



**\$50,325,000**  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**PRATT INSTITUTE**  
**INSURED REVENUE BONDS, SERIES 2009C**

Dated: Date of Delivery

Due: July 1, as shown below

**Payment and Security:** The Pratt Institute Insured Revenue Bonds, Series 2009C (the "Series 2009C Bonds") are special obligations of the Dormitory Authority of the State of New York (the "Authority") payable solely from and secured by a pledge of (i) certain payments to be made under the Loan Agreement (the "Loan Agreement"), dated as of the date of issuance of the Series 2009C Bonds, between Pratt Institute ("Pratt," the "Institution" or the "Institute") and the Authority and (ii) all funds and accounts (except the Arbitrage Rebate Fund) authorized under the Authority's Pratt Institute Revenue Bond Resolution, adopted September 24, 2008 (the "Resolution"), and established under the Series Resolution authorizing Up To \$110,000,000 Pratt Institute Insured Revenue Bonds, Series 2009C (the "Series 2009C Resolution") adopted on September 24, 2008.

The Loan Agreement is a general obligation of the Institution and requires the Institution to pay, in addition to the fees and expenses of the Authority and the Trustee, amounts sufficient to pay the principal, Sinking Fund Installments and Redemption Price of and interest on the Series 2009C Bonds, as such payments become due. The obligations of the Institution under the Loan Agreement to make such payments will be secured by a pledge of certain revenues of the Institution. At the time of delivery of the Series 2009C Bonds, a portion of the bond proceeds will be used to fund the Debt Service Reserve Fund in an amount equal to the allocable portion of the Debt Service Reserve Fund Requirement attributable to the Series 2009C Bonds.

The scheduled payment of the principal and Sinking Fund Installments of and interest on the Series 2009C Bonds will be guaranteed under a financial guaranty insurance policy (the "Policy") to be issued simultaneously with the delivery of the Series 2009C Bonds by Assured Guaranty Corp. (the "Insurer" or "Assured Guaranty").



**The Series 2009C Bonds will not be a debt of the State of New York (the "State") nor will the State be liable thereon. The Authority has no taxing power.**

**Description:** The Series 2009C Bonds are issuable as fully registered bonds without coupons in denominations of \$5,000 and any integral multiple thereof. The Series 2009C Bonds will bear interest from their date of delivery, payable semiannually on each July 1 and January 1, commencing January 1, 2010.

Series 2009C 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 2009C Bonds will be made in book-entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2009C Bonds, payments of the principal, Purchase Price and Redemption Price of and interest on the Series 2009C 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 2009C BONDS – Book-Entry Only System" herein.

**Redemption or Purchase:** *The Series 2009C Bonds are subject to redemption or purchase in lieu of redemption prior to maturity as more fully described herein.*

**Tax Exemption:** In the opinion of Bond Counsel, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by the Authority and the Institution described herein, interest on the Series 2009C Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue code of 1986, as amended (the "Code"). Bond counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Bond Counsel is further of the opinion that the interest on the Series 2009C Bonds is exempt from personal income taxes of the State of New York and its political subdivisions, including The City of New York and the City of Yonkers. See "Part 10 – TAX MATTERS" herein regarding certain other tax considerations.

<u>Due</u> <u>July 1,</u>	<u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u> <u>Number<sup>(1)</sup></u>	<u>Due</u> <u>July 1,</u>	<u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u> <u>Number<sup>(1)</sup></u>
2010	\$ 890,000	2.50%	1.00%	649905NA0	2018	\$1,140,000	5.00%	3.68%	649905NJ1
2011	910,000	2.50	1.42	649905NB8	2019	1,200,000	5.00	3.88	649905NK8
2012	935,000	2.50	1.74	649905NC6	2020	1,260,000	4.00	4.10	649905NL6
2013	950,000	2.75	2.18	649905ND4	2021	1,310,000	4.00	4.23	649905NM4
2014	985,000	3.00	2.67	649905NE2	2022	1,360,000	4.125	4.37	649905NN2
2015	1,010,000	3.25	2.95	649905NF9	2023	1,420,000	4.25	4.48	649905NP7
2016	1,050,000	5.00	3.22	649905NG7	2024	1,480,000	4.375	4.61	649905NQ5
2017	1,100,000	4.00	3.49	649905NH5					
		\$8,525,000	5.00%	Term Bonds due July 1, 2029	Yield 4.95%*	CUSIP No. 649905NR3 <sup>(1)</sup>			
		\$10,880,000	5.00%	Term Bonds due July 1, 2034	Yield 5.20%	CUSIP No. 649905NS1 <sup>(1)</sup>			
		\$13,920,000	5.125%	Term Bonds due July 1, 2039	Yield 5.27%	CUSIP No. 649905NT9 <sup>(1)</sup>			

\* Priced to the first par call on July 1, 2019

*The Series 2009C Bonds are offered when, as and if issued and received by the Underwriters. The offer of the Series 2009C 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 Nixon Peabody LLP, New York, 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, Cullen and Dykman LLP, Garden City, New York. Certain legal matters will be passed upon for the Underwriters by their Counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York. The Authority expects to deliver the Series 2009C Bonds in definitive form in New York, New York, on or about August 13, 2009.*

Ramirez &amp; Co., Inc.

George K. Baum &amp; Company

Roosevelt &amp; Cross, Incorporated

July 30, 2009

(1) Copyright 2007, American Bankers Association. The CUSIP number has been assigned by an independent company not affiliated with the Authority and is included solely for the convenience of the holders of the Series 2009C Bonds. Neither the Authority nor the Underwriters are responsible for the selection or uses of the CUSIP number and no representation is made as to its correctness on the Series 2009C Bonds or as indicated above. The CUSIP number is subject to being changed after the issuance of the Series 2009C Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such Series 2009C Bonds or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of the Series 2009C Bonds.

No dealer, broker, salesperson or other person has been authorized by the Authority, the Institution or the Underwriters to give any information or to make any representations with respect to the Series 2009C 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 Institution or the Underwriters.

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 2009C 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 Insurer, DTC and other sources that the Authority believes are reliable. The Authority does not guarantee the accuracy or completeness of such information and such information is not to be construed as a representation of the Authority.

The Institution reviewed the parts of this Official Statement describing the Institution, the 2009 Plan of Finance, the Principal and Interest Requirements, the Project, the Estimated Sources and Uses of Funds and Appendix B. As a condition to the delivery of the Series 2009C Bonds, the Institution will certify as of the dates of sale and delivery of the Series 2009C 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 representations as to the accuracy or completeness of any other information included in this Official Statement.

Assured Guaranty makes no representations regarding the Series 2009C Bonds or the advisability of investing in the Series 2009C Bonds. In addition, Assured Guaranty has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the Assured Guaranty supplied by Assured Guaranty and presented under the heading "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS - Bond Insurance" and "Appendix F – Specimen Financial Guaranty Insurance Policy – Series 2009C."

The Underwriters have reviewed the information in this Official Statement pursuant to their responsibilities to investors under the federal securities law, but the Underwriters do not guarantee the accuracy or completeness of such information.

References in this Official Statement to the Act, the Resolution, the Series 2009C Resolution, the Series 2009C Bond Series Certificate, the Loan Agreement, the Mortgage and the Policy do not purport to be complete. Refer to the Act, the Resolution, the Series 2009C Resolution, the Bond Series Certificate, the Loan Agreement, the Mortgage and the Policy for full and complete details of their provisions. Copies of the Resolution, the Series 2009C Resolution, the Bond Series Certificate, the Loan Agreement, the Mortgage and the Policy 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 shall the delivery of this Official Statement or any sale made after its delivery create any implication that the affairs of the Authority, the Institution or the Insurer have remained unchanged after the date 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**  
**ALFONSO L. CARNEY, JR. – CHAIR**

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**OFFICIAL STATEMENT RELATING TO**

**\$50,325,000**

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**PRATT INSTITUTE**  
**INSURED REVENUE BONDS, SERIES 2009C**

**PART 1 – INTRODUCTION**

**Purpose of the Official Statement**

The purpose of this Official Statement, including the cover page and appendices, is to provide information about the Authority, the Institution and the Insurer, in connection with the offering by the Authority of \$50,325,000 aggregate principal amount of its Pratt Institute Insured Revenue Bonds, Series 2009C (the “Series 2009C Bonds”).

The following is a brief description of certain information concerning the Series 2009C Bonds, the Authority, the Insurer and the Institution. A more complete description of such information and additional information that may affect decisions to invest in the Series 2009C 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 2009C Bonds are being issued (i) to finance the costs of a project (the “Project”) consisting of the acquisition, construction and equipping of an educational condominium unit to be built at 526-542 Myrtle Avenue, Brooklyn, New York (the “Myrtle Avenue Property”), (ii) to make a deposit to the Debt Service Reserve Fund, and (iii) to pay certain Costs of Issuance of the Series 2009C Bonds, including the premium on the Policy. Contemporaneously with the issuance of the Series 2009C Bonds and undertaking of the Project, the Institute will fund, through an equity contribution from the Institute’s net assets, the acquisition, construction and equipping of a commercial condominium unit that will also be built at 526-542 Myrtle Avenue, Brooklyn, New York (collectively, with the Project, the “Myrtle Avenue Project”). See “PART 5 – THE PROJECT” and “PART 6 - ESTIMATED SOURCES AND USES OF FUNDS.”

**Authorization of Issuance**

The Series 2009C Bonds will be issued pursuant to the Resolution, the Series 2009C Resolution and the Act. In addition to the Series 2009C Bonds, the Resolution authorizes the issuance of other Series of Bonds to pay the 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 of the Authority issued for the benefit of the Institution. The Series 2009C Bonds are the third Series of Bonds to be issued under the Resolution. In March of 2009, the Authority, on behalf of the Institution, issued its Pratt Institute Revenue Bonds, Series 2009A in the aggregate principal amount of \$33,775,000 (the “Series 2009A Bonds”) and its Pratt Institute Revenue Bonds, Series 2009B in the aggregate principal amount of \$18,420,000 (the “Series 2009B Bonds” and together with the Series 2009A Bonds and the Series 2009C Bonds, the

“Series 2009 Bonds”) under the Resolution. See “PART 4 - THE INSTITUTION - Outstanding Indebtedness.” The aggregate amount of Bonds that may be issued under the Resolution is unlimited, except as provided in the Resolution or by law. Each Series of Bonds issued under the Resolution will be separately secured; however, the Institution’s obligations with respect to all bonds issued under the Resolution will be secured equally and ratably by a security interest in the Institution’s Gross Receipts (as herein defined). See “— The 2009 Plan of Finance” and “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS.”

### **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, governmental and not-for-profit institutions. See “PART 7 - THE AUTHORITY.”

### **The Institution**

Pratt Institute is an independent, not-for-profit education corporation chartered by the Board of Regents of the State. The Institution’s main campus is located in Brooklyn, New York, and a satellite campus is located in Manhattan, New York. See “PART 4 - THE INSTITUTION” and “Appendix B - Financial Statements of Pratt Institute (With Independent Auditors’ Report Thereon).”

### **The Series 2009C Bonds**

The Series 2009C Bonds are issuable as fully registered bonds without coupons in denominations of \$5,000 and any integral multiple thereof. The Series 2009C Bonds will bear interest from their date of delivery, payable semiannually on each July 1 and January 1, commencing January 1, 2010. See “PART 3 - THE SERIES 2009C BONDS - Description of the Series 2009C Bonds.”

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

The Series 2009C Bonds will be special obligations of the Authority payable solely from 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. Pursuant to the Resolution and the Series 2009C Resolution, the Revenues and the Authority’s right to receive the Revenues have been pledged to the Trustee. See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS.”

The Series 2009C Bonds will not be a debt of the State nor will the State be liable thereon. The Authority has no taxing power.

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

The Series 2009C Bonds will be secured by the pledge and assignment to the Trustee of the Revenues and the security interest in the Gross Receipts granted by the Institution to the Authority under the Loan Agreement. The Series 2009C Bonds will also be secured by the proceeds from the sale of the Series 2009C Bonds (until disbursed as provided by the Resolution) and all funds and accounts authorized by the Resolution and established by the Series 2009C Resolution (except the Arbitrage Rebate Fund), which includes a Debt Service Reserve Fund. Payment of principal and Sinking Fund Installments of and interest on the Series 2009C Bonds will be insured by the Insurer. The Resolution authorizes the issuance by the Authority, from time to time, of Bonds in one or more Series, each such Series to be authorized by a separate Series Resolution. Each Series of Bonds issued under the Resolution will be separately secured; however, the Institution’s obligations with respect to all bonds issued under the Resolution will be secured equally and ratably by a security interest in the Institution’s Gross Receipts (as herein defined). See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE BONDS - Security for the Series 2009C Bonds.”

The Series 2009C Bonds will not be a debt of the State nor will the State be liable thereon. The Authority has no taxing power.

### **The 2009 Plan of Finance**

The Series 2009C Bonds will be issued as part of a broader financing plan undertaken by the Institution. On March 19, 2009, the Authority issued its Series 2009A Bonds and Series 2009B Bonds on behalf of the Institute to provide funds that were used to refund bonds previously issued by the Authority on behalf of the Institution. The Series 2009C Bonds will be issued pursuant to the Resolution and the proceeds of the Series 2009C Bonds will be loaned to the Institution pursuant to the Loan Agreement. The Series 2009A Bonds and the Series 2009B Bonds were issued pursuant to the Resolution and the proceeds of the Series 2009A Bonds and Series 2009B Bonds were loaned to the Institute pursuant to respective loan agreements by and between the Authority and the Institute. The Institute's obligations under each of the loan agreements are secured by a security interest in the Institute's "Gross Receipts". See "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS – Security for the Series 2009C Bonds – Gross Receipts." In addition, the Institute's obligations under the loan agreement and a letter of credit reimbursement agreement entered into in connection with the Series 2009A Bonds are secured by a mortgage made by the Institute to the Authority and TD Bank, N.A. (the "Bank") on certain property located at 215 Willoughby Avenue, Brooklyn, New York and an educational unit located at 138-146 West 14<sup>th</sup> Street, New York, New York (the "Series 2009A Mortgage"); the Institute's obligations under the loan agreement and a letter of credit reimbursement agreement entered into in connection with the Series 2009B Bonds are secured by a mortgage made by the Institute to the Authority and the Bank on certain property located at 61 St. James Place, Brooklyn, New York (the "Series 2009B Mortgage"); and the Institute's obligations under the loan agreement entered into in connection with the Series 2009C Bonds will be secured by a mortgage made by the Institute to the Authority on the Myrtle Avenue Property and a commercial unit located at 138-146 West 14<sup>th</sup> Street, New York, New York (the "Mortgage" or the "Series 2009C Mortgage").

The Series 2009C Bonds will be issued by the Authority as fixed rate bonds, the principal, Sinking Fund Installments of and the interest on which will be guaranteed by a financial guaranty insurance policy issued by the Insurer. The Authority will assign its security interest in the Gross Receipts to the Trustee to secure payment of the Series 2009C Bonds. The Authority has assigned its security interests in the Gross Receipts and the Series 2009A Mortgage and the Series 2009B Mortgage, respectively, to the Trustee and the Bank, to secure payment of the Series 2009A Bonds and Series 2009B Bonds, and the letter of credit reimbursement agreements related thereto. The Series 2009A Mortgage only secures the Institution's obligations to the Authority under the Series 2009A loan agreement and the Series 2009B Mortgage only secures the Institution's obligations to the Authority under the Series 2009B loan agreement. The Series 2009A Mortgage only secures the Institution's obligations to the Bank under the Series 2009A letter of credit reimbursement agreement and the Series 2009B Mortgage only secures the Institution's obligations to the Bank under the Series 2009B letter of credit reimbursement agreement. The Series 2009A Mortgage also secures the Institution's obligations under the Series 2009A Swap Agreement (as defined herein).

In connection with the issuance of the Series 2009A Bonds and Series 2009B Bonds, the Bank, for the account of the Institute, issued its irrevocable direct-pay letters of credit for the benefit of the Trustee of the respective Series (the "Letters of Credit"). The Letters of Credit provide that the respective Trustee may obtain money for the payment of the principal, tender purchase price and redemption price of and interest on the Series 2009A Bonds and Series 2009B Bonds, as the case may be, as the same becomes due and payable. Pursuant to letter of credit and reimbursement agreements by and between the Bank and the Institute, the Institute is obligated to reimburse the Bank for all amounts advanced by the Bank under the Letters of Credit, with interest. The Institute's obligations under the letter of credit and reimbursement agreements are secured by a security interest in the Gross Receipts and the Series 2009A Mortgage and Series 2009B Mortgage, respectively.

As part of the 2009 plan of finance, the Institute intends to finance, through an equity contribution from the Institute's net assets, the acquisition, construction and equipping of a commercial condominium unit to be built at the Myrtle Avenue Property. The Institute expects that the equity contribution will be approximately \$14.3 million.

The Authority, the Trustee and the Bank entered into an Intercreditor Agreement dated as of March 19, 2009 (the "Intercreditor Agreement") to (i) agree upon the relative priorities among the security interest in the Gross Receipts given to the Authority to secure the Institute's obligations under each loan agreement, the security interest in the Gross Receipts given to the Bank to secure the Institute's obligations under the Series 2009 Reimbursement Agreements, and the Series 2009A Swap Agreement, consisting of an ISDA Master Agreement and an accompanying schedule, a credit support annex and a confirmation (the "Series 2009A Swap Agreement"), (ii) establish limitations or conditions upon the parties' respective rights to enforce, foreclose or realize upon such security interest, and (iii) agree upon the manner in which any moneys realized from the enforcement, foreclosure or other realization upon such security interests is to be applied. The Intercreditor Agreement will be amended as of the date of issuance of the Series 2009C Bonds in connection with the issuance of the Series 2009C Bonds and the security interest in the Gross Receipts granted to the Authority pursuant to the Loan Agreement. Pursuant to the Intercreditor Agreement, the security interests in the Gross Receipts made and given by the Institute to the Authority or the Bank, or assigned by the Authority to the Trustee to secure its obligations under one or more of the loan agreements, the reimbursement agreements or a collateral assignment shall be of equal priority and any cash proceeds realized by any of the parties upon all or any part of the Gross Receipts shall be held for the equal benefit of all the parties to the Intercreditor Agreement. Notwithstanding anything to the contrary contained herein or in the Intercreditor Agreement, cash proceeds upon all or any part of the Gross Receipts will exclude insurance proceeds, rents, income, proceeds of any judicial or non-judicial sale of or any other profits of any real or personal property mortgaged to the Authority to secure the Institution's obligations under the Series 2009A, Series 2009B and Series 2009C loan agreements, the Series 2009 Reimbursement Agreements or the Series 2009A Swap Agreement.

To the extent permitted by the Series 2009 Reimbursement Agreements and the Loan Agreement, the Institute may incur indebtedness, in addition to the Series 2009C Bonds, secured by a parity security interest in the Gross Receipts. The security interest in Gross Receipts granted to the Authority to secure the Institution's obligations under the loan agreements for the Series 2009 Bonds will be diluted to the extent any other such debt is issued. Future creditors of the Institution that will be secured by a security interest in the Gross Receipts will be required to enter into an Intercreditor Agreement with the Authority, the Trustee, and Bank, and each other person secured by a security interest in the Gross Receipts that is on parity with the Lien on Gross Receipts securing the Series 2009 Bonds.

### **Bond Insurance**

The Insurer has committed to issue a financial guaranty insurance policy guaranteeing the payment of the principal and Sinking Fund Installments of and the interest on the Series 2009C Bonds when due. See "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE BONDS – Bond Insurance," "Appendix F – Specimen Financial Guaranty Insurance Policy – Series 2009C."

### **The Mortgage**

The Institution's obligations to the Authority under the Loan Agreement will be additionally secured by the Series 2009C Mortgage and security interests in certain fixtures, furnishings and equipment now or hereafter located on the Mortgaged Property or used in connection therewith. The Authority may, but has no present intention to, assign the Mortgage and such security interests to the Trustee. Unless the Mortgage and such security interests are assigned to the Trustee, neither the Mortgage, the security interests in such fixtures, furnishings and equipment nor any proceeds therefrom will be pledged to the Holders of the Series 2009C Bonds. Property subject to the Mortgage may be released, and the Mortgage may be amended, with the prior written consent of the Authority and the Insurer, but without the consent of the Trustee or the Holders of any Series 2009C Bonds. See "PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE BONDS - The Mortgage."

### **The Project**

The Project consists of the acquisition, construction, and equipping of an educational condominium unit to be built at 526-542 Myrtle Avenue, Brooklyn, New York. See "PART 5 - THE PROJECT."

## **PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS**

*Set forth below is a narrative description of certain contractual provisions relating to the source of payment of and security for the Series 2009C Bonds and certain related covenants. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Act, the Resolution, the Series 2009C Resolution, the Loan Agreement, the Mortgage and the Policy. Copies of the Resolution, the Series 2009C Resolution, the Loan Agreement, the Mortgage and the Policy are on file with the Authority and the Trustee. See also “Appendix C - Summary of Certain Provisions of the Loan Agreement”, “Appendix D – Summary of Certain Provisions of the Resolution” and “Appendix F – Specimen Financial Guaranty Insurance Policy – Series 2009C” for a more complete statement of the rights, duties and obligations of the parties thereto. All references to the Debt Service Fund and Debt Service Reserve Fund refer to such funds established pursuant to the Series 2009C Resolution.*

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

The Series 2009C Bonds and all other Bonds which may be issued under the Resolution will be special obligations of the Authority. The principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Series 2009C Bonds are payable solely from the Revenues. The Revenues consist of the payments required to be made by the Institution under the Loan Agreement to satisfy the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Series 2009C Bonds and to maintain the Debt Service Reserve Fund at its requirement. The Revenues and the right to receive them have been pledged to the Trustee for the benefit of the Bondholders.

The Loan Agreement is a general obligation of the Institution and obligates the Institution to make payments to satisfy the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on Outstanding Series 2009C Bonds. Payments made by the Institution in respect of interest on the Series 2009C Bonds are to be made on the 10th day of each month in an amount equal to the required fractional amount of interest coming due on the immediately succeeding interest payment date for the Series 2009C Bonds. 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 September, 2009 to and including June 10, 2010, in the amount of one-tenth (10<sup>th</sup>) of the principal and Sinking Fund Installments coming due on July 1, 2010, and on the tenth (10<sup>th</sup>) day of each month thereafter commencing July 10, 2010, one-twelfth of the principal and Sinking Fund Installment on the Series 2009C Bonds coming due on the next succeeding July 1. Unless the redemption of Series 2009C Bonds at the option of the Authority or any purchase thereof in lieu of optional redemption is conditioned on the availability of sufficient money on the redemption date or purchase date, the Loan Agreement also obligates the Institution to pay on or prior to the date any notice of optional redemption or purchase in lieu of redemption is given, the amount required to pay the Redemption Price or Purchase Price of such Bonds. See “PART 3 - THE SERIES 2009C BONDS - Redemption Provisions.”

The Authority has directed, and the Institution has agreed, to make such payments directly to the Trustee. Such payments are to be applied by the Trustee to the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Bonds. The payments to be made by the Institution to restore the Debt Service Reserve Fund to the Debt Service Reserve Requirement are to be made directly to the Trustee for deposit to the Debt Service Reserve Fund.

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

The Series 2009C Bonds will be separately secured from each Series of Bonds which have been and may be issued under the Resolution. The Series 2009C Bonds will be secured by the pledge and assignment of the Revenues, the proceeds from the sale of the Series 2009C Bonds (until disbursed as provided in the Resolution) and all funds and accounts authorized under the Resolution and established under the applicable Series Resolution (with the exception of the Arbitrage Rebate Fund and any fund established for the payment of the Purchase Price or Redemption Price of bonds tendered for purchase or redemption). In addition, the Series 2009C Bonds and the Institution’s obligations with respect to all Bonds issued under the Resolution will be secured equally and ratably by the Authority’s security interest in the Gross Receipts.

All Bonds, notwithstanding the Series Resolution under which issued or their date or dates of issuance, will be secured by a security interest in the interest in the Gross Receipts that will be of equal priority. In addition, to the extent permitted by the Series 2009 Reimbursement Agreements and the Loan Agreement, the Institution may incur debt secured by a parity lien on the Gross Receipts. See “PART 1 – INTRODUCTION – The 2009 Plan of Finance” and “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009 BONDS – Issuance of Additional Bonds.”

#### *Gross Receipts*

As security for its obligations under the Loan Agreement, the Institution has granted to the Authority a security interest in the Gross Receipts, consisting of all revenues received by the Institute from operations, including but not limited to the tuition and fees charged to students and received or receivable by the Institution, all of the Institution’s accounts, contract rights, chattel paper, instruments, general intangibles, and other obligations of any kind, rights in and to Receivables, investment income, gifts, bequests, contributions and other donations (excluding only those that are specifically restricted) and the proceeds of any or all of the foregoing. To secure the pledge of the Gross Receipts, the Institution will enter into a security agreement (the “Security Agreement”) with the Authority. The Authority has pledged and assigned to the Trustee for the benefit of the Holders of Bonds its security interest in the Gross Receipts. Pursuant to the Intercreditor Agreement, the security interests in the Gross Receipts made and given by the Institute to the Authority or the Bank, or assigned by the Authority to the Trustee to secure its obligations under one or more of the loan agreements, the reimbursement agreements or a collateral assignment shall be of equal priority and any cash proceeds realized by any of the parties upon all or any part of the Gross Receipts shall be held for the equal benefit of all the parties to the Intercreditor Agreement.

#### *Debt Service Reserve Fund*

The Debt Service Reserve Fund for the Series 2009C Bonds shall be maintained at an amount equal to the greatest amount required to be paid in the then current or any future twelve month period beginning on July 1 of a year and ending on June 30 of the next succeeding year for the principal and Sinking Fund Installments of and interest on Outstanding Series 2009C Bonds.

At the time of delivery of the Series 2009C Bonds, the Debt Service Reserve Fund will be funded at its requirement with Series 2009C Bond proceeds in the amount of \$3,231,150.

Moneys in the Debt Service Reserve Fund are to be withdrawn and deposited in the Debt Service Fund whenever the amount in such Debt Service Fund on the third Business Day prior to an interest payment date is less than the amount which is necessary to pay the principal and Sinking Fund Installments of and interest on Outstanding Series 2009C Bonds payable on such interest payment date. The Loan Agreement requires that the Institution restore the Debt Service Reserve Fund to its requirement by paying the amount of any deficiency to the Trustee promptly after receiving notice of a deficiency, but in no event more than 15 days after such notice is given to the Institute. Moneys in the Debt Service Reserve Fund in excess of its requirement shall be withdrawn and applied in accordance with the Resolution. See “Appendix D - Summary of Certain Provisions of the Resolution.”

### **Bond Insurance**

#### *The Insurance Policy*

Concurrently with the issuance of the Series 2009C Bonds, Assured Guaranty Corp. (“Assured Guaranty” or the “Insurer”) will issue its financial guaranty insurance policy (the “Policy”) for the Series 2009C Bonds. The Policy guarantees the scheduled payment of principal of and interest on the Series 2009C Bonds when due as set forth in the form of the Policy included as Appendix F to this Official Statement.



The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### *The Insurer*

Assured Guaranty is a Maryland-domiciled insurance company regulated by the Maryland Insurance Administration and licensed to conduct financial guaranty insurance business in all fifty states of the United States, the District of Columbia and Puerto Rico. Assured Guaranty commenced operations in 1988. Assured Guaranty is a wholly owned, indirect subsidiary of Assured Guaranty Ltd. (“AGL”), a Bermuda-based holding company whose shares are publicly traded and are listed on the New York Stock Exchange under the symbol “AGO.” AGL, through its operating subsidiaries, provides credit enhancement products to the U.S. and global public finance, structured finance and mortgage markets. Neither AGL nor any of its shareholders is obligated to pay any debts of Assured Guaranty or any claims under any insurance policy issued by Assured Guaranty.

Assured Guaranty’s financial strength is rated “AAA” (negative outlook) by Standard & Poor’s, a division of The McGraw-Hill Companies, Inc. (“S&P”), “Aa2” (on review for possible downgrade) by Moody’s Investors Service, Inc. (“Moody’s”) and “AA” (evolving) by Fitch, Inc. (“Fitch”). Each rating of Assured Guaranty should be evaluated independently. An explanation of the significance of the above ratings may be obtained from the applicable rating agency. The above ratings are not recommendations to buy, sell or hold any security, and such ratings are subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of any security guaranteed by Assured Guaranty. Assured Guaranty does not guaranty the market price of the securities it guarantees, nor does it guaranty that the ratings on such securities will not be revised or withdrawn.

### *Recent Developments*

#### Ratings

On July 1, 2009, S&P published a Research Update in which it affirmed its “AAA” counterparty credit and financial strength ratings on Assured Guaranty. At the same time, S&P revised its outlook on Assured Guaranty to negative from stable. Reference is made to the Research Update, a copy of which is available at [www.standardandpoors.com](http://www.standardandpoors.com), for the complete text of S&P’s comments.

On May 20, 2009, Moody’s issued a press release stating that it had placed the “Aa2” insurance financial strength rating of Assured Guaranty on review for possible downgrade. Reference is made to the press release, a copy of which is available at [www.moody.com](http://www.moody.com), for the complete text of Moody’s comments.

In a press release dated May 4, 2009, Fitch announced that it had downgraded the insurer financial strength rating of Assured Guaranty to “AA” from “AAA” and placed such rating on Rating Watch Evolving. Reference is made to the press release, a copy of which is available at [www.fitchratings.com](http://www.fitchratings.com), for the complete text of Fitch’s comments.

There can be no assurance as to the outcome of Moody’s review or the timing of when such review may be completed, or as to the further action that Fitch or S&P may take with respect to Assured Guaranty.

For more information regarding Assured Guaranty’s financial strength ratings and the risks relating thereto, see AGL’s Annual Report on Form 10-K for the fiscal year ended December 31, 2008, which was filed by AGL with the Securities and Exchange Commission (“SEC”) on February 26, 2009, and AGL’s Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009, which was filed by AGL with the SEC on May 11, 2009.

### Acquisition of FSA

On July 1, 2009, AGL acquired the financial guaranty operations of Financial Security Assurance Holdings Ltd. (“FSA”), the parent of financial guaranty insurance company Financial Security Assurance, Inc.

### *Capitalization of Assured Guaranty Corp.*

As of March 31, 2009, Assured Guaranty had total admitted assets of \$1,926,329,505 (unaudited), total liabilities of \$1,570,615,119 (unaudited), total surplus of \$355,714,386 (unaudited) and total statutory capital (surplus plus contingency reserves) of \$1,109,717,908 (unaudited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

### *Incorporation of Certain Documents by Reference*

The portions of the following documents relating to Assured Guaranty are hereby incorporated by reference into this Official Statement and shall be deemed to be a part hereof:

- The Annual Report on Form 10-K of AGL for the fiscal year ended December 31, 2008 (which was filed by AGL with the SEC on February 26, 2009); and
- The Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009 (which was filed by AGL with the SEC on May 11, 2009).

All consolidated financial statements of Assured Guaranty and all other information relating to Assured Guaranty included in documents filed by AGL with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this Official Statement and prior to the termination of the offering of the Series 2009C Bonds shall be deemed to be incorporated by reference into this Official Statement and to be a part hereof from the respective dates of filing such consolidated financial statements.

Any statement contained in a document incorporated herein by reference or contained herein under the heading “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS – Bond Insurance – *The Insurer*” shall be modified or superseded for purposes of this Official Statement to the extent that a statement contained herein or in any subsequently filed document which is incorporated by reference herein also modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Official Statement.

Copies of the consolidated financial statements of Assured Guaranty incorporated by reference herein and of the statutory financial statements filed by Assured Guaranty with the Maryland Insurance Administration are available upon request by contacting Assured Guaranty at 1325 Avenue of the Americas, New York, New York 10019 or by calling Assured Guaranty at (212) 974-0100. In addition, the information regarding Assured Guaranty that is incorporated by reference in this Official Statement that has been filed by AGL with the SEC is available to the public over the Internet at the SEC’s web site at <http://www.sec.gov> and at AGL’s web site at <http://www.assuredguaranty.com>, from the SEC’s Public Reference Room at 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549, and at the office of the New York Stock Exchange at 20 Broad Street, New York, New York 10005.

Assured Guaranty makes no representation regarding the Series 2009C Bonds or the advisability of investing in the Series 2009C Bonds. In addition, Assured Guaranty has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding Assured Guaranty supplied by Assured Guaranty and presented under the heading “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2009C BONDS – Bond Insurance.”

## **The Mortgage**

The Institution's obligations to the Authority under the Loan Agreement will be additionally secured by the Mortgage on the Mortgaged Property and security interests in certain fixtures, furnishings and equipment now or hereafter located therein or used in connection therewith. The Authority may, but has no present intention to, assign the Mortgage and such security interests to the Trustee. Unless the Mortgage and such security interests are assigned to the Trustee, neither the Mortgage, the security interests in such fixtures, furnishings and equipment nor any proceeds therefrom will be pledged to the Holders of the Series 2009C Bonds. The Mortgage will constitute a first lien on the Mortgaged Property subject only to Permitted Liens.

The Series 2009C Mortgage will initially encumber the Institution's tenant-in-common interest and leasehold interest in the Myrtle Avenue Property. Upon completion of the Myrtle Avenue Project and issuance of a certificate of occupancy with respect thereto, it is anticipated that the lien of the fee mortgage covering the Institution's tenant-in-common interest in the Myrtle Avenue Property will be spread over the educational condominium unit in the Myrtle Avenue Project and the lien of the leasehold mortgage and the lien of the tenant-in-common mortgage will be released. The Series 2009C Mortgage will not encumber the commercial condominium unit in the Myrtle Avenue Project. For a more complete description of the Project and the Institution's ownership rights with respect to the Myrtle Avenue Property, see "PART 5 – THE PROJECT."

The Authority, with the written consent of the Insurer, may consent to the amendment of the Mortgage and of any security interest in fixtures, furnishings or equipment located in or on or used in connection with such Mortgaged Property, and release from the lien thereon any property subject to such Mortgage or security interest.

## **Certain Financial Covenants of the Institution**

The Loan Agreement contains certain financial covenants regarding the coverage of debt service on the Institution's outstanding indebtedness as summarized below.

### *Liquidity Ratio*

The Institution will have on each prescribed testing date a Liquidity Ratio of not less than 60%. An event of default will automatically be triggered upon failure to have on the prescribed testing date a Liquidity Ratio of at least 60%.

### *Debt Service Coverage Ratio*

The Institution will have on each prescribed testing date a Debt Service Coverage Ratio of not less than 125%. An event of default will automatically be triggered upon failure to have on the prescribed testing date a Debt Service Coverage Ratio of at least 125%.

### *Limitation on Additional Indebtedness*

Short-Term Debt. The Institution will not have outstanding Short-Term Debt in a principal amount greater than 10% of the Institution's total operating revenues for the immediately preceding Fiscal Year for which audited financial statements are available.

Long Term Debt. The Institution will not, without the prior written consent of the Authority and the Insurer, incur, assume or guaranty any Long-Term Debt if either (i) after giving effect to such Debt, Maximum Annual Debt Service would exceed 10% of the Institution's total operating revenues for the immediately preceding Fiscal Year for which audited financial statements are available, or (ii) the Debt Service Coverage Ratio for the each of the two immediately preceding Fiscal Years for which audited financial statements are available was, after giving effect to such Debt, less than 140%, in each case as certified by the chief financial officer of the Institution. If such proposed Long-Term Debt

exceeds \$15 million, the Institution will provide written confirmation of its post-issuance rating of at least “A3” or an equivalent rating from each rating agency then rating the credit of the Institution.

So long as the Policy is in effect with respect to the Series 2009C Bonds, and the Insurer is not in payment default thereunder, the Insurer will be deemed to be the holder of the Series 2009C Bonds for purposes of granting any consent to an amendment to the aforementioned covenants and may grant such consent without notice to or consent of the Holders of the Series 2009C Bonds. For a more complete description of the financial covenants in the Loan Agreement, see “Appendix C - Summary of the Provisions of the Loan Agreement.”

### **Events of Default and Acceleration**

The following are events of default under the Resolution with respect to the Series 2009C Bonds: (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 2009C Resolution to comply with the provisions of the Code 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 Resolutions which continues for 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 30 days, if the Authority fails to commence within 30 days and diligently prosecute the cure thereof; or (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 Institute under the Loan Agreement have been declared immediately due and payable (unless such declaration shall have been annulled). Unless all sums payable by the Institute 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 2009C Bonds, shall declare the principal of and interest on all the Outstanding Series 2009C Bonds to be due and payable. At any time after the principal of the Series 2009C 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 2009C 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 Institute and to the Insurer within five days, and to the Holders within 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 2009C Bonds, the Trustee will be protected in withholding such notice thereof to the Holders if the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Series 2009C Bonds.

### **Issuance of Additional Bonds**

In addition to the Series 2009C Bonds, the Resolution authorizes the issuance of other Series of Bonds to finance one or more projects and for other specific purposes, including to refund Outstanding Bonds or other notes or bonds of the Authority issued on behalf of the Institution. All Bonds issued under the Resolution will be separately secured; however, the Institution’s obligations with respect to all Bonds issued under the Resolution will be secured by a security

interest in the Gross Receipts given to the Authority by the Institution to secure the Institution's obligations under the respective loan agreements relating to such Bonds and such security interest will be pledged and assigned by the Authority to the Trustee to secure the payment of the principal and Redemption Price and interest on such Bonds, except as otherwise provided in the Resolution or the applicable Series Resolution. Such security interest may also be pledged and assigned to the credit enhancer for such Bonds to secure the Institution's obligations to such credit enhancer. See "Appendix D – Summary of Certain Provisions of the Resolution."

## **General**

The Series 2009C Bonds will not be a debt of the State nor will the State be liable thereon. The Authority has no taxing power. The Authority has never defaulted in the timely payment of principal or sinking fund installments of or interest on its bonds or notes. See "PART 7 - THE AUTHORITY."

## **PART 3 – THE SERIES 2009C BONDS**

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

### **Description of the Series 2009C Bonds**

#### *General*

The Series 2009C Bonds will be issued pursuant to the Resolution and the Series 2009C Resolution. The Series 2009C Bonds will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), pursuant to DTC's Book-Entry Only System. Purchases of beneficial interests in the Series 2009C Bonds will be made in book-entry form, without certificates. So long as DTC or its nominee, Cede & Co., is the registered owner of the Series 2009C Bonds, payments of the principal, Redemption Price of and interest on the Series 2009C Bonds will be made by the Trustee directly to Cede & Co. Disbursement of such payments to the DTC Participants (as hereinafter defined) is the responsibility of DTC and disbursement of such payments to the Beneficial Owners of the Series 2009C Bonds is the responsibility of the DTC Participants and the Indirect Participants (as hereinafter defined). If at any time the Book-Entry Only System is discontinued for the Series 2009C Bonds, the Series 2009C Bonds will be exchangeable for fully registered Series 2009C Bonds in any authorized denominations of the same maturity without charge except the payment of any tax, fee or other governmental charge to be paid with respect to such exchange, subject to the conditions and restrictions set forth in the Resolution.

The Series 2009C Bonds will be dated their date of delivery, and will bear interest from such date (payable January 1, 2010 and on each July 1 and January 1 thereafter) at the rates, and will mature at the times set forth on the cover page of this Official Statement. Interest on the Series 2009C Bonds will accrue based upon a 360-day year of twelve 30-day months.

The Series 2009C Bonds will be issued as fully registered bonds. The Series 2009C Bonds will be issued in denominations of \$5,000 or any integral multiple thereof. See "Book-Entry Only System" herein and "Appendix D - Summary of Certain Provisions of the Resolution."

Interest on the Series 2009C Bonds will be payable by check or draft mailed to the registered owners thereof or, at the option of the registered owner of at least \$1,000,000 of such Bonds, by wire transfer to the wire transfer address within the continental United States to which the registered owner has instructed the Trustee to make such payment at

least five days prior to the Record Date. The principal or Redemption Price of the Series 2009C Bonds will be payable in lawful money of the United States of America at the principal corporate trust office of The Bank of New York Mellon, New York, the Trustee and Paying Agent. As long as the Series 2009C Bonds are registered in the name of Cede & Co., as nominee of DTC, such payments will be made directly to DTC. See “Book-Entry Only System” herein. For a more complete description of the Series 2009C Bonds, see “Appendix D - Summary of Certain Provisions of the Resolution.”

### **Redemption and Purchase in Lieu of Redemption Provisions**

The Series 2009C Bonds are subject to optional, special and mandatory redemption, and to purchase in lieu of redemption, as described below.

#### *Optional Redemption*

The Series 2009C Bonds maturing after July 1, 2019 are subject to optional redemption prior to maturity at the election of the Authority, in whole or in part, at any time on or after July 1, 2019 at a price of 100% of the principal amount of Series 2009C Bonds to be redeemed, plus accrued interest to the redemption date.

#### *Special Redemption*

The Series 2009C Bonds are also subject to redemption, in whole or in part, at a price of 100% of the principal amount of Series 2009C Bonds to be redeemed, at the option of the Authority on any interest payment date, from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Project, and from unexpended proceeds of the Series 2009C Bonds upon an abandonment of all or a portion of the Project due to a legal or regulatory impediment.

#### *Purchase in Lieu of Optional Redemption*

The Series 2009C Bonds shall be subject to purchase in lieu of their optional redemption as provided below.

*Purchase Dates and Price.* The Series 2009C Bonds maturing after July 1, 2019 are subject to purchase prior to maturity at the election of the Institute, with the written consent of the Authority and the Insurer, in whole or in part at any time on or after July 1, 2019, at the purchase price of 100% of the principal amount of Series 2009C Bonds to be purchased, plus accrued interest, if any (the “Purchase Price”), to the date of purchase.

*Notice of Purchase; Conditional Notices.* If the Institute elects to purchase Series 2009C Bonds, the Institute will give written notice to the Authority and the Trustee of such election, which notice shall set forth the maturity and the principal amount of the Series 2009C Bond to be purchased. The Trustee will cause notice of the purchase of Series 2009C Bonds to be given by mailing a copy of such notice by first-class mail, postage prepaid, not less than 30 days nor more than 45 days prior to the purchase date set forth in such notice. Each notice of purchase of Series 2009C Bonds is to state (i) in addition to any other condition, that the purchase is conditioned upon the availability on the purchase date of money sufficient to pay the Purchase Price of the Series 2009C Bonds to be purchased, (ii) such other conditions as the Institute shall prescribe, (iii) the Series 2009C Bonds to be purchased, (iv) the purchase date or dates, and (v) that the Series 2009C Bonds to be purchased are to be delivered to the Trustee on the purchase date and that Series 2009C Bonds to be purchased not so delivered will be deemed duly tendered to the Trustee for purchase on the purchase date.

*Effect of Notice.* Notice of purchase having been given in the manner required by the Bond Series Certificate, then, the Series 2009C Bonds to be purchased shall be tendered for purchase on the purchase date, and thereafter, if sufficient money to pay the Purchase Price of such Series 2009C Bonds is held by the Trustee, the Purchase Price of the Series 2009C Bonds or portions thereof so called for purchase will become due and payable on the date set for purchase, upon presentation and surrender of such Series 2009C Bonds to be purchased at the office or offices specified in such notice,

and, in the case of Series 2009C 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. If such moneys are not available on the purchase date, such Series 2009C Bonds will continue to be registered in the name of the registered owner on the purchase date and the registered owners will be entitled to receive the payments of the principal of and interest on such Series 2009C Bonds in accordance with their respective terms.

*Selection of Bonds to be Purchased.* If less than all of the Outstanding Series 2009C Bonds of like maturity are to be purchased, the Trustee is to select the Series 2009C Bonds to be purchased, by lot, using such method of selection as it deems proper in its discretion in the same manner as prescribed in the Resolution for the selection of Series 2009C Bonds for redemption.

*Mandatory Redemption*

The Series 2009C Bonds maturing on July 1, 2029, July 1, 2034 and July 1, 2039 are subject to redemption prior to maturity, in part, through application of Sinking Fund Installments, upon notice, all as prescribed in the Resolution, at the price of 100% of the principal amount of each Series 2009C Bond or portion thereof to be redeemed, plus accrued interest, if any, to the date of redemption. Unless no Series 2009C Bonds of a maturity redeemable, in part, through Sinking Fund Installments are then Outstanding, there will be due and the Authority will be required to pay for the retirement of such Series 2009C Bonds, on July 1 of each of the years set forth in the following tables, the respective principal amounts set forth in the following tables:

<u>Term Bond Maturing on July 1, 2029</u>		<u>Term Bond Maturing on July 1, 2034</u>		<u>Term Bond Maturing on July 1, 2039</u>	
<u>Year</u>	<u>Sinking Fund Installments</u>	<u>Year</u>	<u>Sinking Fund Installments</u>	<u>Year</u>	<u>Sinking Fund Installments</u>
2025	\$1,545,000	2030	\$1,970,000	2035	\$2,515,000
2026	1,620,000	2031	2,065,000	2036	2,640,000
2027	1,700,000	2032	2,170,000	2037	2,775,000
2028	1,785,000	2033	2,280,000	2038	2,920,000
2029 <sup>†</sup>	1,875,000	2034 <sup>†</sup>	2,395,000	2039 <sup>†</sup>	3,070,000

<sup>†</sup> Final Maturity

There will be credited against and in satisfaction of the Sinking Fund Installment payable on any date the principal amount of Series 2009C Bonds entitled to such Sinking Fund Installment (A) purchased with money in the Debt Service Fund pursuant to the Resolution, (B) redeemed at the option of the Authority, (C) purchased by the Institute or the Authority and delivered to the Trustee for cancellation or (D) deemed to have been paid in accordance with the Resolution. Series 2009C Bonds purchased from moneys in the Debt Service Fund shall be applied against and in fulfillment of a required Sinking Fund Installment of the Series 2009C Bonds in accordance with the Resolution. Series 2009C Bonds redeemed at the option of the Authority, purchased by the Authority or the Institute (other than from amounts on deposit in the Debt Service Fund) or deemed to have been paid in accordance with the Resolution will be applied in satisfaction, in whole or in part, of one or more Sinking Fund Installments payable on such dates as the Authority shall specify in a written direction of the Authority delivered to the Trustee at least 15 days prior to the earliest date on which notice of redemption of the Series 2009C Bonds entitled to such Sinking Fund Installment may be given by the Trustee and the Sinking Fund Installment payable on each date specified in such direction will be reduced by the principal amount of the Series 2009C Bonds so purchased, redeemed or deemed to have been paid in

accordance with the Resolution to be applied in satisfaction of such Sinking Fund Installment as set forth in such direction.

#### *Selection of Bonds to be Redeemed*

In the case of redemptions of Series 2009C Bonds described above under the heading “*Optional Redemption*”, the Authority will select the maturities of the Series 2009C Bonds to be redeemed. If less than all of the Series 2009C Bonds of a maturity are to be redeemed, the Series 2009C Bonds of such maturity to be redeemed will be selected by the Trustee, by lot, using such method of selection as the Trustee shall consider proper in its discretion.

#### *Notice of Redemption*

The Trustee is to give notice of the redemption of the Series 2009C Bonds in the name of the Authority which notice shall be given by first-class mail, postage prepaid, not less than 30 days nor more than 45 days prior to the redemption date to the registered owners of any Series 2009C Bonds which are to be redeemed, at their last known addresses appearing on the registration books. The failure of any owner of a Series 2009C Bond to be redeemed to receive notice of redemption thereof will not affect the validity of the proceedings for the redemption of such Series 2009C Bond. If directed in writing by an Authorized Officer of the Authority, the Trustee shall publish or cause to be published such notice in an Authorized Newspaper not less than 30 days nor more than 45 days prior to the redemption date, but such publication is not a condition precedent to such redemption and failure to publish such notice or any defect in such notice or publication will not affect the validity of the proceedings for the redemption of such Series 2009C Bonds.

If, on the redemption date, moneys for the redemption of the Series 2009C Bonds of like maturity to be redeemed, together with interest thereon to the redemption date, are held by the Trustee so as to be available for payment of the Redemption Price, and if notice of redemption has been mailed, then interest on the Series 2009C Bonds of such maturity will cease to accrue from and after the redemption date and such Series 2009C Bonds will no longer be considered to be Outstanding under the Resolution and the Series 2009C Resolution.

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

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2009C Bonds. The Series 2009C Bonds will be issued as fully-registered securities registered 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 2009C Bond certificate will be issued for each maturity of the Series 2009C 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”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2009C Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2009C Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2009C 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 2009C 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 2009C Bonds, except in the event that use of the book-entry system for the Series 2009C Bonds is discontinued.

To facilitate subsequent transfers, all Series 2009C 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 2009C 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 2009C Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2009C 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 2009C 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 2009C 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 2009C 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 2009C 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 Insurer, the Institute 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.

The Authority and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2009C Bonds registered in its name for the purposes of payment of the principal and redemption premium, if any, of, or interest on, the Series 2009C Bonds, giving any notice permitted or required to be given to registered owners under the Resolution, registering the transfer of the Series 2009C 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 2009C 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 2009C 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 services as depository with respect to the Series 2009C 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 2009C Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, the Series 2009C 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 the 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 2009C 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 2009C BONDS.**

So long as Cede & Co. is the registered owner of the Series 2009C Bonds, as nominee for DTC, references herein to the Bondholders or registered owners of the Series 2009C Bonds (other than under the caption "PART 10 — TAX MATTERS" herein) means Cede & Co., as aforesaid, and does not mean the Beneficial Owners of the Series 2009C 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 2009C 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 2009C Bonds if the Authority determines that (i) DTC is unable to discharge its responsibilities with respect to the Series 2009C Bonds or (ii) a continuation of the requirement that all of the Outstanding Series 2009C 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 2009C Bond certificates will be delivered as described in the Resolutions and the Bond Series Certificate.

**NEITHER THE AUTHORITY, THE INSTITUTE, THE INSURER 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 2009C 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 2009C 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 2009C BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2009C BONDS; OR (VI) ANY OTHER MATTER.

### **Principal and Interest Requirements**

The following table sets forth the estimated amounts, after giving effect to the issuance of the Series 2009C Bonds, required to be paid by the Institute during each twelve month period ending June 30 of the Bond Years shown for the payment of debt service on the principal of and interest on the Series 2009C Bonds, the principal and interest on the Series 2009A Bonds and Series 2009B Bonds, and the total debt service on all indebtedness of the Institute, including the Series 2009C Bonds.

**Series 2009C Bonds**

<b>12 Month Period Ending June 30</b>	<b>Principal and Sinking Fund Installments</b>	<b>Interest Payments</b>	<b>Total Debt Service on the Series 2009C Bonds</b>	<b>Total Debt Service on the Series 2009A and Series 2009B Bonds*</b>	<b>Total Debt Service on all Outstanding Indebtedness</b>
2010	\$ 890,000	\$ 2,065,255	\$ 2,955,255	\$ 3,090,342	\$ 6,045,597
2011	910,000	2,315,775	3,225,775	3,106,627	6,332,402
2012	935,000	2,293,025	3,228,025	3,126,318	6,354,343
2013	950,000	2,269,650	3,219,650	3,154,376	6,374,026
2014	985,000	2,243,525	3,228,525	3,170,512	6,399,037
2015	1,010,000	2,213,975	3,223,975	3,278,884	6,502,859
2016	1,050,000	2,181,150	3,231,150	3,296,812	6,527,962
2017	1,100,000	2,128,650	3,228,650	3,322,648	6,551,298
2018	1,140,000	2,084,650	3,224,650	3,341,140	6,565,790
2019	1,200,000	2,027,650	3,227,650	3,357,414	6,585,064
2020	1,260,000	1,967,650	3,227,650	3,381,470	6,609,120
2021	1,310,000	1,917,250	3,227,250	3,408,003	6,635,253
2022	1,360,000	1,864,850	3,224,850	3,431,888	6,656,738
2023	1,420,000	1,808,750	3,228,750	3,458,181	6,686,931
2024	1,480,000	1,748,400	3,228,400	3,481,700	6,710,100
2025	1,545,000	1,683,650	3,228,650	3,507,393	6,736,043
2026	1,620,000	1,606,400	3,226,400	3,535,187	6,761,587
2027	1,700,000	1,525,400	3,225,400	3,564,959	6,790,359
2028	1,785,000	1,440,400	3,225,400	3,591,529	6,816,929
2029	1,875,000	1,351,150	3,226,150	1,099,896	4,326,046
2030	1,970,000	1,257,400	3,227,400	1,102,936	4,330,336
2031	2,065,000	1,158,900	3,223,900	1,099,719	4,323,619
2032	2,170,000	1,055,650	3,225,650	1,100,425	4,326,075
2033	2,280,000	947,150	3,227,150	1,099,874	4,327,024
2034	2,395,000	833,150	3,228,150	1,098,066	4,326,216
2035	2,515,000	713,400	3,228,400	-	3,228,400
2036	2,640,000	584,506	3,224,506	-	3,224,506
2037	2,775,000	449,206	3,224,206	-	3,224,206
2038	2,920,000	306,988	3,226,988	-	3,226,988
2039	3,070,000	157,338	3,227,338	-	3,227,338

\* The interest payments for Series 2009A Bonds assume a SIFMA based interest rate swap (at a rate of 2.19%) that was executed on March 19, 2009 and is expected to expire on March 1, 2014. Interest payments thereafter are calculated at an assumed rate of 2.50% (the ten-year average SIFMA rate). The interest payments for the Series 2009B Bonds are based on two existing 67% of one-month LIBOR based interest rate swaps (at rates of 3.60% and 3.58%) that hedge the Series 2009B Bonds.

For a discussion of the Institution's outstanding indebtedness, see "PART 4 - THE INSTITUTION - Outstanding Indebtedness."

## **PART 4 - THE INSTITUTION**

### **GENERAL INFORMATION**

#### **Introduction**

Charles Pratt, a philanthropist who made his fortune in petroleum, founded Pratt Institute (“Pratt,” the “Institution,” or the “Institute”) in 1887. He envisioned the Institute as an artisan’s school, where students could learn how to earn a living with their hands. The first class, in art, consisted of twelve students and began in October of 1887. Pratt awarded its first bachelor’s degree in 1938. Until then, it awarded diplomas for high school work and certificates for professional programs. Today, Pratt is a coeducational higher education institution with undergraduate and graduate programs offered in art, design and architecture, and information and library science for graduate students.

For more than 100 years, Pratt has provided innovative education in a broad range of artistic and technical fields. It has achieved international recognition as a leading school of art, design, architecture, and information and library science, dedicated to an educational program which combines theory and practice within the framework of a strong foundation in the humanities.

The mission of Pratt is to educate and stimulate individuals to be creative and responsible artists and professionals in art, design, architecture and information and library science. Blending theory, advanced technology and practical experiences with high professional, ethical and humanistic standards, Pratt seeks to enhance creative aptitude, foster individuality, and instill in its graduates aesthetic judgment, professional knowledge, collaborative skills and technical expertise. Pratt’s graduates are prepared to apply their talents pursuing successful careers and advancing the frontiers of their professions. Pratt enrolls a diverse body of students, drawn from a variety of social, economic, ethnic, racial, geographic and cultural backgrounds, whose intelligence, creativity and problem-solving abilities are continually challenged and improved in an effort to produce graduates of outstanding ability.

#### **Campus and Facilities**

Pratt currently operates campus facilities in Brooklyn and Manhattan in New York City. The Brooklyn campus, which is the location of the majority of the Institute’s academic programs, administrative offices and student housing is considered the primary campus.

*The Brooklyn Campus* - Pratt’s 25-acre Brooklyn campus is located in a park-like setting in the Clinton Hill section of Brooklyn, and is bordered by numerous nineteenth century brownstones and mansions, a number of which were built by Charles Pratt for his large family. Among the Institute’s 25 buildings are a number of structures which have been identified as historic landmark buildings. In addition to the academic and administrative buildings, the Institute has six residence halls with a capacity of housing approximately 1,500 students and maintains 27 single family dwelling units for faculty and staff.

*The Manhattan Campus* - The Manhattan campus consists of a building located at 144 West 14th Street, which houses programs in both undergraduate and graduate studies as well as continuing education. In addition to classroom space, the Manhattan Campus building includes studios, a library, an exhibition gallery, and a 150-seat lecture room.

#### **Academic Programs**

Pratt currently offers undergraduate and graduate degrees in the School of Architecture and the School of Art and Design. Graduate degrees only are offered in the School of Information and Library Science. Undergraduate degrees only are offered in the School of Liberal Arts. The following degrees are conferred at Pratt Institute:

*School of Architecture* - Associate in Applied Science in Building and Construction, Bachelor of Architecture, Bachelor of Professional Studies in Construction Management, Bachelor of Science in Construction Management,

Master of Architecture (first professional), Master of Science in Architecture (post-professional), Master of Science in Architecture and Urban Design, Master of Science in City and Regional Planning, Master of Science in Facilities Management, Master of Science in Historic Preservation, and Master of Science in Urban Environmental Systems Management,

*School of Art and Design* - Associate in Applied Science in Graphic Design/Illustration, Associate in Applied Science in Painting/Drawing, Associate in Occupational Studies in Digital Design and Interactive Media, Associate in Occupational Studies in Graphic Design, Associate in Occupational Studies in Illustration, Bachelor of Arts (Art History), Bachelor of Fine Arts, Bachelor of Fine Arts in Art and Design Education, Bachelor of Fine Arts in Communications Design, Bachelor of Fine Arts in Digital Arts, Bachelor of Fine Arts in Fashion Design, Bachelor of Fine Arts in Film, Bachelor of Fine Arts in Fine Arts, Bachelor of Fine Arts in Photography, Bachelor of Fine Arts in Theory, Criticism, and History of Art, Design and Architecture, Bachelor of Industrial Design in Industrial Design, Bachelor of Fine Arts in Interior Design, Bachelor of Fine Arts/Master of Science in Art and Design Education, Bachelor of Fine Arts/Master of Science in Theory, Criticism, and History of Art, Design, and Architecture, Advanced Certificate in Art and Design Education, Master of Science (initial certification) in Art and Design Education, Master of Science (professional certification) in Art and Design Education, Master of Professional Studies in Art Therapy and Creativity Development, Master of Professional Studies in Art Therapy with Special Needs Children, Master of Professional Studies in Arts and Cultural Management, Master of Science in Communications Design, Master of Science in Digital Arts, Master of Science in Dance/Movement Therapy, Master of Professional Studies in Design Management, Master of Fine Arts in Fine Arts, Master of Industrial Design in Industrial Design, Master of Science in Interior Design, Master of Science in Package Design, and Master of Science in Theory, Criticism, and History of Art, Design and Architecture.

*School of Information and Library Science* –Master of Science in Library and Information Science, Master of Science in Library and Information Science: Library Media Specialist, Advanced Certificate in Archives Certificate Program, Advanced Certificate in Library and Information Studies, Advanced Certificate in Library Media Specialist, and Advanced Certificate in Museum Libraries.

*School of Liberal Arts and Sciences* - Bachelor of Arts in Critical and Visual Studies and Bachelor of Fine Arts in Writing.

*Double Degrees* – Master of Science/Master of Fine Arts in Library and Information Science/Digital Arts, Master of Science/Doctor of Law in Library and Information and Library Science/Law (with Brooklyn Law School), Master of Science/Master of Fine Arts in Theory, Criticism, and History of Art, Design, and Architecture/Fine Arts, and Master of Science/Master of Science in Theory, Criticism and History of Art, Design, and Architecture / Information and Library Science

*Munson-Williams-Proctor* - Pratt also offers an extension center in Utica, New York, the result of an affiliation with the art school at Munson-Williams-Proctor Institute (“MWPI”). Students take their first two years of Pratt’s Bachelor of Fine Arts on MWPI’s campus and finish the last two years at Pratt in Brooklyn. Students take a set of core courses (foundation) in the first year (based upon Pratt’s first year) along with required liberal arts courses. In the second year the students begin to specialize in fine art.

Pratt offers additional programs through the Center for Continuing Education and Professional Studies, including certificate programs, continuing education classes, pre-college programs, an international architecture summer seminar in New York City, international programs, and special programs.

## **Accreditation**

Pratt is a coeducational undergraduate and graduate institution chartered and empowered to confer academic degrees by the State of New York. The certificates and degrees conferred are registered by the New York State Education Department. Pratt is accredited by the Middle States Association of Colleges and Schools, a regional Branch

of the Commission on Higher Education. The School of Art and Design is a member of the National Association of Schools of Art and Design. The School of Architecture's undergraduate program is accredited by the National Architecture Accreditation Board. The undergraduate Interior Design program is accredited by the Foundation for Interior Design Education Research. The graduate program in Library and Information Science is accredited by the Committee on Accreditation of the American Library Association. The graduate program in Art Therapy is approved by the American Art Therapy Association.

## **Governance**

Pratt is governed by a Board of Trustees whose maximum membership shall not exceed 40 regular trustees. In addition, there is one faculty trustee and one faculty alternate trustee, one student trustee, and two recent graduate trustees. The Officers and current members of the Board of Trustees are:

<b><u>Name</u></b>	<b><u>Profession/Affiliation</u></b>
<b>Mike Pratt, Chairman of the Board</b>	<b>Program Officer and Treasurer The Scherman Foundation</b>
<b>Robert H. Siegel, Vice Chairman of the Board</b>	<b>Partner, Gwathmey Siegel &amp; Associates Architects</b>
<b>Dr. Joshua L. Smith, Secretary</b>	<b>Professor Emeritus New York University</b>
<b>Howard S. Stein, Treasurer</b>	<b>Retired, Managing Director, Operational Risk Global Corporate and Investment Bank Citigroup</b>
<b>Thomas F. Schutte</b>	<b>President Pratt Institute</b>
<b>Kurt B. Andersen</b>	<b>Writer</b>
<b>Deborah J. Buck</b>	<b>Artist, Interior Designer and Owner, Buck House And The Gallery at Buck House</b>
<b>Amy Cappellazzo</b>	<b>Senior Vice President and International Co-Head of Post-War and Contemporary Art, Christie's International</b>
<b>Gary S. Hattem</b>	<b>Managing Director, Deutsche Bank and President, Deutsche Bank Americas Foundation</b>
<b>Richard W. Eiger</b>	<b>Retired The K-III Reference Corporation</b>
<b>Bruce J. Gitlin</b>	<b>President Milgo Industrial, Inc.</b>
<b>James D. Kuhn</b>	<b>President and Principal, Newmark Knight Frank</b>
<b>June Kelly</b>	<b>Owner, June Kelly Gallery</b>

<u>Name</u>	<u>Profession/Affiliation</u>
Katharine L. McKenna	Artist and Owner, The Coffey Gallery
John Morning	President, John Morning Design, Inc.
David S. Mack	Senior Partner The Mack Company
David G. Marquis	Founder and Executive Director, Marquis Studios
David O. Pratt	Consultant Not For Profit
Mark D. Stumer	Principal, Mojo-Stumer Associates, p.c.
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**Administration**

*President:* Thomas F. Schutte was appointed the eleventh president of Pratt in August 1993 and has overall responsibility for the management of Pratt. Dr. Schutte has had an extensive career in higher education, spanning more than 35 years as an administrator and teacher. Prior to his post at Pratt, Dr. Schutte spent the previous decade working



as President of the Rhode Island School of Design (RISD), where he led the school through a challenging and successful period of academic and administrative growth. Dr. Schutte has also served as President of the Philadelphia College of Art, and as Assistant Dean of the Wharton School, University of Pennsylvania. Dr. Schutte holds a B.A. in economics and geography from Valparaiso University, an M.B.A. from Indiana University, and a Ph.D. in Business Administration from the University of Colorado.

*Provost:* Peter L. Barna was appointed to the Office of the Provost effective September 19, 2003. He has over 30 years of diverse experience in various fields, including engineering, education, private consulting, contract management, lighting, industrial and interior design, and magazine publishing. As the senior academic officer of the Institution who oversees all academic functions, the Provost is the chief advisor to the President and manages the Institution in the President's absence. Reporting to the Provost are the Deans of the Schools of Architecture, Art and Design, Information and Library Science, Liberal Arts and Academic Computing and the Director of the HEOP Program. Prior to his appointment, Mr. Barna served at Pratt for four years as the Director of the SPAN program, and for the past five years as a tenured Associate Professor in Industrial Design. Prior to joining Pratt, Mr. Barna served as a Visiting Instructor at the Fashion Institute of Technology in Interior Design and a Visiting Lecturer at the University of Maryland, School of Architecture. He also served as Senior Designer at Claude R. Engle Lighting in Washington D.C.; as Contract Manager at Truland Corporation in Washington, D.C.; as Assistant Engineer at Virginia Electric and Power; as President and Founder of Light and Space Associates in New York, New York; and as Lighting Editor at Interiors Magazine in New York, New York. He holds a B.S. in Electrical Engineering from Virginia Polytechnic Institute and an M.I.D. in Industrial Design from Pratt.

*Vice President for Institutional Advancement:* Currently the Institute is conducting a search for a replacement for Ms. Patricia Pelehach, who tendered her resignation effective December 2008. A search firm is working with the Institute's search committee in this regard. The Institute believes it has identified two well qualified candidates that have been through the appropriate interview process and discussions with both candidates are ongoing. The Institute anticipates that the process will conclude, and a new vice President for Institutional Advancement will be in place, by August 2009.

*Vice President for Enrollment Management:* Judith Aaron has served as Vice President for Enrollment since 1991. The Vice President for Enrollment is responsible for the development, implementation and evaluation of the marketing and recruitment strategy for the Institute as well as the strategic distribution of financial aid resources to achieve the Institute's enrollment goals. She came to Pratt in 1984 as Director of Continuing Education which became the School of Professional Studies and includes AOS degree programs, travel programs, conferences and other special programs. Ms. Aaron was formerly the Coordinator of Continuing Education at York College from 1981 to 1984. Ms. Aaron served as Director of Special Services for disadvantaged students (federally funded) from 1980 to 1981 and from 1976 to 1980, she was the coordinator of research administration for the Chancellor's office of the City University of New York where she prepared research reports dealing with remedial and academic programs and developed grant proposals. Ms. Aaron was the Media Resources Specialist for York College from 1974 to 1976. She received her Master of Information and Library Science and her B.A. in Psychology from Queens College.

*Vice President for Finance and Administration:* Edmund F. Rutkowski joined Pratt Institute as Vice President for Finance and Administration effective January 4, 1994. He brings over 20 years of higher education experience to the position. The Vice President for Finance and Administration provides leadership for the finance, human resources, physical plant, security, administrative computer services, art supply/bookstore, food services, budget and bursar. Prior to his service at the Institute, Mr. Rutkowski served in positions of increasing responsibility at Harcum College, Hudson County Community College, Fairleigh Dickinson University and Lehman College of the City University of New York. Prior to joining higher education, Mr. Rutkowski served in various administrative positions at such companies as Goodyear Tire & Rubber Company, Inmont Corporation, AIRCO and Engelhard Industries. Mr. Rutkowski received his Masters Degree in Business Administration from Fairleigh Dickinson University and his Bachelors Degree from Rider University.

*Vice President for Student Affairs:* Helen Matusow-Ayres was appointed to the Office of Vice President for Student Affairs, effective August 16, 2004. The Vice President for Student Affairs oversees the operations of Health,

Counseling, Athletics, Career Services, International Student Affairs, Student Activities, the Judicial System, Disabled Student Services, Residence Life and Campus Ministry. Prior to her appointment, Ms. Matusow-Ayres served for over 25 years in areas of progressive responsibility in student development. At Montclair State University in Upper Montclair, New Jersey, she has served as the Dean of Students and as Montclair's interim vice president for student development and campus life. Prior to her appointment at Montclair, Ms. Matusow-Ayres was the associate dean of students at the New Jersey Institute of Technology in Newark following seven years as director of residence life at Manhattan College in the Bronx. Ms. Matusow-Ayres received an Ed.D. in Administration and Organization of Higher Education from Teachers College, Columbia University in 1988. She holds degrees in Student Personnel Administration, a Master of Science from Indiana University and a Bachelor of Arts from Alfred University.

*Vice President for Information Technology/CIO:* Joseph Hemway was appointed to the Office of the Vice President for Information Technology/CIO, effective June 13, 2006. The Vice President for Information Technology/CIO oversees the planning, budgeting and management of all administrative and academic computing efforts, management of Pratt's web space and portals, educational technology support and all support services. Mr. Hemway comes to Pratt with close to 25 years of experience in higher education technology while holding positions of increasing managerial responsibility. The role of his position is to provide technology leadership, vision, planning, budgeting, management and evaluation for the Institute. Prior to joining Pratt Institute Mr. Hemway held positions at Pace University, Barnard College, Monroe College and St. Francis College. Mr. Hemway received his Masters Degree in Information Systems from Pace University's Seidenberg School of Computer Science and Information Systems and his Bachelors Degree from St. Francis College.

## OPERATING INFORMATION

### Admissions

The following table sets forth the number of applications received for full-time admission to the Institute, the number and percentage of those applications accepted and the number and percentage of those accepted who enrolled, for the past five academic years:

### ADMISSIONS STATISTICS

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>
<b>Undergraduate</b>						
Applications	3,587	3,838	4,474	4,362	5,245	5,602
Acceptances	1,785	1,969	1,926	1,862	2,069	2,230
Acceptance Ratio	50%	51%	43%	43%	39%	40%
Matriculants	586	637	634	592	649	638
Matriculant Ratio	33%	32%	33%	32%	31%	29%
<b>Graduate</b>						
Applications	1,858	2,087	2,294	2,408	2,642	3,150
Acceptances	1,036	1,230	1,233	1,176	1,385	1,548
Acceptance Ratio	56%	59%	54%	49%	52%	49%
Matriculants	475	517	564	469	596	631
Matriculant Ratio	46%	42%	46%	40%	43%	41%

## Enrollment

The Institute's enrollment during the past five academic years, based on fall registration, for both total undergraduate students and for all students on a full time equivalent ("FTE") basis, is shown below:

<b><u>ENROLLMENT SUMMARY</u></b>					
<b><u>Undergraduate</u></b>	<b><u>2004-05</u></b>	<b><u>2005-06</u></b>	<b><u>2006-07</u></b>	<b><u>2007-08</u></b>	<b><u>2008-09</u></b>
Full-Time	2,721	2,898	2,985	2,903	2,948
Part-Time	<u>207</u>	<u>146</u>	<u>141</u>	<u>162</u>	<u>159</u>
<b>Total Undergraduate</b>	<b>2,928</b>	<b>3,044</b>	<b>3,126</b>	<b>3,065</b>	<b>3,107</b>
<b><u>Full-Time Equivalent</u></b>					
Undergraduate	2,790	2,947	3,032	2,957	3,001
Non-Degree	0	0	0	0	0
Graduate	<u>1,277</u>	<u>1,310</u>	<u>1,399</u>	<u>1,384</u>	<u>1,447</u>
<b>Total FTE</b>	<b>4,067</b>	<b>4,257</b>	<b>4,431</b>	<b>4,341</b>	<b>4,448</b>

Total enrollment for the fall 2009 semester is expected to be 4,750 students, comprising 3,108 undergraduate students and 1,642 graduate students.

## Tuition and Fees

Pratt's tuition and fee charges for undergraduate students (on an FTE basis) and for graduate students (on a per credit and per semester basis) for the last five academic years are summarized in the chart below:

<b><u>TUITION AND OTHER STUDENT CHARGES</u></b>					
	<b><u>2005-06</u></b>	<b><u>2006-07</u></b>	<b><u>2007-08</u></b>	<b><u>2008-09</u></b>	<b><u>2009-10</u></b>
<i>Undergraduate</i>					
Tuition	\$26,500	\$28,100	\$29,900	\$31,700	\$33,500
Standard Fees	730	780	1,180	1,490	1,630
Room and Board	<u>8,576</u>	<u>8,752</u>	<u>8,918</u>	<u>9,476</u>	<u>9,756</u>
<b>TOTAL</b>	<b>\$35,806</b>	<b>\$37,632</b>	<b>\$39,998</b>	<b>\$42,666</b>	<b>\$44,886</b>
<i>Graduate</i>					
School of Information and Library Science	\$695	\$750	\$850	\$901	\$960
All Others	\$950	\$1,040	\$1,070	\$1,134	\$1,195
Standard Fees	\$730	\$1,056	\$1,106	\$1,390	\$1,530

## Scholarship and Grant Aid

The following charts summarize the sources, in dollar amount and percentage of support, of scholarship and grant aid for the last five fiscal years:

### SOURCES OF UNDERGRADUATE SCHOLARSHIP AND GRANT AID

	<u>Fiscal Year Ended June 30,</u>				
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b><u>Sources in Dollars</u></b>					
Institutional	\$21,364,619	\$23,465,165	\$27,148,217	\$28,588,994	\$28,950,176
New York State	1,973,436	2,142,981	2,161,552	2,049,952	1,916,374
Federal	<u>3,842,001</u>	<u>4,468,074</u>	<u>3,802,540</u>	<u>3,738,285</u>	<u>3,963,575</u>
<b>TOTAL</b>	<b>\$27,180,056</b>	<b>\$30,076,220</b>	<b>\$33,112,309</b>	<b>\$34,377,231</b>	<b>\$34,830,125</b>
<b><u>Sources in Percent</u></b>					
Institutional	79%	78%	82%	83%	83%
New York State	7	7	7	6	6
Federal	<u>14</u>	<u>15</u>	<u>11</u>	<u>11</u>	<u>11</u>
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

## Faculty

The Institute employs 126 full-time faculty members. The student faculty ratio is 11:1. Of the 126 full-time faculty, 56% are tenured.

## Employee Relations

The Institute has a number of collective bargaining agreements currently covering its employees. The security employees are represented by Local 153 Office and Professional Employees International Union. The expiration date of the current agreement is October 31, 2010. The secretarial, clerical and technical personnel are represented by Local 153 Office and Professional Employees International Union through a separate unit. The contract expired effective June 30, 2009. Prior to the expiration of the contract, the union and the Institute entered into negotiations which are continuing. The Institute believes that progress has been made and it anticipates that a new contract will be agreed upon by August 2009. Maintenance and custodial employees working in the apartment style residence hall located at 215 Willoughby Avenue, Brooklyn, New York are represented by Local 32B/32J Service Employees International Union. The contract is presently in force and will expire on April 20, 2010. Other maintenance and housekeeping personnel are represented by Local 311 of the National Conference of Firemen and Oilers/Service Employees International Union. The contract will expire on September 30, 2009. Faculty are represented by Local 1460 United Federation of College Teachers. The contract period runs from September 1, 2007 through August 31, 2011.

## ANNUAL FINANCIAL STATEMENT INFORMATION

### Institution Finances

The Institute's financial statements for the fiscal year ended June 30, 2008, with summarized comparative figures for June 30, 2007, were audited by KPMG, LLP and are included in Appendix B herein.

#### Summary of Statement of Activities

	Fiscal Year Ended June 30,				
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b>Operating revenue:</b>					
Tuition and fees	\$ 96,867,490	\$ 103,064,154	\$ 112,255,461	\$ 123,810,626	\$ 129,712,562
Scholarship allowance	<u>(21,835,143)</u>	<u>(24,011,505)</u>	<u>(27,712,012)</u>	<u>(29,186,977)</u>	<u>(29,451,896)</u>
Net tuition and fees	75,032,347	79,052,649	84,543,449	94,623,649	100,260,666
State of New York appropriations	380,407	335,755	391,958	409,702	389,971
Contributions	8,438,980	6,198,243	4,780,222	3,743,057	3,879,805
Private grants and contracts	2,169,889	2,166,734	1,880,138	1,885,414	2,021,815
Government grants and contracts:					
Federal	1,319,495	1,429,913	1,608,625	1,711,809	1,521,609
State of New York	507,688	540,454	649,439	927,919	1,018,420
Local	463,595	520,885	650,797	521,872	507,391
Investment income	1,437,109	2,290,968	3,556,303	5,929,745	2,810,251
Interest and late charges on loans receivable	250,596	391,612	251,515	257,622	244,406
Sales and services of auxiliary enterprises	12,503,046	13,176,151	14,754,899	14,353,295	14,891,558
Other revenues	<u>1,445,682</u>	<u>1,632,723</u>	<u>1,560,403</u>	<u>2,279,023</u>	<u>3,239,435</u>
Total operating revenue	<u>103,948,834</u>	<u>107,736,087</u>	<u>114,627,748</u>	<u>126,643,107</u>	<u>130,785,327</u>
<b>Expenses:</b>					
Instruction	36,742,646	37,194,969	43,603,344	46,793,834	51,584,087
Public service	3,562,946	3,485,159	3,512,018	3,426,389	4,028,128
Academic support	8,011,089	10,028,881	9,940,256	10,576,595	11,752,837
Student services	8,547,082	9,232,233	9,789,710	11,243,243	12,448,737
Institutional support	16,810,760	17,493,901	20,751,256	20,524,647	19,804,367
Auxiliary enterprises	<u>15,571,498</u>	<u>16,414,905</u>	<u>17,909,687</u>	<u>19,475,736</u>	<u>20,290,515</u>
Total expenses	<u>89,246,021</u>	<u>93,850,048</u>	<u>105,506,271</u>	<u>112,040,444</u>	<u>119,908,671</u>
Excess of operating revenue over expenses	14,702,813	13,886,039	9,121,477	14,602,663	10,876,656

**Fiscal Year Ended June 30,**

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b>Nonoperating activity:</b>					
Gain on sale of building	0	0	0	5,097,017	0
Net appreciation (depreciation) in fair value of investments	5,708,092	3,801,968	5,075,849	10,390,108	(5,407,157)
Unrealized appreciation (depreciation) in fair value of derivative instruments	0	0	356,840	(37,838)	(1,162,652)
Postretirement related changes other than net periodic postretirement benefit cost	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(4,119,246)</u>
Increase/(decrease) in net assets before effect of adoption of SFAS 158 and cumulative effect of change in accounting principle	20,410,905	17,688,007	14,554,166	30,051,950	187,601
Effect of adoption of SFAS 158	0	0	0	(13,879,682)	0
Cumulative effect of change in accounting principle	<u>0</u>	<u>0</u>	<u>(2,196,924)</u>	<u>0</u>	<u>0</u>
Increase in net assets	20,410,905	17,688,007	12,357,242	16,172,268	187,601
Net assets at beginning of year	<u>160,259,801</u>	<u>180,670,706</u>	<u>198,358,713</u>	<u>210,715,955</u>	<u>226,888,223</u>
Net assets at end of year	<u>\$ 180,670,706</u>	<u>\$ 198,358,713</u>	<u>\$ 210,715,955</u>	<u>\$ 226,888,223</u>	<u>\$227,075,824</u>

**Management Discussion of Recent Financial Performance**

The Institute's unrestricted operating revenues totaled \$129.3 million for the fiscal year ended June 30, 2008, up 2.8% over FY 2007 unrestricted revenues of \$125.8 million, and up 14.32% over FY 2006 unrestricted revenues of \$113.1 million. Gross tuition and fees totaled \$129.7 million in 2008, up 4.8% over FY 2007 level of \$123.8 million, and up 15.49% over FY 2006 gross tuition and fees of \$112.3 million. Student assistance totaled \$29.5 million in FY 2008, up 1.0% from the prior year and representing a tuition discount rate of 22.71%. Net tuition and fees for FY 2008 totaled approximately \$100.3 million, which accounted for 77.58% of the Institute's unrestricted operating revenues.

Auxiliary enterprises accounted for \$14.9 million in FY 2008, which comprised 11.5% of the Institute's total unrestricted operating revenues in 2008.

Unrestricted grants and contracts totaled \$4.9 million for FY 2008, accounting for 3.79% of total unrestricted operating revenues. Of the amount recorded, private sources represented 37.8%, Federal government sources represented 31.1%, and State and local government sources represented 31.1%.

Unrestricted expenses totaled \$119.9 million for FY 2008, up 7.0% from the prior year. As a result, Pratt recorded an excess of unrestricted operating revenue over expenses of \$9.4 million in FY 2008. Pratt has reported surplus total operating revenues in each of its last five years that have averaged \$12.6 million annually. Since FY 2004, the Institute's unrestricted net assets have increased from \$142.7 million to \$182.1 million as of June 30, 2008. See "-- Recent Developments" for a discussion of the decline in the Institution's endowment.

For the fiscal year ended June 30, 2009, the Institute expects surplus total operating revenues to be \$8.1 million (unaudited).

## Gifts and Investments

At June 30, 2008 the fair market value of the Institute's investments was \$102,095,389. Over the last five fiscal years, the Institute has received the following private contributions:

	<u>Year Ended June 30,</u>				
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Unrestricted Revenue	\$1,239,200	\$1,827,464	\$ 1,673,788	\$1,776,574	\$1,695,297
Temporarily Restricted Revenue	5,950,978	1,701,033	473,569	1,692,973	1,210,446
Permanently Restricted Revenue	<u>1,248,802</u>	<u>2,669,746</u>	<u>2,632,865</u>	<u>273,510</u>	<u>974,062</u>
<b>TOTALS</b>	<b>\$8,438,980</b>	<b>\$6,198,243</b>	<b>\$4,780,222</b>	<b>\$3,743,057</b>	<b>\$3,879,805</b>

For a discussion of recent changes in the fair value of the Institute's investment portfolio, see "Recent Developments" below.

## Plant Values

The following table shows the gross book value of the physical plant for the past five fiscal years.

	<u>Year Ended June 30,</u>				
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Land	\$ 4,273,325	\$ 4,273,325	\$ 3,163,092	\$ 8,434,519	\$8,434,519
Buildings, equipment, and leasehold improvements	137,606,935	154,861,818	208,190,446	229,337,091	232,991,784
Library books	187,073	188,866	193,345	197,218	202,377
Equipment under capital lease	2,147,171	2,308,217	0	0	0
Construction in progress	27,400,314	38,216,085	12,670,828	0	1,799,953
Accumulated depreciation	<u>(35,825,306)</u>	<u>(38,617,583)</u>	<u>(41,991,875)</u>	<u>(49,251,255)</u>	<u>(55,224,460)</u>
<b>TOTALS</b>	<b><u>\$135,789,512</u></b>	<b><u>\$161,230,728</u></b>	<b><u>\$182,225,836</u></b>	<b><u>\$188,717,573</u></b>	<b><u>\$188,204,173</u></b>

## Outstanding Indebtedness

The Institute's long-term debt at June 30, 2008, including bonds payable and obligations payable under derivative instruments, totaled \$53.9 million. At June 30, 2008, the Institute was indebted to the Authority in the amount of \$34.4 million for a loan made in 1999 with proceeds from the Authority's Pratt Institute Insured Revenue Bonds, Series 1999. The Series 1999 Bonds were advance refunded and defeased with proceeds derived from the issuance of the Series 2009A Bonds. At June 30, 2008, the Institute was indebted to the Authority in the amount of \$18.7 million for a loan made in 2005 with proceeds from the Authority's Pratt Institute Insured Revenue Bonds, Series 2005. The Series 2005 Bonds were refunded with proceeds derived from the issuance of the Series 2009B Bonds.

The Institute is indebted to the Authority for the loans made to the Institute by the Authority from the proceeds of the Series 2009A Bonds and Series 2009B Bonds. At June 30, 2009, the outstanding principal amount of the Series 2009A Bonds was approximately \$33.8 million and the outstanding principal amount of the Series 2009B Bonds was approximately \$18.0 million.

## **Pension and Post Retirement Plans**

The Institute participates in the Teachers' Insurance & Annuity Associates/College Retirement Equities Fund covering eligible employees associated with the Institute. Total pension expense of this defined contribution plan to the Institute for the fiscal years ended June 30, 2008 and 2007 was \$1,386,155 and \$1,332,642, respectively. The Institute also sponsors a postretirement healthcare plan that covers all full-time employees. During the year ended June 30, 2008, \$4,119,246 was recorded as postretirement related changes other than net periodic postretirement benefit cost. As of June 30, 2008, the Institute has an accrued postretirement benefit obligation of \$41.1 million. The Institution has no unfunded pension liabilities.

## **Recent Developments**

*Market Volatility.* The credit and equity markets of both mature and developing economies have experienced extraordinary volatility, asset erosion and uncertainty in the last several months, leading to governmental intervention in the banking and other sectors in the U.S. and abroad on an unprecedented scale. The U.S. economy and the economies of other key industrialized countries currently are characterized by reduced economic activity, increased unemployment and substantial uncertainty about their financial services markets. The U.S. and other key economies may be in or heading toward recession. The recent turmoil in worldwide financial markets serves to highlight certain risks and uncertainties faced by the Institution and other higher education institutions.

The Institution invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. As of June 30, 2008 the Institution's endowment, which consists primarily of investment securities, was \$83,864,534. As of May 31, 2009, the Institution's endowment had declined to \$65,411,412. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will continue to occur in the near term and that such changes could materially affect the amounts reported on the Institution's balance sheet, including net assets.

*Commonfund for Short-Term Investments.* The Commonfund for Short-Term Investments ("CSTF") has existed as a liquidity vehicle offered solely by Commonfund to colleges, universities and private secondary schools since 1974. As of the close of business on Friday, September 26, 2008, the CSTF managed assets of approximately \$9.3 billion on behalf of about 1000 clients, including approximately \$11,500,000 on behalf of the Institution. On Monday, September 29, 2008, the Institution, and the other participants in the CSTF, received notice from the Trustee of the CSTF, Wachovia Bank, N.A., of Wachovia's decision to initiate the termination of the CSTF, to establish procedures for an orderly liquidation and distribution of the fund's assets and to resign from its role as Trustee of the CSTF. As Trustee of the CSTF, Wachovia has the sole discretion to take this action.

The action by Wachovia immediately restricted liquidity in the fund to 10% of each participant's account value, or \$1,150,000 with respect to the Institution, as of the close of business on Friday, September 26, 2008. This liquidity represented the value of maturing securities in the fund on Monday, September 29, 2008. According to the Trustee of the CSTF, the remaining 90% of the fund will be available to investors over the coming weeks and months as securities in the portfolio mature and as the fund's advisers are able to sell underlying securities when markets return to normalcy. As of June 30, 2009 the outstanding balance remaining of the amount invested is \$1,321,176. To date approximately \$10,178,284 has been returned to the Institution from the Commonfund. The Commonfund has put into place a replacement liquidity vehicle and has also replaced the former Trustee with a new Trustee, the Law Debenture Trust Company of New York. On March 11, 2009 the Law Debenture Trust Company of New York, as Trustee to the CSTF, distributed an additional \$145 million to participants, bringing the level of cash distributed to participants since September 29, 2008 to 78%. The Institution has been advised that distributions of cash will continue through 2010 and the Institute expects to recover substantially all of the remaining balance.

To date, the Institute has not experienced any liquidity or transactional cash problems as a result of these issues and does not anticipate any such issues to occur in the future as a result of matters related to the CSTF.



## LITIGATION

There is presently no litigation pending or, to the knowledge of management, threatened against the Institute for which adequate insurance coverage does not exist or which would have a material adverse effect on the Institute's financial position or its ability to fulfill its obligations under the Loan Agreements or Reimbursement Agreements.

## PART 5 – THE PROJECT

The Project consists of the acquisition, construction, and equipping of an educational condominium unit to be built at 526-542 Myrtle Avenue, Brooklyn, New York. The proceeds of the Series 2009C Bonds will be loaned to the Institute pursuant to the Loan Agreement to pay the costs of the Project.

The Institution is the owner of a 50% tenant-in-common interest in the Myrtle Avenue Property upon which the Project will be constructed and leases the remaining 50% undivided tenant-in-common interest from the other tenant-in-common owners pursuant to the Ground Lease. The Institution will use the proceeds of the Series 2009C Bonds to pay the costs of the Project and will use its unrestricted resources to construct a commercial condominium unit on the Myrtle Avenue Property. The Project and the commercial condominium unit will be located in the same building to be constructed on the Myrtle Avenue Property adjacent to the Institution's main campus. The Project will include academic and administrative office space on floors 2-6 of the Myrtle Avenue building. The commercial condominium unit will be built on the ground and basement floors of the Myrtle Avenue building. The commercial condominium unit will be used by the other tenant-in-common owners and is expected to be used by retail occupants. The Ground Lease provides that the parties will file a declaration and other documents required to establish a two unit condominium on the Myrtle Avenue Property, consisting of a commercial unit and an educational unit. The Institution has the option to purchase the educational unit from the other tenant-in-common owners in exchange for the conveyance to the other tenant-in-common owners of Institution's interest in the commercial unit and other consideration. It is anticipated that upon completion of the Myrtle Avenue Project and issuance of a certificate of occupancy with respect thereto, the Institution will exercise its option to acquire fee title interest to the educational unit. Fee title interest in the commercial unit simultaneously will be conveyed to the other tenant-in-common owners. In connection with this exchange, which is expected to occur by March 2010, (i) the lien of the fee mortgage covering the Institution's tenant-in-common interest will be spread over the educational unit and the commercial unit shall be released from such lien; (ii) the Ground Lease will be terminated by its terms; (iii) the lien of the leasehold mortgage will be released; and (iv) the lien on the Institution's 50% undivided tenant-in-common interest also will be released.

**PART 6 – ESTIMATED SOURCES AND USES OF FUNDS**

The estimated sources and uses of funds are as follows:

**Sources of Funds**

<b>Principal Amount of Bonds.....</b>	<b>\$50,325,000</b>
<b>Less: Net Original Discount .....</b>	<b><u>(239,110)</u></b>
<b>Total Sources.....</b>	<b><u>\$50,085,890</u></b>

**Use of Funds**

<b>Deposit to Project Account<sup>1</sup> .....</b>	<b>\$44,699,967</b>
<b>Deposit to Debt Service Reserve Fund .....</b>	<b>3,231,150</b>
<b>Costs of Issuance<sup>2</sup> .....</b>	<b>1,651,523</b>
<b>Underwriters' Discount .....</b>	<b><u>503,250</u></b>
<b>Total Uses .....</b>	<b><u>\$50,085,890</u></b>

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<sup>1</sup> Includes reimbursement payments to the Institute and the cost of acquisition of the Institute's tenant-in-common interest in the Myrtle Avenue Property.

<sup>2</sup> Includes bond insurance premium, legal, state issuance fees and costs related to the Series 2009C Bonds.

**PART 7 – THE 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 June 30, 2009, the Authority had approximately \$38.6 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 June 30, 2009 were as follows:

<b><u>Public Programs</u></b>	<b><u>Bonds Issued</u></b>	<b><u>Bonds Outstanding</u></b>	<b><u>Notes Outstanding</u></b>	<b><u>Bonds and Notes Outstanding</u></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	5,146,033,149	0	5,146,033,149
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 .....	2,419,101,208	1,894,490,000	0	1,894,490,000
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	3,538,100,000	0	3,538,100,000
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 .....	<u>985,555,000</u>	<u>781,415,000</u>	<u>0</u>	<u>781,415,000</u>
Totals Public Programs .....	<u>\$ 46,346,138,036</u>	<u>\$ 20,791,045,866</u>	<u>\$ 0</u>	<u>\$ 20,791,045,866</u>

	<u>Bonds Issued</u>	<u>Bonds Outstanding</u>	<u>Notes Outstanding</u>	<u>Bonds and Notes Outstanding</u>
<b>Non-Public Programs</b>				
Independent Colleges, Universities and Other Institutions.....	\$ 17,477,266,020	\$ 8,830,846,644	\$ 35,975,000	\$ 8,866,821,644
Voluntary Non-Profit Hospitals .....	13,541,719,309	7,933,610,000	0	7,933,610,000
Facilities for the Aged.....	1,996,020,000	966,245,000	0	966,245,000
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>\$ 33,110,005,329</u>	<u>\$ 17,730,701,644</u>	<u>\$ 35,975,000</u>	<u>\$ 17,766,676,644</u>
Grand Totals Bonds and Notes .....	<u>\$ 79,456,143,365</u>	<u>\$ 38,521,747,510</u>	<u>\$ 35,975,000</u>	<u>\$ 38,557,722,510</u>

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

At June 30, 2009, the Agency had approximately \$361.5 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 June 30, 2009 were as follows:

	<u>Bonds Issued</u>	<u>Bonds Outstanding</u>
<b>Public Programs</b>		
Mental Health Services Improvement Facilities.....	<u>\$ 3,817,230,725</u>	<u>\$ 0</u>
<b>Non-Public Programs</b>		
Hospital and Nursing Home Project Bond Program.....	\$ 226,230,000	\$ 3,255,000
Insured Mortgage Programs .....	6,625,079,927	350,549,720
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>\$ 361,474,720</u>
Total MCFFA Outstanding Debt.....	<u>\$ 13,082,780,652</u>	<u>\$ 361,474,720</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 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:

ALFONSO L. CARNEY, Jr., Esquire, *Chair*, New York.

Alfonso L. Carney, Jr. was appointed as a Member of the Authority by the Governor on May 20, 2009. Mr. Carney is a principal of Rockwood Partners, LLC, which provides medical and legal consulting services in New York City. Consulting for the firm in 2005, he served as Acting Chief Operating Officer and Corporate Secretary for the Goldman Sachs Foundation in New York where, working with the President of the Foundation, he directed overall staff management of the foundation, and provided strategic oversight of the administration, communications and legal affairs teams, and developed selected foundation program initiatives. Prior to this, Mr. Carney held several positions with Altria Corporate Services, Inc., most recently as Vice President and Associate General Counsel for Corporate and Government Affairs. Prior to that, Mr. Carney served as Assistant Secretary of Philip Morris Companies Inc. and Corporate Secretary of Philip Morris Management Corp. For eight years, Mr. Carney was Senior International Counsel first for General Foods Corporation and later for Kraft Foods, Inc. and previously served as Trade Regulation Counsel, Assistant Litigation Counsel and Federal Government Relations Counsel for General Foods, where he began his legal career in 1975 as a Division Attorney. Mr. Carney is a trustee of Trinity College, the University of Virginia Law School Foundation, the Riverdale Country School and the Virginia Museum of Fine Arts in Richmond. In addition, he is a trustee of the Burke Rehabilitation Hospital in White Plains. Mr. Carney holds a Bachelors degree in Philosophy from Trinity College and a Juris Doctor degree from the University of Virginia School of Law. His current term expires on March 31, 2010.

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

John B. Johnson, Jr. was appointed as a Member of the Authority by the Governor on June 20, 2007. 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., *Secretary*, 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 by the Governor 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 expired on March 31, 2009 and by law he continues to serve until a successor shall be chosen and qualified.

ANTHONY B. MARTINO, CPA, Buffalo.

Mr. Martino was appointed as a Member of the Authority by the Governor on December 15, 2008. 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.

GERARD ROMSKI, Esq., Mount Kisco.

Mr. Romski was appointed as a Member of the Authority by the Temporary President of the State Senate on June 8, 2009. He is Counsel and Project Executive for “Arverne By The Sea,” where he is responsible for advancing and overseeing all facets of “Arverne by the Sea,” one of New York City’s largest mixed-use developments located in Queens, NY. Mr. Romski is also of counsel to the New York City law firm of Bauman, Katz and Grill LLP. He formerly was a partner in the law firm of Ross & Cohen, LLP (now merged with Duane Morris, LLP) for twelve years, handling all aspects of real estate and construction law for various clients. He previously served as Assistant Division Chief for the New York City Law Department’s Real Estate Litigation Division where he managed all aspects of litigation arising from real property owned by The City of New York. Mr. Romski is a member of the Urban Land Institute, Council of Development Finance Agencies, the New York State Bar Association, American Bar Association and New York City Bar Association. He previously served as a member of the New York City Congestion Mitigation Commission and the Board of Directors for the Bronx Red Cross. Mr. Romski holds a Bachelor of Arts degree from the New York Institute of Technology and a Juris Doctor degree from Brooklyn Law School.

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.

CAROLE F. HUXLEY, *Interim Commissioner of Education of the State of New York*, Albany; *ex-officio*.

Carole Huxley was appointed Interim Education Commissioner on July 1, 2009. Ms. Huxley retired in November 2006 after serving for 24 years as Deputy Commissioner for Cultural Education in the New York State Education Department where she was responsible for the New York State Archives, State Library, State Museum and aid to libraries, records repositories and public broadcasting statewide. She came to New York from the National Endowment for Humanities in Washington, DC where she was Director of the Division of Special Programs. Prior to this, Ms. Huxley was with the American Field Service (AFS International) in New York City. She began her career in education teaching high school English in Woodbury, Connecticut. Ms. Huxley holds a Masters of Arts in Teaching from Harvard University and a Bachelor of Arts degree from Mount Holyoke College.

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.

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

Mr. Megna was appointed Budget Director on June 15, 2009. He 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. Mr. Megna previously served as Commissioner of the New York State Department of Taxation and Finance, responsible for overseeing the collection

and accounting of more than \$90 billion in State and local taxes, the administration of State and local taxes, including New York City and the City of Yonkers income taxes and the processing of tax returns, registrations and associated documents. Prior to this he served as head of the Economic and Revenue Unit of the New York State Division of the Budget where he was responsible for State Budget revenue projections and the development and monitoring of the State Financial Plan. Mr. Megna was Assistant Commissioner for Tax Policy for the Commonwealth of Virginia. He also served as Director of Tax Studies for the New York State Department of Taxation and Finance and as Deputy Director of Fiscal Studies for the Ways and Means Committee of the New York State Assembly. Mr. Megna was also an economist for AT&T. He holds Masters degrees in Public Policy from Fordham University and Economics from the London School of Economics.

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, 2009. Copies of the most recent audited financial statements are available upon request at the offices of the Authority.

### **PART 8 – LEGALITY OF THE SERIES 2009C BONDS FOR INVESTMENT AND DEPOSIT**

Under New York State law, the Series 2009C 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 2009C Bonds may be deposited with the State Comptroller to secure deposits of State moneys in banks, trust companies and industrial banks.

### **PART 9 – NEGOTIABLE INSTRUMENTS**

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

### **PART 10 – TAX MATTERS**

#### **Federal Income Taxes**

The Code imposes certain requirements that must be met subsequent to the issuance and delivery of the Series 2009C Bonds for interest thereon to be and remain excluded from gross income for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2009C Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2009C Bonds. Pursuant to the Series 2009C Resolution, the Loan Agreement and the Tax Certificates executed in connection with the original authentication and delivery of the Series 2009C Bonds, the Authority and the Institute have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2009C Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Authority and the Institute have made certain representations and certifications in the Resolution, the Loan Agreement and the Tax Certificates. Bond Counsel will also rely on the opinion of Cullen & Dykman LLP, counsel to the Institute, as to all matters concerning the status of the Institute as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code. Bond Counsel will not independently verify the accuracy of those representations and certifications or that opinion.

In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the aforementioned covenant, and the accuracy of certain representations and certifications made by the Authority and the Institute described above, interest on the Series 2009C Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and

corporations. Interest on the Series 2009C Bonds is excluded from the adjusted current earnings of corporations for purposes of computing the alternative minimum tax imposed on corporations.

### **State Taxes**

Bond Counsel is also of the opinion that interest on the Series 2009C Bonds is exempt from personal income taxes of the State of New York and its political subdivisions, including The City of New York and the City of Yonkers. Bond counsel expresses no opinion as to other state or local tax consequences arising with respect to the Series 2009C Bonds nor as to the taxability of the Series 2009C Bonds or the income therefrom under the laws of any state other than New York.

### **Original Issue Discount**

Bond Counsel is further of the opinion that the difference between the principal amount of the Series 2009C Bonds maturing on July 1, 2020 through July 1, 2024, inclusive, and on July 1, 2034 and July 1, 2039 (collectively, the “Discount Bonds”) and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of Underwriters or wholesalers) at which price a substantial amount of such Discount Bonds of the same maturity was sold constitutes original issue discount which is excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2009C Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such initial offering price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment. Owners of the Discount Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Discount Bonds.

### **Original Issue Premium**

The Series 2009C Bonds maturing on July 1, 2010 through July 1, 2019, inclusive, and on July 1, 2029 (collectively, the “Premium Bonds”) are being offered at prices in excess of their principal amounts. An initial purchaser with an initial adjusted basis in a Premium Bond in excess of its principal amount will have amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each Premium Bond based on the purchaser’s yield to maturity (or, in the case of Premium Bonds callable prior to their maturity, over the period to the call date, based on the purchaser’s yield to the call date and giving effect to any call premium). For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation with an amortizable bond premium is required to decrease such purchaser’s adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.

### **Ancillary Tax Matters**

Ownership of the Series 2009C Bonds may result in other federal tax consequences to certain taxpayers, including, without limitation, certain S corporations, foreign corporations with branches in the United States, property and casualty insurance companies, individuals receiving Social Security or Railroad Retirement benefits and individuals seeking to claim the earned income credit. Ownership of the Series 2009C Bonds may also result in other federal tax consequences to taxpayers who may be deemed to have incurred or continued indebtedness to purchase or to carry the Series 2009C Bonds; for certain bonds issued during 2009 and 2010, the American Recovery and Reinvestment Act of 2009 modifies

the application of those rules as they apply to financial institutions. Prospective investors are advised to consult their own tax advisors regarding these rules.

Commencing with interest paid in 2006, interest paid on tax-exempt obligations such as the Series 2009C Bonds is subject to information reporting to the Internal Revenue Service (the “IRS”) in a manner similar to interest paid on taxable obligations. In addition, interest on the Series 2009C Bonds may be subject to backup withholding if such interest is paid to a registered owner that (a) fails to provide certain identifying information (such as the registered owner’s taxpayer identification number) in the manner required by the IRS, or (b) has been identified by the IRS as being subject to backup withholding.

Bond Counsel is not rendering any opinion as to any federal tax matters other than those described in the opinion attached as Appendix E. Prospective investors, particularly those who may be subject to special rules described above, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Series 2009C Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

### **Changes in Law and Post Issuance Events**

Legislative or administrative actions and court decisions, at either the federal or state level, could have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2009C Bonds for federal or state income tax purposes, and thus on the value or marketability of the Series 2009C Bonds. This could result from changes to federal or state income tax rates, changes in the structure of Federal or state income taxes (including replacement with another type of tax), repeal of the exclusion of the interest on the Series 2009C Bonds from gross income for federal or state income tax purposes, or otherwise. It is not possible to predict whether any legislative or administrative actions or court decisions having an adverse impact on the federal or state income tax treatment of holders of the Series 2009C Bonds may occur. Prospective purchasers of the Series 2009C Bonds should consult their own tax advisers regarding such matters.

Bond Counsel has not undertaken to advise in the future whether any events after the date of issuance and delivery of the Series 2009C Bonds may affect the tax status of interest on the Series 2009C Bonds. Bond Counsel expresses no opinion as to any federal, state or local tax law consequences with respect to the Series 2009C Bonds, or the interest thereon, if any action is taken with respect to the Series 2009C Bonds or the proceeds thereof upon the advice or approval of other counsel.

## **PART 11 – STATE NOT LIABLE ON THE SERIES 2009C BONDS**

The Act provides that notes and bonds of the Authority shall not be a debt of the State nor shall the State be liable thereon, nor shall such notes or bonds be payable out of any funds other than those of the Authority. The Resolution specifically provides that the Series 2009C Bonds are not a debt of the State and that the State is not liable on them.

## **PART 12 – 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 13 – LEGAL MATTERS**

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

Certain legal matters will be passed upon for the Institution by its Counsel, Cullen and Dykman LLP, Garden City, New York. Certain legal matters will be passed upon for the Underwriters by their Counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York.

There is not now pending any litigation restraining or enjoining the issuance or delivery of the Series 2009C Bonds or questioning or affecting the validity of the Series 2009C Bonds or the proceedings and authority under which they are to be issued. There is no litigation pending which in any manner questions the right of the Authority to finance the Project in accordance with the provisions of the Act, the Resolution, the Series 2009C Resolution and the Loan Agreement.

## **PART 14 – UNDERWRITING**

George K. Baum & Company, Samuel A. Ramirez & Co., Inc. and Roosevelt & Cross, Incorporated (collectively, the "Underwriters") have agreed, subject to certain conditions, to purchase the Series 2009C Bonds from the Authority at an aggregate purchase price of \$49,582,640 and to make a public offering of Bonds at prices that are not in excess of the public offering price stated on the cover page of this Official Statement. The Underwriters will be obligated to purchase all such Bonds if any are purchased.

The Series 2009C Bonds may be offered and sold to certain dealers (including the Underwriters) at prices lower than such public offering prices, or in the case of obligations sold on a yield basis, at yields other than shown on the cover of this Official Statement, and such public offering prices or yields may be changed, from time to time, by the Underwriters.

## **PART 15 – CONTINUING DISCLOSURE**

In order to assist the Underwriters in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission ("Rule 15c2-12"), the Institution has undertaken in a written agreement (the "Continuing Disclosure Agreement") for the benefit of the Series 2009C Bondholders to provide to Digital Assurance Certification LLC ("DAC"), on behalf of the Authority, on or before 150 days after the end of each fiscal year of the Institution, commencing with the fiscal year ending June 30, 2009, for filing by DAC with the Municipal Securities Rulemaking Board ("MSRB") and its Electronic Municipal Market Access system for municipal securities disclosures on an annual basis, operating data and financial information of the type hereinafter described which is included in "PART 4 – THE INSTITUTION" of this Official Statement (the "Annual Information"), together with the Institution's annual financial statements prepared in accordance with U.S. generally accepted accounting principles and audited by an independent firm of certified public accountants in accordance with such generally accepted auditing standards; provided, however, that if audited financial statements are not ten available, unaudited financial statements shall be delivered to DAC for delivery to the MSRB.

If, and only if, and to the extent that it receives the Annual Information and annual financial statements described above from the Institution, DAC has undertaken in the Continuing Disclosure Agreement, on behalf of and as agent for the Institution and the Authority, to file such information and financial statements, as promptly as practicable, but no later than three Business Days after receipt of the information by DAC from the Institution, with the MSRB.

The Annual Information will consist of the following: (a) operating data and financial information of the type included in this Official Statement in PART 4 – THE INSTITUTION under the heading “OPERATING INFORMATION” and “ANNUAL FINANCIAL STATEMENT INFORMATION” relating to: (1) *student admissions*, similar to that set forth under the heading “ADMISSIONS STATISTICS,” (2) *student enrollment*, similar to that set forth under the heading, “ENROLLMENT SUMMARY,” (3) *tuition and other student charges*, similar to that set forth under the heading, “TUITION AND OTHER STUDENT CHARGES,” (4) *financial aid*, similar to that set forth under the heading, “SOURCES OF UNDERGRADUATE SCHOLARSHIP AND GRANT AID,” (5) *faculty*, similar to that set forth under the heading, “Faculty,” (6) *employee relations*, including material information about union contracts and, unless such information is included in the audited financial statements of the Institution, retirement plans; (7) *endowment and similar funds*, unless such information is included in the audited financial statements of the Institution; (8) *plant values*, unless such information is included in the audited financial statements of the Institution; and (9) *outstanding long-term indebtedness*, unless such information is included in the audited financial statements of the Institution; together with (b) a narrative explanation, if necessary to avoid misunderstanding and to assist the reader in understanding the presentation of financial and operating data concerning the Institution and in judging the financial and operating condition of the Institution.

The Institution has undertaken in the Continuing Disclosure Agreement to provide to the Authority, the Trustee and DAC, in a timely manner, the notices required to be provided by Rule 15c2-12 and described below (the “Notices”). In addition, the Authority and the Trustee have undertaken, for the benefit of the Series 2009C Bondholders, to provide such Notices to DAC should they have actual knowledge of the occurrence of a Notice Event (as hereinafter defined). Upon receipt of Notices from the Authority, DAC will file the Notices with the MSRB in a timely manner. With respect to the Series 2009C Bonds, DAC has only the duties specifically set forth in the Continuing Disclosure Agreement. DAC’s obligation to deliver the information at the times and with the contents described in the Continuing Disclosure Agreement is limited to the extent the Institution has provided such information to DAC as required by the Continuing Disclosure Agreement. DAC has no duty with respect to the content of any disclosure or Notices made pursuant to the terms of the Continuing Disclosure Agreement and DAC has no duty or obligation to review or verify any information contained in the Annual Information, Audited Financial Statements, Notices or any other information, disclosures or notices provided to it by the Institution, the Trustee or the Authority and shall not be deemed to be acting in any fiduciary capacity for the Authority, the Institution, the Series 2009C Bondholders or any other party. DAC has no responsibility for the Authority’s failure to provide to DAC a Notice required by the Continuing Disclosure Agreement or duty to determine the materiality thereof. DAC shall have no duty to determine, or liability for failing to determine, whether the Institution, the Trustee or the Authority has complied with the Continuing Disclosure Agreement and DAC may conclusively rely upon certifications of the Institution, the Trustee and the Authority with respect to their respective obligations under the Continuing Disclosure Agreement. In the event the obligations of DAC as the Authority’s disclosure dissemination agent terminate, the Authority will either appoint a successor disclosure dissemination agent or, alternatively, assume all responsibilities of the disclosure dissemination agent for the benefit of the Series 2009C Bondholders.

The Notices include notices of any of the following events with respect to the Series 2009C Bonds, if material: (1) principal and interest payment delinquencies; (2) non-payment related defaults; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions or events affecting the tax-exempt status of the Series 2009C Bonds; (7) modifications to the rights of Holders of the Series 2009C Bonds; (8) bond calls (other than pursuant to mandatory sinking fund redemption requirements; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Series 2009C Bonds; and (11) rating changes. In addition, DAC will undertake, for the benefit of the Holders of the Series 2009C Bonds, to provide to the MSRB in a timely manner, notice of any failure by the Institution to provide the Annual Information and Audited Financial Statements by the date required in the Institution’s undertaking described above.

The sole and exclusive remedy for breach or default under the agreement to provide continuing disclosure described above is an action to compel specific performance of the undertaking of DAC, the Institution and/or the Authority, and no person, including any Holder of the Series 2009C Bonds, may recover monetary damages thereunder under any circumstances. A breach or default under the agreement shall not constitute an Event of Default under the

Resolution, the Series 2009C Resolution or the Loan Agreement. In addition, if all or any part of Rule 15c2-12 ceases to be in effect for any reason, then the information required to be provided under the agreement, insofar as the provision of Rule 15-c2-12 no longer in effect required the providing of such information, shall no longer be required to be provided.

The foregoing undertaking is intended to set forth a general description of the type of financial information and operating data that will be provided; the description is not intended to state more than general categories of financial information and operating data; and where an undertaking calls for information that no longer can be generated because the operations to which it related have been materially changed or discontinued, a statement to that effect will be provided. As a result, the parties to the Continuing Disclosure Agreement do not anticipate that it often will be necessary to amend the informational undertaking. The Continuing Disclosure Agreement, however, may be amended or modified without Bondholders consent under certain circumstances set forth therein. Copies of the Continuing Disclosure Agreement are on file at the principal office of the Authority.

#### **PART 16 – RATINGS**

The Series 2009C Bonds are expected to be assigned a rating of “Aa2” by Moody’s Investors Service, Inc. (“Moody’s”) with the understanding that, upon delivery of the Series 2009C Bonds, the Policy will be issued by the Insurer guaranteeing the payment of the principal, Sinking Fund Installments of and interest on the Series 2009C Bonds. In addition, Moody’s has assigned an underlying rating of “A3” to the Series 2009C Bonds with a stable outlook, without regard to the Policy. Such ratings reflect only the views of such organization and any desired explanation of the significance of such ratings should be obtained from the rating agency at the following address: Moody’s, 7 World Trade Center at 250 Greenwich 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 such rating agency if, in the judgment of such rating agency, 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 2009C Bonds.

#### **PART 17 – MISCELLANEOUS**

Reference in this Official Statement to the Act, the Resolution, the Series 2009C Resolution, the Loan Agreement, the Policy and the Mortgage do not purport to be complete. Refer to the Act, the Resolution, the Series 2009C Resolution, the Loan Agreement, the Policy and the Mortgage for full and complete details of their provisions. Copies of the Resolution, the Series 2009C Resolution, the Loan Agreement, the Policy and the Mortgage are on file with the Authority and the Trustee.

The agreements of the Authority with Holders of the Series 2009C Bonds are fully set forth in the Resolution and the Series 2009C Resolution. Neither any advertisement of the Series 2009C Bonds nor this Official Statement is to be construed as a contract with purchasers of the Series 2009C 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 and the Project was supplied by the Institution. The Authority believes that this information is reliable, but the Authority, the Underwriters and the Insurer make no representations or warranties whatsoever as to the accuracy or completeness of this information.

The information regarding the Insurer, the Policy and the specimen Financial Guaranty Insurance Policy in Appendix F has been furnished by the Insurer. No representation is made herein by the Authority, the Institution or the Underwriters 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 Underwriters has made any independent investigation of the Insurer or the Policy.

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 to the accuracy or completeness of this information.

"Appendix A - Definitions," "Appendix C - Summary of Certain Provisions of the Loan Agreement," "Appendix D - Summary of Certain Provisions of the Resolution" and "Appendix E - Form of Approving Opinion of Bond Counsel" have been prepared by Nixon Peabody LLP, New York, New York, Bond Counsel.

"Appendix B - Financial Statements of Pratt Institute (With Independent Auditors' Report Thereon)" contains the audited financial statements of the Institution for the fiscal year ended June 30, 2008 and the report of the Institution's independent auditors, KPMG LLP, on such financial statements.

The Institution has reviewed the parts of this Official Statement describing the Institution, the 2009 Plan of Finance, the Principal and Interest Requirements, the Project, the Estimated Sources and Uses of Funds and Appendix B. It is a condition to the sale and delivery of the Series 2009C Bonds that the Institution certify as of the dates of sale and delivery of the Series 2009C Bonds that such parts do not contain any untrue statement of a material fact and do not omit any 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 and the Underwriters 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/ Paul T. Williams, Jr.  
Authorized Officer



**CERTAIN DEFINITIONS**

## CERTAIN DEFINITIONS

The following are definitions of certain of the terms defined in the Resolution, the Series 2009C Resolution or the Loan Agreement, and used in this Official Statement. Unless otherwise indicated, the terms summarized below have, in all material respects, the same meaning in the Loan Agreement or the Resolution.

“*Act*” means the Dormitory Authority Act being Title 4 of Article 8 of the Public Authorities Law of the State, as amended, including without limitation by the Health Care Financing Construction Act, being Title 4–B of Article 8 of the Public Authorities Law of the State.

“*Additional 2009 Debt*” means:

- (i) the Debt incurred by the Institute pursuant to a loan agreement, dated as of March 19, 2009, by and between the Institute and the Authority in connection with the issuance by the Authority pursuant to the Resolution of \$33,750,000 aggregate principal amount of its Series 2009A Bonds;
- (ii) the Debt incurred by the Institute pursuant to a loan agreement, dated as of March 19, 2009, by and between the Institute and the Authority in connection with the issuance by the Authority pursuant to the Resolution of \$18,420,000 aggregate principal amount of its Series 2009B Bonds; and
- (iii) any Debt incurred to the Bank, or any other provider of an irrevocable, direct pay letter of credit for payment of the principal of and interest on the Debt referred to in paragraphs (i) and (ii) above.

“*Additional Project Debt*” means Debt in an aggregate principal amount not to exceed \$10,000,000 incurred subsequent to the date of the Loan Agreement to finance or to reimburse the Institute for Costs of the Project in excess of the Allocable Project Cost.

“*Allocable Project Costs*” means: (a) in the aggregate, an amount equal to seventy-six and seventeen hundredths percent (76.17%) of the lesser of (i) the total actual Costs of the Project and (ii) \$59,915,336, being the amount estimated at the date of the Loan Agreement as the Costs of the Project, which amount is the sum of the amount of Costs financed by the Series 2009C Bonds, plus the amount of money estimated to be provided by the Institute for payment of the Costs of the Project, and, (b) when used in connection with a Requisition, the aforementioned percentage of the total amount of Costs of the Project requested thereby to be paid from the Project Account and from the funds of the Institute.

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

“*Arbitrage Rebate Fund*” means the fund so designated, created and established 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 Series 2009 Bonds and the construction of the Project as more particularly described in the Loan Agreement.

“*Authorized Denominations*” means \$5,000 or any integral multiple thereof.

“*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, the Managing Director of Public Finance and Portfolio Management, the Managing Director of Construction, and the General Counsel and the Deputy 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 Institute, when used with reference to any act or document, means the

person or persons authorized by a resolution or the by-laws of the Institute 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.

“*Bank*” means any bank that has issued a letter of credit in accordance with the Series Resolution and the Bond Series Certificate relating to a particular Series of Bonds.

“*Bond*” or “*Bonds*” means any of the bonds of the Authority authorized and issued pursuant to the Resolution and to a Series Resolution.

“*Bond Counsel*” means Nixon Peabody LLP, or an attorney or other law firm appointed by the Authority, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

“*Bond Series Certificate*” means the certificate of an Authorized Officer of the Authority fixing terms, conditions and other details of Bonds in accordance with the delegation of power to do so under the Resolution or under a Series Resolution.

“*Bond Year*” means a period of twelve (12) consecutive months beginning July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

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

“*Book Entry Bond*” means a Bond 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.

“*Cash and Investments*” means all cash and investments of the Institute, other than (i) those that are permanently restricted and (ii) the nominal value of cash and the fair market value of investments that have been encumbered by liens given pursuant to secure obligations that do not constitute Debt.

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

“*Condominium*” means the condominium to be established by the Declaration in accordance with Article 38 of the Pratt Lease.

“*Construction Fund*” means the fund so designated, created and established for a Project by or pursuant to a Series Resolution authorizing the issuance of a Series of Bonds for the purpose of paying or refinancing the Costs of such Project.

“*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, Series 2009 Bonds, plans and specifications, addenda, change orders, and any other documents entered into or prepared by or on behalf of the Institute 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 the Bonds, which items of expense 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 or a Depository, legal fees and charges, professional consultants’ fees, fees and charges for execution, transportation and

safekeeping of Bonds, premiums, fees and charges for insurance on Bonds, commitment fees or similar charges relating to a Letter of Credit, a financial guaranty insurance policy, a Liquidity Facility, a Hedge Agreement or a Remarketing Agent, 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 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 Institute 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 Institute 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 Institute), (viii) interest on the Bonds, 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 Loan Agreements, a Letter of Credit, a financial guaranty insurance policy in connection with Bonds, a Liquidity Facility or a Remarketing Agreement in connection with Option Bonds or Variable Interest Rate Bonds.

*“Counterparty”* means any person with which the Authority or the Institute has entered into a Hedge Agreement, provided that, at the time the Hedge Agreement is executed, the senior or uncollateralized long-term debt obligations of such person, or of any person that has guaranteed for the term of the Hedge Agreement the obligations of such person thereunder, are rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, not lower than in the third highest rating category by each Rating Service.

*“Debt”* means, when used in connection with any person, indebtedness for borrowed money incurred or guaranteed by such person, whether or not evidenced by notes, bonds, debentures or other similar evidences of indebtedness, including indebtedness under purchase money mortgages, capital leases, installment sales agreements and similar security arrangements which appear as debt on the audited balance sheet of such person in accordance with generally accepted accounting principles.

*“Debt Service Coverage Ratio”* at any date of calculation, the ratio, expressed as a percentage, obtained by dividing Net Revenues Available for Debt Service by the Maximum Annual Debt Service.

*“Debt Service Fund”* means, when used in connection with a Series of Bonds, the fund so designated, created and established by or pursuant to the Series Resolution authorizing the issuance of such Series of Bonds.

*“Debt Service Reserve Fund”* means the fund so designated, established and created pursuant to the Series Resolution.

*“Debt Service Reserve Requirement”* means, initially, the amount set forth in the Bond Series Certificate executed in connection with the Series 2009C Bonds in accordance with the Series 2009C Resolution as the amount required to be on deposit in the Debt Service Reserve Fund.

*“Declaration”* means a declaration of condominium establishing the Condominium under Article 9-B of the Real Property Law of the State of New York, as the same may be amended, which declaration is to be recorded in the Office of the Register of the City of New York, Kings County, together with the By-Laws of the Condominium, as set forth in the aforementioned declaration and, as the same may be amended.

*“Defeasance Security”* means:

(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; and

(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;

(iv) any other investments acceptable to the Rating Service(s) for defeasance; and

***provided, however,*** that for purposes of (i), (ii) and (iii) above, 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.

*“Deficiency Notice”* means any notice to the Institute either from the Trustee or the Authority to the effect that the amount in the Debt Service Reserve Fund is less than the Debt Service Reserve Requirement.

*“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 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.

*“Determination of Taxability”* means, when used with respect to a Tax Exempt Bond, a final determination by any court of competent jurisdiction or a final determination by the Internal Revenue Service to which the Authority shall consent or from which no timely appeal shall have been taken, in each case to the effect that interest on such Bond is includable in the gross income of the Holder thereof for purposes of federal income taxation.

*“Direct Participant”* means a participant in the book–entry system of recording ownership interests in the Series 2009 Bonds.

*“DTC”* means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as Depository for the Series 2009C Bonds, or any successor Depository for any Series 2009C Bonds.

*“Educational Unit”* means all floors above the ground floor of the Project providing for office and classroom use.

*“Exempt Obligation”* means:

(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 in 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:

(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.

*“Fiscal Year”* means a twelve month period beginning July 1<sup>st</sup> of a calendar year and ending on June 30<sup>th</sup> of the next subsequent calendar year, or such other twelve month period as the Institute may elect as its Fiscal Year.

*“Government Obligation”* means:

(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 any 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 after created, and having or asserting jurisdiction over the Project or any Mortgaged Property or any part of either.

“*Gross Receipts*” means:

(i) All revenues received by the Institute from its operations, including but not limited to tuition, student fees, and charges for room and board, and from the operations of its facilities, all the proceeds, product, offspring, rents and profits of all of the Institute’s facilities, and all other income available to the Institute from any other source;

(ii) All of the Institute’s accounts, contract rights, chattel paper, instruments, general intangibles and other obligations of any kind now or after existing, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services, whether or not such services have been performed;

(iii) All rights now or after existing in and to all security agreements, leases and other contracts securing or otherwise relating to any such accounts, contract rights, chattel paper, instruments, general intangibles or obligations in each case derived from the Institute’s ownership, operation or lease of all of its facilities (any and all such accounts, contract rights, chattel paper, instruments, general intangibles and obligations being the “*Receivables*”);

(iv) All investment income, gifts, bequests, contributions and other donations and any income derived therefrom *excluding* only gifts, bequests, contributions and other donations before or after the date of the Loan Agreement made and any income derived therefrom which are specifically restricted by the donor or grantor thereof to a specific object or purpose inconsistent with the payment by the Institute of amounts owed to the Authority by the Institute pursuant to the Loan Agreement; and

(v) All proceeds of any and all of the foregoing, including without limitation any amounts received from the sale, exchange, lease or other disposition of any Receivables, and, to the extent not otherwise included, all payments under insurance (whether or not the Authority is the loss payees thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing.

“*Hedge Agreement*” means any financial arrangement entered into by the Institute that is or is in the nature of an interest rate exchange agreement, an interest rate cap or collar or other exchange or rate protection transaction, under which any of the Institute’s obligations thereunder are secured by a Lien on all or any portion of the Gross Receipts or Mortgaged Property that, in accordance with the terms of any intercreditor agreement is of equal priority with the Lien thereon securing the Institute’s obligations under the Loan Agreement.

“*Institute*” means Pratt Institute, a corporation duly organized and existing under the laws of the State, which is an institution for higher education located in the State and authorized to confer degrees by law or by the Board of Regents of the State, or any successor thereto.

“*Insurance Consultant*” means a person or firm selected by the Institute, acceptable to the Authority and the Insurer, which is qualified to survey risks and to recommend insurance coverage for the Institute and organizations engaged in like operations.

“*Intercreditor Agreement*” means an agreement by and among, *inter alia*, the Authority, the Trustee and each Bank, as creditors of the Institute, with respect to (i) the relative priorities of the liens upon the Gross Receipts and, to the extent the obligations of the Institute to any two or more of such creditors is secured by a Mortgage on the same

Mortgaged Property, the mortgage lien upon such Mortgaged Property, (ii) limitations or conditions upon their respective rights to enforce, foreclose or realize upon such liens, and (iii) the application of any money realized from the enforcement, foreclosure or other realization upon such liens.

*“Interest Commencement Date”* means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof specified in the Series Resolution authorizing such Bond or the 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 on July 1 and January 1 of each Bond Year.

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

*“Letter of Credit”* means an irrevocable direct-pay letter of credit for the benefit of the Trustee pursuant to which the issuer thereof is obligated, upon a drawing made by the Trustee in accordance with the terms of such letter of credit, to advance to the Trustee amounts to pay the principal and Sinking Fund Installments of and interest on such Bonds, as the same becomes due whether or not the Authority is in default under the Resolution or the Institute is in default under a Loan Agreement that is issued by (i) a bank, savings bank, savings and loan association or trust company organized under the laws of any state of the United States of America and authorized to do business in the State, (ii) a trust company, (iii) a national banking association, (iv) 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, (v) a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, or (vi) 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.

*“Letter of Credit Secured Bond”* means a Bond in connection with which a Letter of Credit has been issued.

*“Lien”* means any mortgage, pledge, lien, charge or security interest in the nature thereof (including any conditional sales agreement, equipment trust agreement, or other title retention agreement) or other encumbrance of whatsoever nature.

*“Liquidity Ratio”* means as of any date of calculation, a ratio, expressed as a percentage, of the Institute’s Cash and Investments to the aggregate principal amount of outstanding Debt of the Institute.

*“Loan Agreement”* means the Loan Agreement by and between the Authority and the Institution, related to the Series 2009C Bonds, as the same may from time to time be amended, supplemented or otherwise modified as permitted by the Resolution and by the Loan Agreement;

*“Long Term Debt”* means Debt on which (i) no payments are required to be made in reduction of the principal thereof for a period of more than one (1) year after such indebtedness was incurred, (ii) payments in reduction of the principal thereof are required to be made over a period of more than one (1) Fiscal Year, or (iii) the payment of principal may be extended at the option of the obligor to a date that is more than one (1) year after such Debt was incurred.

*“Maximum Annual Debt Service”* means, for any person and as of any particular date of computation, the greatest amount required to be paid in the then current or any future Fiscal Year in reduction of the principal of outstanding Long-Term Debt and for interest thereon; provided, however, that for purposes of such computation:

(i) if twenty-five percent (25%) or more of the principal amount of any Long-Term Debt comes due in any Fiscal Year either by maturity or mandatory redemption, the “Maximum Annual Debt Service” shall be calculated as though the principal of and interest at the stated rate on such Long-Term Debt was payable in substantially equal annual installments during each Fiscal Year commencing with the Fiscal Year during which such Long-Term Debt was incurred and continuing to and including the earlier of (A) the twentieth Fiscal Year thereafter and (B) the Fiscal Year during which such Long-Term Debt is scheduled by its terms to be fully paid;

(ii) any Long-Term Debt that bears interest at a variable rate adjusted periodically, whether based upon an index or otherwise, shall be considered to bear interest at:



(A) in the case of any such Long-Term Debt that has been outstanding for at least twenty-four (24) calendar months prior to the date of computation, one hundred percent (100%) of the weighted average annual interest rate borne by such Long-Term Debt over the twenty-four (24) calendar months immediately preceding such computation; and

(B) in the case of any such Long-Term Debt that has not been outstanding for at least twenty-four (24) calendar months prior to the date of computation, (1) if the interest on such Long-Term Debt is excluded from the gross income of the holders thereof for purposes of federal income taxation, one hundred percent (100%) of the average of the SIFMA Municipal Index for the most recent twenty-four (24) calendar months preceding the date of computation, or, if such index is no longer available, one hundred percent (100%) of the most recent 25 Revenue Bond Index published by the *Bond Buyer*, or (2) if the interest on such Long-Term Debt is not excluded from the gross income of the holders thereof for purposes of federal income tax purposes, one hundred percent (100%) of the prime rate of the Trustee (or, if the Trustee does not publish a prime rate, the prime rate of any affiliate of the Trustee which is a member of the Federal Reserve Bank) in effect for the twenty-four calendar months immediately preceding the date of computation; and

(C) in the case of any such Long-Term Debt in connection with which the Institute has entered into a Hedge Agreement that requires it to pay a fixed rate of interest to the counterparty thereto, then, so long as such Hedge Agreement remains applicable to such Long-Term Debt, the fixed rate of interest payable thereunder by the Institute; and

(iii) Long-Term Debt that is guaranteed by the Institute shall be included in the computation of the Institute's Maximum Annual Debt Service; provided, however, that the respective percentages of such Long-Term Debt set forth below, and the debt service thereon, may be excluded from such computation if the Debt Service Coverage Ratio for all Long-Term Debt of the primary obligor of the guaranteed Long-Term Debt is at least equal to the Debt Service Coverage Ratio set forth below opposite such percentage:

<u>Debt Service Coverage Ratio</u>	<u>Percentage of Guaranteed Debt Which may be Excluded</u>
200% or more	80%
At least 175% but less than 200%	75%
At least 150% but less than 175%	50%
At least 125% but less than 150%	25%
Less than 125%	0%

Notwithstanding the foregoing, no percentage of any Long-Term Debt guaranteed by the Institute on which the Institute, during its then current Fiscal Year or any of the two (2) immediately preceding Fiscal Years, has made any payment pursuant to its guarantee may be excluded from the computation of its Maximum Annual Debt Service.

“*Mortgage*” means the mortgage, dated the date of issuance of the Series 2009C Bonds, on the property described therein, made by the Institute to the Authority to secure the Institute's obligation under the Loan Agreement, as the same may be amended and supplemented from time to time.

“*Mortgaged Property*” means the land and improvements thereon or to be erected thereon described in a Mortgage and the fixtures, furnishings and equipment owned by the Institute located therein or thereon at the time such Mortgage is made or that is thereafter located therein or thereon.

“*Net Revenues Available for Debt Service*” means for any person such persons total unrestricted revenues and gains, minus total unrestricted expenses, exclusive of unrealized gains or losses on investment, depreciation and interest paid, all as shown on the audited financial statements of such person stated in accordance with generally accepted accounting principles applicable to such person.

“*Official Statement*” means an official statement, offering memorandum or circular or other offering document relating to and in connection with the sale of the Series 2009C Bonds.

“*Opinion of Bond Counsel*” means an opinion of Bond Counsel to the effect that the action proposed to be taken will not cause interest on the Bonds to which such action relates to be includable in the gross income of the owners of such Bonds for purposes of federal income taxation and that such action is authorized or permitted by the Resolution and by the applicable Series Resolution and Bond Series Certificate.

“*Option Bond*” means any Bond 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 Series Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds.

“*Outstanding*”, when used in reference to Bonds, means, as of a particular date, all Bonds authenticated and delivered under the Resolution and under any applicable 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 Resolution;
- (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to the Resolution; and
- (iv) any Option Bond tendered or deemed tendered in accordance with the provisions of the Series Resolution authorizing such Bond or the 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 Series Resolution authorizing such Bond or the Bond Series Certificate relating to such Bond.

“*Parity Debt*” means, when used in relation to the Gross Receipts, the Additional 2009 Debt, the Additional Project Debt and any Long-Term Debt incurred in compliance with the Loan Agreement, and, when used in relation to the Mortgaged Property, the Additional Project Debt; ***provided, however***, that in connection with any such Debt the person to whom the Institute is indebted shall have entered into an intercreditor agreement by and among the Authority, the Trustee and each other person secured by a security interest in the Gross Receipts or by a mortgage on the Mortgaged Property, as applicable, that is on a parity with the Lien thereon to secure the Institute’s obligations hereunder.

“*Permitted Collateral*” means:

- (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; or

(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, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, 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 pledged.

*"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, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, rated by at least one Rating Service in at least the second highest rating category, and (b) fully collateralized by Permitted Collateral;

(vi) commercial paper issued by a domestic corporation rated, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, in the highest short term rating category by at least one Rating Service and having maturities of not longer than two hundred seventy (270) days from the date of purchase;

(vii) bankers' acceptances issued by a bank rated, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, 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, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, in the highest short term rating category by at least one Rating Service.

*"Permitted Liens"* means (i) the Loan Agreement, (ii) the Resolution, (iii) the Mortgage, (iv) any instrument recorded pursuant to Section 20 of the Loan Agreement, (v) those Liens or matters referred to in any title insurance

policy described in Section 13 of the Loan Agreement and accepted by the Authority and the Insurer, (vi) any other Liens or other matters approved in writing by the Authority and the Insurer, (vii) the lien of taxes and assessments which are not delinquent, (viii) 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, (ix) 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 reasonably be expected to be held, (x) 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, which do not materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held, and (xi) security interests, liens and other encumbrances to secure the purchase price of any equipment or furnishings for the Mortgaged Property.

“*Permitted Long-Term Debt*” means the Additional 2009 Debt and any other Long-Term Debt of the Institute incurred in compliance with Section 1(f) of Exhibit D to the Loan Agreement.

“*Pratt Lease*” means the Agreement of Lease between OF 526 LLC, MGC 526 LLC and MARK 526 LLC, as Landlord and the Institute, as Tenant, dated as of March 7, 2007.

“*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;

(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;

(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;

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

*“Record Date”* means, unless the Series Resolution authorizing Variable Interest Rate Bonds or Option Bonds or the Bond Series Certificate relating thereto provides otherwise with respect to such Variable 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, 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.

*“Related Agreement”* means each of the Security Agreement and the Mortgage.

*“Requisition”* means the request for disbursement substantially in the form annexed as Exhibit F to the Loan Agreement.

*“Resolution”* means the Pratt Institute Revenue Bond Resolution, adopted by the Authority September 24, 2008, as from time to time amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions under the Resolution.

*“Revenues”* means, when used in connection with the Bonds of any particular Series:

(i) all payments received or receivable by the Authority that pursuant to the Loan Agreement entered into in connection with such Series of Bonds are required to be paid to the Trustee, other than payments to the Trustee for (A) the administrative costs and expenses or fees of the Trustee, (B) deposit to the Arbitrage Rebate Fund, (C) deposit to any fund or account established by or pursuant to such Series Resolution for the payment of the purchase price of Option Bonds tendered or deemed to have been tendered for purchase, or (D) deposit to any fund or account established by or pursuant to such Series Resolution for repayment of advances made by a Liquidity Facility Provider for payment of the purchase price of Option Bonds; and

(ii) all amounts received as a consequence of the enforcement of a Loan Agreement, including but not limited to amounts derived from the foreclosure or sale of or other realization upon a Mortgage on property of the Institute given to secure the Institute’s obligation under such Loan Agreement or upon the security interest in the Gross Receipts.

“*Security Agreement*” means the Security Agreement, dated the date of issuance of the Series 2009C Bonds, pursuant to which the Institute has granted to the Authority a security interest in the Gross Receipts as the same may be amended and restated from time to time.

“*Serial Bond*” means any Bond 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 Series Resolution authorizing such Bonds as a separate Series of Bonds or a Bond Series Certificate, and any Bonds 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 2009A Bonds*” means the Bonds authorized by the Series Resolution adopted by the Authority on September 24, 2008.

“*Series 2009B Bonds*” means the Bonds authorized by the Series Resolution adopted by the Authority on September 24, 2008.

“*Series 2009C Resolution*” means the Authority’s Series Resolution Authorizing Up To \$110,000,000 Pratt Institute Revenue Bonds, Series 2009C, adopted September 24, 2008, and the Bond Series Certificate executed by the Authority in connection with issuance of the Series 2009C Bonds, in each case as the same may be amended, supplemented or otherwise modified.

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

“*Sinking Fund Installment*” means, as of any date of calculation:

(i) when used with respect to any Bonds of a 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 Resolution or by the Series Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto to be paid on a single future July 1 for the retirement of any Outstanding Bonds of said Series which mature after said future July 1, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future July 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 Series Resolution pursuant to which such Bonds were issued or by the 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.

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

“*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 a certificate executed by an Authorized Officer of the Authority, including the appendices, schedules and exhibits thereto, executed in connection with the issuance of the Series 2009C Bonds in which the Authority makes representations and agreements as to arbitrage compliance with the provisions of Section

141 through 150, inclusive, of the Code, 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.

“*Tax Exempt Bond*” means any Bond as to which Bond Counsel has rendered an opinion to the effect that interest on it is excluded from gross income for purposes of federal income taxation.

“*Term Bond*” means any Bond so designated in a Series Resolution or a Bond Series Certificate and payable from Sinking Fund Installments.

“*Testing Date*” means December 31<sup>st</sup> and June 30<sup>th</sup> of each calendar year; *provided, however*, that, if the Institute’s Fiscal Year is changed so that it no longer ends on June 30<sup>th</sup> of a calendar year, the Testing Dates shall be the last day of the second quarter of the Institute’s Fiscal Year and last day of such Fiscal Year.

“*Trustee*” means the bank or trust company appointed as Trustee for the Bonds pursuant to the Resolution and having the duties, responsibilities and rights provided for in the Resolution, 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.

“*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 Series Resolution authorizing such Bonds or the 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 Series Resolution authorizing such Bonds or the 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 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.

“*Verification Report*” means, when used in connection with any Bonds for the payment of which Defeasance Obligations and money has been deposited with the Trustee in accordance with the Resolution, a letter or other written report verifying the accuracy of the arithmetical computations which establish the adequacy of such money and Defeasance Securities for such purpose.

“*Winning Bid Rate*” shall have the meaning given to such term in the Resolution.

**FINANCIAL STATEMENTS OF  
PRATT INSTITUTE  
(WITH INDEPENDENT AUDITORS' REPORT THEREON)**





**PRATT INSTITUTE**

Financial Statements

June 30, 2008

(With Independent Auditors' Report Thereon)



KPMG LLP  
345 Park Avenue  
New York, NY 10154

## Independent Auditors' Report

The Board of Trustees  
Pratt Institute:

We have audited the accompanying balance sheet of Pratt Institute (the Institute) as of June 30, 2008, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the Institute's management. Our responsibility is to express an opinion on these financial statements based on our audit. The prior year summarized comparative information has been derived from the Institute's 2007 financial statements and, in our report dated December 18, 2007, we expressed an unqualified opinion on those financial statements, which included an explanatory paragraph that the Institute adopted the provisions of Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans*, in 2007.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Institute's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Pratt Institute as of June 30, 2008, and the changes in its net assets and its cash flows for the year then ended in conformity with U.S. generally accepted accounting principles.

**KPMG LLP**

December 2, 2008

KPMG LLP, a U.S. limited liability partnership, is the U.S. member firm of KPMG International, a Swiss cooperative.

**PRATT INSTITUTE**

Balance Sheet

June 30, 2008

(With comparative financial information at June 30, 2007)

Assets	<u>2008</u>	<u>2007</u>
Cash and cash equivalents	\$ 30,213,623	16,724,424
Receivables:		
Student accounts (net of allowance for doubtful accounts of \$2,141,432 and \$1,270,543 in 2008 and 2007, respectively)	522,504	695,423
Grants and other	1,448,025	2,445,036
Contributions, net (note 3)	3,969,165	3,967,257
Student loans and accrued interest (net of allowance doubtful loans of \$2,451,377 and \$2,447,473 in 2008 and 2007, respectively)	11,519,104	9,879,025
Receivable under derivative instruments (note 5)	—	319,002
Investments (note 2)	102,095,389	105,429,200
Prepaid expenses and deferred charges (note 5)	3,420,959	3,299,319
Other assets	131,080	183,926
Funds held by bond trustee (note 5)	7,360,380	7,442,923
Plant assets, net (note 4)	<u>188,204,173</u>	<u>188,717,573</u>
Total assets	\$ <u>348,884,402</u>	<u>339,103,108</u>
<b>Liabilities and Net Assets</b>		
Liabilities:		
Accounts payable and accrued expenses	\$ 14,527,192	12,527,565
Deferred revenue	3,110,234	2,617,316
Payable under derivative instruments (note 5)	843,650	—
Security deposits	166,769	596,802
Liability under split-interest agreements	97,410	122,865
Bonds payable (note 5)	53,101,149	54,335,944
Accrued postretirement benefit obligation (note 8)	41,092,638	33,147,016
U.S. government grants refundable	6,439,155	6,339,911
Conditional asset retirement obligations (note 6)	<u>2,430,381</u>	<u>2,527,466</u>
Total liabilities	<u>121,808,578</u>	<u>112,214,885</u>
Net assets (note 7):		
Unrestricted	182,150,449	183,401,768
Temporarily restricted	8,493,586	8,215,363
Permanently restricted	<u>36,431,789</u>	<u>35,271,092</u>
Total net assets	<u>227,075,824</u>	<u>226,888,223</u>
Total liabilities and net assets	\$ <u>348,884,402</u>	<u>339,103,108</u>

See accompanying notes to financial statements.

**PRATT INSTITUTE**  
Statement of Activities  
Year ended June 30, 2008  
(With summarized financial information for the year ended June 30, 2007)

	Unrestricted	Temporarily restricted	Permanently restricted	2008 Total	2007 Total
Operating revenue:					
Revenue:					
Tuition and fees	\$ 129,712,562	—	—	129,712,562	123,810,626
Scholarship allowance	(29,451,896)	—	—	(29,451,896)	(29,186,977)
Net tuition and fees	100,260,666	—	—	100,260,666	94,623,649
State of New York appropriations	389,971	—	—	389,971	409,702
Contributions	1,695,297	1,210,446	974,062	3,879,805	3,743,057
Private grants and contracts	1,850,582	171,233	—	2,021,815	1,885,414
Government grants and contracts:					
Federal	1,521,609	—	—	1,521,609	1,711,809
State of New York	1,018,420	—	—	1,018,420	927,919
Local	507,391	—	—	507,391	521,872
Investment income	2,414,167	209,449	186,635	2,810,251	5,929,745
Interest and late charges on loans receivable	244,406	—	—	244,406	257,622
Sales and services of auxiliary enterprises	14,891,558	—	—	14,891,558	14,353,295
Other revenues	3,095,153	144,282	—	3,239,435	2,279,023
Net assets released from restrictions	1,423,531	(1,423,531)	—	—	—
Total operating revenue	129,312,751	311,879	1,160,697	130,785,327	126,643,107
Expenses (note 10):					
Instruction	51,584,087	—	—	51,584,087	46,793,834
Public service	4,028,128	—	—	4,028,128	3,426,389
Academic support	11,752,837	—	—	11,752,837	10,576,595
Student services	12,448,737	—	—	12,448,737	11,243,243
Institutional support	19,804,367	—	—	19,804,367	20,524,647
Auxiliary enterprises	20,290,515	—	—	20,290,515	19,475,736
Total expenses	119,908,671	—	—	119,908,671	112,040,444
Excess of operating revenue over expenses	9,404,080	311,879	1,160,697	10,876,656	14,602,663
Nonoperating activity:					
Gain on sale of building (note 4)	—	—	—	—	5,097,017
Net (depreciation) appreciation in fair value of investments	(5,373,501)	(33,656)	—	(5,407,157)	10,390,108
Unrealized depreciation in fair value of derivative instruments (note 5)	(1,162,652)	—	—	(1,162,652)	(37,838)
Postretirement related changes other than net periodic postretirement benefit cost (note 8)	(4,119,246)	—	—	(4,119,246)	—
(Decrease) increase in net assets before effect of adoption of SFAS No. 158	(1,251,319)	278,223	1,160,697	187,601	30,051,950
Effect of adoption of SFAS 158 (note 8)	—	—	—	—	(13,879,682)
(Decrease) increase in net assets	(1,251,319)	278,223	1,160,697	187,601	16,172,268
Net assets, beginning of year	183,401,768	8,215,363	35,271,092	226,888,223	210,715,955
Net assets, end of year	\$ 182,150,449	8,493,586	36,431,789	227,075,824	226,888,223

See accompanying notes to financial statements.

**PRATT INSTITUTE**  
Statement of Cash Flows  
Year ended June 30, 2008  
(With comparative financial information for the year ended June 30, 2007)

	<u>2008</u>	<u>2007</u>
Cash flows from operating activities:		
Increase in net assets	\$ 187,601	16,172,268
Adjustments to reconcile increase in net assets to net cash provided by operating activities:		
Adoption of SFAS No. 158	—	13,879,682
Depreciation of plant assets	6,566,968	7,843,017
Amortization and accretion expense	160,034	149,627
Amortization of deferred bond issuance costs	97,778	97,777
Write-off of fixed assets	72,956	1,448,381
Gain on sale of building	—	(5,097,017)
Net depreciation (appreciation) in fair value of investments	5,407,157	(10,390,108)
Net depreciation in fair value of derivative instruments	1,162,652	37,838
Change in liability under split-interest agreements	(25,455)	(76,515)
Increase in (recovery of) uncollectible loans and receivables	839,368	(1,783,314)
Permanently restricted contributions	(974,062)	(273,510)
Changes in assets and liabilities:		
Student accounts receivable	(721,327)	1,252,838
Grants and other receivable	997,011	(1,371,375)
Contributions receivable	33,487	694,659
Accrued interest receivable on student loans receivable	(126,442)	(89,262)
Prepaid expenses and deferred charges	(219,418)	(37,299)
Other assets	52,846	6,473
Accounts payable and accrued expenses	1,499,627	(2,551,219)
Deferred revenue	492,918	(1,487,993)
Security deposits	(430,033)	80,147
Accrued postretirement benefit obligation	7,945,622	3,406,202
Conditional asset retirement obligations	(97,085)	(219,860)
Net cash provided by operating activities	<u>22,922,203</u>	<u>21,691,437</u>
Cash flows from investing activities:		
Principal payments received on student loans	1,113,985	1,727,147
Disbursements of student loans, net of cancellations	(2,757,968)	(2,464,009)
Accounts payable for capital expenditures	500,000	612,141
Proceeds from sales of investments	14,901,758	31,759,623
Purchases of investments	(16,975,104)	(33,696,191)
Purchases of plant assets	(6,126,524)	(17,294,399)
Proceeds from sale of building	—	6,608,281
Net cash used in investing activities	<u>(9,343,853)</u>	<u>(12,747,407)</u>
Cash flows from financing activities:		
Decrease (increase) in funds held by bond trustee	82,543	(1,582,261)
Repayment of note and bonds payable	(1,245,000)	(400,000)
Increase in U.S. government grants refundable	99,244	223,266
Proceeds from permanently restricted contributions	974,062	273,510
Net cash used in financing activities	<u>(89,151)</u>	<u>(1,485,485)</u>
Net increase in cash and cash equivalents	13,489,199	7,458,545
Cash and cash equivalents, beginning of year	16,724,424	9,265,879
Cash and cash equivalents, end of year	<u>\$ 30,213,623</u>	<u>16,724,424</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	\$ 3,313,848	2,810,402

See accompanying notes to financial statements.

**PRATT INSTITUTE**  
Notes to Financial Statements  
June 30, 2008  
(With comparative financial information as of and for the  
year ended June 30, 2007)

**(1) Organization and Summary of Significant Accounting Policies**

**(a) Organization**

Pratt Institute (the Institute), with its principal offices and programs located in Brooklyn, New York, is a coeducational institution chartered and empowered to confer academic degrees by the Board of Regents of the State of New York. The Institute offers degrees at both the undergraduate and graduate levels in art, design, and architecture, and at the graduate level in information and library science.

**(b) Tax Status**

The Institute is exempt from federal income taxes under the provisions of Section 501(c)(3) of the Internal Revenue Code.

**(c) Summary of Significant Accounting Policies**

The significant accounting policies followed by the Institute are described below.

**(d) Basis of Accounting**

The accompanying financial statements have been prepared on the accrual basis of accounting.

**(e) Basis of Presentation**

The Institute's net assets and revenues, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions in accordance with standards established by the Financial Accounting Standards Board (FASB) for external financial reporting by not-for-profit organizations. Accordingly, net assets and changes therein are classified and reported as follows:

*Unrestricted net assets* – Net assets that are not subject to donor-imposed stipulations.

*Temporarily restricted net assets* – Net assets subject to donor-imposed stipulations that will be met either by actions of the Institute and/or the passage of time.

*Permanently restricted net assets* – Net assets subject to donor-imposed stipulations that they be maintained permanently by the Institute. Generally, the donors of these assets permit the Institute to use all or part of the income and gains derived therefrom for general or specific purposes.

Revenue is reported as an increase in unrestricted net assets unless use of the related assets is limited by donor-imposed restrictions. Expenses are reported as decreases in unrestricted net assets. Gains and losses on investments and other assets or liabilities are reported as increases or decreases in unrestricted net assets unless their use is restricted by explicit donor stipulation or by law. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the accompanying statement of activities as net assets released from restrictions.

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(f) Contributions**

Contributions, which include unconditional promises to give, are recognized as revenues in the period received and an allowance for amounts estimated to be uncollectible is provided. Unconditional pledges to be paid in the future are discounted using a risk-free discount rate of 4%. Amortization of the discount is recorded as additional contribution revenue with the donor-imposed restrictions, if any, on the contribution.

**(g) Cash and Cash Equivalents**

Cash and cash equivalents consist principally of money market funds and temporarily uninvested cash except for those cash equivalents that are maintained for long-term investment purposes.

**(h) Investments**

Readily marketable investments are stated at fair value based upon quoted market prices or values provided by the Institute's external investment managers. Contributions of investment securities are recorded at their fair value at the date of gift. The alternative investments, which are not readily marketable, are carried at estimated fair values as provided by the investment managers. The Institute reviews and evaluates the values provided by the investment managers and agrees with the valuation methods and assumptions used in determining the fair value of the alternative investments. These estimated fair values may differ significantly from the values that would have been used had a ready market for the securities existed.

**(i) Plant Assets**

Plant assets are stated based upon the following valuations:

Land – assessed valuation at 1962 plus subsequent additions at cost

Buildings – cost, except certain buildings, which are stated at insurable values for 1962

Building and leasehold improvements – cost

Equipment and furniture – cost, or at fair value, at the date of gift when acquired as gift

Library books – nominal value of \$1.00 per volume

Depreciation of buildings, building improvements, equipment, and furniture is provided on a straight-line basis over their estimated useful lives, ranging from 5 to 50 years. Amortization of leasehold improvements is provided on a straight-line basis over their expected useful lives, not to exceed the remaining life of the respective lease.

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(j) Release of Restrictions on Net Assets Held for Acquisition of Property and Equipment**

Contributions of property and equipment without donor stipulations concerning the use of such long-lived assets are reported as revenues of the unrestricted net asset class. Contributions of cash or other assets to be used to acquire property and equipment with such donor stipulation are reported as revenues of the temporarily restricted net asset class; the restrictions are considered to be released at the time the long-lived asset is placed into service.

**(k) Deferred Revenue**

Amounts received in advance for tuition and fees are recognized as deferred revenue in the accompanying financial statements.

**(l) Split-Interest Agreements**

The Institute's split-interest agreements with donors consist primarily of charitable gift annuities, as well as a charitable gift remainder trust, for which the Institute is trustee. Assets associated with these split-interest agreements are included in investments. Contribution revenue is recognized at the date the trusts are established. The liabilities are adjusted annually for changes in the value of the assets, accretion of the discount, and other changes in the estimates of future benefits.

**(m) Fair Value of Financial Instruments**

The carrying amounts of the Institute's financial instruments approximate fair value because of their short maturity. The fair value of investments is discussed earlier in this note, as well as in note 2. The carrying value of substantially all long-term debt is not materially different from fair value due to these financial instruments bearing interest at rates that approximate the current market rates for loans with similar maturities and credit quality. A reasonable estimate of the fair value of loans receivable from students under government loan programs could not be made because the notes cannot be sold and can only be assigned to the U.S. government or its designees.

**(n) U.S. Government Grants Refundable**

Funds provided by the U.S. government under the Federal Perkins Loan Program are loaned to qualified students and may be reloaned after collection. These funds are ultimately refundable to the U.S. government and are presented in the accompanying balance sheet as liabilities.

**(o) Use of Estimates**

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.



## PRATT INSTITUTE

### Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(p) Prior Year Summarized Financial Information**

The financial statements include certain prior year summarized comparative information in total but not by net asset class. Such information does not include sufficient detail to constitute a presentation in conformity with U.S. generally accepted accounting principles. Accordingly, such information should be read in conjunction with the Institute's financial statements for the year ended June 30, 2007, from which the summarized information was derived.

**(q) Recent Accounting Standards**

In June 2006, the FASB issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109* (FIN 48). FIN 48 addresses the accounting for uncertainties in income taxes recognized in an organization's financial statements and prescribes a threshold of more-likely-than-not for recognition and derecognition of tax positions taken or expected to be taken in a tax return. FIN 48 also provides related guidance on measurement, classification, interest and penalties, and disclosure. The adoption of FIN 48 in fiscal 2008 did not have a material impact on the Institute's financial statements.

In September 2006, the FASB issued Statement of Financial Accounting Standards (SFAS) No. 157, *Fair Value Measurements* (SFAS 157). SFAS 157 defines fair value, establishes a framework for measuring fair value, and requires expanded disclosures about fair value measurements. SFAS 157 does not require any new fair value measurements in financial statements, but standardizes its definition and guidance. Thus, for some entities, the application of this statement may change current practice. SFAS 157 is effective for the Institute beginning on July 1, 2008, except as revised by FASB Staff Position (FSP) No. 157-2, *Effective Date of FASB Statement No. 157*, issued February 2008. This FSP delays the effective date of SFAS 157 for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a periodic basis (at least annually).

In August 2008, FSB No. 117-1, *Endowments of Not-for-Profit Organizations: Net Asset Classification of Funds Subject to an Enacted Version of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) and Enhanced Disclosures for All Endowment Funds* (the FSP), was issued, and its guidance is effective for fiscal years ending after December 15, 2008. A key component of the FSP is a requirement to classify the portion of a donor-restricted endowment fund that is not classified as permanently restricted net assets as temporarily restricted net assets until appropriated for expenditure. New York State has not yet adopted UPMIFA; however, for the year ended June 30, 2009, the Institute will have to adopt the disclosure requirements of the FSP.

**(r) Other Significant Accounting Policies**

Other significant accounting policies are set forth in the financial statements and the following notes.

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(2) Investments**

Investments, at fair value, consist of the following at June 30, 2008 and 2007:

	<u>2008</u>	<u>2007</u>
Cash equivalents	\$ 17,233,350	15,154,081
Mutual funds	12,217,877	12,446,864
Corporate stocks	19,355,729	22,414,879
Alternative investments	<u>53,288,433</u>	<u>55,413,376</u>
	<u>\$ 102,095,389</u>	<u>105,429,200</u>

Alternative investments include domestic and international hedge funds, limited partnerships, and limited liability corporations. Approximately 24% of the alternative investments invest principally in high-yield, emerging markets, and foreign debt securities; 51% principally in large-cap and international equity securities; and 25% in absolute return hedge funds that employ multiple investment strategies.

Also included in alternative investments are certain types of financial instruments, including, among others, futures and forward contracts, options, and securities sold not yet purchased, intended to hedge against changes in the market value of investments. These financial instruments, which involve varying degrees of off-balance-sheet risk, may result in loss due to changes in the market (market risk).

The Institute invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect the amounts reported in the balance sheet.

At June 30, 2008, the Institute had commitments of \$3 million that had not yet been funded.

**(3) Contributions**

Contributions are scheduled to be collected as follows at June 30, 2008 and 2007:

	<u>2008</u>	<u>2007</u>
Less than one year	\$ 1,101,020	1,358,666
One to five years	2,706,598	2,717,558
Five to ten years	<u>862,000</u>	<u>500,000</u>
	4,669,618	4,576,224
Discount to present value of future cash flows	(514,180)	(387,299)
Allowance for doubtful accounts	<u>(186,273)</u>	<u>(221,668)</u>
	<u>\$ 3,969,165</u>	<u>3,967,257</u>

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(4) Plant Assets**

Plant assets consist of the following at June 30, 2008 and 2007:

	<b>2008</b>	<b>2007</b>
Land	\$ 8,434,519	8,434,519
Buildings, improvements, and equipment	232,991,784	229,337,091
Library books	202,377	197,218
Construction in progress	1,799,953	—
	243,428,633	237,968,828
Less accumulated depreciation and amortization	(55,224,460)	(49,251,255)
	<b>\$ 188,204,173</b>	<b>188,717,573</b>

During 2007, the Institute sold one of its buildings with a net book value of \$1,511,264 for \$6,608,281. The gain on the sale of the building is reflected in the accompanying 2007 statement of activities as nonoperating activity.

In March 2007, the Institute purchased a 50% tenancy-in-common-interest in certain premises for approximately \$5.3 million. The Institute also signed a ground lease, as tenant, which contemplates construction of a six-story building, and which is planned to house certain of the Institute's academic programs and administrative departments. The ground lease is conditioned upon timely completion of the building, as defined in the lease agreement.

**(5) Bonds Payable**

On November 15, 1999, the Dormitory Authority of the State of New York (DASNY) issued \$39,760,000, including original issue discount of \$94,895, of Insured Revenue Bonds, Series 1999 (Series 1999 Bonds) on behalf of the Institute. The Series 1999 Bonds are due through 2028 with annual principal installments and semiannual interest payments with interest rates ranging from 4.2% to 6.0%. The Institute used the bond proceeds to complete the construction of a new residence hall on the Brooklyn campus, refinance a \$13,228,103 mortgage note payable due December 31, 1999, and pay for the acquisition, renovation, and furnishing of a condominium unit used for classrooms and exhibit space. The bond agreement requires the Institute to maintain a debt service fund and a debt service reserve fund on deposit with a trustee. The balances in the debt service fund were \$2,063,204 and \$2,058,019 and the debt service reserve fund were \$2,951,007 and \$2,947,375 at June 30, 2008 and 2007, respectively.

On January 5, 2005, DASNY issued \$19,655,000, including original issue discount of \$206,550, of Insured Revenue Bonds, Series 2005 (Series 2005 Bonds) on behalf of the Institute. The Series 2005 Bonds are due through 2034 with monthly principal and interest installments payable on the 10th day of each month commencing July 10, 2005 directly to the trustee, Bank of New York. The bonds are initially issued as variable interest rate bonds and option bonds in the weekly rate mode until converted to bear interest at the rate, which during 2008 approximated 3.6%. The Institute used the bond proceeds to complete the

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

construction of Pratt Art Supply store and the Higgins Hall projects. The bond agreement requires the Institute to maintain a debt service reserve at an amount equal to the greatest amount required in the then current year and the principal of the outstanding bonds payable on July 1. The balances in the debt service reserve fund were \$1,505,329 and \$1,499,872 and the balances in the debt service fund were \$840,840 and \$815,775 at June 30, 2008 and 2007, respectively. Included in the other funds held by bond trustee was \$121,882 at June 30, 2007.

As security for its obligations under the bond agreements, the Institute has granted to DASNY a security interest in the pledged revenues, consisting of the tuition and fees charged to students and received or receivable by the Institute.

In order to hedge the floating risk rates on the Series 2005 Bonds, the Institute has entered into two swap agreements. The following schedule presents the notional principal amounts of the swaps and other related information as of June 30, 2008:

<u>Effective date</u>	<u>Notional amount</u>	<u>Termination date</u>
January 6, 2005	\$ 9,870,000	2034
March 1, 2006	9,785,000	2034

Under the terms of the agreements, the Institute pays interest at predetermined fixed rates (3.600% and 3.582% for the swap agreements effective January 6, 2005 and March 1, 2006, respectively) and receives variable rates, which for both swap agreements is calculated as 67.000% of the one-month LIBOR. The fair value of the derivative instruments of \$(843,650) and \$319,002 is reflected as a payable under derivative instruments as of June 30, 2008 and a receivable under derivative instruments as of June 30, 2007. Unrealized (depreciation) appreciation in the fair value of the derivative instruments during 2008 and 2007 totaled \$(1,162,652) and \$37,838, respectively, and is reflected on the accompanying statement of activities as nonoperating activity.

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

The minimum annual payments for principal and interest are as follows:

	<u>Principal</u>	<u>Interest</u>	<u>Total debt service</u>
Fiscal year ending June 30:			
2009	\$ 1,300,000	3,086,756	4,386,756
2010	1,360,000	3,015,190	4,375,190
2011	1,430,000	2,939,060	4,369,060
2012	1,500,000	2,858,134	4,358,134
2013	1,570,000	2,767,935	4,337,935
Thereafter	<u>46,190,000</u>	<u>32,849,531</u>	<u>79,039,531</u>
	53,350,000	\$ <u>47,516,606</u>	<u>100,866,606</u>
Less unamortized original issue discount	<u>(248,851)</u>		
	<u>\$ 53,101,149</u>		

Costs incurred in connection with the issuance of the bonds were deferred and are being amortized using the straight-line method over the term of the bonds. At June 30, 2008 and 2007, unamortized deferred bond issuance costs were \$2,207,681 and \$2,305,459, respectively, and are included in prepaid expenses and deferred charges in the accompanying balance sheet.

Interest expense on the Series 1999 Bonds and Series 2005 Bonds was \$3,292,555 and \$2,810,402 for the years ended June 30, 2008 and 2007, respectively.

**(6) Conditional Asset Retirement Obligations**

The Institute has identified asbestos abatement as a conditional asset retirement obligation for certain of its properties, pursuant to the adoption of FASB Interpretation No. 47, *Accounting for Conditional Asset Retirement Obligations*. The fair value of the assets legally restricted for purposes of settling these asset retirement obligations at June 30, 2008 and 2007 totaled \$193,862 and \$231,567, respectively. Obligations settled during 2008 totaled \$246,915 (\$219,860 in 2007). Accretion expense associated with obligations was \$149,830 and \$139,422 in 2008 and 2007, respectively.

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(7) Net Assets**

Unrestricted net assets at June 30, 2008 and 2007 consist of the following:

	<u>2008</u>	<u>2007</u>
Designated for sponsored programs	\$ 1,814,172	2,311,578
Designated for investment – quasi-endowment	28,420,087	28,408,351
Cumulative investment gains from endowment investments	12,892,360	19,492,690
Cumulative investment gains from other investments	2,656,731	2,568,152
Designated for student loans	3,397,032	2,009,950
Designated for scholarships	6,084,976	5,234,620
Designated for capital improvements	16,405,548	10,078,977
Gains from sale of property	5,131,072	5,097,017
Net investment in plant assets	<u>105,348,471</u>	<u>108,200,433</u>
	<u>\$ 182,150,449</u>	<u>183,401,768</u>

Temporarily restricted net assets at June 30, 2008 and 2007 are available for the following purposes:

	<u>2008</u>	<u>2007</u>
Sponsored programs and gifts	\$ 3,515,190	3,400,447
Time restriction	4,188,200	4,024,720
Other	790,196	790,196
	<u>\$ 8,493,586</u>	<u>8,215,363</u>

Permanently restricted net assets at June 30, 2008 and 2007 are restricted to investments in perpetuity; the income from which is expendable to support:

	<u>2008</u>	<u>2007</u>
General operations	\$ 7,007,963	7,007,963
Scholarships	27,840,869	26,680,172
Other	<u>1,582,957</u>	<u>1,582,957</u>
	<u>\$ 36,431,789</u>	<u>35,271,092</u>

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(8) Pension and Postretirement Plans**

The Institute sponsors a defined contribution plan, which covers substantially all full-time, nonmaintenance employees. The plan is fully funded by the purchase of annuity contracts. Total pension expense under this plan for the years ended June 30, 2008 and 2007 was \$1,386,155 and \$1,332,642, respectively. Certain union employees are covered by a defined benefit plan toward which the Institute makes contributions based on employee wages. The Institute's contribution to the fund for the years ended June 30, 2008 and 2007 was \$143,020 and \$133,126, respectively.

The Institute also sponsors a postretirement healthcare plan that covers all full-time employees. The cost of postretirement benefits other than pensions is recognized on an accrual basis as employees perform services to earn benefits.

The postretirement healthcare plan is contributory for some retirees, with retiree contributions adjusted annually. The Institute's funding policy for the plan is pay as you go. Effective June 30, 2007, the Institute adopted Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans* (SFAS 158). Information with respect to the plan is as follows:

	<u>2008</u>	<u>2007</u>
Change in projected benefit obligation:		
Benefit obligation at beginning of year	\$ 33,147,016	26,843,450
Service cost	1,361,239	1,214,553
Interest cost	2,082,828	1,848,635
Actuarial loss	668,909	3,263,238
Assumption change	4,826,377	952,880
Benefits paid	<u>(993,731)</u>	<u>(975,740)</u>
Benefit obligation at end of year	<u>41,092,638</u>	<u>33,147,016</u>
Change in plan assets:		
Fair value of plan assets at beginning of year	—	—
Employer contributions	993,731	975,740
Benefits paid	<u>(993,731)</u>	<u>(975,740)</u>
Fair value of plan assets at end of year	<u>—</u>	<u>—</u>
Accrued postretirement benefit obligation	\$ <u><u>(41,092,638)</u></u>	\$ <u><u>(33,147,016)</u></u>

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

The net periodic postretirement benefit cost for 2008 and 2007 includes the following components:

	<u>2008</u>	<u>2007</u>
Service cost	\$ 1,361,239	1,214,553
Interest cost	2,082,828	1,848,635
Amortization of transition obligation	434,733	434,733
Recognized actuarial loss	<u>941,307</u>	<u>884,021</u>
Net periodic benefit cost	<u>\$ 4,820,107</u>	<u>4,381,942</u>

Weighted average assumptions used to determine benefit obligations and net periodic postretirement benefit costs for 2008 and 2007 were as follows:

	<u>2008</u>	<u>2007</u>
Benefit obligation weighted average assumptions at June 30, 2008 and 2007:		
Discount rate	6.75%	6.25%
Expected return on plan assets	N/A	N/A
Periodic benefit cost weighted average assumptions for the years ended June 30, 2008 and 2007:		
Discount rate	6.25%	6.25%
Expected return on plan assets	N/A	N/A

For measurement purposes, a 10% annual rate of increase in the per capita cost of covered healthcare and prescription drug benefits was assumed as of June 30, 2008. The rates were assumed to decrease 1% per year to an ultimate rate of 3.75% and remain at that level thereafter. Assumed healthcare cost trend rates have a significant effect on the amounts reported for the healthcare plans. It is estimated, based on actuarial calculations, that a one-percentage point change in the healthcare trend rate would have the following effects:

	<u>1% increase</u>	<u>1% decrease</u>
Effect on total service and interest cost	\$ 610,617	(492,162)
Effect on postretirement benefit obligation	(4,620,839)	3,826,584



**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

Projected benefit payments through 2018 are as follows:

	<u>Amount</u>
Year ending June 30:	
2009	\$ 1,572,266
2010	1,814,560
2011	2,069,435
2012	2,322,506
2013	2,570,553
Thereafter through 2018	<u>16,087,005</u>
	<u>\$ 26,436,325</u>

At June 30, 2007, the items not yet recognized as a component of net periodic postretirement benefit cost, which are included on the fiscal year 2007 statement of activities as the effect of adoption of SFAS 158 decreasing unrestricted net assets, are as follows:

	<u>Amount</u>
Net transition obligation	\$ 3,550,324
Net actuarial losses	<u>10,329,358</u>
Total unamortized items	<u>\$ 13,879,682</u>

In addition to service and interest costs, the components of projected net periodic postretirement benefit cost for fiscal year 2009 are amortization of the net transition obligation of \$434,733 and amortization of the net actuarial losses of \$1,477,743.

During the year ended June 30, 2008, \$4,119,246 was recorded as postretirement related changes other than net periodic postretirement benefit cost in the fiscal year 2008 statement of activities. The components of this net credit are as follows:

	<u>Amount</u>
Net actuarial losses	\$ 4,553,979
Net transition obligation	<u>(434,733)</u>
	<u>\$ 4,119,246</u>

**PRATT INSTITUTE**

Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

**(9) Insurance Benefits for Employees**

Effective January 1, 1990, the Institute established an insurance plan for employee medical benefits, exclusive of those benefits provided by health maintenance organizations. Under the provisions of this plan, an insurance carrier provides claims processing and administrative functions, as well as stop-loss coverage for annual claims (on a calendar-year basis) in excess of \$1,100,000 for the years ended December 31, 2008 and 2007. The expenses for this program for the years ended June 30, 2008 and 2007 were approximately \$947,745 and \$935,823, respectively, of which approximately \$100,000 was payable at June 30, 2008 and 2007, respectively.

**(10) Expenses**

Expenses are reported in the statement of activities in categories recommended by the National Association of College and University Business Officers. Operation and maintenance of plant, including depreciation and amortization expense and interest expense are allocated among the functional expense categories based on management's best estimate of each function's proportionate share of the total expense. The Institute's primary program services are instruction, public service, academic support, student services, and auxiliary enterprises. Institutional support includes fund-raising expenses of \$3,276,822 and \$2,893,280 for the years ended June 30, 2008 and 2007, respectively.

**(11) Operating Leases**

The Institute is committed under certain operating lease agreements, including equipment leases, which expire at various dates through July 31, 2012. Such leases require approximate minimum annual rentals as follows:

	<u>Amount</u>
Fiscal year ending June 30:	
2009	\$ 1,153,603
2010	1,150,764
2011	484,368
2012	<u>484,368</u>
	<u>\$ 3,273,103</u>

Certain leases contain escalation clauses that require payments of additional rent to the extent of increases in the related operating costs. Rent expense, including escalations, for the years ended June 30, 2008 and 2007 was approximately \$1,195,000 and \$1,249,000, respectively.

**(12) Commitments and Contingencies**

At June 30, 2008, the Institute had certain commitments for capital projects. Payments under these commitments are anticipated to approximate \$4,705,000 primarily due over the next year.

## PRATT INSTITUTE

### Notes to Financial Statements

June 30, 2008

(With comparative financial information as of and for the  
year ended June 30, 2007)

The Institute is a defendant in various legal actions arising out of the normal course of its operations. Although the final outcome of such actions cannot currently be determined, the Institute's management is of the opinion that eventual liability, if any, will not have a material effect on the Institute's financial statements.

Additionally, amounts received and expended by the Institute under various federal and state programs are subject to audit by governmental agencies. In the opinion of management, audit adjustments, if any, will not have a material effect on the Institute's financial statements.

#### **(13) Subsequent Event**

Effective September 29, 2008, Wachovia Bank, N.A., as Trustee of the Commonfund Short-Term Fund (CSTF) announced its decision to terminate and liquidate CSTF. No additional contributions to CSTF will be accepted. Under the liquidation plan, investors in CSTF will be allowed to withdraw balances based on their proportional interest in CSTF as assets mature or are sold. The Institute's investment in CSTF at December 2, 2008 was approximately \$4 million.

The value of the remaining liquidation proceeds to be received by the Institute is not expected to vary significantly from the fair value carried on the Institute books based on the current net asset value of CSTF. However, the realization of this value will depend upon market conditions including the liquidity of CSTF's assets during the liquidation period. The Institute expects to receive such funds on various dates through 2010.

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

## SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

The following is a brief summary of certain provisions of the Loan Agreement pertaining to the Series 2009C Bonds and the Projects. Such summary does not purport to be complete and reference is made to the Loan Agreement for the full and complete statements of such and all provisions. Defined terms used in the Loan Agreement shall have the meanings ascribed to them in Appendix A.

### **Construction of the Project**

The Institute agrees that, whether or not there is sufficient money available to it under the provisions of the Resolution and under the Loan Agreement, the Institute shall complete the acquisition, design, construction, reconstruction, rehabilitation and improving or otherwise providing and furnishing and equipping of each Project, substantially in accordance with the Contract Documents relating thereto. Subject to the conditions of the Loan Agreement, the Authority will, to the extent of money available in the Construction Fund, cause the Institute to be reimbursed for, or pay, any costs and expenses incurred by the Institute which constitute Costs of the Project, provided such costs and expenses are approved by an Authorized Officer of the Authority, which approval shall not be unreasonably withheld or delayed.

(Section 5)

### **Project Amendment; Cost Increases; Sale or Conveyance**

The Project may be amended by agreements supplementing the Loan Agreement by and between the Authority and the Institute, to decrease, increase or otherwise modify the scope thereof. The Authority will not unreasonably withhold or delay its consent to any such amendment. 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.

(Section 6)

### **Financial Obligations; Nature of Obligations**

(a) The Institute, pursuant to the Loan Agreement, unconditionally agrees to pay, so long as Bonds are Outstanding, to or upon the order of the Authority, from its general funds or any other money legally available to it:

(i) On or before the date of delivery of the Series 2009C Bonds, the Authority Fee agreed to by the Authority and the Institute in connection with issuance of the Series 2009C Bonds;

(ii) On or before the date of delivery of the Series 2009C 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 Series 2009C Bonds, and other costs in connection with the issuance of the Series 2009C Bonds;

(iii) On the tenth (10<sup>th</sup>) day of each month, commencing on September 10, 2009 to and including December 10, 2009 one-fourth (1/4<sup>th</sup>) of the interest coming due on January 1, 2010, and on the tenth (10<sup>th</sup>) day of each month thereafter, commencing on January 10, 2010, one-sixth (1/6<sup>th</sup>) of the interest coming due on the Series 2009C Bonds on the immediately succeeding interest payment date therefor;

(iv) On the tenth (10<sup>th</sup>) day of each month commencing September 10, 2009 to and including June 10, 2010, one-tenth (1/10<sup>th</sup>) of the principal and Sinking Fund Installments coming due on July 1, 2010, and on the tenth (10<sup>th</sup>) day of each month thereafter, commencing July 10, 2010, one-twelfth (1/12<sup>th</sup>) of the principal and Sinking Fund Installment on the Series 2009C Bonds coming due on the next succeeding July 1;

(v) Unless the redemption of Series 2009C Bonds at the option of the Authority or any purchase thereof in lieu of optional redemption is subject to the condition that sufficient

money is available on the redemption date or the purchase date, on or prior to the date any notice of optional redemption or purchase in lieu of optional redemption is given, the Redemption Price or purchase price of the Series 2009C Bonds previously called for redemption or to be purchased;

(vi) Promptly upon receipt of a Deficiency Notice, but in no event more than fifteen (15) days after such notice is given to the Institute, the amount required to restore the Debt Service Reserve Fund to its requirement;

(vii) On December 10 of each Bond Year, one-half (1/2) of the Annual Administrative Fee payable during such Bond Year, and on June 10 of each Bond Year the balance of the Annual Administrative Fee payable during such Bond Year, *provided, however*, that the installation due on December 10, 2009 shall be in the amount set forth in Exhibit A to the Loan Agreement.

(viii) 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 (i) for the Authority Fee then unpaid, (ii) to reimburse the Authority for payments made by it pursuant to paragraph (e) of this section and any expenses or liabilities incurred by the Authority pursuant to the Loan Agreement, (iii) to reimburse the Authority for any external costs or expenses incurred by it attributable to the issuance of the Series 2009C Bonds or the financing or construction of the Project, including, but not limited to, costs and expenses of insurance and auditing, (iv) for the costs and expenses incurred by the Authority to compel full and punctual performance by the Institute of all the provisions of the Loan Agreement, or of the Mortgage or the Security Agreement in accordance with the terms of the Loan Agreement and thereof, and (v) for the fees and expenses of the Trustee and any Paying Agent in connection with performance of their duties under the Resolution and the Series Resolution;

(ix) Promptly upon demand by the Authority (a copy of which demand shall be furnished to the Trustee), all amounts required to be paid by the Institute as a result of an acceleration pursuant to the Loan Agreement; and

(x) Promptly upon demand by the Authority, the difference between the amount on deposit in the Arbitrage Rebate Fund or otherwise available therefor for the payment of any rebate required by the Code to be made 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 Series 2009C Bonds.

Subject to the provisions of the Loan Agreement and of the Resolution or the Series Resolution, the Institute shall receive a credit against the amount required to be paid by the Institute during a Bond Year pursuant to paragraph (v) of this subsection (a) on account of a Sinking Fund Installment if, prior to the date notice of redemption is given for the redemption of the Series 2009C Bonds to be redeemed through such Sinking Fund Installment from the money otherwise required to be paid pursuant to paragraph (v), the Institute delivers to the Trustee for cancellation one or more Series 2009C Bonds to be so redeemed. The amount of the credit shall be equal to the principal amount of the Series 2009C Bonds so delivered.

The Authority by the Loan Agreement directs the Institute, and the Institute by the Loan Agreement agrees to make: (1) the payments required by subparagraphs (iii), (iv), and (ix) of this paragraph (a), directly to the Trustee for deposit in the Debt Service Fund and application in accordance with the Resolution or the Series Resolution; (2) the payments required by subparagraph (v) of this paragraph (a), directly to the Trustee for payment of the Redemption Price or purchase price of Series 2009C Bonds called for optional redemption or purchase in lieu of optional redemption; (3) the payments required by subparagraph (vi) of this paragraph (a), directly to the Trustee for deposit to the Debt Service Reserve Fund; (4) the payments required by subparagraph (ii) of this paragraph (a), directly to the Trustee for deposit in the Construction Fund or other fund or account established under the Resolution or the Series Resolution, as directed by the Authority; (5) the payments required by subparagraph (ix) of this paragraph (a), directly to the Trustee for application in accordance with the Resolution; (6) the payments required by subparagraph (x) of this

paragraph (a), directly to the Trustee for deposit in the Arbitrage Rebate Fund, and (7) the payments required by subparagraphs (i) and (viii) of this paragraph (a) directly to the Authority.

(b) Notwithstanding any provision in the Loan Agreement or in the Resolution or the Series Resolution to the contrary (except as otherwise specifically provided for in this paragraph), (1) all money paid by the Institute to the Trustee pursuant to subparagraphs (iii), (iv), (v) and (ix) of paragraph (a) of this subsection (other than money received by the Trustee pursuant to the Resolution which shall be retained and applied by the Trustee for its own account) shall be received by the Trustee as agent for the Authority in satisfaction of the Institute's indebtedness to the Authority with respect to the interest on and principal or Redemption Price of the Series 2009C Bonds to the extent of such payment are applied to the payment of the principal or Redemption Price of or interest on the Series 2009C Bonds, and (2) the transfer by the Trustee of any money (other than money described in clause (1) of this paragraph (b)) held by it in the Construction Fund to the Debt Service Fund in accordance with the applicable provisions of the Loan Agreement or of the Resolution shall be deemed, upon such transfer, receipt by the Authority from the Institute of a payment in satisfaction of the Institute's indebtedness to the Authority with respect to the Redemption Price of the Series 2009C Bonds to the extent of the amount of money transferred. Immediately after receipt or transfer of such money, as the case may be, by the Trustee, the Trustee shall hold such money in trust in accordance with the applicable provisions of the Resolution and the Series Resolution for the sole and exclusive benefit of the Bondholders, regardless of the actual due date or applicable payment date of any payment to the Bondholders, except in respect to the payment to the Institute by the Trustee as provided for in the Resolution.

(c) The obligations of the Institute 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 Institute may otherwise have against the Authority, the Trustee or any Bondholder for any cause whatsoever including, without limiting the generality of the foregoing, failure of the Institute to complete the Project or the completion thereof with defects, failure of the Institute to occupy or use the Project, any declaration or finding that the Series 2009C Bonds are or the Resolution or the Series 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 in the Loan Agreement contained 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 Institute 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 Institute for, or to pay, the Costs of the Project beyond the extent of money in the Construction Fund.

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

(d) The Authority, for the convenience of the Institute, shall furnish to the Institute 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 Institute shall notify the Authority as to the amount and date of each payment made to the Trustee by the Institute.

(e) The Authority shall have the right in its sole discretion to make on behalf of the Institute any payment required pursuant to this section which has not been made by the Institute when due. No such payment by the Authority shall limit, impair or otherwise affect the rights of the Authority under the Loan Agreement arising out of the Institute'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 Institute to make such payment.

(f) The Institute, if there is not then an Event of 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 accordance with the directions of the Authority in the Debt Service Fund or held by the Trustee for the payment of Series 2009C Bonds in accordance with the Resolution. Upon any voluntary payment by the Institute or any deposit in the Debt Service Fund made pursuant to paragraph (b) of this section, the Authority agrees to direct the

Trustee to purchase or redeem Series 2009C Bonds in accordance with the Resolution or to give the Trustee irrevocable instructions in accordance with the Resolution; *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 or the Series Resolution, and to purchase or redeem all Series 2009C Bonds then Outstanding, or to pay or provide for the payment of all Series 2009C Bonds then Outstanding in accordance with the Resolution, the Authority agrees, in accordance with the instructions of the Institute, to direct the Trustee to purchase or redeem all Series 2009C Bonds Outstanding, or to cause all Series 2009C Bonds Outstanding to be paid or to be deemed paid in accordance with the Resolution.

(g) As soon as practicable after the Project is deemed to be complete in accordance with the Loan Agreement, the Authority shall determine, and notify the Institute of, the actual Authority Fee incurred by the Institute in connection with the Project to the date of such notice. The balance, if any, of such Authority Fee then unpaid, to the extent not paid from the Construction Fund, shall be paid by the Institute pursuant to paragraph (a) of this section. If upon such determination the actual amount of the Authority Fee incurred by the Institute in connection with the Project to the date of such notice is less than the amount paid theretofore, the Authority shall promptly refund to the Institute the amount paid in excess of such actual amount.

(Section 9)

### **Security Interest in Gross Receipts**

Simultaneously with issuance of the Series 2009C Bonds, the Institute, as security for the payment of all liabilities and the performance of all obligations of the Institute pursuant to the Loan Agreement, shall grant to the Authority pursuant to the Security Agreement a continuing security interest in the Gross Receipts which security interest shall be subordinate only to the Prior Pledges.

The Institute represents and warrants that no part of the Gross Receipts or any right to receive or collect the same or the proceeds thereof is subject to any Lien or assignment, other than Prior Pledges, and that the Gross Receipts are legally available to provide security for the Institute's performance under the Loan Agreement. The Institute covenants that it shall not after the Loan Agreement create or permit the creation of any Lien on the Gross Receipts which is prior or equal to the security interest created pursuant to the Security Agreement to secure the Institute's obligations under the Loan Agreement other than Liens to secure Parity Debt.

(Section 11)

### **Mortgage**

(a) At or before the delivery by the Authority of the Series 2009C Bonds, the Institute shall execute and deliver to the Authority the Mortgage, in recordable form and in all other respects in form and substance acceptable to the Authority, mortgaging the Institute's fee estate in the property described in Exhibit E-1 of the Loan Agreement and the Institute's leasehold and fee estates in the property described in Exhibit E-2 of the Loan Agreement to the Authority, which Mortgage shall constitute a first lien on such Mortgaged Property, subject only to the Permitted Liens.

The Institute covenants and agrees that:

(i) it will take all actions required to create the Condominium not later than upon completion of the improvements that constitute the Project and to acquire as soon as practicable thereafter fee title to the Educational Unit;

(ii) on the Closing Date the Institute shall, simultaneously with and as a condition of, its acquisition of the Landlord's Interest in the Educational Unit, make and deliver to the Authority a spreader agreement in recordable form, in form and substance satisfactory to the Authority (the "Spreader Agreement"), spreading the Mortgage to include the Institute's fee estate in the Educational Unit to secure the Institute's obligations hereunder, which Mortgage, as spread, shall constitute a first lien thereon, subject only to the Permitted Liens, and modify and restate the Mortgage as may be appropriate to reflect the modification of the Mortgaged Property;



(iii) the Declaration prepared by the Institute, and each amendment or supplement thereto, shall be subject to the prior written approval of the Authority, which approval shall not be unreasonably withheld; and

(iv) it shall comply with the provisions of the Pratt Lease and shall not amend, supplement or modify the Pratt Lease, or waive or seek or obtain a waiver of any provision thereof, in each case without the prior written consent of the Authority, which consent shall not be unreasonably withheld.

On the Closing Date, immediately following the execution and delivery of the Spreader Agreement, the Authority shall (i) execute such instruments, in recordable form, as may be reasonably required to release from the Mortgage the Institute's fee and leasehold estates in the property described in Exhibit E-2 of the Loan Agreement and (ii) consent to termination of the Pratt Lease.

The Authority may consent to the amendment, modification, termination, subordination or satisfaction of any Mortgage and of any security interest in fixtures, furnishings or equipment located in or on or used in connection with such Mortgaged Property, and release from the lien thereon any property subject to such Mortgage or security interest, all upon such terms and conditions as the Authority may reasonably require, which may include, among other conditions, that the Institute pay to the Trustee for deposit in the Debt Service Fund an amount not to exceed the principal amount of the Series 2009C Bonds Outstanding at the date of such transfer, sale or conveyance, as such amount is determined by the Authority. Notwithstanding the foregoing, the Institute may remove equipment, furniture or fixtures in the Mortgaged Property provided that the Institute substitutes equipment, furniture or fixtures having a value and utility at least equal to the equipment, furniture or fixtures removed or replaced.

(Section 12)

#### **Warranty as to Title; Liens; Title Insurance**

The Institute warrants and represents to the Authority that (i) it has or will have good and marketable title to the Project and the Mortgaged Property, free and clear of Liens, except Permitted Liens, so as to permit it to have quiet enjoyment and use thereof for purposes of the Loan Agreement and the Institute's programs and (ii) the Institute has or will have 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 the Mortgaged Property and for utilities required to serve the Project and the Mortgaged Property, together with such rights of way, easements or other rights in, to and over land as may be necessary for construction by the Institute of each the Project.

The Institute covenants that title to the Project and the Mortgaged Property shall be kept free from any Liens or commitments of any kind, other than Permitted Liens and such other Liens, commitments with respect thereto or other matter approved in writing by the Authority.

The Institute agrees to provide or reimburse the Authority for providing at the sole option of the Authority (i) a title insurance policy in form and substance, and by insurer(s), acceptable to the Authority, in the amount of the aggregate principal amount of the Series 2009C Bonds issued or such other amount as is acceptable to the Authority, insuring the Mortgage to be a valid first mortgage lien on the Mortgaged Property, free and clear of other Liens except Permitted Liens, and (ii) a current survey or surveys, including a metes and bounds description, of the Mortgaged Property, certified to the Authority and the issuer of the title insurance policy and showing any easements to which the Mortgaged Property is subject.

The Institute warrants, represents and covenants that (i) the Project and the Mortgaged Property shall 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, the Project and Mortgaged Property shall have its own separate and independent means of access, apart from any other property owned by the Institute or others. Such access, however, may be through common roads or walks owned by the Institute used also for other parcels owned by the Institute.

(Section 13)

## Consent to Pledge and Assignment

(a) The Institute consents to and authorizes the assignment, transfer or pledge by the Authority to the Trustee of (i) the Authority's rights to receive the payments required to be made pursuant to Section 9 of the Loan Agreement, (ii) the security interests granted by the Institute to the Authority, including without limitation the security interest in the Gross Receipts, the Mortgage, any security interest in the fixtures, furnishings and equipment located or used in connection with the Mortgaged Property and (iii) all funds and accounts established by the Series Resolution pledged under the Resolution, in each case to the extent pledged and assigned pursuant to or in accordance with the Resolution, to secure any payment or the performance of any obligation of the Institute 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. The Institute further agrees that the Authority may pledge and assign to the Trustee 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 authorized by this section, the Trustee 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 Institute's obligation to make all payments required by the Loan Agreement and to performing all other obligations required to be performed by the Institute under the Loan Agreement. Any realization upon the Mortgaged Property or security interest in the Gross Receipts shall not, by operation of law or otherwise, result in cancellation or termination of the Loan Agreement or the obligations of the Institute under the Loan Agreement.

(b) The Institute warrants and represents that:

(i) it has the requisite power and authority (1) to enter into the Loan Agreement, (2) to incur the indebtedness contemplated thereby, (3) to make and deliver the Mortgage and the Security Agreement, and to pledge, grant a security interest in and assign to the Authority and the Trustee, for the benefit of the Bondholders, the Mortgaged Property and Gross Receipts in the manner and to the extent provided in the Loan Agreement, therein and in the Resolution and the Series Resolution;

(ii) the Loan Agreement, the Security Agreement and the Mortgage are valid, binding and legally enforceable obligations of the Institute in accordance with their respective terms; provided, however, that such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting or relating to the rights of creditors generally and general principles of equity;

(iii) the execution and delivery of the Loan Agreement, the Security Agreement and the Mortgage, and the consummation of the transactions contemplated by the Loan Agreement and thereby and compliance with the provisions of the Loan Agreement and thereof 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 or by-laws of the Institute or any indenture or mortgage, or any trusts, endowments or other commitments or agreements to which the Institute is 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 Institute or any of its properties; and

(iv) the Gross Receipts and the Mortgaged Property are free and clear of any Lien or other charge prior thereto, or of equal rank therewith, other than the Permitted Liens or Prior Pledges, and that all corporate action on the part of the Institute to that end has been duly and validly taken.

(c) The Institute covenants that:

(i) the Gross Receipts and the Mortgaged Property shall be kept free and clear of any Lien or other charge prior thereto, or of equal rank therewith, other than the Permitted Liens or Prior Pledges; and

(ii) it shall at all times, to the extent permitted by law, defend, preserve and protect the pledge, security interest in and assignment of the Gross Receipts, the Mortgage, and all of the rights of the Authority, and of the Trustee as the assignee of the Authority, against all claims and demands of all persons whomsoever.

(Section 14)

### **Tax-Exempt Status**

The Institute 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 unrelated business income tax subject to taxation under Section 511 of the Code.

The Institute covenants 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 Institute 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 any manner, or for any trade or business or other non-exempt use unrelated to the purposes of the Institute, which could adversely affect the exclusion of interest on the Series 2009C Bonds from federal gross income pursuant to Section 103 of the Code.

(Section 15)

### **Use and Control of the Project; Restrictions on Religious Use**

Subject to the rights, duties and remedies of the Authority under the Loan Agreement, the Institute shall have sole and exclusive control and possession of and responsibility for (i) the Project, (ii) the Mortgaged Property, (iii) the operation of the Project and the Mortgaged Property and supervision of the activities conducted therein or in connection with any part thereof, and (iv) 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 or the Mortgaged Property by persons other than the Institute in furtherance of the Institute’s purposes if such use will not adversely affect the exclusion of interest on the Series 2009C Bonds from gross income for federal income tax purposes.

The Institute agrees that with respect to the Project or portion thereof, so long as the Project or portion thereof exists and unless and until the Project or portion thereof is sold for the fair market value thereof, the Project or any 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; and, provided, further, that if at any time after the Loan Agreement, in the opinion of Bond Counsel, the then applicable law would permit the Project or a portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to the 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 of real property thereof financed by Series 2009C Bonds is being used for any purpose proscribed by the Loan Agreement. The Institute by the Loan Agreement further agrees 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 the Project to the restriction that (i) so long as such portion of the Project (and, if included in the Project, the real property on or in which such portion of the Project is situated) shall exist and (ii) until such portion of the 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 the 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 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 19 & 20)

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

The Institute 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 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 of the Project and the Mortgaged Property may be properly and advantageously conducted. The Institute shall not make any change or alteration of a structural nature in or to the Project and the Mortgaged Property without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed.

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

(Section 21)

### **Covenant as to Insurance**

(a) The Institute 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 private colleges and universities located in the State of a nature similar to that of the Institute, 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 Institute 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 Institute shall furnish to the Authority annually (1) a certificate or report of an Insurance Consultant that the insurance coverage maintained by the Institute 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 Institute shall provide to the Authority summaries or other evidence of its insurance coverage and shall obtain endorsements reasonably requested by the Authority.

(Section 22)

### **Damage or Condemnation**

In the event of a taking of the Project or the Mortgaged Property or any portion thereof by eminent domain or of condemnation, damage or destruction affecting all or part of the Project or the Mortgaged Property, then and in such event the entire proceeds of any insurance, condemnation or eminent domain award shall be paid upon receipt thereof by the Institute or the Authority as the Authority may determine or direct, and

(i) if within one hundred twenty (120) days from the receipt by the Authority of actual notice or knowledge of the occurrence, the Institute and the Authority agree in writing

(such agreement not to be unreasonably withheld or delayed) that the Project, the Mortgaged Property or the affected portion thereof shall be repaired, replaced or restored, the Institute shall proceed to repair, replace or restore the Project, the Mortgaged Property or the affected portion thereof, including all fixtures, furniture, equipment and effects, to its original condition insofar as commercially possible with such changes and additions as shall be appropriate to the needs of the Institute and approved in writing by the Authority. The funds required for such repair, replacement or restoration shall be paid from time to time as the work progresses, subject to such conditions and limitations as the Authority may reasonably 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 Institute; or

(ii) if no agreement for the repair, restoration or replacement of the Project, the Mortgaged Property or the affected portion thereof shall be reached by the Authority and the Institute within such one hundred twenty (120) day period, all respective proceeds (other than the proceeds of builders' risk insurance which shall be deposited pursuant to the Resolution and the Series Resolution) shall be transferred from the Construction Fund in which such proceeds were deposited to the Debt Service Fund for the redemption at par, at the option of the Authority of Series 2009C Bonds on any future interest payment date.

(Section 23)

#### **Reporting Requirements; Access to Records**

(a) **Reporting Requirements**. The Institute shall furnish or cause to be furnished to the Authority, the Trustee, the Insurer, and such other persons as the Authority may designate:

(i) within thirty (30) days after the beginning of each Fiscal Year of the Institute, the budget for such Fiscal Year;

(ii) within sixty (60) days after the end of the second quarter of the Institute's Fiscal Year, or, if required by the Insurer upon the occurrence of an Event of Default, within thirty (30) days of the end of each month, (A) internally prepared management reports certified by the chief financial officer of the Institute, together with variance reports of the Institute certified to by management of the Institute as being true, complete and correct in all material respects, and (B) a certificate of an Authorized Officer of the Institute stating either that (a) the Institute is not in default of any of its obligations or covenants under the Resolution or the Loan Agreement or, if an Event of Default hereunder, or, to the best of the Institute's knowledge, an event that, with the giving of notice or the passage of time, or both, would constitute such an Event of Default, has occurred and is continuing, (b) the nature thereof and the action that the Institute proposes to take with respect thereto;

(iii) annually, within one hundred eighty (180) days after the end of the Institute's Fiscal Year, (A) a copy of the annual audited financial statements of the Institute for such Fiscal Year, including therein without limitation, a balance sheet as of the end of such Fiscal Year, a statement of changes in net assets and a statement of activities for such Fiscal Year or such other financial statements then required in accordance with generally accepted accounting principles applicable to the Institute, audited by a firm of independent public accountants of recognized standing as may be reasonably acceptable to the Authority and the Insurer, (B) a copy of any management letter prepared by the auditors, (C) a certificate or other instrument signed by an Authorized Officer of the Institute stating whether an Event of Default, or, to the best of the Authorized Officer's knowledge, an event that, with the giving of notice or the passage of time, or both, would constitute such an Event of Default, has occurred and is continuing, and, if such an Event of Default or such an event has occurred and is continuing, a statement as to the nature thereof, and (D) if such an Event of Default or such an event has occurred and is continuing, a certificate of an Authorized Officer of the Institute setting forth the action that the Institute proposes to take with respect thereto;

(iv) within sixty (60) days after each Testing Date that is not the last day of the Institute's Fiscal Year, and within one hundred eighty (180) days after each Testing Date that is the last day of the Institute's Fiscal Year, a certificate executed by the chief financial officer of the Institute (A) setting forth the Cash and Investments and outstanding Debt of the Institute, and the calculation of the Liquidity Ratio, and (B) setting forth the Net Revenues Available for Debt Service and Maximum Annual Debt Service, and the calculation of the Debt Service Coverage Ratio, in each case as of the applicable Testing Date;

(v) prompt written notice, but in no event more than thirty (30) days after commencement, of any adverse litigation (A) seeking damages in excess of the \$1,000,000 over the applicable insurance coverage or (B) in which an adverse determination may have a material adverse effect on the combined financial or operating condition of the Institute;

(vi) prompt written notice, but in no event more than thirty (30) days after any loss or change, the loss or change in the chief executive officer, the chief operating officer, president, or chief financial officer of the Institute;

(vii) prompt written notice of any pending formation, acquisition, merger, consolidation, change in ownership or dissolution of or by the Institute and, within ten (10) days after any of the foregoing become effective;

(viii) prompt written notice of any change in name of the Institute;

(ix) such reports with respect to the condition of, and repairs, replacements, renovations, and maintenance, to the Project and the Mortgaged Property as the Authority or the Insurer may from time to time reasonably request;

(x) copies of all reports or notices given to any person that has provided credit enhancement in connection with Debt of the Institute or bonds issued on its behalf by a governmental body, where (1) the Institute's obligation to reimburse such person for money advanced by it pursuant to such credit enhancement is secured by a lien on the Gross Receipts or Mortgaged Property that is on a parity with the lien thereon securing the Institute's obligations hereunder and (2) such report or notice was required by any agreement between the Institute and such person entered into in connection with such credit enhancement; and

(xi) such other information respecting the business, property or the condition or operations, financial or otherwise, of the Institute as the Authority or the Insurer may from time to time reasonably request (other than information the Institute is required by law to keep confidential), including, but not limited to, such information as, in the reasonable judgment of the Authority, may be necessary in order to ensure compliance with applicable federal securities laws in effect from time to time or to maintain a market for or enable securities dealers to offer the Series 2009C Bonds for sale.

(b) **Access to Records.** At any and all reasonable times, upon reasonable notice, and from time to time, permit the Authority, the Trustee and the Insurer, or any agents or representatives thereof, to examine and make copies of and abstracts from the records and books of account (other than those books and records that by law must be treated as confidential) of, and visit the properties of the Institute and to discuss the affairs, finances and accounts of the Institute with any of their respective officers.

(Section 25)

## **Defaults and Remedies**

(a) As used in the Loan Agreement the term "Event of Default" shall mean:

(i) the Institute shall default in the timely payment of any amount payable pursuant to the section above titled "Financial Obligations" or the payment of any other amounts required

to be delivered or paid in accordance with the Loan Agreement, the Series Resolution or with the Resolution, and such default continues for a period in excess of seven (7) days;

(ii) the Liquidity Ratio on any Testing Date is less than sixty percent (60%) or the Debt Service Coverage Ratio on any Testing Date is less than one hundred twenty-five percent (125%);

(iii) the Institute defaults in the due and punctual performance of any other covenant in the Loan Agreement contained and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given to the Institute by the Authority or the Trustee; *provided, however*, that if in the reasonable determination of the Authority such default cannot be remedied within thirty (30) days, it shall not constitute an Event of Default if cure is commenced within such period and is diligently pursued until the default is remedied;

(iv) as a result of any default in payment or performance required of the Institute under the Loan Agreement or any 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 Series 2009C Bonds shall be seeking the enforcement of any remedy under the Resolution as a result thereof;

(v) the Institute shall be in default under the Pratt Lease, the Mortgage or the Security Agreement and such default continues beyond any applicable grace period;

(vi) the Institute shall be in default on any Parity Debt and as a consequence thereof such Parity Debt has been or is capable of being declared immediately due and payable;

(vii) the Institute 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 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;

(viii) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Institute, 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 Institute, or any petition for any such relief shall be filed against the Institute and such petition shall not be dismissed within ninety (90) days;

(ix) the charter of the Institute shall be suspended or revoked;

(x) a petition to dissolve the Institute shall be filed by the Institute with the legislature of the State or other governmental authority having jurisdiction over the Institute;

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

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

(xiii) an order of a court having jurisdiction shall be made directing the sale, disposition or distribution of all or substantially all of the property belonging to the Institute, which order shall remain undismitted or unstayed for an aggregate of thirty (30) days;

(xiv) a final judgment for the payment of money, which is not covered by insurance or reserves set aside by the Institute, and which, in the judgment of the Authority, will adversely affect the rights of the Bondholders, shall be rendered against the Institute and at any time after forty-five (45) days from the entry thereof, (i) such judgment shall not have been discharged or (ii) the Institute 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 for the enforcement thereof, to have been stayed pending determination of such appeal; or

(xv) the Institute fails to exercise the "Purchase Option" (as such term is defined in Section 38.01(a) of the Pratt Lease) or on the Closing Date fails to acquire the Landlord's Interest in the Educational Unit, each in accordance with and as contemplated by the Pratt Lease.

(b) Upon the occurrence of an Event of Default the Authority may take any one or more of the following actions:

(i) declare all sums payable by the Institute 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 the Series 2009C Bonds or the Construction Fund or otherwise to which the Institute may otherwise be entitled under the Loan Agreement, and, in the Authority's sole discretion, apply any such proceeds or money to payment of the Series 2009C Bonds in accordance with the Resolution;

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

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

(v) permit, direct or request the Trustee to liquidate all or any portion of the assets of the Debt Service Reserve Fund by selling the same at public or private sale in any commercially reasonable manner and apply the proceeds thereof and any dividends or interest received on investments thereof to the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on the Series 2009C Bonds, or any other obligation or liability of the Institute or the Authority arising from the Loan Agreement, the Series Resolution or from the Resolution;

(vi) realize upon the security interest in the Gross Receipts in accordance with the Security Agreement;

(vii) to the extent permitted by law, (A) enter upon the Project and complete the construction of the Project 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 Institute, consent to such entry being by the Loan Agreement given by the Institute, (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 Institute 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 Institute 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 Institute, whether or not previously incorporated into the construction of the Project, and (D) in connection with the construction of the Project undertaken



by the Authority pursuant to the provisions of this subparagraph (vii) (1) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of the Project, (2) pay, settle or compromise all bills or claims which may become liens against the Project or against any money of the Authority applicable to the construction of the 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 or defects in the title to the Project or against any money of the Authority applicable to the construction of the Project, and (3) take or refrain from taking such action under the Loan Agreement as the Authority may from time to time determine. The Institute 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 (vii) 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 Institute to the Authority upon demand. The Institute by the Loan Agreement 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 Institute for the purpose of exercising the rights granted to the Authority by this subparagraph (vii) during the term of the Loan Agreement;

(c) foreclose the Mortgage or take such other action as the Authority may consider necessary or appropriate to enable the Authority to realize on its lien on the Mortgaged Property, or by law, including foreclosure of the Mortgage, and any other action or proceeding as permitted by the Loan Agreement, by the Mortgage or by law; and

(d) 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 Mortgaged Property and take possession of any such fixtures, furnishings and equipment; or (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 each 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 a commercially reasonable manner and upon five (5) days' prior written notice to the Institute of the time and place of such sale.

(e) All rights and remedies in the Loan Agreement given or granted to the Authority are, to the extent permitted by law, 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.

(f) 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 subparagraph (i) of paragraph (a) of this section and its consequences if such Events of Default shall be cured. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereto.

(Section 28)

### **Insurer as Third Party Beneficiary**

To the extent that the Loan Agreement confers upon or gives or grants to an Insurer any right, remedy or claim under the Loan Agreement, the Insurer is intended to be and is hereby explicitly recognized as being a third-party beneficiary of such right, remedy or claim and may enforce any such right, remedy or claim conferred, given or granted hereunder.

(Section 30)

### **Investment of Money**

The Institute by the Loan Agreement acknowledges that the Authority may in its sole discretion direct the investment of money held in the funds and accounts established by or pursuant to the Resolution or the Series

Resolution 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 in the manner provided therein, for any depreciation in value of any investment or for any loss, direct or indirect, resulting from any such investment. The Authority by the Loan Agreement agrees that it shall direct the investment of the money held in the funds and accounts established in connection with the Series 2009C Bonds as soon as practicable when money is legally available therefor.

(Section 31)

### **Limitation on Agreements**

The Institute shall not enter into any contract or agreement or perform any act which may adversely affect any of the assurances or rights of the Authority under the Loan Agreement or the Holders of any Bonds issued under the Resolution, including but not limited to the Series 2009C Bonds.

(Section 33)

### **Arbitrage; Tax Exemption**

(a) Each of the Institute 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 Series 2009C Bonds, which would cause the Series 2009C Bonds or any Series of 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 Series 2009C Bonds at the time of such action, investment or use. Neither the Institute nor any "related party" (as such term is defined for purposes of Section 148 of the Code) shall purchase any Series 2009C Bonds other than for delivery to and cancellation by the Trustee, unless the Trustee shall receive an opinion of Bond Counsel to the effect that the purchase by the Institute or by any such related party of Series 2009C Bonds will not cause interest on the Series 2009C Bonds to be included in the gross income of the owners of the Series 2009C Bonds for purposes of federal income taxation.

(b) The Institute covenants that it will not take any action or fail to take any action which would cause any representation or warranty of the Institute contained in a Tax Certificate then to be untrue and shall comply with all covenants and agreements of the Institute contained in each Tax Certificate, unless, in the opinion of Bond Counsel, taking or failing to take such action or failing to comply with its obligations under a Tax Certificate would not adversely affect the exclusion of interest on any Bonds from gross income for federal income tax purposes.

(c) In the event that the Authority is notified in writing that the Series 2009C Bonds or any transaction pertaining thereto is the subject of any Internal Revenue Service or Securities and Exchange Commission investigation, suit or order, it shall promptly give notice thereof to the Institute. In the event that the Institute is notified in writing that the Series 2009C Bonds or any transaction pertaining thereto is the subject of any Internal Revenue Service or Securities and Exchange Commission investigation, suit or order, it shall promptly give notice thereof to the Authority. Upon the occurrence of such an event, the Institute and the Authority shall fully cooperate with one another and participate in all aspects of the conduct of the response thereto.

(d) The Authority shall retain in its possession, so long as required by the Code, copies of all documents, reports and computations made by it in connection with the calculation of earnings and the rebate of all or a portion thereof to the Department of the Treasury of the United States of America, which shall be subject at all reasonable times to the inspection of the Institute and its agents and representatives, any of whom may make copies thereof. Upon written request therefor from the Institute the Authority shall as soon as practicable provide the Institute with a copy of any such document, report or computation. The Authority shall also provide the Institute with a copy of all documents or reports filed with the Department of Treasury of the United States of America relating to the rebate of earnings.

(Section 34)

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

The obligations of the Authority under the Loan Agreement and the delivery of the Series 2009C Bonds are conditioned upon the receipt by the Authority at or prior to delivery of the Series 2009C Bonds of a certificate of an Authorized Officer of the Institute acceptable to an Authorized Officer of 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 Series 2009C Bonds as if made on the date of delivery of the Series 2009C Bonds.

(Section 36)

### **Amendments to Loan Agreement**

The Loan Agreement may be amended only in accordance with the Resolution and each amendment shall be made by an instrument in writing signed by an Authorized Officer of the Institute and the Authority, an executed counterpart of which shall be filed with the Trustee.

(Section 40)

### **Termination**

The Loan Agreement shall remain in full force and effect until no Series 2009C Bonds are Outstanding and all other payments, expenses and fees payable under the Loan Agreement by the Institute shall have been paid or provision for the payment thereof have been made to the satisfaction of the Authority; *provided, however*, that the obligation of the Institute to indemnify the Authority under the Loan Agreement shall survive termination of the Loan Agreement. Upon termination of the Loan Agreement the Authority shall promptly deliver such documents as may be reasonably requested by the Institute to evidence such termination and the discharge of the Institute's duties under the Loan Agreement, including the satisfaction of the Mortgage and the termination of the security interest in the Gross Receipts and any fixture, furnishing and equipment.

(Section 41)

### **Liquidity Ratio**

The Institute shall have a Liquidity Ratio on each Testing Date of not less than sixty percent (60%). An Event of Default shall automatically be triggered upon failure to have on any Testing Date a Liquidity Ratio of at least sixty percent (60%).

(Paragraph (a) of Exhibit D to the Loan Agreement)

### **Debt Service Coverage Ratio**

The Institute shall have on each Testing Date a Debt Service Coverage Ratio of not less than one hundred twenty-five percent (125%). An Event of Default shall automatically be triggered upon failure to maintain a Debt Service Coverage Ratio of at least one hundred twenty-five percent (125%) on any Testing Date.

(Paragraph (b) of Exhibit D to the Loan Agreement)

### **Transfer of Assets**

The Institute shall not, without the prior written consent of the Authority and the Insurer, transfer, sell, convey or dispose of any cash or non-cash assets other than in the normal course of business.

(Paragraph (c) of Exhibit D to the Loan Agreement)

### **Limitation on Liens**

The Institute shall not encumber any real or personal property, tangible or intangible, without the prior written consent of the Authority and the Insurer, other than:

- (a) Liens on the Mortgaged Property and on the Gross Receipts created pursuant to the Mortgage and the Security Agreement, respectively, given to secure the Institute's obligations under the Loan Agreement;
- (b) Liens on the Gross Receipts to secure Additional 2009 Debt and Additional Project Debt;
- (c) Liens on the Mortgaged Property to secure Additional Project Debt;
- (d) Liens on real property (other than the Mortgaged Property) or on the Gross Receipts to secure Permitted Long-Term Debt or Additional Project Debt;
- (e) Liens on tangible or intangible personal property (other than the Gross Receipts) to secure Additional Project Debt; and
- (f) Permitted Liens:

In addition, the Institute shall not without the prior written consent of the Authority and the Insurer (i) encumber, pledge, grant, assign or undertake or not take any action that would result in the creation of a Lien on the investment securities of the Institute (collectively, the "Investment Securities") except to secure Additional Project Debt or (ii) grant a negative pledge in favor of any third party covering the Investment Securities.

(Paragraph (d) of Exhibit D to the Loan Agreement)

### **Short-Term Debt**

The Institute shall not at any time have outstanding Short-Term Debt in a principal amount greater than ten percent (10%) of the Institute's total operating revenues for the immediately preceding Fiscal Year for which audited financial statements of the Institute are available.

(Paragraph (e) of Exhibit D to the Loan Agreement)

### **Long-Term Debt**

Except as expressly provided below with respect to any Additional 2009 Debt or Additional Project Debt, the Institute shall not, without the prior written consent of the Authority and the Insurer, incur, assume or guaranty any Long-Term Debt if either (i) after giving effect to such Debt, Maximum Annual Debt Service would exceed ten percent (10%) of the Institute's total operating revenues for the immediately preceding Fiscal Year for which audited financial statements of the Institute are available, or (ii) the Debt Service Coverage Ratio for the each of the two immediately preceding Fiscal Years for which audited financial statements of the Institute are available was, after giving effect to such Debt, less than one hundred forty percent (140%), in each case as established by a certificate of the chief financial officer of the Institute certifying to the Authority and the Insurer that such incurrence of such Long-Term Debt will not conflict with the provisions of this paragraph (f) and setting for the computations on which such statement is based. If such proposed Long-Term Debt exceeds \$15 million, the Institute will provide written confirmation of its post-issuance rating of at least "A3" or an equivalent rating from each rating agency then rating the credit of the Institute.

The provisions of the foregoing paragraph shall not apply to Additional Project Debt incurred subsequent to the date of the Loan Agreement or the Additional 2009 Debt, which in each case may be incurred by the Institute without any consent required by this paragraph (f) or satisfaction of the conditions set forth in clauses (i) and (ii) of the foregoing paragraph.

(Paragraph (f) of Exhibit D to the Loan Agreement)

## Guarantees

The Institute shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for the obligations of any person whether by agreement to purchase the Debt of any other person whether for working capital maintenance, or whether by agreement for the furnishing of funds, directly or indirectly, through the purchase of goods, supplies or services for the purpose of discharging the Debt of any other person or otherwise, or enter into or be a party to any contract for the purchase of merchandise, materials, supplies or other property if such contract provides that payment for such merchandise, materials, supplies or other property shall be made regardless of whether delivery of such merchandise, materials, supplies or other property is ever made or tendered, except endorsements of negotiable instruments for collection or deposit in the ordinary course of business, guaranties of the Debt of one another provided such Debt is incurred as permitted hereunder, and other guaranties in favor of the Authority or the Insurer.

(Paragraph (g) of Exhibit D to the Loan Agreement)

## Hedge Agreements

The Institute shall not, without the prior written consent of the Authority and the Insurer, enter into, amend or modify any Hedge Agreement unless:

(a) such Hedge Agreement is executed for the purpose of moderating or managing interest rate fluctuations, reducing interest cost or creating with respect to any assets then held by the Institute or any Long-Term Debt then outstanding or any debt reasonably expected to be issued or incurred within thirty-six (36) months of the proposed Hedge Agreement, in each case that bears interest at a variable rate the economic or financial equivalent of a fixed rate of interest thereon;

(b) the Hedge Agreement does not contain any leverage element or multiplier component or have a notional amount greater than any Long-Term Debt to which it relates, unless simultaneously the Institute enters into a matching hedge arrangement which effectively off-sets the risk or exposure resulting from such leverage element or multiplier component or notional amount;

(c) the Institute's obligations under the Hedge Agreement, including the obligation to pay an amount upon settlement, breakage or termination of the Hedge Agreement, is not secured by a Lien on any of the Gross Receipts that is prior or equal to the Lien securing the Institute's obligations hereunder;

(d) payments to be made by the Institute under the Hedge Agreement are subordinate in right of payment to the payment of interest and principal on any Long-Term Debt secured by a Lien on the Gross Receipts that is equal in priority to the Lien to secure the Institute's obligations hereunder;

(e) any insured termination amounts shall be on a parity with the Institute's obligations under the Hedge Agreements and any uninsured termination amounts shall be subordinate to the Institute's obligations under the Hedge Agreements and to any debt on a parity with the Institute's obligations under the Hedge Agreements;

(f) the Institute's counterparty to the Hedge Agreement (the "Counterparty") or its guarantor (the "Guarantor") is rated at "A" and "A2" by Standard & Poor's Rating Services ("S&P") and Moody's Investors Service ("Moody's"), respectively, and the Hedge Agreement provides that:

(i) if the Counterparty's or, if there's a guaranty then in effect, the Guarantor's rating is reduced to below "A-" or "A3" by either S&P or Moody's, respectively, the Counterparty or its Guarantor is obligated to enter into a "credit support annex" to the Hedge Agreement on terms and conditions acceptable to the Authority and the Insurer; and

(ii) if the Counterparty's or, if there's a guaranty then in effect, the Guarantor's rating is reduced to below "Baa3" or "BBB-" by either S&P or Moody's, respectively, or if such person's rating is suspended or withdrawn by either S&P or Moody's, the Counterparty or Guarantor is to be replaced by a successor acceptable to the Authority and the Insurer.

The Institute shall not terminate any Hedge Agreement unless, prior to such termination, it demonstrates to the satisfaction of the Authority and the Insurer that any payment required to be paid by the Institute upon or as a consequence of such termination (x) will not cause the Liquidity Ratio to be less than sixty percent (60%) and (y) will not cause the Institute to be in default on any Debt or other material financing agreements.

(Paragraph (h) of Exhibit D to the Loan Agreement)

**Limitation on Purchase Rights**

The Institute shall not, without the prior written consent of the Insurer, exercise any right to Series 2009C Bonds for any purpose other than for surrender to the Trustee for their cancellation.

(Paragraph (i) of Exhibit D to the Loan Agreement)

**SUMMARY OF CERTAIN PROVISIONS  
OF THE RESOLUTION**

## SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION

The following is a brief summary of certain provisions of the Resolution pertaining to the Series 2009 Bonds. Such summary does not purport to be complete and reference is made to the Resolution for full and complete statements of such and all provisions. Defined terms used in the Resolution shall have the meanings ascribed to them in Appendix A or in the body of this Official Statement.

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

With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under the Resolution by those who shall hold or own the same from time to time, the 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, 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 such Bonds, 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 such Bonds over any other Bonds except as expressly provided in the Resolution or permitted by the Resolution.

(Section 1.03)

### **Assignment of Certain Rights and Remedies**

As security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of, and interest on, the Outstanding Bonds of a Series and for the performance of each other obligation of the Authority under the Resolution and the payment of all amounts owed to a Bank pursuant to the applicable Reimbursement Agreement and for the performance of each other obligation of the Institute thereunder, the Authority may, pursuant to a Series Resolution, grant, pledge and assign to the Trustee and, if the Bonds are Letter of Credit Secured Bonds, to the Bank, and to the issuer of any financial guaranty insurance policy insuring the Bonds, all of the Authority's estate, right, title, interest and claim in, to and under a Loan Agreement and each related Security Agreement and Mortgage, 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 Revenues, insurance proceeds, sale proceeds and other payments and other security now or hereafter payable to or receivable by the Authority under such Loan Agreement, the Security Agreement and the Mortgage, including without limitation the right to declare the indebtedness under such Loan Agreements immediately due and payable and to foreclose, sell or otherwise realize upon the Gross Receipts and the Mortgaged Property, 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 such Loan Agreement and each related Security Agreement and Mortgage, subject to the following conditions:

(i) the Bonds of each Series shall be secured *pari passu* by the security interest in the Gross Receipts, but shall be separately secured one from another by the Loan Agreement entered into in connection with a particular Series of Bonds and the Mortgage or Mortgages given to secure the Institute's obligations under such Loan Agreement, and only the Bond of the Series in connection with which such Loan Agreement was entered into and such Mortgages were given shall be secured by such Loan Agreement and Mortgages;

(ii) that the Holders of the Bonds, if any, 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

(iii) that, unless and until the Bank or the Trustee, in its discretion exercised following an "Event of Default" under a Loan Agreement that is continuing, so elects, by an instrument in writing delivered to the Authority and the Institute (and then only to the extent that the Trustee or the Bank so elects), neither the Trustee nor the Bank shall be responsible or liable in any manner or to any extent for the performance of any of the covenants or provisions contained in such Loan Agreement, Security Agreement or any Mortgage securing such Loan Agreement to be performed by the Authority (except to the extent of actions undertaken by the Trustee in the course of its performance of any such covenant or provision), the Authority, however, to remain liable to observe and perform all the conditions and



covenants, in each Loan Agreement, Security Agreement and each related Mortgage, provided to be observed and performed by it.

Notwithstanding the foregoing, the Authority retains the right to (i) the payment of any fees, costs, and expenses of the Authority payable pursuant to a Loan Agreement, (ii) the indemnities provided thereby and payments made pursuant to such indemnities and (iii) the exercise of any right or remedy available under each Loan Agreement, Security Agreement or Mortgage for the enforcement of the obligations of the Institute to which the Authority has retained such right.

Any grant, pledge or assignment made pursuant to this section shall be evidenced by instruments in form and substance reasonably satisfactory to the Trustee or the Bank executed and delivered by the Authority as soon as practicable after a Loan Agreement is entered into or a Mortgage or security interest is made or given. The Trustee and the Bank shall each accept such grant, pledge and assignment which acceptance shall be evidenced in writing and signed by an Authorized Officer of the Trustee and the Bank, respectively, in form and substance reasonably satisfactory to the Authority.

(Section 1.04)

### **Provisions for Issuance of Bonds and Additional Obligations**

The issuance of Bonds of a Series shall be authorized by a Series Resolution or Series Resolutions. The Authority shall, in addition to other requirements, deliver to the Trustee an opinion of Bond Counsel concerning the validity of the Resolution and the Bonds, (except in the case of Refunding Bonds) and a certificate of an Authorized Officer of the Institution stating that the Institution is not in default under the Loan Agreement.

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, entitled to a charge, lien or right prior or equal to the charge or lien created by, or prior or equal to the rights of the Authority and Holders of Bonds as provided by the Resolution.

(Sections 2.02 and 2.05)

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

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 the 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 to the Resolution as in this 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.

(Section 4.04)

### **Notice of Redemption**

Whenever Bonds are to be redeemed, the Trustee shall give notice of the redemption of the Bonds in the name of the Authority which notice shall specify: (i) the Bonds to be redeemed which shall be identified by the designation of

the Bonds given in accordance with 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) 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; (vii) 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 (viii) if the Authority's obligation to redeem the Bonds is subject to conditions, a statement that describes the condition to such redemption. 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 to the Resolution, 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 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 to the Resolution, 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.

(Section 4.05)

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

The following funds are established by the Resolution and shall be held and maintained by the Trustee:

Construction Fund:

Project Account;  
Capitalized Interest Account; and  
Cost of Issuance Account; and  
Debt Service Fund.

(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 established in connection with such Series of Bonds the amount required to be deposited in the Resolution 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 such Construction Fund any money paid to the Authority pursuant to the Resolution and all amounts paid by the Institute which by the terms of the Loan Agreement executed in connection with such Series of Bonds are required to be deposited in the Resolution.

Upon receipt by the Trustee of a certificate relating to the completion of the Project, the money, if any, then remaining in the Construction Fund, 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 the 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 related Debt Service Fund, to be applied in accordance with the Resolution, any balance remaining.

(Section 5.04)

### **Deposit and Allocation of Revenues**

The Revenues and any other money, which, by any of the provisions of a Loan Agreement, are required to be paid to the Trustee, shall upon receipt thereof be deposited or paid by the Trustee as follows and in the following order of priority:

First: To the applicable Debt Service Fund: (i) in the case of Revenues received during the first six months of each Bond Year, the amount, if any, necessary to make the amount in the Debt Service Fund equal to (a) the interest on the Outstanding Bonds of the Series for which such Debt Service Fund was established payable subsequent to the first day of such Bond Year and on and prior to the first day of the second half of the Bond Year, assuming that such 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; (b) one half of the Sinking Fund Installments of Outstanding Option Bonds and Variable Interest Rate Bonds of such Series payable during the next succeeding Bond Year; and (c) the purchase price or Redemption Price of the Outstanding Bonds of such Series to the Resolution before contracted to be purchased or called for redemption pursuant to the Resolution on or prior to the first day of the second half of the Bond Year, plus accrued interest thereon to the date of purchase or redemption; and (ii) in the case of Revenues received after the Resolution and until the end of such Bond Year, the amount, if any, necessary to make the amount in the Debt Service Fund equal to: (a) the interest on and the principal and Sinking Fund Installments of the Outstanding Bonds of such Series payable subsequent to the first day of the second half of the Bond Year and on and prior to the first day of the next succeeding Bond Year, assuming that such 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; (b) one-half of the Sinking Fund Installments of Outstanding Option Bonds and Variable Interest Rate Bonds of such Series payable during the next succeeding Bond Year; and (c) the purchase price or Redemption Price of the Outstanding Bonds of such Series to the Resolution before contracted to be purchased or called for redemption pursuant to the Resolution on or prior to the first day of the next succeeding Bond Year, plus accrued interest thereon to the date of purchase or redemption;

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

Third: To the Authority, unless otherwise paid, such amounts as are payable to the Authority for: (i) any expenditures of the Authority for fees and expenses of auditing, and fees and expenses of the Trustee, all as required by the Resolution, (ii) all other expenditures reasonably and necessarily incurred by the Authority in connection with the financing of the Project, including expenses incurred by the Authority to compel full and punctual performance of all the provisions of the Loan Agreements in accordance with the terms thereof, and (iii) any fees of the Authority; but only upon receipt by the Trustee of a certificate signed by an Authorized Officer of the Authority, stating in reasonable detail the amounts payable to the Authority pursuant to this paragraph Third.

The Trustee shall, promptly after making the above required payments, notify the Authority and the Institute of any balance of Revenues remaining on the first day of the immediately succeeding Bond Year. After making the above

required payments, the balance, if any, of the Revenues then remaining shall, upon the direction of an Authorized Officer of the Authority, be paid by the Trustee to the Construction Fund or the Debt Service Fund, or paid to the Institute, in the respective amounts set forth in such direction. Any amounts paid to the Institute shall be free and clear of any pledge, lien, encumbrance or security interest created by the Resolution or by the applicable Series Resolution or the applicable Loan Agreement.

(Section 5.05)

### **Debt Service Fund**

(a) The Trustee shall pay out of the Debt Service Fund established in connection with Bonds of a Series other than Letter of Credit Secured Bonds, when due:

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

Notwithstanding the provisions of this paragraph (a), the Authority may, at any time subsequent to the first day 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 established in connection with the Bonds of a Series, other than Letter of Credit Secured Bonds, at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds of such Series to be redeemed from such Sinking Fund Installment. In addition, the Institute pursuant to a Loan Agreement may deliver, at any time subsequent to the first day 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 such Series to be so redeemed on such date from such Sinking Fund Installment. Any Term Bond so purchased and any Term Bond so 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.

(b) The Trustee shall pay out of the Debt Service Fund established in connection with Letter of Credit Secured Bonds of a Series, when due, all amounts required to be paid to the Bank providing the Letter of Credit for the Bonds of such Series of Bonds to reimburse it for money advanced under the Letter of Credit for payment of:

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

provided, however, that if the Bank fails to honor a properly submitted draw under the Letter of Credit for the Bonds of such Series, such money will be used to make payments due to the Holders of such Series of Bonds.

(Section 5.06)

### **Arbitrage Rebate Fund**

The Trustee shall deposit to the Arbitrage Rebate Fund any money delivered to it by the Institute for deposit in the Resolution and, notwithstanding any other 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 be applied first to reimburse the affected Bank for any money advanced under the related Letter of Credit for which it has not been reimbursed, and second, 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 each 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 applicable 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 each Series of Bonds and (ii) if and to the extent required by the Code, pay out of such 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 to the Resolution.

(Section 5.07)

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

Notwithstanding any other provisions of the Resolution, if at any time the Available Money held in the Debt Service Fund established in connection with a Series of Bonds for the payment of the principal and Sinking Fund Installments of the Bonds of such Series, together with the Available Money held in the Debt Service Reserve Fund established for such Bonds, are sufficient to pay the principal or Redemption Price of all Outstanding Bonds of such 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 Resolution for the payment of such Bonds at the maturity or redemption dates thereof, the Trustee shall so notify the Authority and the Institute. Upon receipt of such notice, the Authority may (i) direct the Trustee to redeem all such Bonds, whereupon the Trustee shall proceed to redeem or provide for the redemption of such Bonds in the manner provided for redemption of such Bonds by the Resolution and by each Series Resolution as provided in the Resolution, or (ii) give the Trustee irrevocable instructions in accordance with the Resolution and make provision for the payment of such 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 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**

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 the 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 to give security for the deposit of any money with them pursuant to

the Resolution and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on any 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**

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; *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.

In lieu of the investments of money in obligations authorized in paragraph (a) of this 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 a Construction Fund or Debt Service Reserve 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.

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.

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.

Notwithstanding anything to the contrary in 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 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 Institute 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 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.

No part of the proceeds of any 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 to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

(Section 6.02)

### **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 the Bonds according to the true intent and meaning thereof.

(Section 7.01)

### **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 each Series of Bonds, including but not limited to the objects and purposes for which proceeds of the 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 Institute, the Trustee or of any Holder of a Bond or his representative duly authorized in writing. The Trustee shall annually prepare a report which shall be furnished to the Authority, each Bank and the Institute. 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 of each Series Resolution; 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 or any beneficial owner of a Book Entry Bond requesting the same.

(Section 7.05)

### **Creation of Liens**

Except as permitted by the 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 on the proceeds from the sale of the Bonds, the Revenues, the Authority's security interest in the Gross Receipts, the Mortgages and the funds and accounts established by or pursuant to any Series Resolution; *provided, however*, that nothing contained in the Resolution shall prevent the Authority from issuing bonds, notes or other obligations or otherwise incurring indebtedness under another and separate resolution or otherwise so long as the charge or lien created by such resolution is not prior or equal to the charge or lien created pursuant to the Resolution; and, provided, further, with respect to the Gross Receipts or any security interest in the Gross Receipts, nothing in this paragraph is intended to prevent the creation of a parity lien on the Gross Receipts as otherwise provided in the Resolution.

(Section 7.06)

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

The Authority shall take all legally available action to cause the Institute to perform fully all duties and acts and comply fully with the covenants of the Institute 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 the 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 and (ii) at any time prior to the occurrence of an event of default under the Resolution, annul any declaration that the indebtedness under a 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 Institute shall have cured each event of default under such Loan Agreement.

(Section 7.07)

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

Except as otherwise provided in the Loan Agreement relating to a Series of Bonds and in the related Mortgage, in addition to the proceeds of Bonds to be deposited in the Construction Fund, any money paid to the Authority for the acquisition, construction, reconstruction, renovation or equipment of any Project, including 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 may be presented for payment, registration, transfer or exchange and the Trustee is by the Resolution appointed the Trustee as its agent to maintain such office or agency for the registration, transfer or exchange of Bonds. The provisions of this section shall be subject to the provisions of the Resolution.

(Section 7.09)

### **Amendment of Loan Agreement**

(a) Each Loan Agreement may, without the consent of the Holders of Bonds, be amended, changed, modified, altered or supplemented for any one or more purposes:

(i) to add an additional covenant or agreement for the purpose of further securing the payment of the Institute's obligations under the Loan Agreement that is not contrary to or inconsistent with the covenants and agreements of the Institute contained in the Loan Agreement;

(ii) to prescribe further limitations and restrictions upon the Institute's right to incur, issue, assume or guaranty indebtedness that are not contrary to or inconsistent with the limitations and restrictions thereon to the Resolution before in effect;

(iii) to surrender any right, power or privilege reserved to or conferred upon the Institute, if surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Institute contained in the Loan Agreement;

(iv) to make changes necessary or appropriate in connection with the acquisition, construction, reconstruction, rehabilitation and improvement, or otherwise providing, furnishing and equipping of any Project, to amend the description of any Project or to add an additional Project;

(v) to establish, amend or modify the Authority Fee or the Annual Administrative Fee payable by the Institute in connection with the Bonds of a Series; or

(vi) with the prior written consent of the Trustee, to cure any ambiguity, or to correct or supplement any provisions contained in the Loan Agreement which may be defective or inconsistent with any other provisions contained in the Resolution or in the Loan Agreement or to amend, modify or waive any other provision of the Loan Agreement, provided that the same does not adversely affect the interests of the Bondholders in any material respect.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Loan Agreement relating to a Series of Bonds may not be amended, changed, modified, altered or terminated, nor may any provision thereof be waived, without the consent of the Holders of Outstanding Bonds of such Series as in the Resolution after provided if such amendment, change, modification, alteration, termination or waiver (i) reduces the amount of Revenues payable by the Institute under the Loan Agreement on any date or delays the date on which payment is to be made, (ii) modifies the events which constitute Events of Default under the Loan Agreement, (iii) diminishes, limits or conditions the rights or remedies of the Authority under the Loan Agreement upon the occurrence of an Event of Default under the Resolution, or (iv) adversely affects the rights of the Bondholders in any material respect.



No such amendment, change, modification, alteration, termination or waiver shall take effect unless the prior written consent of the Holders of at least a majority in principal amount of the Bonds then Outstanding of the affected Series; *provided, however*, that if such amendment, change, modification, alteration, termination or waiver will, by its terms, not take effect so long as any Bonds of any specified maturity of such Series remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this section.

No amendment, change, modification or termination of a Loan Agreement, or waiver of a provision thereof shall be made other than pursuant to a written instrument signed by the parties to the Resolution. No such amendment, change, modification, alteration or waiver shall become effective unless there has been delivered to the Trustee an opinion of Bond Counsel. A copy of each such amendment, change, modification, termination or waiver shall be filed with the Trustee and a copy thereof shall be sent to the affected Bank.

Bonds owned or held by or for the account of the Authority or the Institute shall not be deemed Outstanding for the purpose of consent provided for in this section, and neither the Authority nor the Institute shall be entitled with respect to such Bonds to give any such consent. At the time of any consent, the Authority shall furnish the Trustee a certificate of an Authorized Officer, upon which the Trustee may rely, describing all Bonds so to be excluded.

(c) For the purposes of this section, the purchasers of Bonds, 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 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, Remarketing Agent or otherwise for resale, the nature of the amendment, change, modification, alteration, termination or waiver and the provisions for the purchaser consenting to the Resolution 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. In addition, the Holder of an Outstanding Auction Rate Bond shall be deemed to have consented to an amendment, change, modification, alteration or termination permitted by this section if (i) the Trustee has mailed notice of such proposed amendment to the Holder of such Bonds in the same manner required by the Resolution for an amendment to the Resolution, (ii) on the first Auction Date for such Bond occurring at least twenty (20) days after the date on which the aforementioned notice is given by the Trustee the interest rate determined on such date is the Winning Bid Rate and (iii) there is delivered to the Authority and the Trustee an opinion of Bond Counsel to the effect that such amendment shall not adversely affect the validity of such Auction Rate Bond or any exemption from federal income tax to which the interest on such Auction Rate Bond would otherwise be entitled. As used in this paragraph the following terms shall have the respective meanings: “**Auction Rate Bond**” means a Variable Interest Rate Bond that is not an Option Bond, and that bears interest at rates determined by periodic auctions in accordance with procedures therefore established by the Series Resolution authorizing such Bond or the Bond Series Certificate related to the Resolution; “**Auction Date**” means, with respect to any particular Auction Rate Bond, the date on which an auction is held or required to be held for such Bond in accordance with the procedures established therefore; and “**Winning Bid Rate**” when used with respect to an auction held for any particular Auction Rate Bond, shall have the meaning given to such term in the Series Resolution authorizing such Auction Rate Bond or the Bond Series Certificate related to the Resolution, or, if not otherwise defined, means the lowest rate specified in any purchase bid submitted in such auction, which, if selected, would cause the aggregate principal amount of Auction Bonds offered to be sold in such auction to be subject to purchase bids at rates no greater than the rate specified in such purchase bid.

For the purposes of this section, a Series shall be deemed to be adversely affected by an amendment, change, modification, alteration or termination of the 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, which determination shall be made without regard to the existence of any financial guaranty insurance policy issued in connection with such Bonds or a Letter of Credit for such Bonds. 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 Institute, the Authority and all Holders of Bonds.

For all purposes of this 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 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 of any “Event of Default” under a Loan Agreement, as such term is defined in such Loan Agreement, that 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)

#### **Modification and Amendment Without Consent**

Notwithstanding any other 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 Resolutions or Supplemental Resolution shall become effective in accordance with its terms upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority and written copy thereof to each affected Bank:

(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, 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 and the incurring of indebtedness by the Authority which are not contrary to or inconsistent with the limitations and restrictions thereon to the Resolution before 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 the subjection to any lien, claim or pledge created or to be created by the provisions of the Resolution, of the Revenues, or any pledge of any other money, securities or funds;

(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 in any material respect.

(Section 9.01)

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

The provisions of the 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 in accordance with and subject to the provisions of the Resolution, such Supplemental Resolution to become effective upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority. The Trustee shall transmit a copy of such Supplemental Resolution to the Institute and the Rating Service upon its becoming effective.

(Section 9.02)

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

The 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 or the right or obligation of the Authority to execute and deliver to the Trustee any instrument elsewhere in the Resolution provided or permitted to be delivered to the Trustee.

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 by 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 Institute and to each Bank upon its becoming effective.

The Trustee is by the Resolution 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 in the Resolution, 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 shall become effective without the written consent of the Trustee.

(Section 9.03)

### **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, in any particular, may be made by a Supplemental Resolution, with the written consent given as in the Resolution after provided in the Resolution, (i) of the Holders of at least a majority in principal amount of the Bonds Outstanding at the time such consent is given, or (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least a majority in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, or (iii) 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; *provided, however*, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series, maturity and tenor remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond 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 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.

(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 Resolution to take effect when and as provided in this section. A copy of such Supplemental Resolution (or brief summary thereof or reference to the Resolution in form approved by the Trustee) together with a request to the Bondholders for their consent to the Resolution in form satisfactory to the Trustee, shall promptly after adoption be mailed by the Authority to the 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 in this section provided).

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 specified in the Resolution 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 by 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 in the Resolution. 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 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 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, anything in the Resolution to the contrary notwithstanding, upon any subsequent Bondholder and of any Bonds 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 in the Resolution provided 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 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 after the Resolution 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 and will be effective as provided in this section, shall be given to the Bondholders by the Authority by mailing such notice to the 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 shall have filed their consents to the Supplemental Resolution and the written statement of the Trustee in the Resolution above provided for is filed (but failure to publish such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this section provided). 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.

(Section 10.02)

### **Consent of Bank**

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 Bank has been obtained. No modification or amendment of the Resolution which adversely affects a Bank shall be made without the written consent thereto of the Bank 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 Bank 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 10.03)

### **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 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 then Outstanding, such consent to be given as provided in the Resolution, except that no notice to the Bondholders either by mailing or publication shall be required.

(Section 10.04)

### **Events of Default**

An event of default shall exist under the Resolution and under each Series Resolution (in the Resolution called “event of default”) if:

(a) Payment of the principal, Sinking Fund Installments or Redemption Price of any Bond shall not be made by the Authority when the same shall otherwise become due and payable; or

(b) 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 Tax Exempt Bonds of any Series, a Determination of Taxability shall have occurred and be continuing; or

(d) 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 the Bonds or in any 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, 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) An “Event of Default” as defined in a Loan Agreement shall have occurred and be continuing and as a consequence all sums payable by the Institute under the 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 Resolution, other than an event of default specified in paragraph (c) of the Resolution, then and in every such case the Trustee, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of each Series, shall, by a notice in writing to the Authority and each Rating Service, declare the principal of and interest on all of the Outstanding Bonds 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 any Series Resolution or in the Bonds to the contrary notwithstanding. Upon the Trustee’s receipt of notice from the Bank that the Letter of Credit is in effect, the Trustee may draw on the Letter of Credit. At any time after the principal of the 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 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 Funds sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds (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; (iii) all other amounts then payable by the Authority under the Resolution and under each Series Resolution (other than principal amounts payable only because of a declaration and acceleration under this section) shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; (iv) the Trustee receives notice from the Bank that the Bank has rescinded its notice of an Event of Default under the Letter of Credit; and (v) every other default known to the Trustee in the observance or performance of any covenant, condition or agreement contained in the Resolution or in any Series Resolution or in the Bonds (other than a default in the payment of the principal of such Bonds then due only because of a declaration under this 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 each Series or, in the case of a happening and continuance of an event of default specified in paragraph (c) of the above section titled "Events of Default", of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected by the Resolution, shall proceed (subject to the provisions of the Resolution) to protect and enforce its rights and the rights of the Bondholders under the Resolution or under any 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 any Series Resolution or in aid or execution of any power in the Resolution or tin the Resolution 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.

In the enforcement of any remedy under the Resolution and under each 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 any Series Resolution or of the Bonds, 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 any 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 any 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)

### **Priority of Payments After Default**

If at any time the money held by the Trustee under each Series Resolution shall not be sufficient to pay the principal of and interest on the Bonds as the same become due and payable (either by their terms or by acceleration of maturity under the provisions of the Resolution), such money together with any money then available or after the Resolution becoming available for such purpose, whether through exercise of the remedies provided for in the Resolution or otherwise, shall be applied (after first depositing in the Arbitrage Rebate Fund all amounts required to be deposited tin the Resolution and then paying all amounts owing to the Trustee under the Resolution) as follows:

(A) Unless the principal of all the Bonds has become or been declared due and payable, all such money shall be applied:

First: To the payment to the persons entitled to the Resolution of all installments of interest then due in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled to the Resolution, without any discrimination or preference; and

Second: To the payment to the persons entitled to the Resolution of the unpaid principal, Sinking Fund Installments or Redemption Price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates and, if the amount available shall not be sufficient to pay in full all amounts due on any date, then to the payment thereof ratably, according to the amount of principal, Sinking Fund Installments or Redemption Price due on such date, to the persons entitled to the Resolution, without any discrimination or preference.

(B) If the principal of all of the Bonds has become or been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled to the Resolution, without any discrimination or preference except as to the difference in the respective rates of interest specified in the Bonds.

The provisions of this section are in all respects subject to the provisions of the Resolution.

Whenever money is to be applied by the Trustee pursuant to the provisions of this section, such money shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. The setting aside of such money in trust for application in accordance with the provisions of this section shall constitute proper application by the Trustee, and the Trustee shall incur no liability whatsoever to the Authority, to any Holder of Bonds or to any other person for any delay in applying any such money so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of the Resolution as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such money, it shall fix the date (which shall be on an interest payment date unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date. The Trustee shall not be required to make payment to the Holder of any Bond unless such Bond shall be presented to the Trustee for appropriate endorsement.

Amounts held by the Trustee after payments to be made pursuant to this section have been made and no Bonds are Outstanding shall be paid and applied in accordance with the Resolution.

(Section 11.05)

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

No Holder of any of the Bonds 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 each Series or, in the case of an event of default specified in paragraph (c) of the Resolution, the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected by the Resolution, 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 by 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 in the Resolution or by the Resolution, 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 by the Resolution 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 secured by the 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 to enforce any right under the Resolution except in the manner in the Resolution provided, and that all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of the Outstanding Bonds. Notwithstanding any other provision of the Resolution, the Holder of any Bond 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**

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 by 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 affected Bank pro rata to reimburse such Bank for any moneys advanced under the related Letter of Credit for which such Banks have not been reimbursed, third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institute. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

Bonds for the payment or redemption of which Available Money shall have been set aside and shall be held in trust by the Trustee (through deposit of Available 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 subdivision 1 of this section. All Outstanding Bonds of any Series or any maturity within a 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 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 Available Money in an amount which shall be sufficient, or Defeasance Securities purchased with Available Money the principal of and interest on which when due will provide money which, together with the Available 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) 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 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;

(iv) the Trustee shall have received an opinion of Bond Counsel to the effect that making provision pursuant to this subsection (b) for payment of any Bond that is a Tax Exempt Bond will not cause said Bond to be considered to have been “reissued” for purposes of Section 1001 of the Code;

(v) the Trustee shall have received the consent of the Bank in the case of Letter of Credit Secured Bonds for which amounts paid under the related Letter of Credit and to be reimbursed to the Bank are due and owing to the Bank;

(vi) the Bank shall receive an opinion of counsel that the defeasance of the Bonds will not adversely impact the exclusion from gross income for federal income tax purposes of interest on the Bonds; and

(vii) the Trustee shall have received a Verification Report.

The Authority shall give written notice to the Trustee and each Rating Service of its selection of the Series and maturity the payment of which is to be made in accordance with this section. The Trustee shall select the Bonds of like Series and maturity payment of which shall be made in accordance with this section in the manner provided in the Resolution. Neither Defeasance Securities nor money deposited with the Trustee pursuant to this 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 in the Resolution 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 in the Resolution in accordance with the direction of an Authorized Officer of the Authority; second to each affected Bank pro rata to reimburse such Bank for any moneys advanced under the related Letter of Credit for which such Banks have not been reimbursed, third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institute. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

For the purpose of determining whether Variable Interest Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, in accordance with paragraph (b) of this 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 section, the Trustee shall pay the amount of such excess as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited in the Resolution in accordance with the direction of an Authorized Officer of the Authority; second, to each affected Bank pro rata to reimburse such Bank for any moneys advanced under the Letter of Credit for which such Banks have not been reimbursed; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institute. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

For the purpose of determining whether an Option Bonds shall be deemed to have been paid in accordance with paragraph (b) of this section, there shall be deposited with the Trustee Available 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 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 in the Resolution in accordance with the direction of an Authorized Officer of the Authority; second to each affected Bank pro rata to reimburse such Bank for any moneys advanced under the related Letter of Credit for which such Banks have not been reimbursed; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Institute. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

Anything in the Resolution to the contrary notwithstanding, any money held by the Trustee 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 were held by the Trustee at such date, or for one (1) year after the date of deposit of such money if deposited with the Trustee 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 to the Authority as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect to the Resolution 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 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)

**FORM OF APPROVING OPINION  
OF BOND COUNSEL**

**FORM OF APPROVING OPINION OF BOND COUNSEL**

[Date of Issuance]

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

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance of \$50,325,000 aggregate principal amount of Pratt Institute Insured Revenue Bonds, Series 2009C (the “Series 2009C 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 Title 4 of Article 8 of the Public Authorities Law of the State of New York, as amended to the date hereof, including, without limitation, by the Healthcare Financing Consolidation Act, being Title 4-B of the Public Authorities Law of the State of New York, as amended to the date hereof (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 2009C Bonds are issued under and pursuant to the Act, the Pratt Institute Revenue Bond Resolution of the Authority (the “Resolution”), the Series Resolution Authorizing Up To \$110,000,000 Pratt Institute Revenue Bonds, Series 2009C, adopted September 24, 2008 (the “Series 2009C Resolution”) and the Bond Series Certificate related to the Series 2009C Bonds (the “Bond Series Certificate”). The Resolution, the Series 2009C Resolution and the Bond Series Certificate are herein collectively called the “Resolutions.” Unless otherwise defined herein, capitalized terms used herein have the respective meanings given to them in the Resolutions.

The Series 2009C Bonds are part of an issue of bonds of the Authority (the “Bonds”) which the Authority has established and created under the terms of the Resolution and is authorized to issue from time to time for the purposes authorized by the Act and the Resolution, as then in effect, and without limitation as to amount, except as provided in the Resolutions or as may be limited by law. The Series 2009C Bonds are being issued for the purposes set forth in the Resolutions.

The Authority is authorized to issue Bonds, in addition to the Series 2009C Bonds, only upon the terms and conditions set forth in the Resolution and such Bonds, when issued, will with the Series 2009 Bonds be entitled to the benefit, protection and security of the provisions, covenants and agreements of the Resolution.

The Series 2009C Bonds are dated and bear interest from their date of delivery and mature on July 1, in each of the years in the respective principal amounts, and bear interest, payable January 1, 2010 and semiannually thereafter on each July 1 and January 1, at the respective rates per annum set forth below:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2010	\$ 890,000	2.50%	2019	\$ 1,200,000	5.00%
2011	910,000	2.50	2020	1,260,000	4.00
2012	935,000	2.50	2021	1,310,000	4.00
2013	950,000	2.75	2022	1,360,000	4.125
2014	985,000	3.00	2023	1,420,000	4.25
2015	1,010,000	3.25	2024	1,480,000	4.375
2016	1,050,000	5.00	2029	8,525,000	5.00
2017	1,100,000	4.00	2034	10,880,000	5.00
2018	1,140,000	5.00	2039	13,920,000	5.125

The Series 2009C Bonds are issuable in the form of fully registered Bonds in denominations of \$5,000 or integral multiples thereof. The Series 2009C Bonds are numbered consecutively from one upward in order of issuance.

The Series 2009C Bonds are subject to redemption and optional purchase prior to maturity as provided in the Resolutions.

The Series 2009C Bonds are being issued to finance a loan by the Authority to Pratt Institute (the "Institute"). The Authority and the Institute have entered into a Loan Agreement, dated as of August , 2009 (the "Loan Agreement"), by which the Institute is required to make payments sufficient to pay, when due, the principal and Redemption Price of and interest on the Outstanding Series 2009C Bonds, as well as a part of the Authority's annual administrative expenditures and costs. All amounts payable under the Loan Agreement which are required to be paid to the Trustee under the Resolution and the Series 2009C Resolution for payment of the principal of Redemption Price of or interest on the Series 2009C Bonds have been pledged by the Authority for the benefit of the Holders of Outstanding Series 2009C Bonds.

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 Bonds thereunder, including the Series 2009C Bonds.

2. The Series 2009C Resolutions has been duly adopted in accordance with the provisions of the Resolution and is authorized and permitted by the Resolution. The Resolutions have each been duly and lawfully adopted by the Authority, are in full force and effect and are legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms.

3. The Series 2009C 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 2009C 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 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. The Internal Revenue Code of 1986 (the "Code") sets forth certain requirements that must be met subsequent to the issuance and delivery of the Series 2009C Bonds for interest thereon to be and remain excluded from gross income for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2009C Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2009C Bonds. Pursuant to the Series 2009C Resolution, the Loan Agreement and the Tax Certificate as to Arbitrage and the Provisions of Sections 141-150 of the Internal Revenue Code (the "Tax Certificate"), the Authority and the Institute have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2009C Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Authority and the Institute have made certain representations and certifications in the Series 2009C Resolutions, the Loan Agreement and the Tax Certificate. We have not independently verified the accuracy of those certifications and representations.

Under existing law, assuming compliance with certain covenants described herein, and the accuracy of the aforementioned representations and certifications, interest on the Series 2009C Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. We are also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Interest on the Series 2009C Bonds is excluded from the adjusted current earnings of corporations for purposes of computing the alternative minimum tax imposed on corporations.

The difference between the principal amount of the Series 2009C Bonds maturing on July 1, 2020 through July 1, 2024, inclusive, and on July 1, 2034 and July 1, 2039 (collectively, the "Discount Bonds") and the initial

offering price to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of such Discount Bonds of the same maturity was sold constitutes original issue discount which is excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2009C Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such initial offering price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment.

6. Interest on the Series 2009C Bonds is exempt, by virtue of the Act, from personal income taxes of the State of New York and its political subdivisions, including The City of New York and the City of Yonkers.

The opinions contained in 2, 3 and 4 above are qualified to the extent that the enforceability of the Resolutions, the Series 2009C Bonds and the Loan Agreements may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally or as to the availability of any particular remedy.

Except as stated in 5 and 6 above, we express no opinion as to any other federal or state tax consequences of the ownership or disposition of the Series 2009C Bonds. Furthermore, we express no opinion as to any federal, state or local tax law consequences with respect to the Series 2009C Bonds, or the interest thereon, if any action is taken with respect to Series 2009C Bonds or the proceeds thereof upon the advice or approval of other counsel.

In connection with the delivery of this opinion, we are not passing upon the authorization, execution and delivery of the Loan Agreement by the Institute. We have assumed the due authorization, execution and delivery of the Loan Agreement by the Institute.

Very truly yours,

**SPECIMEN FINANCIAL GUARANTY  
INSURANCE POLICY – SERIES 2009C**



## Financial Guaranty Insurance Policy

Issuer:

Policy No.:

Obligations:

Premium:

Effective Date:

Assured Guaranty Corp., a Maryland corporation ("**Assured Guaranty**"), in consideration of the payment of the Premium and on the terms and subject to the conditions of this Policy (which includes each endorsement hereto), hereby unconditionally and irrevocably agrees to pay to the trustee (the "**Trustee**") or the paying agent (the "**Paying Agent**") for the Obligations (as set forth in the documentation providing for the issuance of and securing the Obligations) for the benefit of the Holders, that portion of the Insured Payments which shall become Due for Payment but shall be unpaid by reason of Nonpayment.

Assured Guaranty will make such Insured Payments to the Trustee or the Paying Agent on the later to occur of (i) the date applicable principal or interest becomes Due for Payment, or (ii) the Business Day next following the day on which Assured Guaranty shall have Received a completed Notice of Nonpayment. If a Notice of Nonpayment by Assured Guaranty is incomplete or does not in any instance conform to the terms and conditions of this Policy, it shall be deemed not Received, and Assured Guaranty shall promptly give notice to the Trustee or the Paying Agent. Upon receipt of such notice, the Trustee or the Paying Agent may submit an amended Notice of Nonpayment. The Trustee or the Paying Agent will disburse the Insured Payments to the Holders only upon receipt by the Trustee or the Paying Agent, in form reasonably satisfactory to it of (i) evidence of the Holder's right to receive such payments, and (ii) evidence, including without limitation any appropriate instruments of assignment, that all of the Holder's rights to payment of such principal or interest Due for Payment shall thereupon vest in Assured Guaranty. Upon and to the extent of such disbursement, Assured Guaranty shall become the Holder of the Obligations, any appurtenant coupon thereto and right to receipt of payment of principal thereof or interest thereon, and shall be fully subrogated to all of the Holder's right, title and interest thereunder, including without limitation the right to receive payments in respect of the Obligations. Payment by Assured Guaranty to the Trustee or the Paying Agent for the benefit of the Holders shall discharge the obligation of Assured Guaranty under this Policy to the extent of such payment.

This Policy is non-cancelable by Assured Guaranty for any reason. The Premium on this Policy is not refundable for any reason. This Policy does not insure against loss of any prepayment premium or other acceleration payment which at any time may become due in respect of any Obligation, other than at the sole option of Assured Guaranty, nor against any risk other than Nonpayment.

Except to the extent expressly modified by any endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "**Avoided Payment**" means any amount previously distributed to a Holder in respect of any Insured Payment by or on behalf of the Issuer, which amount has been recovered from such Holder pursuant to the United States Bankruptcy Code in accordance with a final, nonappealable order of a court having competent jurisdiction that such payment constitutes an avoidable preference with respect to such Holder. "**Business Day**" means any day other than (i) a Saturday or Sunday, (ii) any day on which the offices of the Trustee, the Paying Agent or Assured Guaranty are closed, or (iii) any day on which banking institutions are authorized or required by law, executive order or governmental decree to be closed in the City of New York or in the State of Maryland. "**Due for Payment**" means (i) when referring to the principal of an Obligation, the stated maturity date thereof, or the date on which such Obligation shall have been duly called for mandatory sinking fund redemption, and does not refer to any earlier date on which payment is due by reason of a call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity (unless Assured Guaranty in its sole discretion elects to make any principal payment, in whole or in part, on such earlier date) and (ii) when referring to interest on an Obligation, the stated date for payment of such interest. "**Holder**" means, in respect of any Obligation, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Obligation to payment of principal or interest thereunder, except that Holder shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Obligations. "**Insured Payments**" means that portion of the principal of and interest on the Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment. Insured Payments shall not include any additional amounts owing by the Issuer solely as a result of the failure by the Trustee or the Paying Agent to pay such amount when due and payable, including without limitation any such additional amounts as may be attributable to penalties or to interest accruing at a default rate, to amounts payable in respect of indemnification, or to any other additional amounts payable by the Trustee or the Paying Agent by reason of such failure. "**Nonpayment**" means, in respect of an Obligation, the failure of the Issuer to have provided sufficient funds to the Trustee or the Paying Agent for payment in full of all principal and interest Due for Payment on such Obligation. It is further understood that the term "Nonpayment" in respect of an Obligation includes any Avoided Payment. "**Receipt**" or "**Received**" means actual receipt or notice of or, if notice is given by overnight or other delivery service, or by certified or registered United States mail, by a delivery receipt



signed by a person authorized to accept delivery on behalf of the person to whom the notice was given. Notices to Assured Guaranty may be mailed by registered mail or personally delivered or telecopied to it at 1325 Avenue of the Americas, New York, New York 10019, Telephone Number: (212) 974-0100, Facsimile Number: (212) 581-3268, Attention: Risk Management Department - Public Finance Surveillance, with a copy to the General Counsel, or to such other address as shall be specified by Assured Guaranty to the Trustee or the Paying Agent in writing. A Notice of Nonpayment will be deemed to be Received by Assured Guaranty on a given Business Day if it is Received prior to 12:00 noon (New York City time) on such Business Day; otherwise it will be deemed Received on the next Business Day. "Term" means the period from and including the Effective Date until the earlier of (i) the maturity date for the Obligations, or (ii) the date on which the Issuer has made all payments required to be made on the Obligations.

At any time during the Term of this Policy, Assured Guaranty may appoint a fiscal agent (the "Fiscal Agent") for purposes of this Policy by written notice to the Trustee or the Paying Agent, specifying the name and notice address of such Fiscal Agent. From and after the date of Receipt of such notice by the Trustee or the Paying Agent, copies of all notices and documents required to be delivered to Assured Guaranty pursuant to this Policy shall be delivered simultaneously to the Fiscal Agent and to Assured Guaranty. All payments required to be made by Assured Guaranty under this Policy may be made directly by Assured Guaranty or by the Fiscal Agent on behalf of Assured Guaranty. The Fiscal Agent is the agent of Assured Guaranty only, and the Fiscal Agent shall in no event be liable to the Trustee or the Paying Agent for any acts of the Fiscal Agent or any failure of Assured Guaranty to deposit, or cause to be deposited, sufficient funds to make payments due under this Policy.

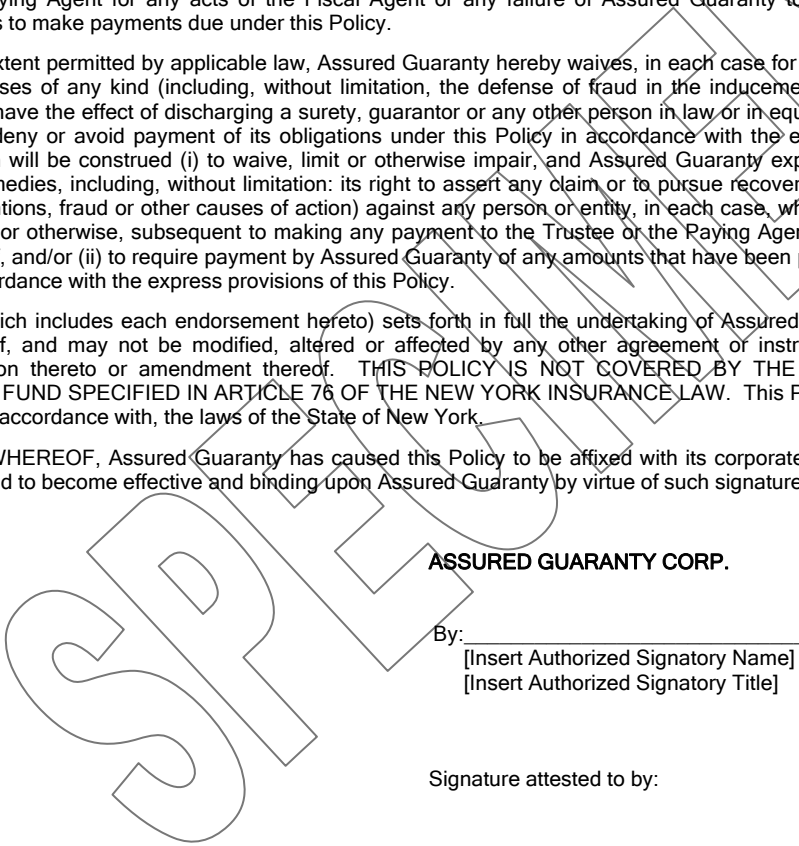
To the fullest extent permitted by applicable law, Assured Guaranty hereby waives, in each case for the benefit of the Holders only, all rights and defenses of any kind (including, without limitation, the defense of fraud in the inducement or in fact or any other circumstance that would have the effect of discharging a surety, guarantor or any other person in law or in equity) that may be available to Assured Guaranty to deny or avoid payment of its obligations under this Policy in accordance with the express provisions hereof. Nothing in this paragraph will be construed (i) to waive, limit or otherwise impair, and Assured Guaranty expressly reserves, Assured Guaranty's rights and remedies, including, without limitation: its right to assert any claim or to pursue recoveries (based on contractual rights, securities law violations, fraud or other causes of action) against any person or entity, in each case, whether directly or acquired as a subrogee, assignee or otherwise, subsequent to making any payment to the Trustee or the Paying Agent, in accordance with the express provisions hereof, and/or (ii) to require payment by Assured Guaranty of any amounts that have been previously paid or that are not otherwise due in accordance with the express provisions of this Policy.

This Policy (which includes each endorsement hereto) sets forth in full the undertaking of Assured Guaranty with respect to the subject matter hereof, and may not be modified, altered or affected by any other agreement or instrument, including, without limitation, any modification thereto or amendment thereof. THIS POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW. This Policy will be governed by, and shall be construed in accordance with, the laws of the State of New York.

IN WITNESS WHEREOF, Assured Guaranty has caused this Policy to be affixed with its corporate seal, to be signed by its duly authorized officer, and to become effective and binding upon Assured Guaranty by virtue of such signature.

**ASSURED GUARANTY CORP.**

(SEAL)



By: \_\_\_\_\_  
[Insert Authorized Signatory Name]  
[Insert Authorized Signatory Title]

Signature attested to by:

\_\_\_\_\_  
Counsel