) On or before the tenth (10th) day of each month commencing on the tenth (10th) day of the sixth (6th) month immediately preceding the date on which interest on Outstanding Bonds that are not Variable Interest Rate Bonds becomes due, one-sixth (1/6) of the interest coming due on such Bonds on the immediately succeeding interest payment date on such Bonds; provided, however, that, if with respect to such Outstanding Bonds there are more or less than six (6) such payment dates prior to the first interest payment on such Bonds, on each payment date prior to such interest payment date the Institution shall pay with respect to such Bonds an amount equal to the interest coming due on such Bonds on such interest payment date multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of payment dates prior to the first interest payment date on such Bonds;

(v) On or before the tenth (10th) day of each month commencing on the tenth (10th) day of the November immediately preceding the November 1 on which the principal or a Sinking Fund Installment of Outstanding Bonds becomes due, one-twelfth (1/12) of the principal and Sinking Fund Installment on such Bonds coming due on such November 1; provided, however, that, if with respect to the Outstanding Bonds there are less than twelve (12) such payment dates prior to the November 1 on which principal or Sinking Fund Installments come due on such Bonds, on each payment date prior to such November 1 the Institution shall pay with respect to such Bonds an amount equal to the principal and Sinking Fund Installments of such Bonds coming due on such November 1 multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of payment dates prior to such November 1; provided, however, with respect to Sinking Fund Installments of Option Bonds or Variable Interest Rate Bonds that come due in months other than November, the terms of this clause (v) shall apply except that references to November shall be replaced with the applicable month(s) in which the related Sinking Fund Installment comes due;

(vi) Except as provided below in this summarized section, by 1:30 p.m., New York City time, on the day on which payment of the purchase price of an Option Bond tendered for purchase which has not been remarketed or remarketed at less than the principal amount thereof and for which there is no Liquidity Facility then in effect, is due, the purchase price of such Option Bond, which shall be paid in immediately available funds; provided, however, that (A) if the Institution has received notice that such payment is due after 10:00 a.m., New York City time, but prior to 3:00 p.m., New York City time, on such day, then payment by the Institution shall be made by 5:00 p.m., New York City time on such day, and (B) if such notice is given after 3:00 p.m., New York City time, on such day, then payment by the Institution shall be made by 10:00 a.m. on the next succeeding Business Day;

(vii) At least forty-five (45) days prior to any date on which the Redemption Price or purchase price of Bonds previously called for redemption or contracted to be purchased, other than an Option Bond to be purchased or redeemed pursuant to an optional or mandatory tender thereof or Bonds being redeemed pursuant to Sinking Fund Installments in accordance with clause (v) above, is to be paid, the amount required to pay the Redemption Price or purchase price of such Bonds;

(viii) On June 10 of each Bond Year one-half (1/2) of the Annual Administrative Fee payable during such Bond Year in connection with the Bonds, and on December 10 of each Bond Year the balance of the Annual Administrative Fee payable during such Bond Year; provided, however, that the Annual Administrative Fee with respect to the Bonds payable during the Bond Year during which such Annual Administrative Fee became effective shall be equal to the Annual Administrative Fee with respect to such Bonds multiplied by a fraction the numerator of which is the number of calendar months or parts thereof remaining in such Bond Year and the denominator of which

is twelve (12) and (B) On the date specified in written notice to the Institution from the Department of Health, and on or before the tenth (10th) day of each month thereafter, an amount equal to one-twelfth (1/12) of the annual Department of Health fee for a Series of Bonds which shall be an amount described in the regulations of the Commissioner of Health;

(ix) Promptly after notice from the Authority, but in any event not later than fifteen (15) days after such notice is given, the amount set forth in such notice as payable to the Authority (A) for the Authority Fee then unpaid, (B) to reimburse the Authority for payments made by it pursuant to the provisions of the Loan Agreement summarized in paragraph (e) below and any expenses or liabilities incurred by the Authority pursuant to provisions of the Loan Agreement summarized under the headings “Covenant as to Insurance” and “Taxes and Assessments” below and other provisions of the Loan Agreement related to indemnity by the Institution, (C) to reimburse the Authority for any external costs or expenses incurred by it attributable to the issuance of the Bonds or the financing or construction of the Project, including but not limited to any fees or other amounts payable by the Authority under a Remarketing Agreement, a Liquidity Facility or a Credit Facility, (D) for the costs and expenses incurred by the Authority to compel full and punctual performance by the Institution of all the provisions of the Loan Agreement or of the Resolution in accordance with the terms thereof, (E) for the fees and expenses of the Trustee and any Paying Agent in connection with performance of their duties under the Resolution and (F) to pay any Provider Payments then due and unpaid;

(x) Promptly upon demand by the Authority (a copy of which shall be furnished to the Trustee), all amounts required to be paid by the Institution as a result of an acceleration pursuant to the provisions of the Loan Agreement summarized under the heading “Defaults and Remedies” below;

(xi) Promptly upon demand by the Authority, the difference between the amount on deposit in the Arbitrage Rebate Fund available to be rebated in connection with the Bonds the interest of which is excluded from gross income for federal income tax purposes or otherwise available therefor under the Resolution and the amount required to be rebated to the Department of the Treasury of the United States of America in accordance with the Code in connection with the Bonds;

(xii) Promptly upon demand by the Authority, all amounts required to be paid by the Authority to a counterparty of any derivative agreement in accordance with an Interest Rate Exchange Agreement or to reimburse the Authority for any amounts paid to a counterparty of any derivative agreement in accordance with an Interest Rate Exchange Agreement;

(xiii) Promptly after notice from the Trustee, the Authority, or the Credit Facility Issuer, if the amount on deposit in the Credit Facility Repayment Fund (as such term is defined in the Bond Series Certificates relating to the Bonds) is insufficient to reimburse the Credit Facility Issuer for an amount drawn upon the Credit Facility, the amount required to reimburse the Credit Facility Issuer; and

(xiv) To the extent not otherwise set forth in the paragraph (a), including without limitation, in the event of any insufficiency, any amounts necessary to pay the principal, Sinking Fund Installment, or Redemption Price, if any, of, and interest on, the Bonds, on the dates, in the amounts, at the times and in the manner provided in or pursuant to the Resolution and the Series Resolution, whether at maturity, upon acceleration, redemption or otherwise.

Subject to the provisions of the Loan Agreement and of the Resolution or the Applicable Series Resolution, the Institution shall receive a credit against the amount required to be paid by the Institution during a Bond Year pursuant to paragraph (a)(v) of this summarized section on account of any Sinking Fund Installments if, prior to the date notice of redemption is given pursuant to the Resolution with respect to Bonds to be redeemed through any Sinking Fund Installments during the next succeeding Bond Year, either (i) the Institution delivers to the Trustee for cancellation one or more Bonds of the maturity to be so redeemed or (ii) the Trustee, at the direction of the Authority, has purchased one or more Bonds of the maturity to be so redeemed from amounts on deposit in the Debt Service Fund in accordance with the provisions of the Resolution during such Bond Year. The amount of the credit shall be equal to the principal amount of the Bonds so delivered.

Pursuant to the Loan Agreement, the Authority directs the Institution, and the Institution agrees, to make the payments required by this paragraph (a) as follows: (i) the payments required by paragraphs (a)(iii), (a)(iv), (a)(v), (a)(vii), (a)(x), (a)(xiii) and (a)(xiv) of this summarized section directly to the Trustee for deposit and application in accordance with the provisions of the Resolution; (ii) the payments required by paragraph (a)(ii) of this summarized section directly to the Trustee for deposit in the Construction Fund or other fund established under the Resolution, as directed by the Authority; (iii) the payments required by paragraphs (a)(i)(A), (a)(viii)(A) and (a)(ix) of this summarized section directly to the Authority; (iv) the payments required by paragraphs (a)(i)(B) and (a)(viii)(B) of this summarized section directly to the Commissioner of Health and (v) except as otherwise provided by this paragraph, the payments required by paragraphs (a)(vi), (a)(xi) and (a)(xii) of this summarized section to or upon the written order of the Authority.

(b) Notwithstanding any provisions in the Loan Agreement or in the Resolution to the contrary (except as otherwise specifically provided for in this paragraph (b)), all moneys paid by the Institution to the Trustee pursuant to the Loan Agreement or otherwise held by the Trustee shall be applied in reduction of the Institution's indebtedness to the Authority under the Loan Agreement, first, with respect to interest and, then, with respect to the principal amount of such indebtedness, but only to the extent that, with respect to interest on such indebtedness, such moneys are applied by the Trustee for the payment of interest on Outstanding Bonds, and, with respect to the principal of such indebtedness, such moneys have been applied to, or are held for, payments in reduction of the principal amount of Outstanding Bonds and as a result thereof Bonds have been paid or deemed to have been paid in accordance with the Resolution. Except as otherwise provided in the Resolution, the Trustee shall hold such moneys in trust in accordance with the applicable provisions of the Resolution for the sole and exclusive benefit of the Holders of Bonds and the Credit Facility Issuer, regardless of the actual due date or applicable payment date of any payment to the Holders of Bonds.

(c) The obligations of the Institution to make payments or cause the same to be made under the Loan Agreement shall be absolute and unconditional and the amount, manner and time of making such payments shall not be decreased, abated, postponed or delayed for any cause or by reason of the happening or non-happening of any event, irrespective of any defense or any right of set-off, recoupment or counterclaim which the Institution may otherwise have against the Authority, the Trustee or any Holder of Bonds for any cause whatsoever including, without limiting the generality of the foregoing, failure of the Institution to complete the Project or the completion thereof with defects, failure of the Institution to occupy or use the Project, any declaration or finding that the Bonds are or the Resolution is invalid or unenforceable or any other failure or default by the Authority or the Trustee; provided, however, that nothing in the Loan Agreement shall be construed to release the Authority from the performance of any agreements on its part contained in the Loan Agreement or any of its other duties or obligations, and in the event the Authority shall fail to perform any such agreement, duty or obligation, the Institution may institute such action as it may deem necessary to compel performance or recover damages for non-performance. Notwithstanding the foregoing, the Authority shall have no obligation to perform its obligations under the Loan Agreement to cause advances to be made to reimburse the Institution for, or to pay, the Costs of the Project beyond the extent of moneys in the Construction Fund established for such Project available therefor.

The Loan Agreement and the obligations of the Institution to make payments under the Loan Agreement are general obligations of the Institution.

(d) The Authority, for the convenience of the Institution, shall furnish to the Institution statements of the due date, purpose and amount of payments to be made pursuant to the Loan Agreement. The failure to furnish such statements shall not excuse non-payment of the amounts payable under the Loan Agreement at the time and in the manner provided by the Loan Agreement. The Institution shall notify the Authority as to the amount and date of each payment made to the Trustee by the Institution.

(e) The Authority shall have the right in its sole discretion to make on behalf of the Institution any payment required pursuant to this summarized section which has not been made by the Institution when due. No such payment by the Authority shall limit, impair or otherwise affect the rights of the Authority under the provisions of the Loan Agreement summarized under the heading "Defaults and Remedies" below arising out of the Institution's failure to make such payment and no payment by the Authority shall be construed to be a waiver of any such right or of the obligation of the Institution to make such payment.

(f) The Institution, if it is not then in default under the Loan Agreement, shall have the right to make voluntary payments in any amount to the Trustee. In the event of a voluntary payment, the amount so paid shall be deposited in the Debt Service Fund and applied in accordance with the Resolution or held by the Trustee for the payment of Bonds in accordance with the Resolution. Upon any voluntary payment by the Institution or any payment made pursuant to the provisions of the Loan Agreement summarized under the heading “Sale of the Project” below, the Authority agrees to direct the Trustee to purchase or redeem Bonds in accordance with the Resolution or to give the Trustee irrevocable instructions in accordance with the Resolution with respect to such Bonds; provided, however, that in the event such voluntary payment is in the sole judgment of the Authority sufficient to pay all amounts then due under the Loan Agreement and under the Resolution, including the purchase or redemption of all Bonds Outstanding, or to pay or provide for the payment of all Bonds Outstanding in accordance with the Resolution, the Authority agrees, in accordance with the instructions of the Institution, to direct the Trustee to purchase or redeem all Bonds Outstanding, or to cause all Bonds Outstanding to be paid or to be deemed paid in accordance with the Resolution.

(g) If the Institution elects to purchase Bonds, with the written consent of the Authority, the Institution shall give written notice to the Authority and the Trustee whenever Bonds are to be purchased at the election of the Institution, which written notice shall include the maturity and principal amount of the Bonds to be so purchased. All such purchases shall be subject to the condition that money for the payment of the purchase price therefor is available on the date set for each such purchase.

(h) Promptly upon demand by the Tender Agent or the Authority, the Institution shall pay to the Tender Agent such compensation due the Tender Agent in accordance with the provisions of the Bond Series Certificate relating to the Bonds.

*(Section 9)*

#### **Security Interest in Pledged Revenues**

As security for the payment of all liabilities and the performance of all obligations of the Institution pursuant to the Loan Agreement and the Reimbursement Agreement, the Institution does continuously pledge, grant a security interest in, and assign to the Authority the Pledged Revenues, together with the Institution’s right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues. This pledge, grant of a security interest in and assignment of the Pledge Revenues shall be subordinate to the Prior Pledges.

The Institution represents and warrants that no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any lien, pledge, security interest or assignment other than any existing or future parity liens on the Pledged Revenues to secure Parity Indebtedness and the Prior Pledges, and that, subject to applicable federal and state laws and regulations limiting security interests in Medicaid and Medicare receivables, the Pledged Revenues assigned pursuant to the Loan Agreement are legally available to provide security for the Institution’s performance under the Loan Agreement and under the Reimbursement Agreement. After the date of the Loan Agreement, the Institution agrees that it shall not create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge made by this summarized section; provided, however, that the Institution may incur Parity Indebtedness with the prior written approval of the Authority, the Department of Health and the Credit Facility Issuer (such approval with respect to the Credit Facility Issuer not to be unreasonably withheld).

*(Section 10)*

#### **The Mortgage; Lien on Fixtures, Furnishings and Equipment**

At or before the delivery by the Authority of the Bonds, the Institution shall execute and deliver to the Authority, the Mortgage, in recordable form, mortgaging the Mortgaged Property, which Mortgage shall constitute a first lien on the Mortgaged Property, subject only to the Permitted Encumbrances. Concurrently with the delivery of Bonds, the Authority will assign all of its rights under the Mortgage to the Trustee for the benefit of the Bondholders

and to the Credit Facility Issuer pursuant to the Collateral Assignment of Mortgage. The Trustee, with the consents of the Credit Facility Issuer, the Department of Health and the Authority, but without the consent of the Holders of the Bonds, may consent to the amendment, modification or termination of the Collateral Assignment of Mortgage or the amendment, modification, termination, subordination or satisfaction of the Mortgage and of any security interest in fixtures, furnishings or equipment located in or on the Mortgaged Property, and the Mortgaged Property or such security interest may be released from the lien of the Mortgage, all upon such terms and conditions as the Authority, the Department of Health and the Credit Facility Issuer may reasonably require. As a condition to such approval, the Authority may require that the Institution pay to the Trustee for deposit in the Debt Service Fund an amount not to exceed the aggregate principal amount of the Bonds Outstanding at the date of such transfer, sale or conveyance, as such amount is determined by the Authority. Subject to said Mortgage and the Collateral Assignment of Mortgage, the Institution may (i) remove equipment, furniture or fixtures from the Mortgaged Property provided that the Institution substitutes equipment, furniture or fixtures having a value and utility at least equal to the equipment, furniture or fixtures removed or replaced or (ii) with the prior written approval of the Authority, the Department of Health and the Credit Facility Issuer (each acting in its sole discretion, subject to the requirements of Article 28-B of the Public Health Law; and with respect to the Credit Facility Issuer, such approval not to be unreasonably withheld), incur Parity Indebtedness.

*(Section 12)*

#### **Warranty of Title; Utilities and Access**

The Institution warrants, represents and covenants to the Authority that (i) it has good and marketable title to or valid leasehold interest in the Project and all Mortgaged Property, free and clear of liens and encumbrances, except Permitted Encumbrances, so as to permit it to have quiet enjoyment and use thereof for purposes of the Loan Agreement and the Institution's programs and (ii) the Institution has such rights of way, easements or other rights in land as may be reasonably necessary for ingress and egress to and from the Project and all Mortgaged Property for proper operation and utilization of the Project and all Mortgaged Property and for utilities required to serve the Project and all Mortgaged Property, together with such rights of way, easements or other rights in, to and over land as may be necessary for construction, use and operation by the Institution of the Project and all Mortgaged Property.

The Institution represents and covenants that the Project and all Mortgaged Property (i) is and will be serviced by all necessary utilities (including, to the extent applicable, without limitation, electricity, gas, water, sewer, steam, heating, air-conditioning and ventilation) and (ii) to the extent applicable, has and will have its own separate and independent means of access, apart from any other property owned by the Institution or others; provided, however, that such access may be through common roads or walks owned by the Institution used also for other parcels owned by the Institution.

The Institution covenants that title (or leasehold interest, as applicable) to the Project and all Mortgaged Property shall be kept free from any encumbrances, liens or commitments of any kind, other than Permitted Encumbrances, and such other encumbrances approved in writing by the Authority, the Credit Facility Issuer and the Trustee.

*(Section 13)*

#### **Consent to Pledge and Assignment**

The Institution consents to and authorizes the assignment, transfer or pledge by the Authority to the Trustee and the Credit Facility Issuer of the Authority's rights to receive any or all of the payments required to be made pursuant to paragraph (a) of the provisions of the Loan Agreement summarized under the heading "Financial Obligation" above, any or all security interests granted by the Institution under the Loan Agreement, including without limitation the security interest in all funds and accounts established by the Resolution and pledged under the Resolution, and the Authority's rights under the Mortgage in each case to secure any payment or the performance of any obligation of the Institution under the Loan Agreement or arising out of the transactions contemplated by the Loan Agreement whether or not the right to enforce such payment or performance shall be specifically assigned by the Authority to the Trustee or the Credit Facility Issuer. The Institution further agrees that the Authority may pledge and assign to the Trustee and the Credit Facility Issuer any and all of the Authority's rights and remedies



under the Loan Agreement. Upon any pledge and assignment by the Authority to the Trustee and the Credit Facility Issuer authorized by this summarized section, the Trustee and the Credit Facility Issuer shall be fully vested with all of the rights of the Authority so assigned and pledged and may thereafter exercise or enforce, by any remedy provided therefor by the Loan Agreement or by law, any of such rights directly in its own name. Any such pledge and assignment shall be limited to securing the Institution's obligation to make all payments required by the Loan Agreement and by the Reimbursement Agreement and to performing all other obligations required to be performed by the Institution under the Loan Agreement and under the Reimbursement Agreement. Any realization upon the Mortgaged Property or any pledge made or security interest granted by the Loan Agreement shall not, by operation of law or otherwise, result in cancellation or termination of the Loan Agreement or the obligations of the Institution under the Loan Agreement.

*(Section 14)*

### **Additional Representation and Covenants**

(a) The Institution warrants and represents that (i) it has the requisite power and authority (A) to authorize, execute and deliver, and to perform its obligations under, the Loan Agreement and the Related Agreements, and (B) to incur the indebtedness contemplated by the Loan Agreement and thereby, (ii) the Loan Agreement and the Related Agreements constitute valid and binding obligations of the Institution enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting or relating to the rights of the creditors generally, and general principles of equity, and (iii) the execution and delivery of, consummation of the transaction contemplated by and performance of the Institution's obligations under the Loan Agreement and each of the Related Agreements do not violate, conflict with or constitute a default under the charter or by-laws of the Institution or any indenture, mortgage, trust, or other commitment or agreement to which the Institution is a party or by which it or any of its properties are bound, or any existing law, rule, regulation, judgment, order, writ, injunction or decree of any governmental authority, body, agency or other instrumentality or court having jurisdiction over the Institution or any of its properties.

(b) The Institution covenants, warrants and represents that it is duly authorized by all applicable laws, its charter, by-laws or other organizational documents to make and deliver the Mortgage, to pledge and grant a security interest in and to assign to the Authority and the Trustee, for the benefit of the Bondholders and the Credit Facility Issuer, the Pledged Revenues in the manner and to the extent provided in the Loan Agreement and in the Resolution. The Institution further covenants, warrants and represents that any and all pledges, security interests in and assignments to the Authority and the Trustee, for the benefit of the Bondholders and the Credit Facility Issuer, granted or made pursuant to the Loan Agreement or to the Mortgage are and shall be free and clear of any pledge, lien, charge, security interest or encumbrance prior thereto, or of equal rank therewith, other than the Prior Pledges or the Permitted Encumbrances, and that all corporate action on the part of the Institution to that end has been duly and validly taken. The Institution further covenants that the provisions of the Loan Agreement are and shall be valid and legally enforceable obligations of the Institution in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting or relating to the rights of the creditors generally, and general principles of equity. The Institution further covenants that it shall at all times, and to the extent permitted by law, defend, preserve and protect the pledge, security interest in and assignment of the Pledged Revenues and all of the rights of the Authority, the Credit Facility Issuer and the Bondholders under the Loan Agreement and under the Resolution, any Series Resolution, any Bond Series Certificate and the Mortgage against all claims and demands of all persons whomsoever. The Institution further covenants, warrants and represents that the grant of a security interest in the Pledged Revenues and assignment thereof as security under the Loan Agreement, and the execution and delivery of the Mortgage, and the consummation of the transactions contemplated by the Loan Agreement and by the Mortgage and compliance with the provisions of the Loan Agreement and of the Mortgage, do not violate, conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, the charter, by-laws or other organizational documents of the Institution or any indenture or mortgage, or any trusts, endowments or other commitments or agreements to which the Institution is a party or by which it or any of its properties are bound, or any existing law, rule, regulation, judgment, order, writ, injunction or decree of any governmental authority, body, agency or other instrumentality or court having jurisdiction over the Institution or any of its properties.

*(Section 15)*

## **Tax-Exempt Status of Institution**

The Institution represents that: (i) it is an organization described in Section 501(c)(3) of the Code, or corresponding provisions of prior law, and is not a “private foundation,” as such term is defined under Section 509(a) of the Code; (ii) it has received a letter or other notification from the Internal Revenue Service to that effect; (iii) such letter or other notification has not been modified, limited or revoked; (iv) it is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification; (v) the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist; and (vi) it is exempt from federal income taxes under Section 501(a) of the Code, except for payment of unrelated business income tax. The Institution agrees that: (a) it shall not perform any act or enter into any agreement which shall adversely affect such federal income tax status and shall conduct its operations in the manner which will conform to the standards necessary to qualify the Institution as an organization within the meaning of Section 501(c)(3) of the Code or any successor provision of federal income tax law; and (b) it shall not perform any act, enter into any agreement or use or permit the Project to be used in a manner, or for any trade or business unrelated to the purposes of the Institution, which could adversely affect the exclusion of interest on the Bonds from federal gross income pursuant to Section 103 of the Code. Pursuant to the Loan Agreement, the Institution covenants with the Authority that it will not enter into any leases of the Project or any part thereof or interest therein, including development rights, unless the Institution has obtained an opinion of Bond Counsel that such lease will not adversely affect the exclusion of interest on the Bonds from federal gross income pursuant to Section 103 of the Code, which opinion of Bond Counsel shall be delivered to the Authority prior to the Institution executing and delivering such lease.

*(Section 16)*

## **Securities Acts Status**

The Institution represents that: (i) it is an organization organized and operated (A) exclusively for charitable purposes and (B) not for pecuniary profit; and (ii) no part of the net earnings of which inures to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended. The Institution agrees that it shall not perform any act or enter into any agreement which shall adversely affect such status as set forth in this summarized section.

*(Section 17)*

## **Maintenance of Corporate Existence**

The Institution covenants that it will (i) maintain its corporate existence, (ii) continue to operate as a not-for-profit organization, (iii) obtain, maintain and keep in full force and effect such governmental approvals, consents, licenses, permits and accreditation as may be necessary for it to continue to so operate, (iv) except as expressly permitted by the Loan Agreement, not dissolve or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another person or permit one or more persons to consolidate with or merge into it. The Institution, with the prior written consent of the Authority and the Commissioner of Health, may (A) sell or otherwise transfer all or substantially all of its assets to, or consolidate with or merge into, another organization or corporation which qualifies as an organization described in Section 501(c)(3) of the Code, or any successor provision of federal income tax law, (B) permit one or more corporations or any other organization to consolidate with or merge into it, or (C) acquire all or substantially all of the assets of one or more corporations or other organizations. Notwithstanding the foregoing provisions of this summarized section, no disposition, transfer, consolidation or merger otherwise permitted by the Loan Agreement shall be permitted unless (1) the same would not in the opinion of Bond Counsel adversely affect the exclusion of interest on any Bond from gross income for purposes of federal income taxation, (2) the Institution will not as a result thereof be in default under the Loan Agreement or under any Related Agreement, (3) the surviving, resulting or transferee corporation, as the case may be, is incorporated under the laws of the State and is qualified as an organization described in Section 501(c)(3) of the Code or any successor provision of federal income tax law, and (4) the surviving, resulting or transferee corporation of the Institution assumes in writing all of the obligations of the Institution under the Loan Agreement, under the Continuing Disclosure Agreement, if any, and under the Related Agreements, and furnishes to the Authority (x) a certificate to the effect that upon such sale, transfer, consolidation, merger or acquisition such

corporation will be in compliance with each of the provisions of the Loan Agreement and of the Related Agreements, and will meet the requirements of the Act, and (y) such other certificates and documents as the Authority may reasonably require to establish compliance with this summarized section. In addition to the foregoing, any sale, transfer, consolidation, merger or acquisition or any change in the operator or in the control of the Institution shall be subject to and shall be accomplished in compliance with all applicable provisions of the New York State Public Health Law and regulations of the Department of Health

*(Section 18)*

### **Environmental Quality Review and Historic Preservation**

For the purpose of assisting the Authority in making any findings or determinations which might be required by (i) Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereunder (collectively, "SEQRA") or (ii) the New York State Historic Preservation Act of 1980 and the regulations promulgated thereunder (collectively the "Preservation Act"), the Institution agrees to abide by the requirements relating thereto as set forth in the Loan Agreement.

*(Section 19)*

### **Use and Possession of the Project**

Subject to the rights, duties and remedies of the Authority under the Loan Agreement, the Institution shall have sole and exclusive control and possession of and responsibility for and the statutory and regulatory powers of the Department of Health (i) the Project and the Mortgaged Property (ii) the operation of the Project and the Mortgaged Property and supervision of the activities conducted therein or in connection with any part thereof and (iii) the maintenance, repair and replacement of the Project and the Mortgaged Property; provided, however, that, except as otherwise limited by the Loan Agreement, the foregoing shall not prohibit use of the Project and the Mortgaged Property by persons other than the Institution or its students, staff or employees in furtherance of the Institution's corporate purposes, if such use will not adversely affect the exclusion of interest on any Bonds from gross income for federal income tax purposes.

*(Section 20)*

### **Restrictions on Religious Use**

The Institution agrees that with respect to the Project or portion thereof, so long as such Project or portion thereof exists and unless and until such Project or portion thereof is sold for the fair market value thereof, such Project or portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; provided, however, that the foregoing restriction shall not prohibit the free exercise of any religion; provided, further, that if at any time after the date of the Loan Agreement, in the opinion of Bond Counsel, the then applicable law would permit the Project or portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to such Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether the Project or any portion or real property thereof financed by Bonds is being used for any purpose proscribed by the Loan Agreement. The Institution further agrees pursuant to the Loan Agreement that prior to any disposition of any portion of the Project for less than fair market value, it shall execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Authority, the use of such portion of such Project to the restriction that (i) so long as such portion of such Project (and, if included in the Project, the real property on or in which such portion of such Project is situated) shall exist and (ii) until such portion of such Project is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of such Project shall not be used for sectarian religious instruction or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction shall further provide that such restriction may be enforced at the instance of the Authority or the Attorney General of the State, by a proceeding in any court of competent jurisdiction, by injunction, mandamus or

by other appropriate remedy. The instrument containing such restriction shall also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable law would permit such portion of the Project, or, if included in the Project, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction shall be without any force or effect. For the purposes of this summarized section an involuntary transfer or disposition of the Project or a portion thereof, upon foreclosure or otherwise, shall be considered a sale for the fair market value thereof.

*(Section 21)*

### **Sale of the Project**

The Institution covenants that it will not transfer, sell or convey the Project or any part thereof or interest therein, including development rights, without the prior approval of the Authority and the Credit Facility Issuer, unless (a) in the opinion of Bond Counsel, the same will not adversely affect the exclusion of interest on any Bond from gross income for federal income tax purposes and (b) the Institution pays to the Trustee either for deposit into the Debt Service Fund, or, pursuant to Section 12.01(b) of the Resolution, to be set aside or to purchase Defeasance Securities in accordance with the direction of the Authority.

In accordance with the Loan Agreement, the Institution may remove equipment, furniture or fixtures that is part of the Project and was financed with the proceeds of Bonds provided that the Institution promptly substitutes for such equipment, furniture or fixtures additional equipment, furniture or fixtures having a value and utility at least equal to the equipment, furniture or fixtures removed or replaced.

*(Section 22)*

### **Maintenance, Repair and Replacement**

The Institution agrees that, throughout the term of the Loan Agreement, it shall, at its own expense, hold, operate and maintain the Project and the Mortgaged Property in a careful, prudent and economical manner, and keep the same, with the appurtenances and every part and parcel thereof, in good repair, working order and safe condition, reasonable wear and tear excepted, and shall from time to time make all necessary and proper repairs, replacements and renewals so that at all times the operation thereof may be properly and advantageously conducted. The Institution shall give the Authority and the Department of Health not less than fifteen (15) days prior written notice of its intention to make a change or alteration that materially alters the scope or nature of the Project, the Mortgaged Property or a portion thereof. The Institution shall have the right to remove or replace any type of fixtures, furnishings and equipment in the Project or the Mortgaged Property which may have been financed by the proceeds of the sale of Bonds provided the Institution substitutes for any such removed or replaced fixtures, furnishings and equipment, additional fixtures, furnishings and equipment having equal or greater value and utility than the fixtures, furnishings and equipment so removed or replaced.

The Institution further agrees that it shall pay at its own expense all extraordinary costs of maintaining, repairing and replacing the Project and the Mortgaged Property except insofar as funds are made available therefor from proceeds of insurance, condemnation or eminent domain awards.

*(Section 23)*

### **Covenant as to Insurance**

The Institution agrees to maintain or cause to be maintained insurance with insurance companies or by means or self-insurance, insurance of such type, against such risks and in such amounts as are customarily carried by a health care provider located in the State of a nature similar to that of the Institution, which insurance shall include property damage, fire and extended coverage, public liability and property damage liability insurance in amounts estimated to indemnify the reasonably anticipated damage, loss or liability, subject to reasonable deductible provisions. The Institution shall at all times also maintain worker's compensation coverage and disability benefits insurance coverage as required by the laws of the State.

(b) The Institution shall furnish to the Authority annually (1) a certificate or report of an Insurance Consultant that the insurance coverage maintained by the Institution is adequate and in accordance with the standards above, and (2) any certificates of workers' compensation insurance and disability benefits insurance coverage required by the New York State Workers' Compensation Board.

(c) If the Authority shall so request in writing, the Institution shall provide to the Authority summaries or other evidence of its insurance coverage and shall obtain endorsements reasonably requested by the Authority.

*(Section 24)*

### **Damage or Condemnation**

In the event of a taking of the Project or the Mortgaged Property or any portion thereof by eminent domain or condemnation, or of damage or destruction affecting all or part thereof, all property casualty insurance, condemnation or eminent domain proceeds not applied to reimburse the Institution for costs incurred to repair or restore the same, and subject to the provisions of the Mortgage, the Intercreditor Agreement and the Reimbursement Agreement, shall be paid to the Trustee for deposit in the Construction Fund. Subject to the provisions of the Mortgage, the Intercreditor Agreement and the Reimbursement Agreement, all proceeds derived from an award for such taking or from property casualty insurance shall be applied as provided in the Loan Agreement.

(i) If within one hundred twenty (120) days (or such longer period as the Authority and the Institution may agree) after the Authority receives actual notice or knowledge of the taking or damage, the Institution, the Credit Facility Issuer and the Authority agree in writing that the property or the affected portion thereof shall be repaired, replaced or restored, the Institution shall proceed to repair, replace or restore the same, or the affected portion thereof, including all fixtures, furniture, equipment and effects, to its original condition insofar as possible with such changes and additions as shall be appropriate to the needs of the Institution and approved in writing by the Authority and the Credit Facility Issuer. The funds required for such repair, replacement or restoration shall be paid, subject to such conditions and limitations as the Authority and the Credit Facility Issuer may impose, from the proceeds of insurance, condemnation or eminent domain awards received by reason of such occurrence and to the extent such proceeds are not sufficient, from funds to be provided by the Institution.

(ii) If no agreement for the repair, restoration or replacement of the property or affected portion shall have been reached by the Authority, the Credit Facility Issuer and the Institution within such period, the proceeds then held by the Institution shall be paid the Trustee for deposit in the Debt Service Fund and the proceeds then held in the Construction Fund shall be transferred to the Debt Service Fund, whereupon such proceeds shall be applied to the purchase or redemption of Outstanding Bonds.

*(Section 25)*

### **Taxes and Assessments**

The Institution shall pay when due at its own expense, and hold the Authority harmless from, all taxes, assessments, water and sewer charges and other impositions, if any, which may be levied or assessed upon the Project, the Mortgaged Property or any part thereof, and upon all ordinary costs of operating, maintaining, repairing and replacing such Project, the Mortgaged Property and its equipment. The Institution shall file exemption certificates as required by law. The Institution agrees to exhibit to an Authorized Officer of the Authority within ten (10) days after written demand by the Authority, certificates or receipts issued by the appropriate authority showing full payment of all taxes, assessments, water and sewer charges and other impositions; provided, however, that the good faith contest of such impositions shall be deemed to be complete compliance with the requirements of the Loan Agreement if the Institution sets aside such reserves as may be required by good accounting practice. Notwithstanding the foregoing, the Authority in its sole discretion, after notice in writing to the Institution, may pay any such charges, taxes and assessments if, in the reasonable judgment of the Authority, the Project, the Mortgaged Property or any part thereof would be in substantial danger by reason of the Institution's failure to pay such charges, taxes and assessments of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise

subjected to any proceeding, equitable remedy, lien, charge, fee or penalty that would impair (i) the interests or security of the Authority under the Loan Agreement or under the Resolution or the Mortgage; (ii) the ability of the Authority to enforce its rights thereunder; (iii) the ability of the Authority to fulfill the terms of any covenants or perform any of its obligations under the Loan Agreement or under the Resolution or the Mortgage; or (iv) the ability of the Institution to fulfill the terms of any covenants or perform any of its obligations under the Loan Agreement and the Institution agrees to reimburse the Authority for any such payment, with interest thereon from the date payment was made by the Authority at a rate equal to the highest rate of interest payable on any investment held for the Debt Service Fund on the date such payment was made by the Authority.

*(Section 26)*

### **Defaults and Remedies**

As used in the Loan Agreement the term “Event of Default” shall mean:

(i) the Institution shall (A) default in the timely payment of any amount payable pursuant to the Loan Agreement (other than pursuant to clause (B) of this paragraph (i)) or the payment of any other amounts required to be delivered or paid by or on behalf of the Institution in accordance with the Loan Agreement or with the Resolution or the Series Resolution, and such default continues for a period in excess of seven (7) days, (B) default in the timely payment of interest payable on Outstanding Variable Interest Rate Bonds or the purchase price of Option Bonds tendered for purchase, in accordance with the terms of the Loan Agreement and (C) fail to deposit its Pledged Revenues in the Pledge Fund pursuant to Section 11 hereof, and such default continues for a period in excess of ten (10) days; or

(ii) the Institution defaults in the due and punctual performance of any other covenant contained in the Loan Agreement and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given to the Institution by the Authority or the Trustee or, if such default is not capable of being cured within thirty (30) days, the Institution fails to commence within said thirty (30) days to cure the same and to diligently prosecute the cure thereof; or

(iii) as a result of any default in payment or performance required of the Institution under the Loan Agreement or any other Event of Default under the Loan Agreement, whether or not declared, continuing or cured, the Authority shall be in default in the payment or performance of any of its obligations under the Resolution or an “event of default” (as defined in the Resolution) shall have been declared under the Resolution so long as such default or event of default shall remain uncured or the Trustee or Holders of the Bonds shall be seeking the enforcement of any remedy under the Resolution as a result thereof; or

(iv) The Institution shall (A) be generally not paying its debts as they become due, (B) file, or consent by answer or otherwise to the filing against it of, a petition under the United States Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (C) make a general assignment for the benefit of its general creditors, (D) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (E) be adjudicated insolvent or be liquidated or (F) take corporate action for the purpose of any of the foregoing; or

(v) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Institution, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Institution, or any petition for any such relief shall be filed against the Institution and such petition shall not be dismissed or stayed within ninety (90) days; or

(vi) the charter of the Institution shall be suspended or revoked; or

(vii) a petition to dissolve the Institution shall be filed by the Institution with the Department of Health, the legislature of the State or other governmental authority having jurisdiction over the Institution; or

(viii) an order of dissolution of the Institution shall be made by the Department of Health, the legislature of the State or other governmental authority having jurisdiction over the Institution, which order shall remain undismissed or unstayed for an aggregate of thirty (30) days; or

(ix) a petition shall be filed with a court having jurisdiction for an order directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to the Institution which petition shall remain undismissed or unstayed for an aggregate of ninety (90) days; or

(x) an order of a court having jurisdiction shall be entered directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to the Institution, which order shall remain undismissed or unstayed for the earlier of (A) three (3) business days prior to the date provided for in such order for such sale, disposition or distribution or (B) an aggregate of thirty (30) days from the date such order shall have been entered; or

(xi) a final non-appealable judgment for the payment of money, at least one million dollars (\$1,000,000) of which is not covered by insurance or reserves set aside by the Institution, which in the judgment of the Authority will adversely affect the rights of the Holders of the Bonds shall be rendered against the Institution and at any time after forty-five (45) days from the entry thereof, (A) such judgment shall not have been discharged or paid, or (B) the Institution shall not have taken and be diligently prosecuting an appeal therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, and shall not have caused, within forty-five (45) days, the execution of or levy under such judgment, order, decree or process or the enforcement thereof to have been stayed pending determination of such appeal; or

(xii) the giving of notice by the Credit Facility Issuer to the Authority and the Trustee of an Event of Default under and as defined in the Reimbursement Agreement and instructing the Trustee to direct a mandatory tender of the Bonds in accordance with the Bond Series Certificates with respect to the Bonds; or

(xiii) an Event of Default with respect to the Institution shall have occurred under the Mortgage and such default or Event of Default continues beyond any applicable grace period.

(b) Subject to the Intercreditor Agreement and, where applicable, any existing or future parity liens in the Pledged Revenues to secure Parity Indebtedness incurred in accordance with the terms of the Loan Agreement, upon the occurrence of an Event of Default the Authority shall provide the Department of Health and the Credit Facility Issuer with written notice thereof; provided, however, that failure by the Authority to give such notice shall in no manner impair or diminish the Authority's ability to take any action under the Loan Agreement. The Authority may take any one or more of the following actions upon the occurrence of an Event of Default:

(i) declare all sums payable by the Institution under the Loan Agreement immediately due and payable;

(ii) direct the Trustee to withhold any and all payments, advances and reimbursements from the proceeds of Bonds or the Construction Fund or otherwise to which the Institution may otherwise be entitled under the Loan Agreement and in the Authority's sole discretion apply any such proceeds or moneys for such purposes as are authorized by the Resolution;

(iii) withhold any or all further performance under the Loan Agreement;

(iv) maintain an action against the Institution under the Loan Agreement to recover any sums payable by the Institution or to require its compliance with the terms of the Loan Agreement or the Mortgage;

(v) to the extent permitted by law, (A) enter upon the Project and complete the construction thereof in accordance with the plans and specifications with such changes therein as the Authority may deem appropriate and

employ watchmen to protect the Project, all at the risk, cost and expense of the Institution, consent to such entry being given by the Institution pursuant to the Loan Agreement, (B) at any time discontinue any work commenced in respect of the construction of the Project or change any course of action undertaken by the Institution and not be bound by any limitations or requirements of time whether set forth in the Loan Agreement or otherwise, (C) assume any construction contract made by the Institution in any way relating to the construction of the Project and take over and use all or any part of the labor, materials, supplies and equipment contracted for by the Institution, whether or not previously incorporated into the construction of such Project, and (D) in connection with the construction of the Project undertaken by the Authority pursuant to the provisions of this subparagraph (v), (1) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of such Project, (2) pay, settle or compromise all bills or claims which may become liens against the Project or against any moneys of the Authority applicable to the construction of such Project, or which have been or may be incurred in any manner in connection with completing the construction of the Project or for the discharge of liens, encumbrances or defects in the title to the Project or against any moneys of the Authority applicable to the construction of such Project, and (3) take or refrain from taking such action under the Loan Agreement as the Authority may from time to time determine. The Institution shall be liable to the Authority for all sums paid or incurred for construction of the Project whether the same shall be paid or incurred pursuant to the provisions of this subparagraph (v) or otherwise, and all payments made or liabilities incurred by the Authority under the Loan Agreement of any kind whatsoever shall be paid by the Institution to the Authority upon written demand. Pursuant to the Loan Agreement, the Institution irrevocably constitutes and appoints the Authority its true and lawful attorney-in-fact to execute, acknowledge and deliver any instruments and to do and perform any acts in the name and on behalf of the Institution for the purpose of exercising the rights granted to the Authority by this subparagraph (v) during the term of the Loan Agreement; and

(vi) realize upon any security interest which the Authority may then have pursuant to the Account Control Agreement or otherwise in the pledge and assignment of the Pledged Revenues and the rights to receive the same, all to the extent provided in the Loan Agreement, by any one or more of the following actions: (i) enter the Institution and examine and make copies of the financial books and records of the Institution relating to the Pledged Revenues and, to the extent of the assigned Pledged Revenues, take possession of all checks or other orders for payment of money and moneys in the possession of the Institution representing Pledged Revenues or proceeds thereof; (ii) notify any account debtors obligated on any Pledged Revenues to make payment directly to the Authority or to the Trustee, as the Authority may direct, and of the amount to be so paid; provided, however, that the Authority may, in its discretion, immediately collect the entire amount of interest, principal, and Sinking Fund Installments, if any, coming due with respect to the Bonds on the next November 1 and May 1, to the extent of Pledged Revenues, and may continue to do so commencing on each November 1 and May 1 to the extent of amounts due to the Authority under the Loan Agreement on the next November 1 and May 1, with respect to Pledged Revenues, until such amounts are fully collected; provided, however, that written notice of such notification shall be mailed to the Institution five (5) days prior to mailing or otherwise making such notification to account debtors; and provided further that until the Institution shall receive such notice it shall have full authority and responsibility to enforce and collect Pledged Revenues owing from its account debtors; (iii) following the above-mentioned notification to account debtors, collect, compromise, settle, compound or extend amounts payable as Pledged Revenues which are in the form of accounts receivable or contract rights from the Institution's account debtors by suit or other means and give a full acquittance therefor and receipt therefor in the name of the Institution whether or not the full amount of any such account receivable or contract right owing shall be paid to the Authority; (iv) require the Institution to deposit all moneys, checks or other orders for the payment of money which represent Pledged Revenues in an amount equal to the Pledged Revenues assigned under the Loan Agreement within five (5) Business Days after receipt of written notice of such requirement, and thereafter as received, into a fund or account to be established for such purpose by the Authority, provided that the moneys in such fund or account shall be applied by the Authority to the payment of any of the obligations of the Institution under the Loan Agreement including the fees and expenses of the Authority, and provided further that the Authority in its sole discretion may authorize the Institution to make withdrawals from such fund or account for its corporate purposes, and provided further that the requirement to make such deposits shall cease and the balance of such fund or account shall be paid to the Institution when all Events of Default under the Loan Agreement by the Institution have been cured; (v) forbid the Institution to extend, compromise, compound or settle any accounts receivable or contract rights which represent any unpaid assigned Pledged Revenues, or release, wholly or partly, any person liable for the payment thereof (except upon receipt of the full amount due) or allow any credit or discount thereon; and (vi) endorse in the name of the Institution



any checks or other orders for the payment of money representing any unpaid assigned Pledged Revenues or the proceeds thereof;

(vii) take any action necessary to enable the Authority to realize on its liens under the Loan Agreement, under the Mortgage, or by law, including foreclosure of the Mortgage, and any other action or proceeding permitted by the terms of the Loan Agreement, by the Mortgage, or by law; and

(viii) realize upon any security interest in the fixtures, furnishings and equipment, including any one or more of the following actions: (i) enter the Project or the Mortgaged Property and take possession of any such fixtures, furnishings and equipment; (ii) sell, lease or otherwise dispose of any such fixtures, furnishings and equipment either together with a sale, lease or other disposition of the Mortgaged Property pursuant to the Loan Agreement or to the Mortgage, or separately, whether or not possession has been secured; provided, however, that if sold, leased or otherwise disposed of separately, such sale, lease or other disposition shall be in commercially reasonable manner and upon ten (10) days prior written notice to the Institution of the time and place of such sale.

All rights and remedies given or granted to the Authority in the Loan Agreement are cumulative, non-exclusive and in addition to any and all rights and remedies that the Authority may have or may be given by reason of any law, statute, ordinance or otherwise, and no failure to exercise or delay in exercising any remedy shall effect a waiver of the Authority's right to exercise such remedy thereafter. At any time before the entry of a final judgment or decree in any suit, action or proceeding instituted on account of any Event of Default or before the completion of the enforcement of any other remedies under the Loan Agreement, the Authority may annul any declaration made pursuant to paragraph (b) of this summarized section and its consequences if such Event of Default shall be cured. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereto.

*(Section 30)*

### **Investment of Moneys**

The Institution acknowledges that the Authority may in its sole discretion direct the investment of certain moneys held under the Resolution and the Series Resolutions as provided therein and that no representation or warranty has been made by the Authority with respect to interest rates on, or the amount to be earned as a result of, any such investment. Neither the Authority nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of the Resolution, or for any loss, direct or indirect, resulting from any such investment. Pursuant to the Loan Agreement, the Authority agrees that it shall direct the making of investments as permitted by the Resolution as soon as practicable when moneys are legally available therefor.

*(Section 32)*

### **Limitation on Agreements**

The Institution shall not enter into any contract or agreement which impairs the Institution's ability to comply with the provisions of paragraph (a) of the provisions of the Loan Agreement summarized under the heading "Financial Obligation" above in any material respect.

*(Section 34)*

### **Arbitrage; Tax Exemption**

Each of the Institution and the Authority covenants that it shall take no action, nor shall it approve the Trustee's taking any action or making any investment or use of the proceeds of the Bonds, which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code, and any proposed or final regulations thereunder as are applicable to the Bonds at the time of such action, investment or use. The Institution (or any related person, as defined in Section 147(a)(2) of the Code) shall not, pursuant to an arrangement, formal or informal, purchase Bonds in an amount related to the amount of any obligation to be acquired from the Institution by

the Authority. The Institution covenants that it will not take any action or fail to take any action which would cause any representation or warranty of the Institution contained in the Tax Certificate then to be untrue and shall comply with all covenants and agreements of the Institution contained in the Tax Certificate, in each case to the extent required by and otherwise in compliance with such Tax Certificate. The Institution will, on a timely basis, provide the Authority with all necessary information regarding funds not in the Authority's possession to enable the Authority to comply with the arbitrage and rebate requirements of the Code as identified in the Resolution. The Institution shall be required to pay for any consultant or report necessary to satisfy any such arbitrage and rebate requirements.

*(Section 35)*

### **Limitation on Authority Rights**

As long as no Event of Default has occurred and is continuing, and no event has occurred that, with the giving of notice or lapse of time, or both, would constitute an Event of Default, the Authority will not, without the prior written consent of the Institution and the Credit Facility Issuer (such consent with respect to the Credit Facility Issuer not to be unreasonably withheld) (i) change the dates on which an Option Bond is to be tendered for purchase or the period during which a Variable Interest Rate Bond is to bear interest at a particular rate, (ii) convert a Variable Interest Rate Bond to bear interest at a fixed rate to its maturity, (iii) seek the removal or resignation of a Remarketing Agent or appoint a successor Remarketing Agent, (iv) amend or modify the dates on or Redemption Price at which a Variable Interest Rate Bond after its conversion to bear interest at a fixed rate to the maturity date thereof may be redeemed at the election or direction of the Authority in accordance with the Resolution or (v) remarket at a price other than par any Option Bond tendered or deemed to have been tendered for purchase. The Institution may, at any time no Event of Default, or an event that, with the giving of notice or lapse of time, or both, would constitute an Event of Default, has occurred and is continuing, request the Authority to take such action as may be required by the Resolution or the Applicable Series Resolution or the Applicable Bond Series Certificate to change the dates on which such Option Bonds are to be tendered for purchase or the period during which such Variable Interest Rate Bonds shall bear interest at a particular rate or to convert such Variable Interest Rate Bonds to bear interest at a fixed rate to their maturity.

*(Section 36)*

### **Certificate as to Representations and Warranties**

The obligations of the Authority under the Loan Agreement and the delivery of the Bonds are conditioned upon the receipt by the Authority at or prior to delivery of the Bonds of a certificate of an Authorized Officer of the Institution acceptable to the Authority to the effect that the representations and warranties contained in the Loan Agreement are true and correct and in full force and effect on and as of the date of delivery of the Bonds as if made on the date of delivery of the Bonds.

*(Section 39)*

### **Further Assurances**

The Institution, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as are necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, moneys, securities, funds and security interests by the Loan Agreement or by the Resolution pledged, assigned or granted, or intended so to be, or which the Institution may become bound to pledge, assign or grant to the Authority pursuant to the Loan Agreement.

*(Section 42)*

### **Amendments to Loan Agreement and Reimbursement Agreement; Substitute Credit Facility**

The Loan Agreement may be amended only in accordance with the Resolution and the Intercreditor Agreement and each amendment shall be made by an instrument in writing signed by the Institution and the Authority, an executed counterpart of which shall be filed with the Trustee; provided however, that no amendment or waiver of any provisions of the Loan Agreement may be made without the prior written consent of the Commissioner of Health. The Institution also covenants that (i) it shall not amend or supplement any Reimbursement Agreement (which covenant shall not apply to waivers) nor shall it execute a reimbursement agreement to provide for a Substitute Credit Facility, in either case, without the prior written consent of the Authority, which shall not be unreasonably withheld or delayed and (ii) it shall promptly provide a copy of any amendment or supplement to any Reimbursement Agreement to the Trustee.

The Institution shall use its best efforts to obtain an extension of any Credit Facility or a Substitute Credit Facility not later than the 90th day prior to the expiration date of such Credit Facility or such earlier day if required by the terms of the then-existing Credit Facility.

*(Section 43)*

### **Termination**

The Loan Agreement shall remain in full force and effect until no Bonds are Outstanding and until all other payments, expenses and fees payable under the Loan Agreement by the Institution shall have been made or provision made for the payment thereof; provided, however, that the liabilities and the obligations of the Institution under the Loan Agreement relating to prompt payment of arbitrage rebate and to provide reimbursement for or indemnification against expenses, costs or liabilities made or incurred pursuant to the provisions of the Loan Agreement summarized under the headings "Damage or Condemnation" and "Taxes and Assessments" above and the provisions of the Loan Agreement related to indemnity by the Institution shall nevertheless survive any such termination. Upon such termination, the Authority shall promptly deliver such documents as may be reasonably requested by the Institution to evidence such termination and the discharge of the Institution's duties under the Loan Agreement and the release or surrender of any security interests granted by the Institution to the Authority pursuant to the Loan Agreement.

*(Section 44)*

### **Covenant as to Credit Facility and Liquidity Facility**

The Institution covenants to maintain a Credit Facility and a Liquidity Facility (as such terms are defined in the Bond Series Certificates relating to the Bonds) with respect to the Bonds pursuant to and in accordance with the requirements set forth in such Bond Series Certificates; provided, however, that all rights of the Credit Facility Issuer pursuant to the Loan Agreement shall be suspended during any period while a Credit Facility Issuer is in default of its obligations under the Credit Facility as provided in the Intercreditor Agreement has occurred and is continuing.

*(Section 50)*

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**SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION**

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## **SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION**

The following is a brief summary of certain provisions of the Resolution pertaining to the Bonds. This summary does not purport to be complete and reference is made to the Resolution for full and complete statements of such and all provisions. The headings below are not part of the Resolution but have been added for ease of reference only. Defined terms used herein shall have the meanings ascribed to them in Appendix A or in the body of this Official Statement.

### **Resolution and Bonds Constitute a Contract**

It is the intent of the Resolution to authorize the issuance by the Authority, from time to time, of its Samaritan Medical Center Revenue Bonds in one or more Series, each such Series to be authorized by a separate Series Resolution and, inter alia, to be separately secured from each other Series of Bonds provided, however, that each Series of Bonds may be equally and ratably secured by the Pledged Revenues and the Mortgaged Property as provided in the Applicable Series Resolution. Each such Series of Bonds may be separate and apart from any other Series of Bonds authorized by a different Series Resolution and the Holders of Bonds of such Series shall not be entitled to the rights and benefits conferred upon the Holders of Bonds of any other Series of Bonds by the respective Series Resolution authorizing such Series of Bonds. With respect to each Series of Bonds, in consideration of the purchase and acceptance of any and all of the Bonds of a Series authorized to be issued under the Resolution and under a Series Resolution by those who shall hold or own the same from time to time, the Resolution and such Series Resolution shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Holders from time to time of such Bonds of a Series, and the pledge and assignment to the Trustee made in the Resolution and the covenants and agreements set forth to be performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of the Bonds of such Series, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any Bonds of such Series over any other Bonds of such Series except as expressly provided in the Resolution or permitted by the Resolution or by a Series Resolution.

*(Section 1.03)*

### **Option of the Authority to Assign Certain Rights and Remedies**

With respect to each Series of Bonds, as security and collateral for (x) the payment of the principal, Sinking Fund Installments, if any, purchase price, and Redemption Price of, and interest on, the Outstanding Bonds of such Series and for the performance of any other obligation of the Authority under the Resolution and under the Applicable Series Resolution, and (y) the payment of all amounts owed to a Provider of a Credit Facility and for the performance of any other obligations of the Institution thereunder, the Authority may assign to the Trustee and to the Applicable Provider of a Credit Facility all of the Authority's estate, right, title, interest and claim in, to and under the Applicable Loan Agreement and the Applicable Mortgage, subject only to the terms of the Applicable Intercreditor Agreement, and together with all rights, powers, security interests, privileges, options and other benefits of the Authority thereunder, including, without limitation, the immediate and continuing right to receive, enforce and collect (and to apply the same in accordance with the Resolution) all insurance proceeds, sale proceeds and other payments and other security now or after the date the Resolution payable to or receivable by the Authority under the Applicable Mortgage or the Applicable Loan Agreement and the right to make all waivers and agreements in the name and on behalf of the Authority, and to perform all other necessary and appropriate acts under the Applicable Loan Agreement and the Applicable Mortgage, subject to the following conditions: (a) that the Holders of the Bonds shall not be responsible or liable in any manner or to any extent for the performance of any of the covenants or provisions thereof to be performed by the Authority; and (b) that the Applicable Mortgage and the security interest in Pledged Revenues granted to the Authority pursuant to the Applicable Loan Agreement may not be assigned by any party thereto without the written consent of the other parties thereto except to the Trustee and the Applicable Provider of a Credit Facility as permitted by the Resolution and except as provided in the Intercreditor Agreement; provided, however, that any grant, pledge and assignment of moneys, revenues, accounts, rights or other property of the Institution made with respect to the Applicable Mortgage and the security interest in Pledged Revenues granted to the Authority pursuant to the Applicable Loan Agreement pursuant to this paragraph shall secure only the payment of amounts payable under the Applicable Mortgage and the Applicable Loan Agreement; provided, further, that the Authority shall retain its parity interest in the proceeds of any remedial action with respect

to the security interest in Pledged Revenues granted to the Authority pursuant to the Applicable Loan Agreement in an amount equal to the Institution's obligations to the Authority and to the right to the payment of fees, costs and expenses of the Authority payable pursuant to the Applicable Loan Agreement, the rights to the indemnities provided thereby, and the rights to the payments, if any, required to be made pursuant to such indemnities. In addition, to the extent necessary to reflect the issuance of a Credit Facility with respect to the Applicable Series of Bonds, an Authorized Officer of the Trustee shall, upon request of an Authorized Officer of the Authority, execute and deliver such amendments to or supplements of such assignment as shall be necessary to add the Provider of such Credit Facility as beneficiary of such assignment or to accept a re-assignment from such Provider pursuant to the terms of the Applicable Intercreditor Agreement.

At or prior to the initial issuance and delivery of a Series of Bonds to be issued under the Resolution, upon delivery to the Trustee of evidence in writing from Authorized Officers of both the Authority and the Applicable Provider of a Credit Facility with respect to such Series of Bonds to the effect that the Intercreditor Agreement among the Authority, such Provider of a Credit Facility and the Trustee is in form and substance satisfactory to them (which may be evidenced by the execution thereof by the Authority and such Provider of a Credit Facility), an Authorized Officer of the Trustee shall, upon determination by the Trustee that such Intercreditor Agreement is in form and substance satisfactory to it (which determination by the Trustee shall not be unreasonably withheld or delayed), execute and deliver to the Authority and such Provider of a Credit Facility such Intercreditor Agreement. In addition, an Authorized Officer of the Trustee shall execute and deliver to the Authority and such Provider of a Credit Facility such amendments to or supplements of such Intercreditor Agreement as may be requested by an Authorized Officer of the Authority.

*(Section 1.04)*

### **Refunding Bonds**

All or any portion of one or more Series of Refunding Bonds may be authenticated and delivered upon original issuance to refund all Outstanding Bonds, one or more Series of Outstanding Bonds, a portion of a Series of Outstanding Bonds or a portion of a maturity of a Series of Outstanding Bonds. The Authority may issue Refunding Bonds of a Series in an aggregate principal amount sufficient, together with other money available therefor, to accomplish such refunding and to make such deposits required by the provisions of this summarized section and of the Series Resolution authorizing such Series of Refunding Bonds.

The Refunding Bonds of such Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by the Resolution) of:

(a) If the Bonds to be refunded are to be redeemed, irrevocable instructions to the Trustee, satisfactory to it, to give due notice of redemption of all the Bonds to be refunded on a redemption date specified in such instructions;

(b) Irrevocable instructions to the Trustee, satisfactory to it, to duly give the notice provided for in the defeasance provisions of the Resolution to the Holders of the Bonds being refunded;

(c) Either (i) money in an amount sufficient to effect payment of the principal at maturity or the applicable Redemption Price of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date, which money shall be held by the Trustee or any one or more of the Paying Agents in a separate fund or account irrevocably in trust for and assigned to the respective Holders of the Bonds to be refunded or (ii) Defeasance Securities in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications, as shall be necessary to comply with the defeasance provisions of the Resolution, which Defeasance Securities and money shall be held in trust and used only as provided in the defeasance provisions of the Resolution; and

(d) A certificate of an Authorized Officer of the Authority containing such additional statements as may be reasonably necessary to show compliance with the requirements of this summarized section.

The proceeds, including accrued interest, of Refunding Bonds shall be applied simultaneously with the delivery of such Refunding Bonds in the manner provided in or as determined in accordance with the Series Resolution authorizing such Refunding Bonds or the Bond Series Certificate relating to such Series of Refunding Bonds.

*(Section 2.04)*

### **Additional Obligations; Incurrence of Parity Indebtedness**

The Authority reserves the right to issue bonds, notes or any other obligations or otherwise incur indebtedness pursuant to other and separate resolutions or agreements of the Authority, so long as such bonds, notes or other obligations are not, or such other indebtedness is not, except as provided in the Resolution with respect to Parity Indebtedness, entitled to a charge, lien or right prior or equal to the charge or lien created by the Resolution, or prior or equal to the rights of the Authority and Holders of Bonds as provided by the Resolution or with respect to the moneys pledged under the Resolution.

*(Section 2.05)*

### **Redemption and Purchase of Bonds**

#### **Authorization of Redemption**

Bonds of a Series subject to redemption prior to maturity pursuant to the Resolution or to a Series Resolution or a Bond Series Certificate shall be redeemable or purchasable, in accordance with the Resolution, at such times, at such Redemption Prices or purchase price and upon such terms as may otherwise be specified in the Resolution or in the Series Resolution authorizing such Series or the Applicable Bond Series Certificate.

*(Section 4.01)*

#### **Redemption at the Election or Direction of the Authority**

In the case of any redemption of Bonds other than as provided in the summarized section immediately below, the Authority shall give written notice to the Trustee and each Applicable Provider of its election or direction to redeem, of the Series and of the principal amounts of the Bonds of each maturity of such Series to be redeemed. The Series, maturities and principal amounts thereof to be redeemed at the election or direction of the Authority shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in the Resolution or in the Series Resolution authorizing such Series or the Applicable Bond Series Certificate. Such notice shall be given to the Trustee and each Applicable Provider at least forty-five (45) days prior to the date on which such Bonds are to be redeemed, or such lesser number of days as shall be acceptable to the Trustee. Unless the notice of redemption required by the Resolution provides that the redemption is subject to the condition that money for payment of the Redemption Price is available on the redemption date, such notice shall not be given unless prior to the date such notice is given, the Authority shall have paid or caused to be paid to the Trustee an amount which, in addition to other amounts available therefor held by the Trustee, is sufficient to redeem, on the redemption dates at the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, all of the Bonds of such Series to be so redeemed.

*(Section 4.02)*

#### **Redemption Other Than at Authority's Election or Direction**

Whenever by the terms of the Resolution the Trustee is required to redeem Bonds of a Series through the application of mandatory Sinking Fund Installments, the Trustee shall select the Bonds of such Series and maturities to be redeemed in the manner provided in the summarized section immediately below, give the notice of redemption and pay out of money available therefor the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, to the appropriate Paying Agents in accordance with the terms of the Resolution.



*(Section 4.03)*

### **Selection of Bonds to Be Redeemed**

Unless otherwise provided in the Series Resolution authorizing the issuance of Bonds of a Series or the Bond Series Certificate relating to such Bonds, in the event of redemption of less than all of the Outstanding Bonds of like Series, maturity and tenor, the Trustee shall assign to each Outstanding Bond of the Series, maturity and tenor to be redeemed a distinctive number for each unit of the principal amount of such Bond equal to the lowest denomination in which the Bonds of such Series are authorized to be issued and shall select by lot, using such method of selection as it shall deem proper in its discretion, from the numbers assigned to such Bonds as many numbers as, at such unit amount equal to the lowest denomination in which the Bonds of such Series are authorized to be issued for each number, shall equal the principal amount of such Bonds to be redeemed. In making such selections the Trustee may draw such Bonds by lot (i) individually or (ii) by one or more groups, the grouping for the purpose of such drawing to be by serial numbers (or, in the case of Bonds of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued, by the numbers assigned thereto as provided in this summarized section) which end in the same digit or in the same two digits. If in such a case, upon any drawing by groups, the total principal amount of Bonds drawn shall exceed the amount to be redeemed, the excess may be deducted from any group or groups so drawn in such manner as the Trustee may determine. The Trustee may in its discretion assign numbers to aliquot portions of Bonds and select part of any Bond for redemption. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; provided, however, that only so much of the principal amount of each such Bond of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued shall be redeemed as shall equal the lowest denomination in which the Bonds of such Series are authorized to be issued for each number assigned to it and so selected.

For purposes of this summarized section, the lowest denomination in which a Capital Appreciation Bond is authorized to be issued shall be the lowest Accreted Value authorized to be due at maturity on such Bonds and the lowest denomination in which a Deferred Income Bond is authorized to be issued shall be the lowest Appreciated Value on the Interest Commencement Date authorized for such Bonds.

*(Section 4.04)*

### **Notice of Redemption**

Whenever Bonds of a Series are to be redeemed, the Trustee shall give notice of the redemption of such Bonds in the name of the Authority which notice shall specify: (i) the Bonds to be redeemed which shall be identified pursuant to the Resolution, the maturity dates and interest rates of the Bonds to be redeemed and the date such Bonds were issued; (ii) the numbers and other distinguishing marks of the Bonds to be redeemed, including CUSIP numbers; (iii) the redemption date; (iv) the Redemption Price; (v) the principal amount of each Bond to be redeemed; (vi) the date of publication, if any, of the notice of redemption; (vii) that, except in the case of Book-Entry Bonds, such Bonds will be redeemed at the principal corporate trust office of the Trustee giving the address thereof and the name and telephone number of a representative of the Trustee to whom inquiries may be directed; (viii) that no representation is made as to the correctness of the CUSIP number either as printed on the Bonds or as contained in such notice and that an error in a CUSIP number as printed on such Bond or as contained in such notice shall not affect the validity of the proceedings for redemption and (ix) if the Authority's obligation to redeem the Bonds is subject to conditions, a statement that describes the condition to such redemption. Any notice of redemption, other than a notice for special or extraordinary redemption provided for in a Series Resolution or Bond Series Certificate, may state that the redemption is conditioned upon receipt by the Trustee, on or prior to the redemption date, of moneys sufficient to pay the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received such notice shall be of no force or effect and such Bonds shall not be required to be redeemed.

Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, and that, from and after such date, payment having been made or provided for, interest thereon shall cease to accrue. Such notice shall be given by mailing a copy of such notice not less than thirty (30) days nor more than forty-five

(45) days prior to the redemption date or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Bond Series Certificate relating thereto, but in no event less than fifteen (15) days prior to the redemption date. Such notice shall be sent by first class mail, postage prepaid, to the registered owners of the Bonds which are to be redeemed, at their last known addresses, if any, appearing on the registration books not more than ten (10) Business Days prior to the date such notice is given. Upon giving such notice, the Trustee shall promptly certify to the Authority that it has mailed or caused to be mailed such notice to the Holders of the Bonds to be redeemed in the manner provided in the Resolution. Such certificate shall be conclusive evidence that such notice was given in the manner required by the Resolution. The failure of any Holder of a Bond of a Series to be redeemed to receive such notice shall not affect the validity of the proceedings for the redemption of the Bonds. If directed in writing by an Authorized Officer of the Authority, the Trustee shall also give such notice by publication thereof once in an Authorized Newspaper, such publication to be not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Bond Series Certificate relating thereto, but in no event less than fifteen (15) days prior to the redemption date; provided, however, that such publication shall not be a condition precedent to such redemption, and failure to so publish any such notice or a defect in such notice or in the publication thereof shall not affect the validity of the proceedings for the redemption of the Bonds.

In addition, unless otherwise provided for in a Series Resolution or Bond Series Certificate with respect to a Series of Bonds, the Trustee shall (i) if any of the Bonds to be redeemed are Book Entry Bonds, mail a copy of the notice of redemption to the Depository for such Book Entry Bonds not less than thirty-five (35) days prior to the redemption date, but, if notice of redemption is to be published as aforesaid, in no event later than five (5) Business Days prior to the date of publication, and (ii) mail a copy of the notice of redemption to Kenny Information Systems Notification Service and to Standard & Poor's Called Bond Record, or to any successor thereof in each case at the most recent address therefor. Such copies shall be sent by certified mail, return receipt requested, but mailing such copies shall not be a condition precedent to such redemption and failure to so mail or of a person to which such copies were mailed to receive such copy shall not affect the validity of the proceedings for the redemption of the Bonds.

*(Section 4.05)*

### **Payment of Redeemed Bonds**

Notice having been given by mail in the manner provided in the summarized section immediately above, the Bonds of a Series or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender of such Bonds, other than Book Entry Bonds, at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date. For so long as the Bonds shall not be issued in book-entry only form, payment of the Redemption Price shall be made, upon the request of the registered owner of one million dollars (\$1,000,000) or more in principal amount of Bonds to be redeemed, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has, at the time such Bonds are surrendered to the Trustee, directed in writing the Trustee to wire such Redemption Price. If there shall be drawn for redemption less than all of the principal amount of a registered Bond of a Series, the Authority shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the registered Bond so surrendered, Bonds of like Series, maturity and tenor in any of the authorized denominations. If, on the redemption date, money for the redemption of all Bonds of a Series or portions thereof to be redeemed, together with interest accrued and unpaid thereon to the redemption date, shall be held by the Trustee and Paying Agents so as to be available therefor on such date and if notice of redemption shall have been mailed as aforesaid, then, from and after the redemption date, interest on such Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds shall no longer be considered to be Outstanding under the Resolution. If such money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

*(Section 4.06)*

### **Purchase of Purchased Bonds**

Whenever Bonds are to be purchased at the election of the Institution, written notice thereof and of the Bonds of the Series and maturity to be so purchased having been given by the Institution to the Authority, the Trustee, and each Applicable Provider, the Trustee shall select the particular Bonds of such Series and maturity to be so purchased in the same manner as provided in the Loan Agreement in the Resolution for the selection of Bonds to be redeemed in part. Promptly thereafter the Trustee shall give notice of the purchase of the Bonds at the times and in the manner provided in the Series Resolution authorizing such Bonds or the Bond Series Certificate related thereto. The Trustee shall not give such notice unless prior to the date such notice is given, the Institution has caused to be delivered to the Trustee the written consent to such purchase of the Authority and each Applicable Provider. All such purchases may be subject to conditions of the Authority, the Trustee and any Provider to the Institution's obligation to purchase such Bonds and shall be subject to the condition that money for the payment of the purchase price therefor is available on the date set for such purchase. Notice of purchase having been given in the manner required by the Series Resolution authorizing the Bonds to be so purchased or the Bond Series Certificate relating thereto, then, if sufficient money to pay the purchase price of such Bonds is held by the Trustee, the purchase price of the Bonds or portions thereof so called for purchase shall become due and payable on the date set for purchase, upon presentation and surrender of such Bonds (other than Book Entry Bonds) to be purchased at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney. Payment of the purchase price of other than Book Entry Bonds shall be made, upon the request of the registered owner of one million dollars (\$1,000,000) or more in principal amount of Bonds to be so purchased, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has prior to the purchase date directed in writing the Trustee to wire such purchase price. Bonds so purchased shall be considered to be Outstanding and each such Bond so purchased that is not a Book Entry Bond shall be registered in the name or at the direction of the Institution.

*(Section 4.07)*

### **Pledge of Revenues; Funds and Accounts; Revenues and Application Thereof**

#### **Pledge of Revenues**

The proceeds from the sale of a Series of Bonds, the Applicable Revenues, the Authority's security interest in the Pledged Revenues and, except as otherwise provided in the Resolution, all funds and accounts established by the Resolution, other than the Arbitrage Rebate Fund, Purchase and Remarketing Fund and Credit Facility Repayment Fund, are pursuant to the Resolution, subject to the adoption of a Series Resolution, pledged and assigned to the Trustee and the Applicable Provider, if any, subject to the terms of the Intercreditor Agreement, as security for the payment of the principal and Redemption Price of and interest on such Series of Bonds, all in accordance with the provisions of the Resolution and thereof. The pledge made by the Resolution shall relate only to the Bonds of a Series authorized by such Series Resolution and no other Series of Bonds and such pledge shall not secure any such other Series of Bonds provided, however, that Bonds of more than one Series may be equally and ratably secured with respect to the Pledged Revenues and/or the Mortgaged Property, to the extent required by, and consented to by, the Applicable Providers. The pledge made by the Resolution is valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of a Series of Bonds, the Applicable Revenues, the Authority's security interest in the Applicable Pledged Revenues and all funds and accounts established by the Resolution and by a Series Resolution which are pledged by the Resolution shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds of each Series shall be special obligations of the Authority payable solely from and secured by a pledge of the proceeds from the sale of such Series of Bonds, the Applicable Revenues, the Authority's security interest in the Applicable Pledged Revenues and the funds and accounts established by the Resolution and pursuant to a Series Resolution and which are pledged by the Resolution as provided in the Resolution, which pledge shall constitute a first parity lien thereon, subject to only, with respect to

the Pledged Revenues, the Prior Pledges and any existing or future parity liens in the Pledged Revenues as permitted under the Loan Agreement.

*(Section 5.01)*

### **Establishment of Funds and Accounts**

In addition to such funds as may be provided by a Series Resolution or a Bond Series Certificate, the following funds are authorized to be established and shall be held and maintained for each Series of Bonds by the Trustee separate and apart from any other funds established and maintained pursuant to any other Series Resolution:

- Construction Fund;
- Debt Service Fund;
- Arbitrage Rebate Fund;
- Purchase and Remarketing Fund, if any;
- Credit Facility Repayment Fund, if any; and
- Debt Service Reserve Fund, if any.

In addition to the funds required to be established by the Resolution, the Authority may for purposes of internal accounting establish such other accounts and subaccounts as the Authority or the Trustee deems proper, necessary or desirable in a Series Resolution or a Bond Series Certificate. In addition to the accounts and subaccounts, if any, required to be established by the Resolution or by any Series Resolution, or any Bond Series Certificate, the Authority may for purposes of internal accounting establish such other accounts and subaccounts as the Authority or the Trustee deems proper, necessary or desirable. All money at any time deposited in any fund, account or subaccount created and pledged by the Resolution, by a Series Resolution or Bond Series Certificate or required thereby to be created shall be held in trust for the benefit of the Holders of Bonds of such Series, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes provided in the Resolution, unless otherwise provided in the Applicable Series Resolution or Bond Series Certificate relating to such Bonds; provided, however, that the proceeds derived from the remarketing of Option Bonds tendered or deemed to have been tendered for purchase in accordance with the Series Resolution authorizing the issuance of such Bonds or the Bond Series Certificate relating to such Bonds or derived from a Liquidity Facility relating to such Bonds, and any fund or account established by or pursuant to such Series Resolution or Bond Series Certificate for the payment of the purchase price of Option Bonds so tendered or deemed to have been tendered, shall not be held in trust for the benefit of the Holders of Bonds other than such Option Bonds and are pledged by the Resolution for the payment of the purchase price of such Option Bonds.

*(Section 5.02)*

### **Application of Money in the Construction Fund**

As soon as practicable after the delivery of a Series of Bonds, the Trustee shall deposit in the Construction Fund the amount required to be deposited therein pursuant to the Series Resolution authorizing such Series or the Bond Series Certificate relating to such Series. In addition, the Authority shall pay over to the Trustee and the Trustee shall deposit in the Construction Fund any money paid to the Authority pursuant to the provisions of the Resolution summarized under the heading "Deposit of Certain Money in the Construction Fund" below and all amounts paid by the Institution which by the terms of the Applicable Loan Agreement are required to be deposited therein.

Except as otherwise provided in the Resolution and in any Applicable Series Resolution or Bond Series Certificate, money deposited in the Construction Fund shall be used only to pay the Costs of Issuance and the Costs of the Project with respect to such Series of Bonds. The Applicable Series Resolution or Bond Series Certificate may provide for the establishment of a Capitalized Interest Account in the Construction Fund to pay or provide for the payment of interest on such Series of Bonds and fees related to the Applicable Provider of a Credit Facility and the Applicable remarketing fees of such Series of Bonds during the construction of a Project and for a reasonable time after the completion of such Project. The Applicable Series Resolution or Bond Series Certificate may provide

for the establishment of an Equity Account in the Construction Fund to pay or provide for a portion of the Costs of Issuance and the Costs of the Project.

Payments for Costs of Issuance shall be made by the Trustee upon receipt of, and in accordance with, a certificate or certificates signed by an Authorized Officer of the Authority stating the names of the payees, the purpose of each payment in terms sufficient for identification, and the respective amounts of each such payment and approved in writing by the Provider of a Credit Facility, subject to the provisions of an applicable disbursement agreement, if any. Payments for Costs of each Project shall be made by the Trustee upon receipt of, and in accordance with, a certificate or certificates signed by an Authorized Officer of the Authority, substantiated by a certificate filed with the Authority in accordance with a Loan Agreement naming the Project in connection with which payment is to be made and describing in reasonable detail the purpose for which money was used and the amount thereof, and further stating that such purpose constitutes a necessary part of the Costs of such Project and approved in writing by the Provider of a Credit Facility, if any, subject to the provisions of an applicable disbursement agreement, if any, except that payments to pay interest on Bonds of a Series and fees of the Provider of a Credit Facility shall be made by the Trustee upon receipt of, and in accordance with, the direction of an Authorized Officer of the Authority directing the Trustee to transfer such amount from the Capitalized Interest Account of the Construction Fund to the Debt Service Fund or to pay such fees to the Provider of a Credit Facility, the Remarketing Agent or the Authority.

Unless the Mortgage or the Intercreditor Agreement requires otherwise, any proceeds of insurance, condemnation or eminent domain awards received by the Trustee, the Authority or the Institution with respect to a Project shall be deposited in the Construction Fund and, if necessary, such fund may be re-established for such purpose and, if not used to repair, restore or replace the Project, transferred to the Debt Service Fund for the redemption of Bonds in accordance with the Applicable Series Resolution or Bond Series Certificate.

A Project shall be deemed to be complete upon delivery to the Authority, the Provider of a Credit Facility and the Trustee of a final, unconditional certificate of occupancy and a certificate signed by an Authorized Officer of the Institution, which certificate shall be delivered as soon as practicable after the date of completion of such Project, or upon delivery to the Institution, the Provider of a Credit Facility and the Trustee of a certificate signed by an Authorized Officer of the Authority which certificate may be delivered at any time after completion of such Project. Each such certificate shall state that the Project has been completed substantially in accordance with the plans and specifications, if any, applicable to such Project and that such Project is ready for occupancy or use, and, in the case of a certificate of an Authorized Officer of the Institution, shall specify the date of completion.

Upon receipt by the Trustee of a certificate relating to the completion of a Project, the money, if any, then remaining in the Construction Fund relating to such Project, after making provision in accordance with the direction of an Authorized Officer of the Authority for the payment of any Costs of Issuance and Costs of such Project then unpaid, shall be paid or applied by the Trustee as follows and in the following order of priority:

First: Upon the direction of an Authorized Officer of the Authority, to the Arbitrage Rebate Fund, the amount set forth in such direction; and

Second: To the Debt Service Reserve Fund, if any, such amount as shall be necessary to make the amount on deposit in such fund equal to the Applicable Debt Service Fund Requirement; and

Third: To the Debt Service Fund, to be applied in accordance with the Resolution, any balance remaining.

*(Section 5.04)*

#### **Debt Service Fund**

(a) The Trustee shall on or before the Business Day preceding each interest payment date pay to itself and any other Paying Agent out of the Debt Service Fund:

- (i) the interest due and payable on all Outstanding Bonds of a Series on such interest payment date;
- (ii) the principal amount due and payable on all Outstanding Bonds of a Series on such interest payment date; and
- (iii) the Sinking Fund Installments or other amounts related to a mandatory redemption, if any, due and payable on such interest payment date on Outstanding Bonds of a Series.

The amounts paid out pursuant to this summarized section shall be irrevocably pledged to and applied to such payments.

(b) Notwithstanding the provisions of paragraph (a) of this summarized section, the Authority may, at any time subsequent to the first day of November of any Bond Year but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, direct the Trustee to purchase, with money on deposit in the Debt Service Fund, at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds of a Series to be redeemed from such Sinking Fund Installment. In addition, the Institution pursuant to the Applicable Loan Agreement may deliver, at any time subsequent to November 1 of any Bond Year, but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, to the Trustee for cancellation one or more Term Bonds of the Series and maturity to be so redeemed on such date from such Sinking Fund Installment.

(c) Any Term Bond so purchased and delivered to the Trustee shall be canceled upon receipt thereof by the Trustee and evidence of such cancellation shall be given to the Authority. The principal amount of each Term Bond so canceled shall be credited against the Sinking Fund Installment due on such date, provided, however, that such Term Bond is canceled by the Trustee prior to the date on which notice of redemption is given.

(d) Money in the Debt Service Fund in excess of the amount required to pay the principal and Sinking Fund Installments of Outstanding Bonds of a Series payable on and prior to the next succeeding November 1, the interest on Outstanding Bonds of a Series payable on and prior to the earlier of the next succeeding November 1 or May 1, assuming that a Variable Interest Rate Bond will bear interest, from and after the next date on which the rate at which such Variable Interest Rate Bond bears interest is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum, and the purchase price or Redemption Price of Outstanding Bonds of a Series theretofore contracted to be purchased or called for redemption, plus accrued interest thereon to the date of purchase or redemption, shall be applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority to the purchase of Outstanding Bonds of a Series at purchase prices not exceeding the Redemption Price applicable on the next interest payment date on which such Bonds are redeemable, plus accrued and unpaid interest to such date, at such times, at such purchase prices and in such manner as an Authorized Officer of the Authority shall direct. If sixty (60) days prior to the end of a Bond Year an excess, calculated as aforesaid, exists in the Debt Service Fund of a Series of Bonds, such money shall be applied by the Trustee if directed by an Authorized Officer of the Authority given pursuant to the Resolution to the redemption of Bonds of such Series as provided in the Resolution, at the Redemption Prices specified in the Applicable Series Resolution authorizing the issuance of the Bonds to be redeemed or the Bond Series Certificate relating to such Bonds.

*(Section 5.06)*

### **Arbitrage Rebate Fund**

The Trustee shall deposit to the Arbitrage Rebate Fund any money delivered to it by the Institution for deposit therein and, pursuant to the provisions of the Resolution, shall transfer to the Arbitrage Rebate Fund, in accordance with the directions of an Authorized Officer of the Authority, money on deposit in any other funds held by the Trustee under the Resolution at such times and in such amounts as shall be set forth in such directions.

Money on deposit in the Arbitrage Rebate Fund shall be applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority to make payments to the Department of the Treasury of the United States of America at such times and in such amounts as the Authority shall determine to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Money which an Authorized Officer of the Authority determines to be in excess of the amount required to be so rebated shall, first, be applied to reimburse, pro rata, each Provider for money advanced under an Applicable Credit Facility or Liquidity Facility, including interest thereon, which is then unpaid, in proportion to the respective amounts advanced by each such Provider, and, then, be deposited to any fund or account established under the Resolution in accordance with the written direction of such Authorized Officer.

The Authority shall periodically determine the amount which may be required by the Code to be rebated to the Department of the Treasury of the United States of America with respect to a Series of Bonds and direct the Trustee to (i) transfer from any other of the funds and accounts held by the Trustee under the Resolution and deposit to the Arbitrage Rebate Fund such amount as the Authority shall have determined to be necessary in order to enable it to comply with its obligation to rebate money to the Department of the Treasury of the United States of America with respect to such Series of Bonds and (ii) if and to the extent required by the Code, pay out of the Arbitrage Rebate Fund to the Department of the Treasury of the United States of America the amount, if any, required by the Code to be rebated thereto.

*(Section 5.07)*

#### **Application of Money in Certain Funds for Retirement of Bonds**

Pursuant to the provisions of the Resolution, if at any time the amounts held in the Debt Service Fund and the Debt Service Reserve Fund, if any, are sufficient to pay the principal or Redemption Price of all Outstanding Bonds of a Series and the interest accrued and unpaid and to accrue on such Bonds to the next date of redemption when all such Bonds are redeemable, or to make provision pursuant to the defeasance provisions of the Resolution for the payment of the Outstanding Bonds at the maturity or redemption dates thereof, the Trustee shall so notify the Authority and the Institution. Upon receipt of such notice, the Authority may (i) direct the Trustee to redeem all such Outstanding Bonds of a Series, whereupon the Trustee shall proceed to redeem or provide for the redemption of such Outstanding Bonds in the manner provided for redemption of such Bonds as provided in the Resolution, or (ii) give the Trustee irrevocable instructions in accordance with the defeasance provisions of the Resolution and make provision for the payment of such Outstanding Bonds at the maturity or redemption dates thereof in accordance therewith.

*(Section 5.08)*

#### **Transfer of Investments**

Whenever money in any fund or account established under the Resolution or under a Series Resolution or a Bond Series Certificate is to be paid in accordance with the Resolution to another such fund or account, such payment may be made, in whole or in part, by transferring to such other fund or account investments held as part of the fund or account from which such payment is to be made, whose value, together with the money, if any, to be transferred, is at least equal to the amount of the payment then to be made; provided, however, that no such transfer of investments would result in a violation of any investment standard or guideline applicable to such fund.

*(Section 5.09)*

#### **Security for Deposits and Investment of Funds**

##### **Security for Deposits**

All money held under the Resolution by the Trustee shall be continuously and fully secured, for the benefit of the Authority and the Holders of a Series of Bonds, by direct obligations of the United States of America or obligations the principal of and interest on which are guaranteed by the United States of America of a market value

equal at all times to the amount of the deposit so held by the Trustee; provided, however, (a) that if the securing of such money is not permitted by applicable law, then in such other manner as may then be required or permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, and (b) that it shall not be necessary for the Trustee or any Paying Agent to give security for the deposit of any money with them pursuant to the debt service fund provisions or the defeasance provisions of the Resolution and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on a Series of Bonds, or for the Trustee to give security for any money which shall be represented by obligations purchased or other investments made under the provisions of the Resolution as an investment of such money.

*(Section 6.01)*

### **Investment of Funds and Accounts**

(a) Money held under the Resolution by the Trustee, if permitted by law, shall, as nearly as may be practicable, be invested by the Trustee, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority (which direction shall specify the amount thereof to be so invested), in Government Obligations, Federal Agency Obligations or Exempt Obligations, or Permitted Investments; provided, however, that each such investment shall permit the money so deposited or invested to be available for use at the times at which the Authority reasonably believes such money will be required for the purposes of the Resolution.

(b) In lieu of the investments of money in obligations authorized in paragraph (a) of this summarized section, the Trustee shall, to the extent permitted by law, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority, invest money in the Construction Fund in any Permitted Investment; provided, however, that each such investment shall permit the money so deposited or invested to be available for use at the times at which the Authority reasonably believes such money will be required for the purposes of the Resolution, provided, further, that (x) any Permitted Collateral required to secure any Permitted Investment shall have a market value, determined by the Trustee or its agent periodically, but no less frequently than weekly, at least equal to the amount deposited or invested including interest accrued thereon, (y) the Permitted Collateral shall be deposited with and held by the Trustee or an agent of the Trustee approved by an Authorized Officer of the Authority, and (z) the Permitted Collateral shall be free and clear of claims of any other person.

(c) Permitted Investments purchased as an investment of money in any fund or account held by the Trustee under the provisions of the Resolution shall be deemed at all times to be a part of such fund or account and the income or interest earned, profits realized or losses suffered by a fund or account due to the investment thereof shall be retained in, credited or charged, as the case may be, to such fund or account.

(d) In computing the amount in any fund or account held by the Trustee under the provisions of the Resolution, each Permitted Investment shall be valued at par or the market value thereof, plus accrued interest, whichever is lower.

(e) Pursuant to the Resolution, the Authority, in its discretion, may direct the Trustee to, and the Trustee shall, sell, present for redemption or exchange any investment held by the Trustee pursuant to the Resolution and the proceeds thereof may be reinvested as provided in this summarized section. Except as otherwise provided in the Resolution, the Trustee shall sell at the best price obtainable, or present for redemption or exchange, any investment held by it pursuant to the Resolution whenever it shall be necessary in order to provide money to meet any payment or transfer from the fund or account in which such investment is held. The Trustee shall advise the Authority and the Institution in writing, on or before the fifteenth (15th) day of each calendar month, of the amounts required to be on deposit in each fund and account under the Resolution and of the details of all investments held for the credit of each fund and account in its custody under the provisions of the Resolution as of the end of the preceding month and as to whether such investments comply with the provisions of paragraphs (a), (b) and (c) of this summarized section. The details of such investments shall include the par value, if any, the cost and the current market value of such investments as of the end of the preceding month. The Trustee shall also describe all withdrawals, substitutions and other transactions occurring in each such fund and account in the previous month.



(f) No part of the proceeds of a Series of Bonds or any other funds of the Authority shall be used directly or indirectly to acquire any securities or investments the acquisition of which would cause any Bond of a Series to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

*(Section 6.02)*

### **Particular Covenants**

#### **Payment of Principal and Interest**

The Authority shall pay or cause to be paid the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on every Bond of each Series on the date and at the places and in the manner provided in such Bonds according to the true intent and meaning thereof.

*(Section 7.01)*

#### **Further Assurance**

The Authority, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, pledges and assignments pursuant to the Resolution and by the Applicable Series Resolution or Bond Series Certificate created or made or intended to be created or made, or which the Authority may after the date of the Resolution become bound to pledge or assign.

*(Section 7.04)*

#### **Accounts and Audits**

The Authority shall keep proper books of records and accounts (separate from all other records and accounts), which may be kept on behalf of the Authority by the Trustee, in which complete and correct entries shall be made of its transactions relating to a Series of Bonds, including but not limited to the objects and purposes for which proceeds of such Bonds were expended and the respective amounts expended for such objects and purposes. Such books and accounts, at reasonable hours and subject to the reasonable rules and regulations of the Authority, shall be subject to the inspection of the Institution, the Trustee or of any Holder of a Bond of a Series or his representative duly authorized in writing. The Trustee shall annually prepare a report which shall be furnished to the Authority, to each Provider and to the Institution. Such report shall include at least: a statement of all funds (including investments thereof) held by such Trustee and the Authority pursuant to the provisions of the Resolution and the Applicable Series Resolution and Bond Series Certificate; a statement of the Revenues collected in connection with the Resolution and with each Series Resolution; and complete and correct entries of the Authority’s transactions relating to each Series of Bonds. A copy of such report shall, upon receipt of a written request therefor, and payment of any reasonable fee or charge made in connection therewith, be furnished to the registered owner of a Bond of a Series or any beneficial owner of a Book Entry Bond requesting the same.

*(Section 7.05)*

#### **Creation of Liens**

Except as permitted by the Resolution or by a Series Resolution, the Authority shall not create, cause to be created or suffer or permit the creation of any lien or charge prior or equal to that of the Bonds of a Series on the proceeds from the sale of such Bonds, the Applicable Revenues, the Applicable Pledged Revenues of the Institution, the rights of the Authority to receive payments to be made under a Loan Agreement that are to be deposited with the Trustee or the funds and accounts established by the Resolution and by any Series Resolution and Bond Series Certificate which are pledged by the Resolution other than, with respect to the Pledged Revenues, the Prior Pledges and any existing or future parity lien on the Pledged Revenues to secure Parity Indebtedness; provided, however,

that each Series of Bonds may be equally and ratably secured by the Pledged Revenues and the Mortgaged Property, to the extent required by and consented to by the Applicable Providers; and; provided, further however, that nothing contained in the Resolution shall prevent the Authority from (i) issuing bonds, notes or other obligations or otherwise incurred indebtedness under another and separate resolution so long as the charge or lien created by such resolution is not prior to the charge or lien created by the Resolution and by a Series Resolution and (ii) incurring obligations with respect to a Credit Facility or a Liquidity Facility which are secured by a lien upon and pledge of the Applicable Revenues of equal priority with the lien created and the pledge made pursuant to the Resolution and by the Applicable Series Resolution.

*(Section 7.06)*

#### **Enforcement of Duties and Obligations of the Institution**

The Authority shall take all legally available action to cause the Institution to perform fully all duties and acts and comply fully with the covenants of the Institution required by a Loan Agreement in the manner and at the times provided in such Loan Agreement; provided, however, that the Authority may (i) delay or defer enforcement of one or more provisions of such Loan Agreement (other than provisions requiring the payment of money or the delivery of securities to the Trustee for deposit to any fund or account established under the Resolution) if the Authority determines such delay or deferment will not materially adversely affect the interests of the Holders of the Bonds of such Series and (ii) at any time prior to the occurrence of an event of default under the Resolution, annul any declaration that the indebtedness under such Loan Agreement is immediately due and payable and, if prior to the entry of a final judgment or decree in any action or proceeding instituted on account of an event of default under such Loan Agreement, discontinue such action or proceeding if the Institution shall have cured each event of default under such Loan Agreement.

*(Section 7.07)*

#### **Deposit of Certain Money in the Construction Fund**

In addition to the proceeds of Bonds of a Series to be deposited in the Construction Fund, any money paid to the Authority for the acquisition, construction, reconstruction, renovation or equipping of a Project, including, if not inconsistent with the Applicable Mortgage and Applicable Intercreditor Agreement, the proceeds of any insurance of condemnation award to be so applied, shall be deposited in the Construction Fund.

*(Section 7.08)*

#### **Offices for Payment and Registration of Bonds**

The Authority shall at all times maintain an office or agency in the State where Bonds of a Series may be presented for payment. The Authority may, pursuant to a Supplemental Resolution or a Series Resolution or pursuant to a resolution adopted in accordance with the Resolution, designate an additional Paying Agent or Paying Agents where Bonds of the Series authorized thereby or referred to therein may be presented for payment. The Authority shall at all times maintain an office or agency in the State where Bonds of a Series may be presented for registration, transfer or exchange and, pursuant to the Resolution, the Trustee is appointed as its agent to maintain such office or agency for the registration, transfer or exchange of such Bonds.

*(Section 7.09)*

#### **Amendment of Loan Agreement**

A Loan Agreement may not be amended, changed, modified, altered or terminated nor may any provision thereof be waived if any such amendment, change, modification, alteration, termination or waiver would adversely affect the interest of the Holders of Outstanding Bonds of the Applicable Series to which such Loan Agreement relates in any material respect unless consented to in writing by the Holders of at least a majority in aggregate principal amount of the Bonds of such Series then Outstanding; provided, however, that no such amendment,

change, modification, alteration, or termination will reduce the percentage of the aggregate principal amount of Outstanding Bonds of a Series the consent of the Holders of which is a requirement for any such amendment, change, modification, alteration or termination, or decrease the amount of any payment required to be made by the Institution under such Loan Agreement that is to be deposited with the Trustee or extend the time of payment thereof. Any consent given pursuant to this paragraph by the Holders of Bonds shall, except as otherwise provided in this summarized section, be given in the same manner required by the Resolution with respect to the amendments thereof.

A Loan Agreement may be amended, changed, modified or altered (i) to make changes necessary or appropriate in connection with the acquisition, construction, reconstruction, rehabilitation and improvement, or otherwise providing, furnishing and equipping of any facilities constituting a part of any Project or to otherwise amend the Project or (ii) in the event there is no Provider of a Credit Facility, with the consent of the Trustee, to cure any ambiguity, or to correct or supplement any provisions contained in such Loan Agreement which may be defective or inconsistent with any other provisions contained in the Resolution or in the Applicable Loan Agreement or (iii) in the event there is a Provider of a Credit Facility, with the consent of the Applicable Provider of a Credit Facility, to cure any ambiguity, or to correct or supplement any provision contained in the Applicable Loan Agreement which may be defective. Except as otherwise provided in this summarized section, a Loan Agreement may be amended, changed, modified or altered without the consent of the Holders of Outstanding Bonds or the Trustee. Prior to execution by the Authority of any amendment, a copy thereof certified by an Authorized Officer of the Authority shall be filed with the Trustee.

For the purposes of this summarized section, the purchasers of Bonds of a Series, whether purchasing as underwriters, Remarketing Agent or otherwise for resale, may upon such purchase consent to an amendment, change, modification, alteration, termination or waiver permitted by this summarized section in the manner provided in the Resolution, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; provided, however, that, if such consent is given by a purchaser who is purchasing as an underwriter or Remarketing Agent or for resale, the nature of the amendment, change, modification, alteration, termination or waiver and the provisions for the purchaser consenting thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the initial offering, reoffering or resale of the Bonds of such Series.

For the purposes of this summarized section, a Series shall be deemed to be adversely affected by an amendment, change, modification, alteration or termination of the Applicable Loan Agreement or the waiver of any provision thereof if the same adversely affects or diminishes the rights of the Holders of the Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of any particular Series would be adversely affected in any material respect by any amendment, change, modification, alteration, termination or waiver and any such determination shall be binding and conclusive on the Institution, the Authority and all Holders of Bonds of such Series.

For all purposes of this summarized section, the Trustee shall be entitled to rely upon an opinion of counsel, which counsel shall be satisfactory to the Trustee, with respect to whether any amendment, change, modification, alteration, termination or waiver adversely affects the interests of any Holders of Bonds of a Series then Outstanding in any material respect.

*(Section 7.11)*

#### **Notice as to Event of Default under Loan Agreement**

The Authority shall notify the Trustee in writing that an “Event of Default” under a Loan Agreement, as such term is defined in such Loan Agreement, has occurred and is continuing, which notice shall be given as soon as practicable after the Authority has obtained actual knowledge thereof.

*(Section 7.12)*

## **Tax Exemption: Rebate**

Except as otherwise provided in a Series Resolution, in order to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Bonds of each Series, the Authority shall comply with the provisions of the Code applicable to the Bonds of each Series, including without limitation the provisions of the Code relating to the computation of the yield on investments of the Gross Proceeds of each Series of Bonds, reporting of earnings on the Gross Proceeds of each Series of Bonds and rebates of Excess Earnings to the Department of the Treasury of the United States of America. Except as otherwise provided in the Resolution the Authority shall comply with the letter of instructions as to compliance with the Code with respect to each such Series of Bonds, to be delivered by Bond Counsel at the time the Bonds of a Series are issued, as such letter may be amended from time to time, as a source of guidance for achieving compliance with the Code.

The Authority shall not take any action or fail to take any action, which would cause the Bonds of a Series to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

Pursuant to the provisions of the Resolution, the Authority’s failure to comply with the provisions of the Code applicable to the Bonds of a Series shall not entitle the Holder of Bonds of any other Series, or the Trustee acting on their behalf, to exercise any right or remedy provided to Bondholders under the Resolution based upon the Authority’s failure to comply with the provisions of this summarized section or of the Code.

*(Section 7.13)*

## **Series Resolutions and Supplemental Resolutions**

### **Modification and Amendment without Consent**

Pursuant to the provisions of the Resolution, the Authority may adopt at any time or from time to time Series Resolutions or Supplemental Resolutions for any one or more of the following purposes, and any such Series Resolution or Supplemental Resolution shall become effective in accordance with its terms upon the filing with the Trustee and the Applicable Provider, if any, of a copy thereof certified by an Authorized Officer of the Authority:

- (a) To provide for the issuance of a Series of Bonds pursuant to the provisions of the Resolution and to prescribe the terms and conditions pursuant to which such Bonds may be issued, paid or redeemed;
- (b) To add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds of a Series, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Resolution;
- (c) To prescribe further limitations and restrictions upon the issuance of Bonds of a Series and the incurring of indebtedness by the Authority which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect;
- (d) To surrender any right, power or privilege reserved to or conferred upon the Authority by the terms of the Resolution, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Resolution;
- (e) To confirm, as further assurance, any pledge under the Resolution and under a Series Resolution, and the subjection to any lien, claim or pledge of the Revenues, or any pledge of any other money, securities or funds created or to be created by the provisions of the Resolution and by the provisions of a Series Resolution;
- (f) To modify any of the provisions of the Resolution or of any previously adopted Series Resolution or Supplemental Resolution in any other respects, provided that such modifications shall not be effective until after all Bonds of any Series of Bonds Outstanding as of the date of adoption of such Supplemental Resolution or Series Resolution shall cease to be Outstanding, and all Bonds issued under such resolutions shall contain a specific reference to the modifications contained in such subsequent Resolutions;

(g) To modify or amend a Project; or

(h) With the consent of the Trustee, to cure any ambiguity or defect or inconsistent provision in the Resolution or to insert such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable, provided that any such modifications are not contrary to or inconsistent with the Resolution as theretofore in effect, or to modify any of the provisions of the Resolution or of any previously adopted Series Resolution or Supplemental Resolution in any other respect, provided that such modification shall not adversely affect the interests of the Bondholders of a Series in any material respect.

*(Section 9.01)*

### **Supplemental Resolutions Effective With Consent of Bondholders**

The provisions of the Resolution and of a Series Resolution may also be modified or amended at any time or from time to time by a Supplemental Resolution, subject to the consent of the Bondholders of the Applicable Series in accordance with and subject to the provisions of the Resolution, such Supplemental Resolution to become effective upon the filing with the Trustee and the Applicable Provider, if any, of a copy thereof certified by an Authorized Officer of the Authority. The Trustee shall transmit a copy of such Supplemental Resolution to the Institution upon its becoming effective.

*(Section 9.02)*

### **General Provisions Relating to Series Resolutions and Supplemental Resolutions**

The Resolution or a Series Resolution shall not be modified or amended in any respect except in accordance with and subject to the provisions of the Resolution. Nothing contained in the Resolution shall affect or limit the rights or obligations of the Authority to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions of the Resolution summarized under the heading "Further Assurance" or the right or obligation of the Authority to execute and deliver to the Trustee or any Paying Agent any instrument elsewhere provided in the Resolution or permitted to be delivered to the Trustee or any Paying Agent.

A copy of every Series Resolution and Supplemental Resolution adopted by the Authority, when filed with the Trustee, shall be accompanied by an opinion of Bond Counsel stating that such Series Resolution or Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted pursuant to the Resolution and is valid and binding upon the Authority and enforceable in accordance with its terms. The Trustee shall transmit a copy of such Supplemental Resolution to the Institution and to each Applicable Provider upon its becoming effective.

Pursuant to the Resolution, the Trustee is authorized to accept delivery of a certified copy of any Series Resolution or Supplemental Resolution permitted or authorized pursuant to the provisions of the Resolution and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee shall be fully protected in relying on the opinion of Bond Counsel that such Series Resolution or Supplemental Resolution is authorized or permitted by the provisions of the Resolution.

No Series Resolution or Supplemental Resolution changing, amending or modifying any of the rights or obligations of the Trustee, a Paying Agent or a Provider shall become effective without the written consent of the Trustee, the Paying Agent or Provider affected thereby.

*(Section 9.03)*

### **Terms of Intercreditor Agreement Controlling**

To the extent of a conflict between the terms of the Resolution or any Series Resolution and the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall be deemed to control.

*(Section 9.05)*

## **Amendments of Resolution**

### **Powers of Amendment**

Any modification or amendment of the Resolution and of the rights and obligations of the Authority and of the Holders of the Bonds under the Resolution or of any Series Resolution, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in the summarized section immediately below, (i) of the Holders of at least a majority in principal amount of the Bonds of a Series Outstanding at the time such consent is given, or (ii) in case the modification or amendment changes the amount or date of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds of the particular Series, maturity and interest rate entitled to such Sinking Fund Installment, Outstanding at the time such consent is given. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond of a Series or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment. For the purposes of this summarized section, a Series shall be deemed to be affected by a modification or amendment of the Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, the Bonds of a particular Series or maturity would be affected by any modification or amendment of the Resolution and any such determination shall be binding and conclusive on the Authority and all Holders of Bonds of such Series. The Trustee may receive an opinion of counsel, including an opinion of Bond Counsel, as conclusive evidence as to whether the Bonds of any particular Series or maturity would be so affected by any such modification or amendment of the Resolution. The Trustee shall transmit a copy of such Supplemental Resolution to the Institution upon its becoming effective.

*(Section 10.01)*

### **Consent of Bondholders**

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of the summarized section immediately above to take effect when and as provided in this summarized section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Bondholders of a Series of Bonds affected thereby for their consent thereto in form satisfactory to the Trustee, shall promptly after adoption be mailed by the Authority to such Bondholders (but failure to mail such copy and request to any particular Bondholder shall not affect the validity of the Supplemental Resolution when consented to as provided in this summarized section). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds of a Series specified in the summarized section immediately above and (b) an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of the Resolution, is authorized or permitted pursuant to the Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms, and (ii) a notice shall have been mailed as provided in this summarized section. Each such consent shall be effective only if accompanied by proof of the holding or owning at the date of such consent, of the Bonds of a Series with respect to which such consent is given, which proof shall be such as is permitted by the Resolution. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with the Resolution shall be conclusive proof that the consents have been given by the Holders of the Bonds of a Series described in the certificate or certificates of the Trustee.

Any consent given by a Bondholder shall be binding upon the Bondholder giving such consent and, subject to the provisions of the Resolution, upon any subsequent Bondholder and of any Bonds of a Series issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Bondholder giving such consent or a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee as provided in this summarized section for is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed

with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds of a Series shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Authority and the Trustee a written statement that such Holders of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been so filed.

At any time thereafter notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds of a Series and will be effective as provided in this summarized section, shall be given to such Bondholders by the Authority by mailing such notice to such Bondholders and, at the discretion of the Authority, by publishing the same at least once not more than ninety (90) days after the Holders of the required percentages of Bonds of such Series shall have filed their consents to the Supplemental Resolution and the written statement of the Trustee provided for above is filed (but failure to publish such notice shall not prevent such Supplemental Resolution from becoming effective and binding as provided in the summarized section). The Authority shall file with the Trustee proof of the mailing of such notice, and, if the same shall have been published, of the publication thereof. A transcript, consisting of the papers required or permitted by this summarized section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Trustee, each Paying Agent, and the Holders of all Bonds of such Series upon the filing with the Trustee of proof of the mailing of such notice or at the expiration of thirty (30) days after the filing with the Trustee of the proof of the first publication of such last mentioned notice, if such notice is published, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such thirty (30) day period; provided, however, that the Authority, the Trustee and any Paying Agent during such thirty (30) day period and any such further period during which any such action or proceeding may be pending shall be entitled in their reasonable discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

For the purposes of the provisions of the Resolution, the purchasers of the Bonds of a Series, whether purchasing as underwriters or Remarketing Agent, for resale or otherwise, upon such purchase, may consent to a modification or amendment permitted by the Resolution, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; provided, however, that, if such consent is given by a purchaser who is purchasing as an underwriter or for resale, the nature of the modification or amendment and the provisions for the purchaser consenting thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the primary offering of the Bonds of such Series by the Authority.

*(Section 10.02)*

### **Modifications by Unanimous Consent**

The terms and provisions of the Resolution and the rights and obligations of the Authority and of the Holders of the Bonds of a Series may be modified or amended in any respect upon the adoption and filing with the Trustee by the Authority of a copy of a Supplemental Resolution certified by an Authorized Officer of the Authority and the consent of the Holders of all of the Bonds of a Series then Outstanding, such consent to be given as provided in the summarized section immediately above, except that no notice to the Bondholders either by mailing or publication shall be required.

*(Section 10.03)*

### **Consent of Provider**

Whenever by the terms of the Resolution the consent of any of the Holders of the Bonds of a Series to a modification or amendment of the Resolution made by a Series Resolution or Supplemental Resolution is required, such modification or amendment shall not become effective until the written consent of each Applicable Provider has been obtained. No modification or amendment of the Resolution which adversely affects a Provider shall be

made without the written consent thereto of the Applicable Provider affected thereby. Notice of the adoption of any such Series Resolution or Supplemental Resolution and of the effectiveness of the modification or amendment made thereby shall be given to each Applicable Provider by mail at the times and in the manner provided in the Resolution with respect to notices thereof required to be given to the Holders of the Bonds of a Series. Notice thereof shall also be given to each Rating Service as soon as practical after adoption of such Series Resolution or Supplemental Resolution and of the effectiveness thereof.

*(Section 10.04)*

## **Defaults and Remedies**

### **Events of Default**

An event of default shall exist under the Resolution and under an Applicable Series Resolution (referred to in the Resolution as an “event of default”) if:

(a) With respect to the Applicable Series of Bonds, payment of the principal, Sinking Fund Installments, if any, or Redemption Price of any Bond shall not be made by the Authority when the same shall become due and payable, either at maturity or by proceedings for redemption or otherwise; or

(b) With respect to the Applicable Series of Bonds, payment of an installment of interest on any Bond shall not be made by the Authority when the same shall become due and payable; or

(c) With respect to the Applicable Series of Bonds, the Authority shall default in the due and punctual performance of any covenants contained in the Applicable Series Resolution authorizing the issuance thereof to the effect that the Authority shall comply with the provisions of the Code applicable to such Bonds necessary to maintain the exclusion of interest therein from gross income under Section 103 of the Code and shall not take any action which would adversely affect the exclusion of interest on such Bonds from gross income under Section 103 of the Code and, as a result thereof, the interest on the Bonds of such Series shall no longer be excludable from gross income under Section 103 of the Code; or

(d) With respect to the Applicable Series of Bonds, the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Resolution or in such Bonds or in the Applicable Series Resolution on the part of the Authority to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of such Series, or if such default is not capable of being cured within thirty (30) days, if the Authority fails to commence within said thirty (30) days and diligently prosecute the cure thereof; or

(e) With respect to the Applicable Series of Bonds, the Authority shall have notified the Trustee that an “Event of Default” as defined in the Applicable Loan Agreement shall have occurred and be continuing and all sums payable by the Institution under the Applicable Loan Agreement shall have been declared to be immediately due and payable, which declaration shall not have been annulled.

*(Section 11.02)*

### **Acceleration of Maturity**

Upon the happening and continuance of any event of default specified in the summarized section immediately above, other than an event of default specified in paragraph (c) of said summarized section, then and in every such case the Trustee may, and, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of a Series, shall, by a notice in writing to the Authority, declare the principal of and interest on all of the Outstanding Bonds of such Series to be immediately due



and payable. At the expiration of thirty (30) days after notice of such declaration has been given, such principal and interest shall become and be immediately due and payable, anything in the Resolution or in a Series Resolution or in the Bonds of a Series to the contrary notwithstanding. At any time after the principal of such Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Resolution, the Trustee shall, with the written consent of the Holders of not less than twenty-five per centum (25%) in principal amount of the Bonds of such Series not then due by their terms and then Outstanding, by written notice to the Authority, annul such declaration and its consequences if: (i) money shall have accumulated in the Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds of such Series (except the interest accrued on such Bonds since the last interest payment date); (ii) money shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee and any Paying Agent; (iii) all other amounts then payable by the Authority under the Resolution and under the Applicable Series Resolution (other than principal amounts payable only because of a declaration and acceleration under this summarized section) shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other default known to the Trustee in the observance or performance of any covenant, condition or agreement contained in the Resolution or in the Applicable Series Resolution or in such Bonds (other than a default in the payment of the principal of such Bonds then due only because of a declaration under this summarized section) shall have been remedied to the reasonable satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

*(Section 11.03)*

#### **Enforcement of Remedies**

Upon the happening and continuance of any event of default specified in the Resolution, then and in every such case, the Trustee may proceed, and, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall proceed (subject to the provisions of the Resolution relating to the compensation of the Trustee or any Paying Agent) to protect and enforce its rights and the rights of the Bondholders under the Resolution or under the Applicable Series Resolution or under the laws of the State by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant contained under the Resolution or under the Applicable Series Resolution or in aid or execution of any power in the Resolution or therein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights, including the foreclosure of any defaulted Mortgage assigned to the Trustee.

In the enforcement of any remedy under the Resolution and under a Series Resolution the Trustee shall be entitled to sue for, enforce payment of, and receive any and all amounts then, or during any default becoming, and at any time remaining, due from the Authority for principal or interest or otherwise under any of the provisions of the Resolution or of a Series Resolution or of the Bonds of a Series, with interest on overdue payments of the principal of or interest on the Bonds at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings under the Resolution and under a Series Resolution and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders of such Bonds, and to recover and enforce judgment or decree against the Authority but solely as provided in the Resolution, in a Series Resolution and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the money adjudged or decreed to be payable.

*(Section 11.04)*

#### **Limitation of Rights of Individual Bondholders**

No Holder of any of the Bonds of a Series shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust under the Resolution, or for any other remedy under the Resolution unless such Holder previously shall have given to the Trustee written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of a Series affected thereby, shall have made written

request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted pursuant to the Resolution or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of the Resolution or for any other remedy under the Resolution and in equity or at law. It is understood and intended that no one or more Holders of the Bonds of a Series secured pursuant to the Resolution and by a Series Resolution shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of the Resolution or thereof or to enforce any right under the Resolution or thereunder except in the manner provided in the Resolution and therein, and that all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of the Outstanding Bonds of such Series. Notwithstanding any other provision of the Resolution, the Holder of any Bond of a Series shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the stated maturity expressed in such Bond (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

*(Section 11.08)*

### **Defeasance**

(a) If the Authority shall pay or cause to be paid to the Holders of Bonds of a Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, in the Resolution, and in the Applicable Series Resolution and Bond Series Certificate, then the pledge of the Revenues or other money and securities pledged to such Bonds and all other rights granted pursuant to the Resolution to such Bonds shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Authority, execute and deliver such documents to evidence such discharge and satisfaction as may be reasonably required by the Authority, and all money or securities held by it pursuant to the Resolution and to the Applicable Series Resolution which are not required for the payment or redemption of Bonds of such Series shall be paid or delivered by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each such Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institution. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created pursuant to the Resolution or by the Applicable Loan Agreement.

(b) Bonds for the payment or redemption of which money shall have been set aside and shall be held in trust by the Trustee (through deposit of money for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this summarized section. All Outstanding Bonds of any Series or any maturity within such Series or a portion of a maturity within a Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this summarized section if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to give as provided in the Resolution notice of redemption on said date of such Bonds, (ii) there shall have been deposited with the Trustee either money in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be, (iii) the Trustee shall have received the written consent to such defeasance of each Applicable Provider which has given written notice to the Trustee and the Authority that amounts advanced under a Credit Facility or Liquidity Facility issued by it or the interest thereon have not been repaid to such Provider, and (iv) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the

Trustee, in form satisfactory to it, irrevocable instructions to give, as soon as practicable, by first class mail, postage prepaid, to the Holders of said Bonds at their last known addresses appearing on the registration books, and, if directed by the Authorized Officer of the Authority, by publication, at least twice, at an interval of not less than seven (7) days between publications, in an Authorized Newspaper, a notice to the Holders of such Bonds that the deposit required by clause (ii) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this summarized section and stating such maturity or redemption date upon which money is to be available for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds. The Authority shall give written notice to the Trustee of its selection of the Series and maturity the payment of which is to be made in accordance with this summarized section. The Trustee shall select the Bonds of like Series and maturity payment of which shall be made in accordance with this summarized section in the manner provided in the Resolution. Neither Defeasance Securities nor money deposited with the Trustee pursuant to this summarized section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; provided, however, that any money received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest to become due on said Bonds on and prior to such redemption date or maturity date of the Resolution, as the case may be; provided, further, that money and Defeasance Securities may be withdrawn and used by the Authority for any purpose upon (i) the simultaneous substitution therefor of either money in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide money which without regard to reinvestment, together with the money, if any, held by or deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption price, if applicable, and interest due and to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (ii) receipt by the Trustee of a letter or other written report of a firm of independent certified public accountants verifying the accuracy of the arithmetical computations which establish the adequacy of such money and Defeasance Securities for such purpose. Any income or interest earned by, or increment to, the investment of any such money so deposited, shall, to the extent certified by the Trustee to be in excess of the amounts required above to pay the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on such Bonds, as realized, be paid by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institution, and any such money so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created by the Resolution or by the Applicable Loan Agreement.

(c) For purposes of determining whether Variable Interest Rate Bonds of a Series shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of money, or Defeasance Securities and money, if any, in accordance with clause (ii) of the second sentence of paragraph (b) of this summarized section, the interest to come due on such Variable Interest Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate permitted by the terms thereof; provided, however, that if on any date, as a result of such Variable Interest Rate Bonds having borne interest at less than such Maximum Interest Rate for any period, the total amount of money and Defeasance Securities on deposit with the Trustee for the payment of interest on such Variable Interest Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Interest Rate Bonds in order to satisfy clause (ii) of the second sentence of paragraph (b) of this summarized section, the Trustee shall, if requested by the Authority, pay the amount of such excess as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof

to the Institution, and any such money so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created by the Resolution.

(d) Option Bonds of a Series shall be deemed to have been paid in accordance with clause (ii) of the second sentence of paragraph (b) of this summarized section only if, in addition to satisfying the requirements of clauses (i) and (iii) of such sentence, there shall have been deposited with the Trustee money in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the Trustee pursuant to paragraph (b) of this summarized section, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this paragraph (d). If any portion of the money deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose, the Trustee shall, if requested by the Authority, pay the amount of such excess as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institution, and any such money so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created by the Resolution.

(e) Anything in the Resolution to the contrary notwithstanding, any money held by the Trustee or a Paying Agent in trust for the payment and discharge of any of the Bonds of a Series or the interest thereon which remain unclaimed for one (1) year after the date when all of the Bonds of such Series have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such money was held by the Trustee or Paying Agent at such date, or for one (1) year after the date of deposit of such money if deposited with the Trustee or Paying Agent after said date when all of the Bonds of such Series become due and payable, shall, at the written request of the Authority, be repaid by the Trustee or Paying Agent to the Authority as its absolute property and free from trust, and the Trustee or Paying Agent shall thereupon be released and discharged with respect thereto and the Holders of Bonds shall look only to the Authority for the payment of such Bonds; provided, however, that, before being required to make any such payment to the Authority, the Trustee or Paying Agent may, at the expense of the Authority, cause to be published in an Authorized Newspaper a notice that such money remains unclaimed and that, after a date named in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after the date of publication of such notice, the balance of such money then unclaimed shall be returned to the Authority.

*(Section 12.01)*

**[END OF APPENDIX C - REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]**

## **CERTAIN PROVISIONS OF THE REIMBURSEMENT AGREEMENT**

*The following is a summary of certain selected provisions of the Reimbursement Agreement. This summary does not purport to address all of the substantive provisions thereof. This summary is qualified in its entirety by reference to the Reimbursement Agreement.*

Samaritan Medical Center (the “Institution”) has entered into a Letter of Credit Reimbursement Agreement (the “Reimbursement Agreement”) with KeyBank National Association, as administrative agent (in such capacity, the “Agent”) and HSBC Bank USA, National Association and KeyBank National Association (each, a “Bank” and together the “Banks”) pursuant to which the Banks have agreed to issue their respective Letter of Credit and the Institution has agreed to reimburse each Bank for all amounts drawn on its Letter of Credit and any fees or other costs incurred by the Banks and/or the Agent in connection with any drawing. The Institution has also agreed to pay interest to the Banks on all amounts drawn under the Letters of Credit and not reimbursed on the date of drawing. The Reimbursement Agreement provides for annual letter of credit fees, structuring fees, drawing fees, transfer fees and other fees, amounts and charges.

The Institution’s obligations under the Reimbursement Agreement are secured by, inter alia, (i) a general security agreement in favor of the Agent, (ii) an assignment of contracts in favor of the Agent, (iii) an assignment of construction documents in favor of the Agent, (iv) an assignment of leases and rents, (v) a collateral assignment of leases, (vi) a negative pledge agreement, and (vii) subject to the terms thereof, the Agent’s rights to other collateral pursuant to the Intercreditor Agreement.

The Reimbursement Agreement sets forth conditions to the issuance of the Letters of Credit and certain representations and warranties of the Institution which are to be true at the closing date. The Reimbursement Agreement also contains certain representations and warranties, affirmative covenants, negative covenants and financial covenants.

The Reimbursement Agreement provides that the occurrence of any of the following events, unless waived by the Agent, shall be an Event of Default under the Reimbursement Agreement. Defined terms used below shall have the meanings assigned to them in the Reimbursement Agreement.

The occurrence of any one or more of the following shall constitute an “Event of Default” as said term is used herein:

(a) Failure of the Institution (i) (A) to make any principal payment when due, (B) to pay any interest within ten (10) days after the date when due, or (C) to observe or perform any of the other covenants or conditions by the Institution to be performed under the terms of the Reimbursement Agreement or any other Credit Document or any Bond Document concerning the payment of money, for a period of fifteen (15) days after written notice from Agent that the same is due and payable; or (ii) for a period of thirty (30) days after written notice from Agent, to observe or perform any non-monetary covenant or condition contained in the Reimbursement Agreement or any other Credit Document or any Bond Document; provided that if any such failure concerning a non-monetary covenant or condition is susceptible to cure and cannot reasonably be cured within said thirty (30) day period, then the Institution shall have an additional thirty (30) day period to cure such failure and no Event of Default shall be deemed to exist thereunder so long as the Institution commences such cure within the initial thirty (30) day period and diligently and in good faith pursues such cure to completion within such resulting sixty (60) day period from the date of Agent’s notice; provided, further, that if a different notice or grace period is specified under any other subsection of Article 14 of the Reimbursement Agreement with respect to a particular breach, or if another subsection of Article 14 of the Reimbursement Agreement applies to a particular breach and does not expressly provide for a notice or grace period, the specific provision shall control.

(b) The disapproval by Agent or Bank’s Consultant at any time of any construction work and failure of the Institution to cause the same to be corrected to the reasonable satisfaction of Agent within the cure period provided in Subsection (a)(ii) above.

(c) A delay in the construction or a discontinuance for a period of fifteen (15) days after written notice from Agent concerning such delay or discontinuance (other than certain unavoidable delays), or in any event a delay in the construction so that the same is not, in Agent's judgment (giving due consideration to the assessment of Bank's consultant), likely to be completed on or before the scheduled completion date.

(d) The bankruptcy or insolvency of the general contractor and failure of the Institution to procure a contract with a new contractor satisfactory to Agent within thirty (30) days from the occurrence of such bankruptcy or insolvency.

(e) Any transfer or other disposition in violation of Article 13 of the Reimbursement Agreement.

(f) Any default by the Institution, as lessor, under the terms of the ground lease between the Institution, as lessor, and Rothschild/Breuer Associates ("RBA"), as lessee, or under the parking sublease between RBA, as sublessor, and the Institution, as sublessee, following the expiration of any applicable notice and cure period, provided that if the ground lease or the parking sublease, as applicable, does not provide a notice and cure period, then the notice and cure period provided in (a)(i) above will apply to any such monetary default, and the notice and cure period provided in (a)(ii) will apply to any such non-monetary default (which respective periods shall commence upon written notice of default from Agent).

(g) If any warranty, representation, statement, report or certificate made by the Institution or Samaritan Foundation of Northern New York, Inc. (the "Foundation") is untrue or incorrect in any material respect at the time made or delivered.

(h) The Institution shall commence a voluntary case concerning the Institution under the Bankruptcy Code; or an involuntary proceeding is commenced against the Institution under the Bankruptcy Code and relief is ordered against the Institution, or the petition is controverted but not dismissed or stayed within sixty (60) days after the commencement of the case, or a custodian (as defined in the Bankruptcy Code) is appointed for or takes charge of all or substantially all of the property of the Institution; or the Institution commences any other proceedings under any reorganization, arrangement, readjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar Law of any jurisdiction whenever in effect relating to the Institution; or there is commenced against the Institution any such proceeding which remains undismissed or unstayed for a period of sixty (60) days; or the Institution fails to controvert in a timely manner any such case under the Bankruptcy Code or any such proceeding, or any order of relief or other order approving any such case or proceeding is entered; or the Institution by any act or failure to act indicates its consent to, approval of, or acquiescence in any such case or proceeding or the appointment of any custodian or the like of or for it for any substantial part of its property or suffers any such appointment to continue undischarged or unstayed for a period of sixty (60) days.

(i) The Institution shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof or if all or a substantial part of the assets of the Institution are attached, seized, subjected to a writ or distress warrant, or are levied upon, or come into the possession of any receiver, trustee, custodian or assignee for the benefit of creditors.

(j) If the Institution is permanently, or temporarily for a period exceeding thirty (30) days, enjoined, restrained or in any way prevented by any court order from constructing or operating the Project.

(k) Failure by the Institution to make any Deficiency Deposit with Agent within the time and in the manner required under the Reimbursement Agreement.

(l) One or more final, unappealable judgments are entered against the Institution in amounts aggregating in excess of \$250,000, unless covered by insurance, and said judgments are not stayed or bonded over within thirty (30) days after entry.

(m) If the Institution shall be in default, beyond applicable notice and cure periods, if any, in the payment of any indebtedness for borrowed money owed by it or is in default under any agreement with Agent or any

Bank (other than a failure or default for which the Institution's maximum liability does not exceed \$250,000) and such default continues after any applicable grace period specified in the instrument or agreement relating thereto.

- (n) If a material adverse change occurs with respect to the Institution or the Project.
- (o) A Resolution Default shall have occurred under the Resolutions, subject to any applicable grace or cure periods provided for in the Resolutions.
- (p) If the Institution shall cease to be an organization described under Section 501(c)(3) of the Internal Revenue Code.
- (q) If the Institution shall fail to maintain its participation in the Medicaid program (and/or the Medicare program, if ever applicable).
- (r) The occurrence of an event of default beyond applicable cure periods under any document, instrument or agreement securing any Interest Rate Protection Product.
- (s) The occurrence of any other event or circumstance denominated as an event of default in the Reimbursement Agreement or under any of the other Credit Documents and the expiration of any applicable grace or cure periods, if any, specified for such event of default in the Reimbursement Agreement or in such other Credit Documents, as the case may be.

Upon the occurrence, and during the continuance of any Event of Default, Agent, on behalf of the Banks, may pursue any one or more of the following remedies concurrently or successively, it being the intent that none of such remedies shall be to the exclusion of any other:

- (a) Agent may take possession of the project and complete the construction and do anything which is necessary or appropriate in its sole judgment to fulfill the obligations of the Institution under the Reimbursement Agreement and the other Credit Documents, including either the right to avail itself of and procure performance of existing contracts or let any contracts with the same contractors or others. Without restricting the generality of the foregoing and for the purposes aforesaid, effective upon the occurrence of an Event of Default and for so long as such Event of Default exists, the Institution appoints and constitutes Agent its lawful attorney-in-fact with full power of substitution in the Project to complete the construction in the name of the Institution; to use unadvanced Bond proceeds or which may be reserved, escrowed or set aside for any purposes under the Reimbursement Agreement at any time, to complete the construction; to make changes in the plans and specifications for the project which shall be necessary or desirable to complete the construction in substantially the manner contemplated by such plans and specifications; to retain or employ new general contractors, subcontractors, architects, engineers and inspectors as shall be required for said purposes; to pay, settle or compromise all existing bills and claims, which may be liens or security interests, or to avoid such bills and claims becoming liens against the Project; to execute all applications and certificates in the name of the Institution; to prosecute and defend all actions or proceedings in connection with the Improvements or Project; to take action and to make settlements and compromises with the surety or sureties thereunder, and in connection therewith, to execute instruments of release and satisfaction; and to do any and every act which the Institution might do in its own behalf; it being understood and agreed that this power of attorney shall be a power coupled with an interest and cannot be revoked;
- (b) Agent may withhold further approval of requests for disbursement of the Bond proceeds;
- (c) Agent may use and apply any monies or letters of credit deposited by the Institution with Agent (in such capacity), regardless of the purposes for which the same was deposited, to cure any such default or to apply on account of any indebtedness under the Reimbursement Agreement which is due and owing to Agent;
- (d) Agent may notify the Trustee that an Event of Default has occurred and instruct the Trustee to require a mandatory tender or acceleration of Bonds;

(e) Agent may take any and all actions and execute and deliver any and all documents necessary or appropriate to secure and receive any third party payments due to the Institution, including, without limitation, any payments due from insurers, or under the Medicare, Medicaid or other governmental programs. The Institution will agree to execute and deliver to Agent any and all documents, instruments, agreements and notices required to effectuate the foregoing;

(f) Agent may declare all sums payable under the Reimbursement Agreement to be immediately due and payable by the Institution to the Agent without presentment, demand, protest or notice of any kind; and

(g) Agent may exercise or pursue any other remedy or cause of action permitted under the Reimbursement Agreement or any other Credit Documents, or conferred upon Agent by operation of applicable law, including, without limitation, under the Mortgage and the Intercreditor Agreement.

The Reimbursement Agreement also contains provisions as to the Agent's right (but not obligation) to cure certain Institution defaults; indemnification of the Agent and the Banks by the Institution; amendment and waivers; notices and other miscellaneous provisions.

The Reimbursement Agreement may be amended at any time without the consent of the Trustee, the Authority or the holder of any Bond.

**[END OF APPENDIX D - REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]**



**FORM OF APPROVING OPINION  
OF BOND COUNSEL TO THE AUTHORITY**

*Upon delivery of the Series 2009 Bonds, Harris Beach PLLC, Bond Counsel to the Authority, proposes to issue its approving opinion in substantially the following form:*

[Closing Date]

Dormitory Authority of the State of New York  
515 Broadway  
Albany, New York 12207

Re:     \$ \_\_\_\_\_ Dormitory Authority of the State of New York  
Samaritan Medical Center Revenue Bonds, Series 2009A  
and  
       \$ \_\_\_\_\_ Dormitory Authority of the State of New York  
Samaritan Medical Center Revenue Bonds, Series 2009B

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance and sale of \$ \_\_\_\_\_ aggregate principal amount of Dormitory Authority of the State of New York Samaritan Medical Center Revenue Bonds consisting of (i) \$ \_\_\_\_\_ Series 2009A Bonds (the "Series 2009A Bonds") and (ii) \$ \_\_\_\_\_ Series 2009B Bonds (the "Series 2009B Bonds", and together with the Series 2009A Bonds, the "Series 2009 Bonds") by the Dormitory Authority of the State of New York (the "Authority"), a body corporate and politic constituting a public benefit corporation of the State of New York, created and existing under and pursuant to the Constitution and statutes of the State of New York, including the Dormitory Authority Act (being Chapter 524 of the Laws of 1944 of the State of New York and constituting Title 4 of Article 8 of the Public Authorities Law), as amended from time to time by, including but not limited to, the Health Care Financing Consolidation Act and as incorporated thereby the New York State Medical Care Facilities Finance Agency Act being Chapter 392 of the Laws of 1973 of the State of New York, as amended (the "Act"). We have also examined such certificates, documents, records and matters of law as we have deemed necessary for the purpose of rendering the opinions hereinafter set forth.

The Series 2009 Bonds are issued under and pursuant to (i) the Constitution and laws of the State of New York, including in particular the Act, (ii) the Authority's Samaritan Medical Center Revenue Bond Resolution adopted by the Authority on March 25, 2009 (the "General Resolution"), (iii) (a) the Authority's Series 2009A Resolution Authorizing Samaritan Medical Center Revenue Bonds, Series 2009A adopted by the Authority on March 25, 2009 (the "Series 2009A Resolution") and (b) the Authority's Series 2009B Resolution Authorizing Samaritan Medical Center Revenue Bonds, Series 2009B adopted by the Authority on March 25, 2009 (the "Series 2009B Resolution", and together with the Series 2009A Resolution, the "Series Resolution", and collectively with the General Resolution, the "Resolutions"), and (iv) (a) the Bond Series Certificate relating to the Series 2009A Bonds, dated as of April 8, 2009, executed by an Authorized Officer of the Authority pursuant to the General Resolution and the Series 2009A Resolution (the "Series 2009A Certificate") and (b) the Bond Series Certificate relating to the Series 2009B Bonds, dated as of April 8, 2009, executed by an Authorized Officer of the Authority pursuant to the General Resolution and the Series 2009B Resolution (the "Series 2009B Certificate", and together with the Series 2009A Certificate, the "Series Certificate").

The Series 2009 Bonds are being issued for the purposes set forth in the Resolutions. All capitalized terms used that are not otherwise defined herein shall have the meaning given to such terms in the Resolutions.

The Series 2009 Bonds are dated the date of issuance and will bear interest at the Weekly Rate for the Weekly Rate Period until converted to another Rate Mode. Interest on the Series 2009 Bonds will be payable on the first Business Day of each calendar month, commencing on \_\_\_\_\_, 2009, for so long as the Series 2009 Bonds bear interest at the Weekly Rate. The Series 2009A Bonds shall mature on November 1 in the years and in the principal amounts as set forth in the Series 2009A Certificate. The Series 2009B Bonds shall mature on November 1 in the years and in the principal amounts as set forth in the Series 2009B Certificate.

The Series 2009 Bonds are issuable initially in the form of fully registered bonds in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. The Series 2009A Bonds are lettered and numbered "AR- " followed by the number from such bond. The Series 2009A Bonds are numbered consecutively from one upward in order of issuance. The Series 2009B Bonds are lettered and numbered "BR- " followed by the number from such bond. The Series 2009B Bonds are numbered consecutively from one upward in order of issuance.

The Series 2009 Bonds are subject to redemption prior to maturity in the manner and upon the terms and conditions set forth in the Resolutions and the Series Certificate.

The Authority has entered into a Loan Agreement with Samaritan Medical Center (the "Institution") dated as of March 25, 2009 (the "Loan Agreement"), providing for, among other things, a loan by the Authority to the Institution of the proceeds of the Series 2009 Bonds for the purposes permitted thereby and by the Resolutions. Pursuant to the Loan Agreement, the Institution is required to make payments sufficient to pay the principal of and interest on the Series 2009 Bonds as the same shall become due, which payments have been pledged by the Authority to the Trustee for the benefit of the Holders of the Series 2009 Bonds.

The Internal Revenue Code of 1986, as amended (the "Code"), establishes certain requirements that must be met subsequent to the issuance and delivery of the Series 2009 Bonds in order that interest thereon be and remain excluded from gross income for federal income tax purposes under Section 103 of the Code. Included among these continuing requirements are certain restrictions and prohibitions on the use and investment of bond proceeds and other moneys or property, required ownership of the facilities financed with the Series 2009 Bonds by an organization described in Section 501(c)(3) of the Code or a governmental unit, and the rebate to the United States of certain earnings in respect of investments. In the General Resolution, the Series Resolution, the Loan Agreement, the Tax and Arbitrage Certificate of the Authority, dated the date hereof (the "Arbitrage Certificate"), and Tax Certificate of the Institution, dated the date hereof (the "Tax Certificate", and together with the Arbitrage Certificate, the "Tax Documents"), the Authority and the Institution have covenanted to comply with certain procedures, and have made certain representations and certifications, designed to assure satisfaction of the requirements of the Code.

In rendering the opinion set forth in paragraph 5 below, we have assumed the accuracy of certain factual certifications of, and continuing compliance with, the covenants, representations, warranties, provisions and procedures set forth in the General Resolution, the Series Resolution, the Loan Agreement and the Tax Documents by the Authority and the Institution. In the event of the inaccuracy or incompleteness of any of the certifications made by the Authority or the Institution, or the failure by the Authority or the Institution to comply with their respective covenants, representations and warranties and with the provisions and procedures set forth in the General Resolution, the Series Resolution, the Loan Agreement and the Tax Documents, interest on the Series 2009 Bonds could become includable in gross income for federal income tax purposes retroactive to the date of the original issuance and delivery of the Series 2009 Bonds, regardless of the date on which the event causing such inclusion occurs. We express no opinion as to any federal, state or local tax consequences with respect to the Series 2009 Bonds, or the interest thereon, if any change occurs or action is taken or omitted under the General Resolution, the Series Resolution, the Loan Agreement or the Tax Documents or under any other relevant documents without the advice or approval of, or upon the advice or approval of any bond counsel other than, Harris Beach PLLC. In addition, we have not undertaken to determine, or to inform any person, whether any actions taken, or not taken, or events occurring, or not occurring, after the date of issuance of the Series 2009 Bonds may affect the tax status of interest on the Series 2009 Bonds. Further, although interest on the Series 2009 Bonds is not included in gross income for purposes of federal income taxation, receipt or accrual of the interest may otherwise affect the tax liability of a holder of a Series 2009 Bond depending upon the tax status of such holder and such holder's other items of income and deduction. Except as stated in paragraphs 5 and 6 herein, we express no opinion as to federal, state or local tax consequences of the ownership or disposition of, or the accrual or receipt of interest on, the Series 2009 Bonds.

We have also examined one of the Series 2009 Bonds as executed and authenticated.

Based on the foregoing, and subject to the further assumptions and qualifications hereinafter set forth, we are of the opinion that:

1. The Authority is a body corporate and politic constituting a public benefit corporation of the State of New York, with the right and lawful authority and power to adopt the Resolutions and to issue the Series 2009 Bonds thereunder.

2. The Resolutions have been duly and lawfully adopted by the Authority, are in full force and effect, and constitute legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms.

3. The Series 2009 Bonds have been duly and validly authorized and issued in accordance with the Constitution and statutes of the State of New York, including the Act, and in accordance with the Resolutions. The Series 2009 Bonds are legal, valid and binding special obligations of the Authority payable as provided in the Resolutions, are enforceable in accordance with their terms and the terms of the Resolutions, and are entitled to the equal benefits of the Resolutions and the Act.

4. The Authority has the right and lawful authority and power to enter into the Loan Agreement and the Loan Agreement has been duly authorized, executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority enforceable in accordance with its terms.

5. Under existing statutes, regulations, administrative rulings and court decisions as of the date hereof, the interest on the Series 2009 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. We are also of the opinion that interest on the Series 2009 Bonds is not an "item of tax preference" for purposes of computing the federal alternative minimum tax imposed on individuals and corporations and, pursuant to the American Recovery and Reinvestment Tax Act of 2009, enacted into law on February 17, 2009, is not included in "adjusted current earnings" for purposes of calculating the federal alternative minimum tax liability of corporations.

6. Under existing statutes, including the Act, interest on the Series 2009 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof.

The foregoing opinions are qualified only to the extent that the enforceability of the Resolutions, the Loan Agreement and the Series 2009 Bonds may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws heretofore or hereafter enacted and judicial decisions relating to or affecting the enforcement of creditors' rights or remedies or contractual obligations generally and is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

In rendering the foregoing opinions we have made a review of such legal proceedings as we have deemed necessary to approve the legality and validity of the Series 2009 Bonds. In rendering the foregoing opinions we have not been requested to examine any document or financial or other information concerning the Authority or the Institution other than the record of proceedings referred to above, and we express no opinion as to the adequacy or sufficiency of any financial or other information which has been or will be supplied to purchasers of the Series 2009 Bonds.

Very truly yours,

**[END OF APPENDIX E - REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]**