


**\$63,930,000**
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
ST. JOHN'S UNIVERSITY REVENUE BONDS**
**\$57,935,000 St. John's University  
Revenue Bonds, Series 2013A**
**\$5,995,000 St. John's University  
Revenue Bonds, Series 2013B  
(Federally Taxable)**
**Dated: Date of Delivery****Due: July 1, as shown on the inside cover**

**Payment and Security:** The St. John's University Revenue Bonds, Series 2013A (the "Series 2013A Bonds") and the St. John's University Revenue Bonds, Series 2013B (Federally Taxable) (the "Series 2013B Bonds," and together with the Series 2013A Bonds, the "Series 2013 Bonds") are special obligations of the Dormitory Authority of the State of New York ("DASNY") 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 September 11, 2013, between St. John's University, New York (the "University") and DASNY, and (ii) all funds and accounts, except the Arbitrage Rebate Fund, established in connection with the Series 2013 Bonds. The Series 2013 Bonds are to be issued under DASNY's St. John's University Revenue Bond Resolution, adopted June 20, 2012 (the "Resolution"), the Series Resolution authorizing the Series 2013A Bonds, adopted September 11, 2013 (the "Series 2013A Resolution"), the Series Resolution authorizing the Series 2013B Bonds, adopted September 11, 2013 (the "Series 2013B Resolution" and, together with the Series 2013A Resolution, the "Series Resolutions"), the Bond Series Certificate, dated as of October 31, 2013, relating to the Series 2013A Bonds (the "Series 2013A Bond Series Certificate") and the Bond Series Certificate, dated as of October 31, 2013, relating to the Series 2013B Bonds (the "Series 2013B Bond Series Certificate" and, together with the Series 2013A Bond Series Certificate, the "Bond Series Certificates"). The Resolution, the Series Resolution and the Bond Series Certificate are collectively referred to herein as the "Resolutions."

The Loan Agreement is a general obligation of the University and requires the University to pay, in addition to the fees and expenses of DASNY and the Bank of New York Mellon, as trustee (the "Trustee"), amounts sufficient to pay, when due, the principal and Redemption Price of and interest on the Series 2013 Bonds. The obligations of the University to make such payments under the Loan Agreement will be secured by a pledge of tuition and fees charged to students for academic instruction and a mortgage on certain properties of the University. See "PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS."

**The Series 2013 Bonds will not be a debt of the State of New York (the "State") and the State will not be liable on the Series 2013 Bonds. DASNY has no taxing power.**

**Description:** The Series 2013 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. The Series 2013 Bonds will bear interest at the rates and pay interest and mature at the times shown on the inside cover hereof.

Interest (due January 1, 2014 and each July 1 and January 1 thereafter) will be payable by check or draft mailed to the registered owners of the Series 2013 Bonds at their addresses as shown on the registration books held by the Trustee or, at the option of a holder of at least \$1,000,000 in principal amount of Series 2013 Bonds, by wire transfer to the holder of such Series 2013 Bonds, each as of the close of business on the fifteenth day of the month next preceding an interest payment date. The principal or Redemption Price of the Series 2013 Bonds will be payable at the principal corporate trust office of the Trustee and Paying Agent or, with respect to Redemption Price, at the option of a holder of at least \$1,000,000 in principal amount of Series 2013 Bonds, by wire transfer to the holder of such Series 2013 Bonds as more fully described herein.

The Series 2013 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 2013 Bonds will be made in Book-Entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2013 Bonds, payments of the principal, Redemption Price and Purchase Price of and interest on such Series 2013 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 2013 BONDS - Book-Entry Only System" herein.

**Redemption or Purchase:** *The Series 2013 Bonds are subject to redemption or purchase in lieu of optional redemption prior to maturity as more fully described herein.*

**Tax Matters:** In the opinion of Nixon Peabody LLP, Co-Bond Counsel, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by DASNY and the University described herein, interest on the Series 2013A Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Nixon Peabody LLP is also of the opinion that interest on the Series 2013A Bonds 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 2013B Bonds is included in gross income for federal income tax purposes pursuant to the Code. Co-Bond Counsels are further of the opinion that under existing statutes, interest on the Series 2013 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). See "PART 12 - TAX MATTERS" herein regarding certain other tax considerations.

*The Series 2013 Bonds are offered when, as, and if issued and received by the Underwriter. The offer of the Series 2013 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 Nixon Peabody LLP, New York, New York, and Drohan Lee LLP, Co-Bond Counsels, and to certain other conditions. Certain legal matters will be passed upon for the University by its counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York and Wilkie Farr & Gallagher LLP, New York, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Winston & Strawn LLP, New York, New York. DASNY expects to deliver the Series 2013 Bonds in definitive form in New York, New York, on or about November 20, 2013.*

**Morgan Stanley**

**\$57,935,000**  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**ST. JOHN'S UNIVERSITY**  
**REVENUE BONDS, SERIES 2013A**

**\$57,935,000 5.00% Term Bonds Due July 1, 2044 Yield 4.980%\* CUSIP<sup>†</sup> Number: 649907XK3**

**\$5,995,000**  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**ST. JOHN'S UNIVERSITY**  
**REVENUE BONDS, SERIES 2013B**  
**(FEDERALLY TAXABLE)**

**\$2,800,000 4.282% Term Bonds Due July 1, 2023 Price 100% CUSIP<sup>†</sup> Number: 649907XM9**

**\$3,195,000 4.982% Term Bonds Due July 1, 2029 Price 100% CUSIP<sup>†</sup> Number: 649907XL1**

---

\* Yield to first optional call date of July 1, 2023 at 100%.

<sup>†</sup> CUSIP data herein are provided by Standard & Poor's, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. The CUSIP numbers listed above are being provided solely for the convenience of owners of the Series 2013 Bonds only at the time of issuance of the Series 2013 Bonds and DASNY does not make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2013 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity.

*No dealer, broker, salesperson or other person has been authorized by DASNY, the University or the Underwriter to give any information or to make any representations with respect to the Series 2013 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 DASNY, the University or the Underwriter.*

*This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor will there be a sale of the Series 2013 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 University and other sources that DASNY believes are reliable. Neither DASNY nor the Underwriter guarantees the accuracy or completeness of such information, and such information is not to be construed as a representation of DASNY or the Underwriter.*

*The University has reviewed the parts of this Official Statement describing the University, Bondholders' Risks, the principal and interest requirements, the Project, the estimated sources and uses of funds and Appendix B. As a condition to delivery of the Series 2013 Bonds, the University will certify that as of the date of this Official Statement and of delivery of the Series 2013 Bonds, 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 University makes no representation as to the accuracy or completeness of any other information included in this Official Statement.*

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

*References in this Official Statement to the Act, the Resolution, the Series Resolutions, the Bond Series Certificates and the Loan Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series Resolutions, the Bond Series Certificates and the Loan Agreement for full and complete details of their provisions. Copies of the Resolution, the Series Resolutions, the Bond Series Certificates and the Loan Agreement are on file with DASNY and the Trustee.*

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

*Under no circumstances will the delivery of this Official Statement or any sale made after its delivery create any implication that the affairs of DASNY or the University have remained unchanged after the date of this Official Statement.*

*IN CONNECTION WITH THE OFFERING OF THE SERIES 2013 BONDS, THE UNDERWRITER OF THE SERIES 2013 BONDS MAY OVER ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICES OF THE SERIES 2013 BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.*

## TABLE OF CONTENTS

|  | Page |   | Page |
|--|------|---|------|
| PART 1 - INTRODUCTION.....                   | 1    | General.....                                      | 28   |
| Purpose of the Official Statement.....       | 1    | Financial Assistance.....                         | 29   |
| Purpose of the Issue.....                    | 1    | Investment Income.....                            | 29   |
| Authorization of Issuance.....               | 1    | Fund Raising.....                                 | 29   |
| DASNY.....                                   | 2    | Government Funding.....                           | 29   |
| The University.....                          | 2    | Risks as Employer.....                            | 29   |
| The Series 2013 Bonds.....                   | 2    | Changes in Law.....                               | 29   |
| Payment of the Series 2013 Bonds.....        | 2    | Tax-Exempt Status Change.....                     | 30   |
| Security for the Series 2013 Bonds.....      | 2    | Change in Tax Status of University LLC.....       | 30   |
| Covenants.....                               | 3    | Additional Bonds.....                             | 30   |
| PART 2 - SOURCE OF PAYMENT AND SECURITY      |      | Additional Indebtedness.....                      | 30   |
| FOR THE SERIES 2013 BONDS.....               | 3    | Certain Matters Relating to Enforceability of the |      |
| Payment of the Series 2013 Bonds.....        | 3    | Resolution and Loan Agreement.....                | 30   |
| Security for the Series 2013 Bonds.....      | 4    | Secondary Market for the Series 2013 Bonds.....   | 31   |
| Covenants.....                               | 5    | PART 8 - ESTIMATED SOURCES AND USES OF            |      |
| Events of Default and Acceleration.....      | 6    | FUNDS.....  | 31   |
| Issuance of Additional Bonds.....            | 7    | PART 9 - DASNY.....                               | 31   |
| General.....                                 | 7    | Background, Purposes and Powers.....              | 31   |
| PART 3 - THE SERIES 2013 BONDS.....          | 7    | Governance.....                                   | 32   |
| Description of the Series 2013 Bonds.....    | 7    | Claims and Litigation.....                        | 36   |
| Redemption Provisions.....                   | 8    | Other Matters.....                                | 36   |
| Purchase in Lieu of Optional Redemption..... | 11   | PART 10 - LEGALITY OF THE SERIES 2013 BONDS       |      |
| Book-Entry Only System.....                  | 12   | FOR INVESTMENT AND DEPOSIT.....                   | 37   |
| PART 4 - THE UNIVERSITY.....                 | 14   | PART 11 - NEGOTIABLE INSTRUMENTS.....             | 37   |
| History of the University.....               | 14   | PART 12 - TAX MATTERS.....                        | 37   |
| The University Today.....                    | 15   | Federal Income Taxes - Series 2013A Bonds.....    | 37   |
| Accreditations.....                          | 16   | Federal Income Taxes - Series 2013B Bonds.....    | 38   |
| Strategic Plan.....                          | 16   | State Taxes – Series 2013 Bonds.....              | 41   |
| Governance.....                              | 17   | PART 13 - STATE NOT LIABLE ON THE SERIES 2013     |      |
| Administration.....                          | 19   | BONDS.....  | 42   |
| Student Admissions.....                      | 19   | PART 14 - COVENANT BY THE STATE.....              | 42   |
| Student Enrollment.....                      | 19   | PART 15 - LEGAL MATTERS.....                      | 42   |
| Tuition and Fees.....                        | 20   | PART 16 - UNDERWRITING.....                       | 42   |
| Student Financial Aid.....                   | 20   | PART 17 - CONTINUING DISCLOSURE.....              | 43   |
| Faculty.....                                 | 21   | PART 18 - RATINGS.....                            | 44   |
| Employee Relations.....                      | 21   | PART 19 - MISCELLANEOUS.....                      | 45   |
| Summary of Statements of Activities.....     | 22   | APPENDIX A - CERTAIN DEFINITIONS.....             | A-1  |
| Fund Raising.....                            | 23   | APPENDIX B - CONSOLIDATED FINANCIAL               |      |
| Investments.....                             | 24   | STATEMENTS OF ST. JOHN'S UNIVERSITY WITH          |      |
| Plant Facilities.....                        | 24   | INDEPENDENT AUDITORS' REPORT THEREON.....         | B-1  |
| Outstanding Indebtedness.....                | 25   | APPENDIX C - SUMMARY OF CERTAIN                   |      |
| Pension Plans and Other Benefits.....        | 26   | PROVISIONS OF THE LOAN AGREEMENT.....             | C-1  |
| Litigation and Other Matters.....            | 26   | APPENDIX D - SUMMARY OF CERTAIN                   |      |
| PART 5 - PRINCIPAL AND INTEREST              |      | PROVISIONS OF THE RESOLUTION.....                 | D-1  |
| REQUIREMENTS.....                            | 27   | APPENDIX E - FORM OF APPROVING OPINIONS OF        |      |
| PART 6 - THE PROJECT.....                    | 28   | CO-BOND COUNSELS.....                             | E-1  |
| PART 7 - BONDHOLDERS' RISKS.....             | 28   |   |      |



**DORMITORY AUTHORITY - STATE OF NEW YORK**  
**PAUL T. WILLIAMS, JR. – PRESIDENT**

**515 BROADWAY, ALBANY, NY 12207**  
**ALFONSO L. CARNEY, JR. – CHAIR**

**OFFICIAL STATEMENT RELATING TO**

**\$63,930,000**

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**ST. JOHN’S UNIVERSITY REVENUE BONDS**

**\$57,935,000 St. John’s University**  
**Revenue Bonds, Series 2013A**

**\$5,995,000 St. John’s University**  
**Revenue Bonds, Series 2013B**  
**(Federally Taxable)**

**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 Dormitory Authority of the State of New York (“DASNY”) and St. John’s University, New York (the “University”) in connection with the offering by DASNY of \$57,935,000 principal amount of its St. John’s University Revenue Bonds, Series 2013A (the “Series 2013A Bonds”) and \$5,995,000 principal amount of its St. John’s University Revenue Bonds, Series 2013B (Federally Taxable) (the “Series 2013B Bonds” and together with the Series 2013A Bonds, the “Series 2013 Bonds”).

The following is a brief description of certain information concerning the Series 2013 Bonds, DASNY and the University. A more complete description of such information and additional information that may affect decisions to invest in the Series 2013 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 2013 Bonds are being issued for the purpose of providing funds which, together with other available money, will be used (i) to pay the Costs of the Project consisting of the purchase of an approximately 113,000 square foot student residence building leased by the University, and (ii) to pay the Costs of Issuance incidental to the issuance of the Series 2013 Bonds. See “PART 6 – THE PROJECT” and “PART 8 – ESTIMATED SOURCES AND USES OF FUNDS.”

**Authorization of Issuance**

The Series 2013 Bonds are to be issued under DASNY’s St. John’s University Revenue Bond Resolution, adopted June 20, 2012 (the “Resolution”), the Series Resolution authorizing the Series 2013A Bonds, adopted September 11, 2013 (the “Series 2013A Resolution”), the Series Resolution authorizing the Series 2013B Bonds, adopted September 11, 2013 (the “Series 2013B Resolution” and, together with the Series 2013A Resolution, the “Series Resolutions”), the Bond Series Certificate, dated as of October 31, 2013, relating to the Series 2013A Bonds (the “Series 2013A Bond Series Certificate”) and the Bond Series Certificate, dated as of October 31, 2013, relating to the Series 2013B Bonds (the “Series 2013B Bond Series Certificate” and, together with the Series 2013A Bond Series Certificate, the “Bond Series Certificates”). The Resolution, the Series Resolutions and the Bond Series Certificates are collectively referred to herein as the “Resolutions.” In addition to the Series 2013 Bonds, the Resolution authorizes the issuance of other Series of Bonds (collectively, the “Bonds”) to pay Costs of one or more Projects, to pay the Costs of Issuance of such Series of Bonds, to refund all or a portion of Outstanding Bonds or other notes or bonds of DASNY that were issued on behalf of the University and to refinance other indebtedness of

the University. Each Series of Bonds will be separately secured from each other Series of Bonds, except that each Series of Series 2013 Bonds are secured on a parity with each other by a pledge of (i) certain payments to be made under the Loan Agreement (the "Loan Agreement"), dated as of September 11, 2013, between the University and DASNY, and (ii) all funds and accounts, except the Arbitrage Rebate Fund, established in connection with the Series 2013 Bonds. There is no limit on the amount of additional Bonds that may be issued under the Resolution, which Bonds may be issued at any time after the scheduled delivery date of the Series 2013 Bonds. See "PART 3 - THE SERIES 2013 BONDS."

## **DASNY**

DASNY is a public benefit corporation of the State, created for the purpose of financing and constructing a variety of public-purpose facilities for certain educational, healthcare, governmental and not-for-profit institutions. See "PART 9 - DASNY."

## **The University**

The University is an independent, coeducational, not-for-profit institution of higher education chartered by the Board of Regents of the State. The University has campuses in Queens, Manhattan, Staten Island and Oakdale, New York as well as Rome, Italy. See "PART 4 - THE UNIVERSITY" and "APPENDIX B - CONSOLIDATED FINANCIAL STATEMENTS OF ST. JOHN'S UNIVERSITY WITH INDEPENDENT AUDITORS' REPORT THEREON."

## **The Series 2013 Bonds**

The Series 2013 Bonds are dated their date of delivery and bear interest from such date (payable January 1, 2014 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. See "PART 3 - THE SERIES 2013 BONDS - Description of the Series 2013 Bonds."

## **Payment of the Series 2013 Bonds**

The Series 2013 Bonds are special obligations of DASNY payable solely from the Revenues, which consist of certain payments to be made by the University under the Loan Agreement, which payments are pledged and assigned to the Trustee. See "PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Payment of the Series 2013 Bonds."

**The Series 2013 Bonds will not be a debt of the State nor will the State be liable on them. DASNY has no taxing power. Neither the State nor DASNY has any responsibility to make payments with respect to the Series 2013 Bonds except for DASNY's responsibility to make payments from money received from the University pursuant to the Loan Agreement and from amounts held in the funds and accounts established by the Series Resolutions and pledged to the payment of or to secure payment of the Series 2013 Bonds.**

## **Security for the Series 2013 Bonds**

The Series 2013 Bonds are secured by the pledge of the Revenues, the proceeds of such Series 2013 Bonds until disbursed in accordance with the Resolution and all funds and accounts established by the Resolution and the Series Resolutions in connection with the Series 2013 Bonds, other than the Arbitrage Rebate Fund.

The Loan Agreement is a general obligation of the University. As security for its obligations under the Loan Agreement, the University will grant to DASNY a security interest in the tuition and fees charged to students for academic instruction (the "Pledged Revenues"). DASNY has pledged and assigned to the Trustee for the benefit of the Bondholders its security interest in the Pledged Revenues. The Loan Agreement permits the University, with the consent of DASNY, to incur certain additional Indebtedness secured by a pledge of, or security interest in, the Pledged Revenues that is of equal priority with the pledge securing its obligations under the Loan Agreement. See "PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Security for the Series 2013 Bonds" and "- Issuance of Additional Bonds," "PART 4 - THE UNIVERSITY - Outstanding Indebtedness" and "APPENDIX C - SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT."

The University's obligations to DASNY under the Loan Agreement will be further secured by a mortgage (the "2013 Mortgage") on certain property of the University (the "Mortgaged Property") and by security interests in certain fixtures, furnishings and equipment now or hereafter located in or used in connection with the Mortgaged Property. DASNY will assign the 2013 Mortgage and such security interests to the Trustee at the time the Series 2013 Bonds are issued. As a consequence of such assignment, the 2013 Mortgage, the security interests in such

fixtures, furnishings and equipment and any proceeds therefrom will secure the Series 2013 Bonds. See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Security for the Series 2013 Bonds - *The Mortgage*.”

At the time of issuance of the Series 2013 Bonds, DASNY and the Trustee will enter into an agreement with the creditors and contingent creditors of the University who are secured by mortgages on the Mortgaged Property and security interests in the Pledged Revenues relating to loans made by DASNY to the University from the proceeds of bonds previously issued by DASNY. Pursuant to such agreement, the parties to it will agree that the liens on the Mortgaged Property and the Pledged Revenues securing the University’s obligations to each of them will be on a parity with each other and that, upon any foreclosure or other realization upon such liens, each of them will be entitled to a *pro rata* share of the proceeds of the foreclosure or other realization. See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Security for the Series 2013 Bonds - *The Intercreditor Agreement*.”

### **Covenants**

The University covenants in the Loan Agreement that, so long as the Series 2013 Bonds remain Outstanding, it will demonstrate at the end of each Fiscal Year that (i) the Debt Service Coverage Ratio for such Fiscal Year then ended was at least equal to 1.1:1.0 and (ii) commencing with the University’s Fiscal Year ending May 31, 2014 through its Fiscal Year ending May 31, 2015, Available Assets as of the end of such Fiscal Year are at least equal to 35% of outstanding Long-Term Indebtedness and for each subsequent Fiscal Year, 40% of outstanding Long-Term Indebtedness. The University is required to demonstrate compliance with such covenants by filing annual certificates with DASNY. Failure by the University to comply with the foregoing covenants will not constitute an event of default under the Loan Agreement or the Resolution; rather, DASNY may require that the University engage a Management Consultant. See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Covenants - *Maintenance Covenants*” and “APPENDIX C - SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT.”

The University also covenants in the Loan Agreement that, except to the extent permitted by the Loan Agreement, it will not issue, incur, assume or guarantee any Indebtedness without the prior written consent of DASNY. For a summary of the circumstances in which the University may incur such Indebtedness, see “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Covenants - *Additional Indebtedness*.”

## **PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS**

*Set forth below is a narrative description of certain contractual provisions relating to the source of payment of and security for the Series 2013 Bonds. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Act, the Loan Agreement, the Resolution, the Series Resolutions and the Bond Series Certificates. Copies of the Loan Agreement, the Resolution, the Series Resolutions and the Bond Series Certificates are on file with DASNY 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 statement of the rights, duties and obligations of the parties thereto.*

### **Payment of the Series 2013 Bonds**

The Series 2013 Bonds will be special obligations of DASNY. The principal, Sinking Fund Installments, if any, Purchase Price and Redemption Price of and interest on the Series 2013 Bonds are payable solely from the Revenues, which consist of payments to be made by the University pursuant to the Loan Agreement on account of the principal, Sinking Fund Installments, if any, Purchase Price and Redemption Price of and interest on the Series 2013 Bonds. The Revenues and the right to receive them have been pledged to the Trustee for the benefit of the Holders of the Series 2013 Bonds.

The Loan Agreement obligates the University to make payments to satisfy the principal, Purchase Price and Redemption Price of and interest on the Outstanding Series 2013 Bonds. Payments made by the University in respect of interest on the Series 2013 Bonds are to be made on the 10th day of each June and December immediately preceding the January 1 and July 1 on which interest is payable, in each case in an amount equal to the interest coming due on such January 1 and July 1. Payments by the University in respect of principal of the Series 2013 Bonds, whether at maturity or through mandatory Sinking Fund Installments, are to be made on the 10th day of each

June immediately preceding the July 1 on which such principal becomes due. The Loan Agreement also obligates the University to pay, at least 15 days prior to a redemption date or Purchase Date of the Series 2013 Bonds called for redemption or contracted to be purchased, the amount, if any, required to pay the Purchase Price or Redemption Price of such Series 2013 Bonds. See “PART 3 - THE SERIES 2013 BONDS - Redemption” and “- Purchase in Lieu of Optional Redemption.”

DASNY has directed, and the University 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 and Redemption Price of and interest on the Series 2013 Bonds.

### **Security for the Series 2013 Bonds**

The Series 2013 Bonds are secured by the pledge of the Revenues, the proceeds of the Series 2013 Bonds until disbursed in accordance with the Resolution and, except as otherwise provided in the Resolution, all funds and accounts established by the Series Resolutions, other than the Arbitrage Rebate Fund. Each Series of Bonds will be separately secured from each other Series of Bonds, except that each Series of Series 2013 Bonds are secured on a parity with each other by a pledge of (i) certain payments to be made under the Loan Agreement and (ii) all funds and accounts, except the Arbitrage Rebate Fund, established in connection with the Series 2013 Bonds.

**The Series 2013 Bonds will not be a debt of the State nor will the State be liable on them. DASNY has no taxing power. Neither the State nor DASNY has any responsibility to make payments with respect to the Series 2013 Bonds except for DASNY’s responsibility to make payments from money received from the University pursuant to the Loan Agreement, from money realized upon a foreclosure of or other realization on the 2013 Mortgage or any security interest in the personal property securing the Loan Agreement, and from amounts held in the funds and accounts established by the Series Resolutions and pledged therefor.**

The Loan Agreement and the obligation of the University to make payments under the Loan Agreement are general obligations of the University. The obligations of the University to make payments or cause the same to be made under the Loan Agreement are absolute and unconditional and the amount, manner and time of making such payments are not to 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 University may otherwise have against DASNY, the Trustee or any Bondholder for any cause whatsoever.

#### ***The Pledged Revenues***

As security for its obligations under the Loan Agreement, the University will grant to DASNY a security interest in the Pledged Revenues which, pursuant to the Series Resolutions DASNY has pledged and assigned to the Trustee for the benefit of the Holders of the Series 2013 Bonds. The Pledged Revenues are subject to liens securing prior loans (the “Prior Loans”) made by DASNY to the University from the proceeds of bonds previously issued by DASNY (the “Prior Bonds”). As discussed below, the mortgages and Pledged Revenues securing the Prior Loans are subject to an Amended and Restated Intercreditor Agreement (the “Intercreditor Agreement”), among DASNY and the respective trustees, insurers that have issued financial guaranty insurance policies in connection with certain of the Prior Bonds, and banks that have issued direct pay letters of credit in connection with certain other Prior Bonds (the “Creditors”), each as creditors or contingent creditors of the University as a consequence of the Prior Loans.

#### ***The Mortgage***

The University’s obligations to DASNY under the Loan Agreement will be further secured by the 2013 Mortgage on the Mortgaged Property and by security interests in certain fixtures, furnishings and equipment now or hereafter located in or used in connection with the Mortgaged Property. DASNY will assign the 2013 Mortgage and such security interests to the Trustee at the time the Series 2013 Bonds are issued. As a consequence of such assignment, the 2013 Mortgage, the security interests in such fixtures, furnishings and equipment and any proceeds therefrom will secure the Series 2013 Bonds. See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Security for the Series 2013 Bonds - *The Mortgage*.”

#### ***The Intercreditor Agreement***

The Mortgaged Property and the Pledged Revenues are subject to liens securing Prior Loans made by DASNY to the University from the proceeds of Prior Bonds. Pursuant to the Intercreditor Agreement, the Creditors have agreed with each other as to the relative priority of the liens on the Mortgaged Property and Pledged Revenues



securing the Prior Loans and as to the their respective rights of payment out of any foreclosure of or other realization upon the liens on the Mortgaged Property or the Pledged Revenues.

In connection with issuance of the Series 2013 Bonds, the Intercreditor Agreement will by further amended and restated by the parties to it, which will include DASNY, as lender of the proceeds of the Series 2013 to the University and the Trustee (collectively, the "2013 Creditors"). Pursuant to the Intercreditor Agreement, the liens on the Mortgaged Property and the Pledged Revenues securing the Prior Loans and the loan made from the proceeds of the Series 2013 Bonds will be of equal priority with each other, and each of the Creditors, including the 2013 Creditors, upon any foreclosure of or other realization upon the liens on the Mortgaged Property or the Pledged Revenues, will, after certain expenses incurred in connection with enforcement of the mortgages and security interests and collection of the proceeds thereof have been paid, be entitled to share *pro rata* in such proceeds, based upon the then outstanding and unpaid principal amount of indebtedness of the University due and owing by the University to each of the Creditors, including the 2013 Creditors.

Upon issuance of the Series 2013 Bonds, the principal amount of loans secured by liens on the Mortgaged Property and the Pledged Revenues will be approximately \$507 million. The Mortgaged Property, as of its most recent date of its valuation, is valued at approximately \$243.6 million. The Pledged Revenues, which consists of the tuition and fees charged to students for academic instruction, have during the past five fiscal years of the University ranged from a low of approximately \$315.7 million in 2009 to a high of approximately \$352.6 million in 2013. See "PART 4 - THE UNIVERSITY - Tuition and Fees."

## **Covenants**

The Loan Agreement contains certain covenants of the University wherein the University agrees to the following:

### ***Maintenance Covenants***

The University covenants to charge and maintain during each Fiscal Year, student tuition, fees and other charges sufficient to provide a Debt Service Coverage Ratio of 1.1:1.0. On or prior to each Reporting Date, the University is to file with DASNY a certificate of an Authorized Officer of the University stating whether at the immediately preceding Testing Date the Debt Service Coverage Ratio requirement is satisfied and setting forth the calculation upon which such statement is based. Failure to comply with such covenant will not constitute an event of default under the Loan Agreement. However, if on two consecutive Testing Dates the University does not satisfy the Debt Service Coverage Ratio requirement, or in the event the Debt Service Coverage Ratio falls below 1:1 on any Testing Date, DASNY may require the University to retain a Management Consultant. As of May 31, 2013, the University's Debt Service Coverage Ratio was reported at 1.77:1.0.

Commencing with the University's Fiscal Year ending May 31, 2014 and continuing through its Fiscal Year ending May 31, 2015, the University covenants that Available Assets as of the end of such Fiscal Year will be at least equal to 35% of outstanding Long-Term Indebtedness and at least equal to 40% for its Fiscal Year ending May 31, 2016 and thereafter. On or prior to each Reporting Date, the University is to file with DASNY a certificate of an Authorized Officer of the University stating whether at the immediately preceding Testing Date the Available Assets to Debt Ratio requirement is satisfied and setting forth the calculation upon which such statement is based. Failure to comply with such covenant will not constitute an event of default under the Loan Agreement. Rather, if on any Testing Date (i) the University does not satisfy the Available Assets requirement or (ii) the percentage decline in the Available Assets from the Fiscal Year two years prior to the current Fiscal Year to the current Fiscal Year is 50% or greater, DASNY may require the University to retain a Management Consultant. Failure to maintain the required Available Assets to Debt Ratio, however, shall not be an Event of Default under the Loan Agreement. As of May 31, 2013, the University's Available Assets to Debt Ratio was reported at 67%.

### ***Additional Indebtedness***

Except as otherwise described below, the University covenants that it will not issue, incur, assume or guarantee any Indebtedness without the prior written consent of DASNY.

The University may issue, incur, assume or guarantee Indebtedness without the consent of DASNY provided that (i) it maintains a debt rating in the “BBB/Baa” category without regard for “+” or “-” or numerical notation from at least one Rating Service and (ii) (a) such Long-Term Indebtedness issued, incurred, assumed or guaranteed in any Fiscal Year is in an amount not more than 10% of the amount of its unrestricted and temporarily restricted net assets as reported for the most recently concluded Fiscal Year for which audited financial statements are available or (b) the University provides to DASNY a certificate of an Authorized Officer of the University containing pro forma calculations demonstrating that the maintenance covenants described above would be met for the most recently concluded Fiscal Year for which audited financial statements are available, taking into account the additional Long-Term Indebtedness proposed to be issued, incurred, assumed or guaranteed (provided that, for purposes of calculating the Debt Service Coverage Ratio for such pro forma calculations, Annual Debt Service is to be equal to the projected Maximum Annual Debt Service).

Notwithstanding the foregoing, the University may issue, incur, assume or guaranty (i) Non-Recourse Indebtedness without limitation provided that any assets pledged as collateral or for the repayment of such Indebtedness must have been acquired by the University after the issuance of the Series 2013 Bonds, (ii) Refunding Indebtedness without limitation so long as the Annual Debt Service on Long Term Indebtedness would not be increased in any future Fiscal Year and (iii) Short-Term Indebtedness without limitation if during any 12-month period there will be no outstanding Short-Term Indebtedness for a period of not less than 30 days.

DASNY has reserved the right to amend in any respect the covenants described above without the consent of the Trustee or the holders of Outstanding Bonds.

For a more complete description of the financial covenants of the University contained in the Loan Agreement, see “APPENDIX C - SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT.”

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

The following are events of default under the Resolution with respect to the Series 2013 Bonds: (i) a default by DASNY in the payment of the principal, Sinking Fund Installment or Redemption Price of any Bond; (ii) a default by DASNY in the payment of interest on any Series 2013 Bond; (iii) a default by DASNY in the due and punctual performance of any covenant or agreement contained in the Resolution to comply with the provisions of the Code necessary to maintain the exclusion of interest on Series 2013A Bonds from gross income for purposes of federal income taxation; (iv) a default by DASNY in the due and punctual performance of any covenants, conditions, agreements or provisions contained in the Series 2013 Bonds or in the Resolution or the Series Resolutions which continues for 30 days after written notice thereof is given to DASNY 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 DASNY fails to commence within 30 days and diligently prosecute the cure thereof; or (v) DASNY has 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 University under the Loan Agreement have been declared immediately due and payable (unless such declaration has been annulled). Unless all sums payable by the University 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 2013 Bonds, must declare the principal of and interest on all the Outstanding Series 2013 Bonds to be due and payable. At any time after the principal of the Series 2013 Bonds have been 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 with the written consent of the Holders of not less than 25% in principal amount of Series 2013 Bonds not yet due by their terms and then Outstanding, by written notice to DASNY, is to 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 University within five days, and to the Holders of the Series 2013 Bonds 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. However, 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 2013 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 2013 Bonds.

### **Issuance of Additional Bonds**

In addition to the Series 2013 Bonds, the Resolution authorizes the issuance of other Series of Bonds to finance one or more projects and for other specified purposes, including to refund Outstanding Bonds or other notes or bonds of DASNY or other indebtedness of the University. Each Series of Bonds will be separately secured from each other Series of Bonds. Subject to compliance with the conditions to the University's right to incur additional debt, there is no limit on the amount of additional Bonds that may be issued under the Resolution, which Bonds may be issued at any time prior to or after the scheduled delivery date of the Series 2013 Bonds. See "PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Covenants."

### **General**

The Series 2013 Bonds will not be a debt of the State and the State will not be liable on the Series 2013 Bonds. DASNY has no taxing power. DASNY has never defaulted in the timely payment of principal of or interest on its bonds or notes. See "PART 9 - DASNY."

## **PART 3 - THE SERIES 2013 BONDS**

*Set forth below is a narrative description of certain provisions relating to the Series 2013 Bonds. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Resolution, the Series Resolutions, the Bond Series Certificates and the Loan Agreement, copies of which are on file with DASNY 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 2013 Bonds.*

### **Description of the Series 2013 Bonds**

The Series 2013 Bonds will be issued pursuant to the Resolution and the Series Resolutions and will be dated their date of delivery and bear interest from such date (payable January 1, 2014 and on each July 1 and January 1 thereafter) at the rates set forth on the cover page of this Official Statement.

The Series 2013 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof.

Interest on the Series 2013 Bonds will be payable by check mailed to the registered owners or, at the option of the registered owner of at least \$1,000,000 of Series 2013 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 interest payment date. If the Series 2013 Bonds are not registered in the name of DTC or its nominee, Cede & Co., the principal and Redemption Price of the Series 2013 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, New York, the Trustee and Paying Agent.

The Series 2013 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 2013 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 2013 Bonds, payments of the principal, Purchase Price and Redemption Price of and interest on the Series 2013 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 2013 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 2013 Bonds, the Series 2013 Bonds will be exchangeable for fully registered Series 2013 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. See “- Book-Entry Only System” below and “APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION.”

For a more complete description of the Series 2013 Bonds, see “APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION.”

## **Redemption Provisions**

The Series 2013 Bonds are subject to optional, mandatory and special redemption as described below.

### ***Optional Redemption***

#### Series 2013A Bonds

The Series 2013A Bonds are subject to redemption prior to maturity, at the option of DASNY, on or after July 1, 2023, in any order, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date of redemption.

#### Series 2013B Bonds

The Series 2013B Bonds are subject to redemption prior to maturity at any time, on any Business Day, in any order at the option of DASNY, in whole or in part, at the Make-Whole Redemption Price. The “Make-Whole Redemption Price” is the greater of (i) 100% of the principal amount of the Series 2013B Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the Series 2013B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Series 2013B Bonds are to be redeemed, discounted to the date on which such Series 2013B Bonds are to be redeemed on a semiannual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (as defined below) plus, with respect to the 4.282% Bonds due on July 1, 2023, 30 basis points, and with respect to the 4.982% Bonds due on July 1, 2029, 40 basis points, plus, in each case, accrued and unpaid interest on the Series 2013B Bonds to be redeemed on the redemption date. The Trustee may retain, at the expense of the University, an independent accounting firm or financial advisor to determine the Make-Whole Redemption Price and perform all actions and make all calculations required to determine the Make-Whole Redemption Price. The Trustee, DASNY and the University may conclusively rely on such accounting firm’s or financial advisor’s calculations in connection with, and determination of, the Make-Whole Redemption Price, and neither the Trustee nor DASNY nor the University will have any liability for their reliance.

The “Treasury Rate” is, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to the maturity date of the Series 2013B Bonds to be redeemed. However, if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

DASNY’s obligation to redeem Series 2013 Bonds other than through mandatory Sinking Fund Installments may be conditioned upon the availability of sufficient money to pay the Redemption Price of the Series 2013 Bonds to be redeemed on the redemption date.

### ***Special Redemption***

The Series 2013 Bonds are also subject to special redemption prior to maturity in any order at the option of DASNY, in whole or in part on any interest payment date, at a Redemption Price equal to 100% of the principal amount of Series 2013 Bonds to be redeemed, plus accrued interest to the date of redemption, from (i) the proceeds of a condemnation or insurance award not used to repair, restore or replace the Project, and (ii) any unexpended proceeds of the Series 2013 Bonds upon abandonment or all or a portion of the Project due to a legal or regulatory impediment.

***Mandatory Redemption***

**Series 2013A Bonds**

The Series 2013A Bonds maturing on July 1, 2044 are also subject to redemption, in part, on each July 1 of the years and in the respective principal amounts set forth below, at a Redemption Price equal to 100% of the principal amount thereof to be redeemed from mandatory Sinking Fund Installments, plus accrued interest to the date of redemption, which are required to be made in amounts sufficient to redeem on July 1 of each year the principal amount of the Series 2013A Bonds specified for each of the years shown below:

**Series 2013A Bonds**  
**Maturing on July 1, 2044**

| <b><u>Year</u></b> | <b><u>Principal Amount</u></b> |
|--------------------|--------------------------------|
| 2038               | \$7,090,000                    |
| 2039               | 7,450,000                      |
| 2040               | 7,835,000                      |
| 2041               | 8,235,000                      |
| 2042               | 8,655,000                      |
| 2043               | 9,100,000                      |
| 2044 <sup>†</sup>  | 9,570,000                      |

<sup>†</sup>Final maturity.

There will be credited against and in satisfaction of all or a portion of a Sinking Fund Installment payable on any date, the principal amount of Series 2013A 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 DASNY, (C) purchased by the University or DASNY and delivered to the Trustee for cancellation or (D) deemed to have been paid in accordance with the Resolution. Series 2013A Bonds purchased with money in the Debt Service Fund will be applied against and in fulfillment of the Sinking Fund Installment of the Series 2013A Bonds so purchased payable on the next succeeding July 1. Series 2013A Bonds redeemed at the option of DASNY, purchased by DASNY or the University (other than from amounts on deposit in the Debt Service Fund) and delivered to the Trustee for cancellation 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 as DASNY may direct in its discretion. To the extent DASNY's obligation to make Sinking Fund Installments in a particular year is so satisfied, the likelihood of redemption through mandatory Sinking Fund Installments of a Bondholder's Series 2013A Bonds of the maturity entitled to such Sinking Fund Installment will be reduced for such year.

[Remainder of Page Intentionally Left Blank]

Series 2013B Bonds

The Series 2013B Bonds maturing on July 1, 2023 are also subject to redemption, in part, on each July 1 of the years and in the respective principal amounts set forth below, at a Redemption Price equal to 100% of the principal amount thereof to be redeemed from mandatory Sinking Fund Installments, plus accrued interest to the date of redemption, which are required to be made in amounts sufficient to redeem on July 1 of each year the principal amount of the Series 2013B Bonds specified for each of the years shown below:

**Series 2013B Bonds**  
**Maturing on July 1, 2023**

| <b><u>Year</u></b> | <b><u>Principal Amount</u></b> |
|--------------------|--------------------------------|
| 2018               | \$300,000                      |
| 2019               | 500,000                        |
| 2020               | 500,000                        |
| 2021               | 500,000                        |
| 2022               | 500,000                        |
| 2023 <sup>†</sup>  | 500,000                        |

<sup>†</sup>Final maturity.

The Series 2013B Bonds maturing on July 1, 2029 are also subject to redemption, in part, on each July 1 of the years and in the respective principal amounts set forth below, at a Redemption Price equal to 100% of the principal amount thereof to be redeemed from mandatory Sinking Fund Installments, plus accrued interest to the date of redemption, which are required to be made in amounts sufficient to redeem on July 1 of each year the principal amount of the Series 2013B Bonds specified for each of the years shown below:

**Series 2013B Bonds**  
**Maturing on July 1, 2029**

| <b><u>Year</u></b> | <b><u>Principal Amount</u></b> |
|--------------------|--------------------------------|
| 2024               | \$500,000                      |
| 2025               | 500,000                        |
| 2026               | 500,000                        |
| 2027               | 500,000                        |
| 2028               | 500,000                        |
| 2029 <sup>†</sup>  | 695,000                        |

<sup>†</sup>Final maturity.

There will be credited against and in satisfaction of all or a portion of a Sinking Fund Installment payable on any date, the principal amount of Series 2013B 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 DASNY, (C) purchased by the University or DASNY and delivered to the Trustee for cancellation or (D) deemed to have been paid in accordance with the Resolution. Series 2013B Bonds purchased with money in the Debt Service Fund will be applied against and in fulfillment of the Sinking Fund Installment of the Series 2013B Bonds so purchased payable on the next succeeding July 1. Series 2013B Bonds redeemed at the option of DASNY, purchased by DASNY or the University (other than from amounts on deposit in the Debt Service Fund) and delivered to the Trustee for cancellation 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 as DASNY may direct in its discretion.

To the extent DASNY's obligation to make Sinking Fund Installments in a particular year is so satisfied, the likelihood of redemption through mandatory Sinking Fund Installments of a Bondholder's Series 2013B Bonds of the maturity entitled to such Sinking Fund Installment will be reduced for such year.

***Selection of Series 2013 Bonds to be Redeemed***

In the case of redemptions of less than all of the Series 2013 Bonds other than through mandatory Sinking Fund Installments, DASNY will select the maturities and principal amounts of such Series 2013 Bonds of each maturity to be redeemed. The Series 2013A Bonds of each maturity to be redeemed in part will be selected by the Trustee, by lot, using such method of selection as the Trustee considers proper in its discretion. The Series 2013B Bonds of each maturity to be redeemed in part will be redeemed as nearly as practicable pro rata within such maturities.

If the Series 2013B Bonds are registered in book-entry only form and so long as DTC or a successor securities depository is the sole registered owner of the Series 2013B Bonds, if less than all of the Series 2013B Bonds of a maturity are called for redemption, the particular Series 2013B Bonds of such maturity or portions thereof to be redeemed will be selected on a pro rata pass-through distribution of principal basis in accordance with the DTC procedures. However, neither DASNY, nor the University nor the Underwriter can provide any assurance that DTC, DTC's direct and indirect participants or any other intermediary will allocate the redemption of the Series 2013B Bonds on such basis. If the DTC operational arrangements do not allow for the redemption of the Series 2013B Bonds on a pro rata pass-through distribution of principal basis as discussed above, then the Series 2013B Bonds will be selected for redemption, in accordance with the DTC procedures, by lot.

If the Series 2013B Bonds are not registered in book-entry only form, any redemption of less than all of a maturity of the Series 2013B Bonds will be allocated among the registered owners of the Series 2013B Bonds of such maturity, as nearly as practicable, taking into consideration the Authorized Denominations of the Series 2013B Bonds, on a pro rata basis.

***Notice of Redemption and its Effect***

Notice of the redemption of the Series 2013 Bonds will be given by the Trustee in the name of DASNY to the registered owners of the Series 2013 Bonds to be redeemed by first-class mail, postage prepaid, not less than 30 days nor more than 45 days prior to the redemption date, but the failure of any registered owners to receive notice mailed in accordance with the Resolution will not affect the validity of the proceedings for the redemption of the Series 2013 Bonds. Any such notice may contain conditions to DASNY's obligation to redeem the Series 2013 Bonds. See "APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION."

DASNY's obligation to optionally redeem a Series 2013 Bond may be conditioned upon the availability of sufficient money to pay the Redemption Price for all of the Series 2013 Bonds to be redeemed on the redemption date. If sufficient money is available on the redemption date to pay the Redemption Price and if notice has been mailed and the conditions, if any, to such redemption have been satisfied or waived by DASNY, then interest on the Series 2013 Bonds of such maturity will cease to accrue from and after the redemption date and such Series 2013 Bonds will no longer be considered to be Outstanding under the Resolution.

**Purchase in Lieu of Optional Redemption**

The Series 2013 Bonds are also subject to purchase prior to maturity, at the option of DASNY, at any time that such Series 2013 Bonds are subject to optional redemption, in any order, in whole or in part at any time, at a purchase price equal to the Redemption Price of such Series 2013 Bonds that would be payable if they had been redeemed on the date they are to be purchased (the "Purchase Price"), plus accrued interest to the date of purchase.

***Notice of Purchase and its Effect***

Notice of purchase of the Series 2013 Bonds will be given in the name of DASNY to the registered owners of the Series 2013 Bonds to be purchased by first-class mail, postage prepaid, not less than 30 days nor more than 45 days prior to the date specified in such notice (the "Purchase Date"). The Series 2013 Bonds to be purchased are required to be tendered on the Purchase Date to the Trustee. Series 2013 Bonds to be purchased that are not so tendered will be deemed to have been properly tendered for purchase. Such purchase will not operate to extinguish the indebtedness of DASNY evidenced thereby or modify the terms of the Series 2013 Bonds and such Series 2013 Bonds need not be cancelled, but will remain Outstanding under the Resolution and continue to bear interest.

DASNY's obligation to purchase a Series 2013 Bond may be conditioned upon the availability of sufficient money to pay the Purchase Price for all of the Series 2013 Bonds to be purchased on the Purchase Date. If sufficient money is available on the Purchase Date to pay the Purchase Price of the Series 2013 Bonds to be purchased, the former registered owners of such Series 2013 Bonds will have no claim thereunder or under the Resolution or otherwise for payment of any amount other than the Purchase Price. If sufficient money is not available on the Purchase Date for payment of the Purchase Price, the Series 2013 Bonds tendered or deemed tendered for purchase will continue to be registered in the name of the registered owners on the Purchase Date, who will be entitled to the payment of the principal of and interest on such Series 2013 Bonds in accordance with their respective terms.

If not all of the Outstanding Series 2013 Bonds of a Series and maturity are to be purchased, the Series 2013 Bonds of such Series and maturity to be purchased will be selected in the same manner as Series 2013 Bonds of a Series and maturity to be optionally redeemed in part are to be selected.

For a more complete description of the redemption and other provisions relating to the Series 2013 Bonds, see "APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION." Also, see "Book-Entry Only System" below for a description of the notices of redemption to be given to Beneficial Owners of the Series 2013 Bonds when the Book-Entry Only System is in effect.

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

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Series 2013 Bonds. The Series 2013 Bonds will be issued as fully-registered securities in the name of Cede & Co. (DTC's partnership nominee), or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2013 Bond certificate will be issued for each maturity of the Series 2013 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. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Series 2013 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2013 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2013 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 2013 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 2013 Bonds, except in the event that use of the book-entry system for the Series 2013 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2013 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 2013 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2013 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2013 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 will be sent to DTC. If less than all of the Series 2013A 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. If less than all of the Series 2013B Bonds of a maturity are to be redeemed, the particular Series 2013B Bonds of such maturity or portions thereof to be redeemed will be selected pro rata in accordance with DTC's pro rata distribution of principal procedures.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2013 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to DASNY 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 2013 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 2013 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 DASNY 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 or DASNY, 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 DASNY 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.

DASNY and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2013 Bonds registered in its name for the purposes of payment of the principal and redemption premium, if any, of, or interest on, the Series 2013 Bonds, giving any notice permitted or required to be given to registered owners under the Resolution, registering the transfer of the Series 2013 Bonds, or other action to be taken by registered owners and for all other purposes whatsoever. DASNY and the Trustee have no responsibility or obligation to any Direct or Indirect Participant, any person claiming a beneficial ownership interest in the Series 2013 Bonds under or through DTC or any Direct or Indirect Participant, or any other person which is not shown on the registration books of DASNY (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 2013 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 DASNY; or other action taken by DTC as registered owner. Interest, redemption premium, if any, and principal will be paid by the Trustee to DTC, or its nominee. Disbursement of such payments to the Direct or Indirect Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the Direct or Indirect Participants.

DTC may discontinue providing its service as depository with respect to the Series 2013 Bonds at any time by giving reasonable notice to DASNY and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, the Series 2013 Bond certificates are required to be printed and delivered.

DASNY may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, the Series 2013 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 DASNY believes to be reliable, but DASNY takes no responsibility for the accuracy thereof.

Each person for whom a Participant acquires an interest in the Series 2013 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 DASNY 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 2013 BONDS.

So long as Cede & Co. is the registered owner of the Series 2013 Bonds, as nominee for DTC, references herein to the Holders or registered owners of the Series 2013 Bonds (other than under the caption "PART 12 - TAX MATTERS" herein) means Cede & Co., as aforesaid, and does not mean the Beneficial Owners of the Series 2013 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 2013 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.

DASNY, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2013 Bonds if DASNY determines that (i) DTC is unable to discharge its responsibilities with respect to the Series 2013 Bonds, or (ii) a continuation of the requirement that all of the Outstanding Series 2013 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 DASNY or restricted registration is no longer in effect, Series 2013 Bond certificates will be delivered as described in the Resolutions.

NEITHER DASNY, THE UNIVERSITY 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 2013 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 2013 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 2013 BONDS, (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2013 BONDS, OR (VI) ANY OTHER MATTER.

## **PART 4 - THE UNIVERSITY**

### **History of the University**

St. John's University, New York is an independent, not-for-profit institution of higher education chartered under the laws of the State of New York. Founded by the Vincentian Community in 1870, the University was originally located in Brooklyn, New York and incorporated under the name "St. John's College, Brooklyn."

In 1908, the School of Education became the first professional department established at the Brooklyn campus. The Graduate School of Arts and Sciences was organized six years later. In 1925, the University constructed a 14-story building at its Brooklyn campus to provide added space to accommodate four new educational units: the School of Law, the University College, the School of Commerce and the College of Pharmacy.

In 1953, the University expanded by opening a 105-acre campus in Queens, New York. At that time, the Liberal Arts College and the Graduate School of Arts were relocated from Brooklyn to the Queens campus. In addition, the School of Education and the School of Commerce established divisions at the Queens location. Due to

the University's expansion outside Brooklyn, in 1954, the corporate name was changed to "St. John's University, New York."

In 1971, the University consolidated with the Notre Dame College of Staten Island. As a result, the University acquired a branch campus located in Staten Island, New York. The Brooklyn campus was closed and its educational programs were transferred to the Queens and Staten Island campuses.

The University opened its first international center in Rome, Italy in September 1995 enabling students to pursue advanced studies leading to an MBA or MA in International Relations. In 2002, the University began to use the Rome campus as a study-abroad center for all students. In 2007, the University expanded its international presence by moving to a larger facility in Rome and opening a new location in Paris, France. These sites together provide education and housing facilities for over 300 students.

In 1999, the University acquired the 175-acre LaSalle Center in Oakdale, New York. This eastern Long Island location enabled the expansion of graduate programs, adult education programs, athletic activities and partnerships with Long Island businesses. In March 2012, the Town of Islip approved the University's application to designate a portion of the property as Planned Landmark Preservation Overlay District. The University was granted permission to develop a maximum of 380 units of attached housing on designated portions of the property.

In 2001, the University established a Manhattan campus following its consolidation with the Insurance Society of New York, a not-for-profit corporation which operated the former College of Insurance (TCI). The campus consists of a self-contained ten-story building in lower Manhattan which includes a library, four floors of dormitory space with almost 200 beds, classrooms and dining and conference facilities. Following the consolidation, TCI became a unit within the University's Peter J. Tobin College of Business and operates as The School of Risk Management, Insurance and Actuarial Science. Both graduate and undergraduate programs are offered on the Manhattan campus. On May 23, 2013, the University entered into an agreement to sell the campus for \$223.0 million. Pursuant to the agreement, the University will leaseback the property until June 2014. The sale closed on July 15, 2013 resulting in a gain of approximately \$173 million. The University intends to maintain a presence in Manhattan and is exploring leasing appropriate space.

In 2006, the University purchased certain assets, consisting primarily of a 42,000 square foot two-story office/school building and certain allied health programs from Saint Vincent's Catholic Medical Centers of New York. The building is located near the Queens campus and is used primarily to house the acquired programs which are operated by the University's College of Pharmacy and Health Sciences.

On September 16, 2013, the University (through its wholly-owned limited liability company, Henley Road SPE, LLC (the "University LLC")) purchased an off-campus, 113,000 square foot, seven story, student residence hall for approximately \$63.7 million. The residence building near its Queens campus houses approximately 425 students. The University previously leased the property under an operating lease, which expires on July 1, 2024. Under the agreement, the University (through the University LLC) assumed an existing mortgage on the property with an outstanding principal balance of \$42.1 million. The mortgage bears interest at 6.94% and is payable in monthly installments equal to the previously existing lease payments that range from \$390,000 to \$550,000 through July 1, 2024. See "PART 6 – THE PROJECT."

## **The University Today**

The University is now one of the largest Catholic universities in the United States. The early work of St. John's founders has grown into a more than 140-year tradition of academic achievement and is reflected in a dedicated faculty, a diverse student body and alumni who are leaders in business, government, education, law and media. The four New York campuses in Queens, Staten Island, Manhattan and Oakdale draw on the vast cultural and commercial resources of the New York metropolitan area. Nearly 21,000 undergraduate and graduate students are enrolled in six colleges and divisions: St. John's College of Liberal Arts and Sciences; the College of Pharmacy and Health Sciences; the School of Education; the Peter J. Tobin College of Business; the College of Professional Studies; and the School of Law. More than 100 degree programs are offered, from two-year associate level to full doctorates.

As a result of a significant technology infrastructure initiative that began in 1996, students, faculty, staff and administrators at the University also enjoy access to state-of-the-art information technology equipment and services. In 2003, the University implemented an Academic Computing Initiative. Under this initiative, every new student and all full-time faculty receive a laptop computer for use anywhere on the University's campuses. All campuses have been equipped with wireless technology to facilitate the use of this and other technology for academic purposes.

### **Accreditations**

The University is accredited by the following: Middle States Commission on Higher Education (MSCHE), Association of American Law Schools, American Library Association, Accreditation Council for Pharmaceutical Education, American Chemical Society, American Bar Association, The Association to Advance Collegiate Schools of Business, Association for Assessment and Accreditation of Laboratory Animal Care International, American Psychological Association, American Speech-Language-Hearing Association, National Association of Schools of Art and Design, Council for Accreditation of Counseling and Related Educational Programs, National Accrediting Agency for Clinical Laboratory Sciences, Joint Review Committee on Education in Radiologic Technology, Teacher Education Accreditation Council, and Accreditation Review Commission on Education for the Physician Assistant, Inc.

### **Strategic Plan**

In 1995, the University and its Board of Trustees adopted a Strategic Plan, which provided for a series of important initiatives designed to meet the twin goals of fostering a culture of academic excellence and expanding physical facilities. One of the most significant areas of expansion has been the development of residence halls and related residence facilities, transforming the University from a 100% commuter institution and affecting every aspect of University life, including the ability to actively recruit students nationally and internationally. Another of these, discussed above, was to modernize the technology infrastructure of the University, particularly its academic, classroom and library facilities. To implement its Strategic Plan, the University developed a \$300 million Master Plan which provided for the construction of residence halls, a new dining facility, a church, a soccer stadium, new parking facilities and the enhancement of its academic facilities. The Master Plan projects were funded from a combination of fund-raising initiatives and capital financing.

Construction of the first phases of the Master Plan commenced in 1998. Phase I included three residence halls, a dining facility and a parking garage. All were completed in 1999 and the residence halls opened for students entering in the fall of that year. Two additional residence halls were opened for students entering in September 2000. The sixth residence hall was completed in the fall of 2002 and increased the resident student population to over 2,200. In the fall of 2004, the University completed the construction of the DaSilva Academic Center, a 40,000 square foot academic building on the Staten Island campus. Also, in 2004, the University completed the construction of St. Thomas More Church on the Queens campus. A gift of \$10 million was received from a major donor to finance the construction costs of the church. In 2005, the University completed the construction of the Taffner Field House, a 40,000 square foot athletic facility containing two basketball courts and office and recruiting space for the men's and women's basketball programs and two basketball courts and other recreation space for the general student population.

In 2005, the University Board of Trustees approved a new strategic plan. The plan outlined six academic and eight supporting priorities reflecting the University's ongoing commitment to attaining academic excellence, enhancing institutional reputation and preserving fiscal strength. Completed initiatives included: the development of an Institute for Writing Studies with Writing Centers at both Queens and Staten Island campuses to facilitate the improvement of writing skills; providing for the sciences, particularly a \$20 million renovation of St. Albert's Hall, the science building on the Queens campus; implementation of new in-house client clinics at the Law School; continuing to enhance residence capacity to meet demand including the construction of sixteen town homes adjacent to the existing residence halls, purchase of two off-campus apartment complexes near the Queens campus and the renovation of St. Vincent's Hall also on the Queens campus. To further increase housing capacity, the University entered into a long-term lease agreement for approximately 425 beds in an apartment-style complex located near the Queens campus. The D'Angelo Center, a 127,000 square feet state-of-the-art academic building/student center, the capstone project of the Master Plan, opened in 2009; it became the hub for student activities and houses a recreation

center, offices and meeting spaces as well as high tech classrooms, conference rooms and a full-service cafeteria and a café.

In 2009, the University Board of Trustees approved the 2008-2013 Strategic Plan. The focus and critical priority of this strategic planning cycle was to transform the institutional culture to one in which the quality of how the University serves its students both in and out of the classroom is exceptional. The transformational elements of this change process hinged on three critical elements to be embedded in all aspects of the student experience: Mission, Engagement and Global Education. Technology has been integrated into these three priorities. In addition, the University began to study and address the very critical issues relating to sustainability and the environment.

In 2011, the University Board of Trustees approved an extension and repositioning of the Strategic Plan in response to the volatile economic climate and other external challenges and with a focus on articulating, enhancing, measuring and marketing the value of a St. John's education. The repositioned plan emphasizes improvement in the quality of the educational and student experience; retention and graduation rates; career placement success and the generation of new or enhanced sources of revenue to fund new strategic priorities.

### **Governance**

The University is governed by a self-perpetuating Board of Trustees whose membership shall not exceed 30. Presently the Board (excluding non-voting emeritus trustees) consists of 17 lay and 10 religious members, including the President of the University. The officers and current members of the Board of Trustees are as follows:

[Remainder of Page Intentionally Left Blank]

**Rev. Elmer Bauer III, C.M.**  
Provincial Treasurer  
Eastern Province, Congregation  
of the Mission  
Philadelphia, PA

**Very Rev. Michael J. Carroll,  
C.M.\*\***  
Provincial Superior  
Eastern Province, Congregation  
of the Mission  
Philadelphia, PA

**Mr. Paul M. Carroll**  
Retired Banker  
New York, NY

**Patricia A. Castel, Esq.**  
Garden City, NY

**Mr. William Collins**  
CEO and Chief Investment  
Officer  
Brencourt Advisors, LLC  
New York, NY

**Rev. Gregory P. Cozzubbo,  
C.M.**  
Assistant Provincial  
St. Vincent's Seminary  
Philadelphia, PA

**Mr. Peter P. D'Angelo\***  
President  
Caxton Alternative Management,  
L.P.  
New York, NY

**Mr. Paul J. Evanson**  
Retired Chairman, President and  
Chief Executive Officer  
Allegheny Energy  
Greensburg, PA

**Dr. Margaret M. Fitzpatrick,  
S.C.**  
President  
St. Thomas Aquinas College  
Sparkill, NY

**Rev. Msgr. Otto Garcia**  
Pastor  
St. Joan of Arc Roman Catholic  
Church  
Jackson Heights, NY

**Rev. John W. Gouldrick, C.M.**  
Assistant to President for  
Mission  
Niagara University  
Niagara, NY

**Ms. Suzanne M. Halpin**  
Executive Vice President  
Rubenstein Communications,  
Inc.  
New York, NY

**Mr. William Janetschek**  
Member/Chief Financial Officer  
Kohlberg Kravis Roberts & Co.,  
L.P.  
New York, NY

**Sr. Carol Keehan, D.C.**  
President and Chief Executive  
Officer  
Catholic Health Association  
Washington, DC

**Rev. Joseph L. Levesque, C.M.**  
President  
St. John's University  
Queens, New York

**Teresa Mason, Esq.**  
VP for Health Policy  
Novartis Pharmaceuticals  
Corporation  
East Hanover, NJ

**Joseph M. Mattone, Sr., Esq.**  
Chairman and CEO  
Mattone Group Company, L.L.C.  
College Point, NY

**Arthur J. Mirante II, Esq.**  
Principal and President of Tri-  
State Avison Young  
New York, NY

**Mr. Joseph C. O'Connor**  
Retired Portfolio Manager  
Guggenheim Investments  
Irvington, NY

**Rev. Hugh O'Donnell, C.M.**  
Member of the Chinese Province,  
Congregation of the Mission  
Chicago, IL

**Mr. Lewis Rice, Jr.**  
Vice President of Global Security  
and Trademark Protection  
Estee Lauder Companies, Inc.  
New York, NY

**Ms. Linda S. Sanford\*\*\***  
Senior Vice President, Enterprise  
Transformation  
IBM Corporation  
Somers, NY

**Mr. Joseph H. Schwartz**  
Retired Partner  
Wellington Management  
Company, LLP  
Boston, MA

**Mr. Brian T. Shea**  
Chairman  
Pershing LLC, a BNY Mellon  
Company  
Jersey City, NJ

**Ms. Patricia C. Skarulis**  
Vice President and Chief  
Information Officer  
Memorial Sloan-Kettering  
Cancer Center  
New York, NY

**Mrs. Mary Tobin**  
Managing Trustee  
Tobin Family Foundation  
Denville, NJ

**Rev. Bernard M. Tracey, C.M.**  
Superior, St. Vincent's Seminary  
Philadelphia, PA

\*Chairman of the Board  
\*\*Vice Chairman of the Board  
\*\*\*Secretary of the Board

## Administration

The President of the University is appointed by the Board of Trustees, and as Chief Executive Officer, is charged with the principal responsibility for administration of the University. The Board of Trustees appoints or elects, on nomination or recommendation of the President, various other principal administrative officers of the University. The University's principal administrative officers include:

|  |   |
|--|---|
| Rev. Joseph L. Levesque, C.M .....     | President   |
| Martha K. Hirst.....                   | Executive Vice President, Chief Operating Officer and Treasurer |
| Rev. Gerard H. Luttenberger, C.M. .... | Executive Vice President for Mission                            |
| Robert A. Mangione, Ed.D.,R.Ph. ....   | Provost   |
| Sharon Hewitt Watkins, CPA .....       | Vice President for Business Affairs and Chief Financial Officer |
| Dr. Dorothy E. Habben.....             | Vice President and Secretary of the University                  |
| Joseph E. Oliva, Esq. ....             | General Counsel   |

## OPERATING INFORMATION

### Student Admissions

The University seeks to enroll students with the potential to succeed in a demanding academic program. With the successful introduction of residence halls, the University has experienced burgeoning growth in both national and international enrollment. In the fall 2013 freshman class, some 48 states, and 100 countries were represented.

Listed below are the number of applications received for freshman admission to the University together with the number of those applications accepted by the University and the number of accepted students who ultimately enrolled at the University. The mean SAT score of the University's standard admitted students increased from 1,113 in the fall of 2009 to 1,121 in the fall of 2013, an increase of eight points.

### Freshman Admission Statistics

| <u>Academic Year</u> | <u>Applications</u> | <u>Acceptances</u> | <u>Percent Accepted</u> | <u>New Enrollment</u> | <u>Matriculation Yield</u> |
|----------------------|---------------------|--------------------|-------------------------|-----------------------|----------------------------|
| 2009-10              | 52,980              | 22,788             | 43.0%                   | 3,108                 | 13.6%                      |
| 2010-11              | 54,871              | 24,993             | 45.5%                   | 3,117                 | 12.5%                      |
| 2011-12              | 52,972              | 25,998             | 49.1%                   | 2,763                 | 10.6%                      |
| 2012-13              | 51,634              | 27,449             | 53.2%                   | 2,792                 | 10.2%                      |
| 2013-14              | 50,903              | 26,932             | 52.9%                   | 2,794                 | 10.4%                      |

External transfer enrollment, not represented above, has trended upwards from 448 students in fall 2009 to 576 students in fall 2013.

### Student Enrollment

Enrollment trends over the academic years commencing fall 2009 through fall 2013 reflect stable student headcounts. The University experienced a decrease beginning in fall 2011 due to a declining number of high school graduates in its primary market, consisting of the five boroughs of New York City and Nassau County, and the impact of the lingering recession. To respond to these challenges, the University proactively manages institutional financial aid to stabilize primary market enrollment, grow enrollment from the secondary market and achieve sufficient net tuition revenues to support operations. The University's enrollment during the five academic years commencing fall 2009 through fall 2013, based on fall registration figures, is outlined below together with total headcount enrollment and full-time equivalent ("FTE") totals.

### Enrollment Summary

| <u>Academic Year</u> | <u>Full-Time</u>     |                 | <u>Part-Time</u>     |                 | <u>Headcount</u> | <u>Total FTE</u> |
|----------------------|----------------------|-----------------|----------------------|-----------------|------------------|------------------|
|                      | <u>Undergraduate</u> | <u>Graduate</u> | <u>Undergraduate</u> | <u>Graduate</u> |                  |                  |
| 2009-10              | 11,824               | 3,000           | 2,984                | 2,544           | 20,352           | 17,595           |
| 2010-11              | 11,803               | 3,139           | 3,917                | 2,495           | 21,354           | 18,083           |
| 2011-12              | 11,440               | 2,984           | 4,326                | 2,317           | 21,067           | 17,471           |
| 2012-13              | 10,956               | 2,967           | 4,884                | 2,280           | 21,087           | 17,091           |
| 2013-14              | 10,908               | 2,811           | 4,865                | 2,145           | 20,789           | 16,776           |

The following table lists the number of degrees conferred for the five academic years commencing fall 2008 through fall 2012.

### Degrees Conferred

| <u>Academic Year</u> | <u>Total</u> |
|----------------------|--------------|
| 2008-09              | 4,036        |
| 2009-10              | 4,225        |
| 2010-11              | 4,299        |
| 2011-12              | 4,553        |
| 2012-13              | 4,316        |

### Tuition and Fees

For the 2013-14 academic year full-time tuition and fees total \$37,260. Tuition and fees for the academic years commencing fall 2009 through fall 2013 are listed below:

#### Full-Time Undergraduate Tuition and Fee Charges

| <u>Academic Year</u> | <u>Tuition &amp; Fee Charges</u> |
|----------------------|----------------------------------|
| 2009-10              | \$30,040                         |
| 2010-11              | 31,980                           |
| 2011-12              | 33,875                           |
| 2012-13              | 35,520                           |
| 2013-14              | 37,260                           |

### Student Financial Aid

The University administers a financial aid program under which nearly 88% of all enrolled students received financial assistance in some form through the University during the 2012-13 academic year. A summary of the funds provided for financial aid and their source for the five academic years commencing fall 2009 through fall 2013 is as follows:

#### Sources of Scholarship and Grant Aid

| <u>Academic Year</u> | <u>University Grants</u> | <u>State Grants</u> | <u>Federal Grants</u> | <u>Outside Awards</u> | <u>Private Loans</u> | <u>Total</u>  |
|----------------------|--------------------------|---------------------|-----------------------|-----------------------|----------------------|---------------|
| 2008-09              | \$156,425,994            | \$17,213,311        | \$154,851,797         | \$ 9,434,438          | \$26,915,502         | \$364,841,042 |
| 2009-10              | 172,169,011              | 16,324,816          | 188,419,882           | 9,166,350             | 21,145,362           | 407,225,421   |
| 2010-11              | 181,879,792              | 15,433,193          | 210,197,376           | 12,349,316            | 18,900,796           | 438,760,473   |
| 2011-12              | 185,243,754              | 14,189,106          | 219,815,016           | 12,630,296            | 20,243,839           | 452,122,011   |
| 2012-13              | 188,740,849              | 13,187,177          | 207,131,813           | 14,404,554            | 21,891,339           | 445,355,732   |



The University's students benefit from numerous scholarship and financial aid programs. In addition, the University participates in various federal and state programs providing aid to individual students. The federal programs include the Perkins Loan program, Federal Direct Student Loan Program, Supplemental Educational Opportunity Grant, Pell Grant, College Work-Study, Health Professions Loan Program and the Teach Grant. State programs include Tuition Assistance Program, and various other New York State sponsored and administered scholarship programs.

### Faculty

Total faculty members employed by the University during the 2013-14 academic year numbered 1,491, of whom 671 served full-time. Of the permanent full-time faculty members, 72.0% hold tenure. The majority of the University's full-time faculty is appointed within one of the four principal academic ranks: Professor, Associate Professor, Assistant Professor and Instructor.

The following table sets forth the faculty profile for the five academic years commencing fall 2009 through fall 2013.

#### Faculty Profile

| <u>Academic Year</u> | <u>Full-time Faculty</u> | <u>Part-time Faculty</u> | <u>Total Faculty</u> | <u>Full-Time Equivalent Faculty</u> | <u>Percent of Full-Time Faculty Tenured</u> |
|----------------------|--------------------------|--------------------------|----------------------|-------------------------------------|---|
| 2009-10              | 690                      | 776                      | 1,466                | 974                                 | 67.2%                                       |
| 2010-11              | 648                      | 794                      | 1,442                | 958                                 | 68.4%                                       |
| 2011-12              | 649                      | 864                      | 1,513                | 995                                 | 68.9%                                       |
| 2012-13              | 664                      | 829                      | 1,493                | 995                                 | 68.8%                                       |
| 2013-14              | 671                      | 820                      | 1,491                | 1,005                               | 72.0%                                       |

### Employee Relations

The University has satisfactory labor relations. The full-time and adjunct faculty at the University (other than those in its non-unionized School of Law) are jointly represented by the St. John's Chapter of the American Association of University Professors and the Faculty Association (jointly referred to as "AAUP/FA"). The University has had a series of collective bargaining agreements in effect with the AAUP/FA. In 2012, the University and AAUP/FA executed a new agreement which will expire in June 2014.

[Remainder of Page Intentionally Left Blank]

## ANNUAL FINANCIAL STATEMENT INFORMATION

### Summary of Statements of Activities

The following table summarizes the changes in the University's unrestricted, temporarily restricted and permanently restricted net assets for the fiscal years ended May 31, 2009 through 2013.

#### Summary Statements of Activities (000's)

|  | Fiscal Years Ended May 31, |           |           |           |           |
|--|----------------------------|-----------|-----------|-----------|-----------|
|  | 2009                       | 2010      | 2011      | 2012      | 2013      |
| Changes in unrestricted net assets:                                      |                            |           |           |           |           |
| Operating Revenues:  |                            |           |           |           |           |
| Tuition and fees, net of scholarship allowances                          | \$315,712                  | \$317,995 | \$338,339 | \$350,263 | \$352,566 |
| Investment return utilized:  |                            |           |           |           |           |
| Endowment  | 13,512                     | 13,503    | 11,419    | 12,564    | 13,549    |
| Other  | 2,939                      | 868       | 18        | 20        | 169       |
| Private gifts, grants and contracts                                      | 11,165                     | 10,116    | 9,457     | 13,781    | 12,911    |
| Government grants and contracts  | 16,223                     | 26,341    | 14,562    | 13,820    | 11,959    |
| Auxiliary enterprises  | 50,285                     | 55,364    | 61,016    | 66,189    | 65,833    |
| Other revenues   | 8,881                      | 9,772     | 10,103    | 9,152     | 10,537    |
| Net assets released from restrictions                                    | 10,129                     | 6,858     | 4,951     | 5,755     | 6,287     |
| Total operating revenues   | 428,846                    | 440,817   | 449,865   | 471,544   | 473,811   |
| Operating Expenses:  |                            |           |           |           |           |
| Instruction  | 158,957                    | 164,046   | 160,361   | 168,801   | 177,468   |
| Research   | 9,242                      | 8,866     | 7,652     | 7,314     | 9,293     |
| Academic support   | 60,861                     | 62,416    | 59,464    | 63,056    | 64,518    |
| Student services   | 43,249                     | 45,182    | 42,540    | 43,004    | 46,257    |
| Institutional support  | 83,680                     | 78,281    | 77,603    | 82,478    | 86,045    |
| Auxiliary enterprises  | 63,972                     | 68,649    | 68,789    | 72,469    | 74,320    |
| Total operating expenses   | 419,961                    | 427,440   | 416,409   | 437,122   | 457,901   |
| Excess of operating revenues over operating expenses                     | 8,885                      | 13,377    | 33,456    | 34,422    | 15,910    |
| Non-Operating activities:  |                            |           |           |           |           |
| Investment return in excess of (less than) amount utilized in operations | (112,287)                  | 21,958    | 32,426    | (22,854)  | 29,502    |
| Change in fair value of interest rate swap                               | (3,295)                    | 1,344     | 438       | (6,187)   | 2,930     |
| Effect of advance refunding of long-term debt                            | (5,154)                    | -         | -         | -         | (3,189)   |
| Voluntary separation offer charge  | (2,398)                    | (37,260)  | -         | -         | -         |
| Other  | 2,519                      | 90        | (7,530)   | -         | (754)     |

**Summary Statements of Activities (000's) (cont.)**

|  | <b>Fiscal Years Ended May 31,</b> |                  |                  |                  |                  |
|--|-----------------------------------|------------------|------------------|------------------|------------------|
|  | <b>2009</b>                       | <b>2010</b>      | <b>2011</b>      | <b>2012</b>      | <b>2013</b>      |
| Increase (decrease) in unrestricted net assets           | (111,730)                         | (491)            | 58,790           | 5,381            | 44,399           |
| Changes in temporarily restricted net assets:            |                                   |                  |                  |                  |                  |
| Investment return  | (915)                             | 1,352            | 13,569           | (3,249)          | 21,391           |
| Private gifts, grants and contracts                      | 5,660                             | 4,805            | 4,022            | 2,841            | 2,121            |
| Net assets released from restrictions                    | (12,648)                          | (6,948)          | 2,579            | (5,755)          | (6,287)          |
| Contributions receivable write offs                      | (1,149)                           | (1,688)          | -                | -                | (1,602)          |
| Increase (decrease) in temporarily restricted net assets | (9,052)                           | (2,479)          | 20,170           | (6,163)          | 15,623           |
| Changes in permanently restricted net assets:            |                                   |                  |                  |                  |                  |
| Private gifts, grants and contracts                      | 4,950                             | 4,939            | 3,749            | 3,636            | 4,145            |
| Adjustment to contributions receivable                   | (26)                              | (17)             | -                | -                | -                |
| Increase in permanently restricted net assets            | 4,924                             | 4,922            | 3,749            | 3,636            | 4,145            |
| Increase (decrease) in net assets                        | (115,858)                         | 1,952            | 82,709           | 2,854            | 64,167           |
| Net assets at beginning of period                        | 460,957                           | 345,099          | 347,051          | 429,760          | 432,614          |
| Net assets at end of period                              | <u>\$345,099</u>                  | <u>\$347,051</u> | <u>\$429,760</u> | <u>\$432,614</u> | <u>\$496,781</u> |

See the University's consolidated financial statements and the accompanying notes thereto included in Appendix B.

**Fund Raising**

The following table shows the amounts received by the University as private gifts, grants and contracts over the fiscal years ended May 31, 2009 through 2013, as reported in the audited consolidated financial statements of the University for such years:

| <b>Period</b>           | <b>Total</b> |
|-------------------------|--------------|
| Year ended May 31, 2009 | \$21,775,417 |
| Year ended May 31, 2010 | 19,859,822   |
| Year ended May 31, 2011 | 17,227,557   |
| Year ended May 31, 2012 | 20,257,340   |
| Year ended May 31, 2013 | 19,177,548   |

## Investments

The University pools available resources for investment purposes on an institution-wide basis. Such resources are managed by external professional managers who are selected and monitored by the Investment Committee of the Board of Trustees. As of May 31, 2013 and May 31, 2012, the total fair value of investments was \$392.2 million and \$327.9 million, respectively.

The following table shows the fair market value of the University's investment portfolio as of the fiscal years ended May 31, 2009 to 2013, as reported in the audited consolidated financial statements of the University for such years:

### Fair Market Value of Investment Portfolio

| Date         | Total         |
|--------------|---------------|
| May 31, 2009 | \$233,804,007 |
| May 31, 2010 | 262,195,043   |
| May 31, 2011 | 313,565,230   |
| May 31, 2012 | 327,915,262   |
| May 31, 2013 | 392,223,260   |

On July 15, 2013, the University closed the sale of its Manhattan campus for \$223 million. By action of the University's Board, the University will direct \$195 million to be invested in its portfolio. The above table excludes these additional invested funds.

## Plant Facilities

The book values of the University's plant facilities and accumulated depreciation as of May 31, 2009 through 2013 was as follows:

### Net Book Value of Plant Assets (000's)

|  | As of May 31, |            |            |            |            |
|--|---------------|------------|------------|------------|------------|
|  | 2009          | 2010       | 2011       | 2012       | 2013       |
| Land and site improvements.....                                      | \$ 81,898     | \$ 84,249  | \$ 86,704  | \$ 87,595  | \$ 76,164  |
| Transferable development rights.....                                 | 12,886        | 12,886     | 12,886     | 12,886     | -          |
| Building and improvements including<br>construction in progress..... | 664,790       | 702,942    | 717,824    | 735,609    | 723,207    |
| Furniture and equipment.....   | 88,696        | 92,781     | 62,548     | 65,197     | 72,119     |
| Accumulated depreciation.....  | (243,139)     | (267,389)  | (258,468)  | (281,486)  | (299,796)  |
| Net book value.....  | \$ 605,131    | \$ 625,469 | \$ 621,494 | \$ 619,801 | \$ 571,694 |

On May 23, 2013, the University entered into an agreement to sell its Manhattan campus for \$223.0 million. Pursuant to the agreement, the University will leaseback the campus until June 2014. The sale closed on July 15, 2013 resulting in a gain of approximately \$173 million. The net carrying value of the property is shown on the 2013 consolidated balance sheet as an asset held for sale in the amount of \$45.7 million as of May 31, 2013.

The University currently insures its buildings and contents at the Queens, Staten Island, Manhattan and Oakdale campuses, exclusive of land and building foundations, under blanket insurance policies in the total amount of \$1,000,000,000. Such insurance is based on the estimated total replacement value of all buildings and contents.

## Outstanding Indebtedness

The table below outlines the outstanding long-term debt of the University as of the end of its fiscal year ended May 31, 2013. At May 31, 2013, the University's outstanding long-term debt was \$505,289,778.

### Outstanding Indebtedness as of May 31, 2013

|   | Interest<br>Rate   | Final Maturity Date in<br>Fiscal Year ended May 31 | Outstanding<br>Balance |
|---|--|--|------------------------|
| Dormitory Authority of the State of New York<br>St. John's University<br>Insured Revenue Bonds, Series 2007A <sup>(1)</sup>   | 5.0% to 5.25%<br>(including unamortized<br>premium of \$5,911,783) | 2038   | \$119,334,654          |
| Dormitory Authority of the State of New York<br>St. John's University<br>Insured Revenue Bonds, Series 2007C <sup>(1)</sup>   | 4.0% to 5.25%<br>(including unamortized<br>premium of \$5,989,113) | 2031   | 117,644,113            |
| Dormitory Authority of the State of New York<br>St. John's University<br>Insured Revenue Bonds, Series 2008B-1 <sup>(1)</sup> | Variable Rate – 5/31/13<br>rate was 0.12%                          | 2035   | 66,140,000             |
| Dormitory Authority of the State of New York<br>St. John's University<br>Insured Revenue Bonds, Series 2008B-2 <sup>(1)</sup> | Variable Rate – 5/31/13<br>rate was 0.10%                          | 2038   | 67,760,000             |
| Dormitory Authority of the State of New York<br>St. John's University<br>Insured Revenue Bonds, Series 2012A <sup>(1)</sup>   | 2.0% to 5.0%<br>(including unamortized<br>premium of \$6,710,930)  | 2029   | 55,170,930             |
| Dormitory Authority of the State of New York<br>St. John's University<br>Insured Revenue Bonds, Series 2012B <sup>(1)</sup>   | 1.0% to 5.0%<br>(including unamortized<br>premium of \$5,864,918)  | 2031   | 49,794,918             |
| Obligations under capital leases  | 1.35% to 3.92%   | due in monthly<br>installments through<br>2023     | 29,445,163             |
| Total Indebtedness  |  |  | <u>\$ 505,289,778</u>  |

(1) The security interest in certain revenues granted by the University in connection with this indebtedness constitutes an existing pledge with respect to the security interest in the Pledged Revenues granted in connection with the Series 2013 Bonds.

See Note 7 to the University's audited consolidated financial statements included in Appendix B hereto for a more detailed discussion of the indebtedness at May 31, 2013 set forth above.

The University entered into an interest rate swap agreement with an original notional amount of \$58,400,000 to mitigate interest rate risk associated with a portion of the University's variable rate debt. Under the terms of the agreement, as amended, the University pays a fixed rate of 3.30% and receives 64.2% of the 10-year International Swap Dealers Association (ISDA) rate on the notional amount (\$55,775,000 at May 31, 2013). At May 31, 2013 and 2012, the fair value of the interest rate swap was a liability of \$3,682,210 and \$6,611,978, respectively. As of October 1, 2013, the fair value of the interest rate swap was a liability of \$2,175,013.

The University has entered into multiple master lease and sublease agreements with the Dormitory Authority's Tax Exempt Equipment Leasing Program (TELP). Pursuant to the agreements, the University borrowed an aggregate of \$47,296,665 (including \$9,300,000 in fiscal year 2013) to fund the purchase of energy efficient equipment and to replace and upgrade various technology equipment. Each lease schedule is collateralized by the equipment financed by the schedule. Each lease schedule requires payments in equal monthly installments, including interest. As of May 31, 2013, the University had aggregate monthly lease payments of approximately \$701,000. The lease schedules have various expiration dates extending through August 10, 2023 and interest rates ranging from 1.35% to 3.92%.

On October 8, 2013 the University entered into a Lease and Sublease Agreement with Banc of America Public Capital Corp. and DASNY under DASNY's Tax-Exempt Leasing Program. Pursuant to this agreement, the University borrowed \$7,500,000 to fund the purchase, replacement and upgrade of certain technology equipment. The lease obligation carries interest at 1.344% is collateralized by the equipment, and is payable in 60 equal monthly installments, including interest, of \$129,317 beginning November 8, 2013.

### **Pension Plans and Other Benefits**

The University has defined contribution retirement plans covering substantially all academic and nonacademic personnel. Pension costs for the fiscal year ended May 31, 2013 were approximately \$13,957,000.

In addition, the University offers health and life insurance coverage to retired employees and their dependents. The cost of such benefits is paid for by the retirees.

### **Litigation and Other Matters**

Litigation incidental to the normal operation of the University is pending against the University. While the ultimate liability, if any, of the University is not presently determinable, the University believes it has adequate defenses. Such litigation is, to a great extent, covered by insurance. The pending litigation, in the aggregate, is not expected to have a material adverse effect on the University's financial position.

[Remainder of Page Intentionally Left Blank]

**PART 5 - PRINCIPAL AND INTEREST REQUIREMENTS**

The following table sets forth the amounts, after giving effect to the issuance of the Series 2013 Bonds, required to be paid by the University during each Fiscal Year ending May 31 for the payment of debt service on the currently outstanding indebtedness of the University, the principal of and interest on the Series 2013 Bonds and the total debt service on all indebtedness of the University, including the Series 2013 Bonds.

| <b>12 Month<br/>Period Ending<br/>on May 31</b> | <b>Total Debt Service<br/>on other Outstanding<br/>Indebtedness<sup>(1)(2)</sup></b> | <b>Principal<br/>Payments on the<br/>Series<br/>2013 Bonds</b> | <b>Interest<br/>Payments on<br/>the Series<br/>2013 Bonds</b> | <b>Total Debt<br/>Service on<br/>the Series<br/>2013 Bonds</b> | <b>Total Debt<br/>Service<sup>(3)</sup></b> |
|---|--|--|---|--|---|
| 2014  | \$ 28,878,069  | \$ -   | \$ 361,691  | \$ 361,691   | \$ 29,239,760                               |
| 2015  | 32,285,770   | -  | 3,175,821   | 3,175,821  | 35,461,590                                  |
| 2016  | 32,979,629   | -  | 3,175,821   | 3,175,821  | 36,155,449                                  |
| 2017  | 33,081,306   | -  | 3,175,821   | 3,175,821  | 36,257,127                                  |
| 2018  | 33,317,013   | -  | 3,175,821   | 3,175,821  | 36,492,834                                  |
| 2019  | 33,792,460   | 300,000  | 3,169,398   | 3,469,398  | 37,261,857                                  |
| 2020  | 34,120,063   | 500,000  | 3,152,270   | 3,652,270  | 37,772,333                                  |
| 2021  | 34,109,887   | 500,000  | 3,130,860   | 3,630,860  | 37,740,747                                  |
| 2022  | 34,128,669   | 500,000  | 3,109,450   | 3,609,450  | 37,738,119                                  |
| 2023  | 34,147,678   | 500,000  | 3,088,040   | 3,588,040  | 37,735,718                                  |
| 2024  | 34,181,280   | 500,000  | 3,066,630   | 3,566,630  | 37,747,910                                  |
| 2025  | 34,810,470   | 500,000  | 3,043,470   | 3,543,470  | 38,353,940                                  |
| 2026  | 34,784,606   | 500,000  | 3,018,560   | 3,518,560  | 38,303,166                                  |
| 2027  | 34,064,188   | 500,000  | 2,993,650   | 3,493,650  | 37,557,838                                  |
| 2028  | 33,519,753   | 500,000  | 2,968,740   | 3,468,740  | 36,988,493                                  |
| 2029  | 33,501,174   | 500,000  | 2,943,830   | 3,443,830  | 36,945,004                                  |
| 2030  | 33,541,248   | 695,000  | 2,914,062   | 3,609,062  | 37,150,310                                  |
| 2031  | 33,588,299   | -  | 2,896,750   | 2,896,750  | 36,485,049                                  |
| 2032  | 17,919,222   | -  | 2,896,750   | 2,896,750  | 20,815,972                                  |
| 2033  | 17,988,097   | -  | 2,896,750   | 2,896,750  | 20,884,847                                  |
| 2034  | 18,094,528   | -  | 2,896,750   | 2,896,750  | 20,991,278                                  |
| 2035  | 18,170,465   | -  | 2,896,750   | 2,896,750  | 21,067,215                                  |
| 2036  | 10,432,178   | -  | 2,896,750   | 2,896,750  | 13,328,928                                  |
| 2037  | 10,459,495   | -  | 2,896,750   | 2,896,750  | 13,356,245                                  |
| 2038  | 10,454,825   | -  | 2,896,750   | 2,896,750  | 13,351,575                                  |
| 2039  | -  | 7,090,000  | 2,719,500   | 9,809,500  | 9,809,500                                   |
| 2040  | -  | 7,450,000  | 2,356,000   | 9,806,000  | 9,806,000                                   |
| 2041  | -  | 7,835,000  | 1,973,875   | 9,808,875  | 9,808,875                                   |
| 2042  | -  | 8,235,000  | 1,572,125   | 9,807,125  | 9,807,125                                   |
| 2043  | -  | 8,655,000  | 1,149,875   | 9,804,875  | 9,804,875                                   |
| 2044  | -  | 9,100,000  | 706,000   | 9,806,000  | 9,806,000                                   |
| 2045  | -  | 9,570,000  | 239,250   | 9,809,250  | 9,809,250                                   |

(1) Includes principal and interest paid in the current fiscal year.

(2) Assumes that the interest on variable rate bonds accrues at 3.00%, except for a portion of the Series 2008B-1 Bonds for which interest is assumed to accrue at the swap rate of 3.30%.

(3) Totals may not foot due to rounding.

## **PART 6 - THE PROJECT**

The Project consists of the acquisition of title to the land and building located at 172 – 14 Henley Road, Jamaica, New York in the Borough of Queens (the “Project Facility”) and the prepayment of the existing mortgage on the Project Facility (the “Project Mortgage”). The University has since 2009 occupied the Project Facility pursuant to a lease (the “Project Lease”), between it and the owner, Henley Residences, LLC (the “Owner”), and has continuously utilized it as a student residence facility.

The Project Lease gave the University an option to purchase the Project Facility from the Owner, which the University has exercised. The University purchased the Project Facility on September 16, 2013 for a purchase price of approximately \$63.67 million, approximately \$21.59 million of which was paid in cash and the balance was paid by the assumption of the Project Mortgage, the outstanding balance of which is approximately \$42.08 million.

To comply with requirements of the Project Mortgage, the University established a special purpose entity known as Henley Road SPE, LLC (the “University LLC”) to acquire and own the Project Facility. The University LLC is a single member Delaware limited liability company, in which the University is the sole member. The University LLC assumed the Project Mortgage, and holds title to the Project Facility. Simultaneously with the University LLC’s acquisition of title, the Owner assigned the Project Lease to the University LLC and the Project Lease term was extended to July 1, 2047. The University will continue to occupy the Project Facility as the University LLC’s tenant under the Project Lease.

The Project Mortgage is currently prepayable, subject to a prepayment premium if the Project Mortgage is prepaid prior to October 1, 2016. The prepayment premium is currently estimated to be in excess of \$14 million. Commencing October 1, 2016 and thereafter, the Project Mortgage may be prepaid without premium. The University presently intends to prepay, or cause the University LLC to prepay, the Project Mortgage on or about October 3, 2016, at which time the outstanding principal balance of the Project Mortgage will be approximately \$35.2 million. The University has covenanted in the Loan Agreement to prepay the Project Mortgage on or before November 15, 2016.

A portion of the proceeds of the Series 2013A Bonds will be used to reimburse the University for the approximately \$21.45 million cash purchase price the University paid for the Project Facility. In addition, a portion of the proceeds of the Series 2013A Bonds will be applied to pay the costs of issuance incurred in connection with the issuance of the Series 2013A Bonds. The balance of the proceeds of the Series 2013A bonds will be used to prepay the Project Mortgage. Until applied to the prepayment, such proceeds will be held in the Construction Fund and will be pledged as security for the Series 2013 Bonds. The proceeds of the Series 2013B Bonds will be used to pay capitalized interest and costs of issuance on the Series 2013B Bonds.

## **PART 7 - BONDHOLDERS’ RISKS**

*The following is a discussion of certain risks that could affect payments to be made with respect to the Series 2013 Bonds. Such discussion is not exhaustive, should be read in conjunction with all other parts of this Official Statement and should not be considered as a complete description of all risks that could affect such payments. Prospective purchasers of the Series 2013 Bonds should analyze carefully the information contained in this Official Statement, including the appendices hereto, and additional information in the form of the complete documents summarized herein, copies of which are available as described in this Official Statement.*

### **General**

The Series 2013 Bonds are payable from payments to be made by the University under the Loan Agreement. The ability of the University to comply with its obligations under the Loan Agreement depends primarily upon the ability of the University to continue to attract sufficient tuition-paying students to its educational programs, to obtain sufficient revenues from related activities and to maintain sufficient creditworthiness. The University expects that revenues derived from its ongoing operations, together with other available resources, will at all times be sufficient to make the required payments on the Loan Agreement and the University will covenant under the Loan Agreement to make all such payments when due. There are certain risks, however, which might prevent the University from obtaining sufficient revenues from tuition and other sources to meet all of its obligations, including its obligations under the Loan Agreement. Purchasers of the Series



2013 Bonds should bear in mind that the occurrence of any number of events could adversely affect the ability of the University to generate such revenues. Future economic, demographic and other conditions, including the demand for educational services, the ability of the University to provide the services required by students, economic developments in the Queens, New York area and competition from other educational institutions, together with changes in costs, may adversely affect revenues and expenses and, consequently, the ability of the University to provide for payments. The future financial condition of the University could also be adversely affected by, among other things, legislation and regulatory actions, and a number of other conditions which are unpredictable.

### **Financial Assistance**

The amount of available financial assistance is a significant factor in the decision of many students to attend a particular college or university. During the 2012-2013 academic year, approximately 88% of the University's enrolled students receive some form of financial assistance through the University. The level of financial assistance is directly affected by funding levels of federal, state and other financial aid programs. Any significant reduction in the level of financial assistance offered to prospective students could reduce the number of students enrolling at the University.

### **Investment Income**

The University's investment program for endowment and similar funds operates under an investment policy statement and guidelines established by the Board, which delegates direct oversight for the investment program to the Investment Committee of the Board. The consolidated endowment pool is managed by external money managers appointed for the purpose by the Investment Committee. Although the unrestricted portion of the University's endowment funds and the payout therefrom are available for debt service payments on the Series 2013 Bonds, no assurance can be given that unforeseen developments in the securities markets will not have an adverse effect on the market value of those investments and the income generated therefrom.

### **Fund Raising**

The University raises funds to finance its operations and capital development programs from a variety of benefactors. Although it plans to continue those efforts in the future, there can be no assurance that those efforts will be successful. Such efforts may be adversely affected by a number of factors, including general economic conditions and tax law changes affecting the deductibility of charitable contributions.

### **Government Funding**

The federal and state governments provide funding to support education, including tuition assistance. These sources of funding and the governmental programs that support them have been and will continue to be subject to modification and revision due to state and federal policy decisions, legislative action and government funding limitations. The financial condition of the University could be adversely affected by these actions and the ability of the University to maintain its creditworthiness will be based on its ability to successfully manage the outcome of any such actions.

### **Risks as Employer**

The University is a major employer, combining a complex mix of tenured and untenured full-time faculty, part-time faculty, technical and clerical support staff and other types of workers in a single operation. As with all large employers, the University bears a wide variety of risks in connection with its employees. These risks include discrimination claims, personal tort actions, work-related injuries, exposure to hazardous materials, interpersonal torts (such as between employees or between employees and students) and other risks that may flow from the relationships between employer and employee or between students and employees. Certain of these risks are not covered by insurance, and certain of them cannot be anticipated or prevented in advance.

### **Changes in Law**

Changes in law may impose new or added financial or other burdens on the operations of the University. Developments may include: (i) legislative or regulatory requirements for maintaining status as an organization exempt from

taxation as described in Section 501(c)(3) of the Code; or (ii) challenges to State and local exemptions from real property tax and other taxes. It is not possible to predict the scope or effect of future legislative or regulatory actions with respect to taxation of not-for-profit corporations. There can be no assurance that future changes in the laws and regulations will not materially adversely affect the operations and financial condition of the University by requiring it to pay income or real property taxes (or other *ad valorem* taxes).

### **Tax-Exempt Status Change**

Loss of tax-exempt status by the University could result in loss of the exclusion from federal gross income of interest on the Series 2013A Bonds and defaults in covenants regarding the Series 2013A Bonds and other related tax-exempt debt would likely be triggered. However, loss of tax-exempt status by the University would not cause a mandatory redemption or acceleration on the Series 2013A Bonds nor would it cause a change in the interest rates on the Series 2013A Bonds. The maintenance by the University of its Section 501(c)(3) tax-exempt status depends, in part, upon compliance with general rules in the Code and related United States Treasury regulations regarding the organization and operation of tax-exempt entities, including their operation for charitable and educational purposes and their avoidance of transactions that may cause their assets to inure to the benefit of private individuals.

### **Change in Tax Status of University LLC**

Proceeds of the Bonds will be used to finance the purchase of the Project Facility. Title to the Project Facility will be held by the University LLC. See “PART 6 - THE PROJECT”. Based on the current ownership structure of the University LLC and existing law, the University LLC is disregarded as an entity separate from the University for federal income tax purposes. Loss of treatment of the University LLC as a “disregarded entity” for federal income tax purposes could result in a violation of the University’s covenants and a loss of the exclusion of interest on the Series 2013A Bonds from gross income for federal income tax purposes under Section 103 of the Code. See “PART 6 - THE PROJECT.”

### **Additional Bonds**

Additional Bonds may be issued under the Resolution and secured on a parity with the Series 2013 Bonds subject to compliance with the conditions contained in the Loan Agreement. See “APPENDIX C - SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT” and “APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION.”

### **Additional Indebtedness**

The University may issue, incur or assume additional indebtedness without limitation, subject to compliance with the conditions contained in the Loan Agreement. See “PART 2 - SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2013 BONDS - Covenants” and “APPENDIX C - SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT.” With DASNY’s prior written consent, such Indebtedness may be secured by liens on the Pledged Revenues or the Mortgaged Property or both that are either subordinate to or of equal priority with the liens thereon securing the University’s obligations under the Loan Agreement. In addition, any such Indebtedness may be secured by a mortgage on or security interest in property not now securing the Loan Agreement of the University without granting to DASNY any security interest in such property to secure the University’s obligations under the Loan Agreement. In the event of a default under any debt instrument secured by such property, the holder or trustee under such debt instrument will have the right to foreclose the lien on such property, other than the Pledged Revenues or the Mortgaged Property, and apply the money so collected to the payment of amounts due under such debt instrument. Any money so collected and applied will not be available for satisfying any of the University’s obligations under the Loan Agreement.

### **Certain Matters Relating to Enforceability of the Resolution and Loan Agreement**

The obligation of the University to make payments on the Loan Agreement will be limited as the obligations of debtors typically are affected by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws or by equitable principles affecting the enforcement of creditors’ rights. If the University filed for the reduction of its debts in a proceeding under the federal Bankruptcy Code, the court could approve provisions modifying, eliminating or altering the rights of creditors generally, or any class of them, secured or unsecured. If the University should file a plan of

reorganization (“Plan”), when confirmed by the court, such Plan binds all creditors who had notice or knowledge of the Plan and discharges all claims against the debtor as provided for in the Plan. No Plan may be confirmed unless certain conditions are met, among which are that the Plan is in the best interests of creditors, is feasible and has been accepted by each class of claims impaired thereunder. Each class of claims has accepted the Plan if at least two-thirds in dollar amount and more than one-half in number of the allowed claims of the class that are voted with respect to the Plan are cast in its favor. Even if the Plan is not so accepted, it may be confirmed if the court finds that the Plan is fair and equitable with respect to each class of non-accepting creditors impaired thereunder and does not discriminate unfairly.

In addition, there exists common law authority and authority under State statutes for the ability of the State courts to terminate the existence of a not-for-profit corporation or undertake supervision of its affairs on various grounds, including a finding that such corporation has insufficient assets to carry out its stated charitable purposes or has taken some action which renders it unable to carry out such purposes. Such court action may arise on the court’s own motion or pursuant to a petition of the State Attorney General or such other persons who have interests different from those of the general public, pursuant to the common law and statutory power to enforce charitable trusts and to see to the application of their funds to their intended charitable uses.

**Secondary Market for the Series 2013 Bonds**

There can be no assurance that there will be a secondary market for purchase or sale of the Series 2013 Bonds. From time to time there may be no market for the Series 2013 Bonds depending upon prevailing market conditions, including the financial condition or market position of firms who may make the secondary market, the evaluation of the University’s capabilities and the financial condition and results of operations of the University.

**PART 8 - ESTIMATED SOURCES AND USES OF FUNDS**

The estimated sources and uses of funds are as follows:

|                                       | <u>Series 2013A Bonds</u> | <u>Series 2013B Bonds</u>   |
|---------------------------------------|---------------------------|-----------------------------|
| <b>Sources of Funds</b>               |                           |                             |
| Principal Amount of Series 2013 Bonds | \$ 57,935,000.00          | \$ 5,995,000.00             |
| Premium                               | 84,005.75                 |                             |
| Other Available Money                 | 5,384,788.34 <sup>2</sup> |                             |
| Total Sources                         | <u>\$ 63,403,794.09</u>   | <u>\$ 5,995,000.00</u>      |
| <b>Uses of Funds</b>                  |                           |                             |
| Deposit to Project Account            | \$ 57,149,438.22          | \$5,384,788.34 <sup>2</sup> |
| Costs of Issuance <sup>1</sup>        | 507,468.06                | 53,975.50                   |
| Capitalized Interest                  | 5,384,788.34 <sup>2</sup> | 518,766.80                  |
| Underwriter’s Discount                | 362,099.47                | 37,469.36                   |
| Total Uses                            | <u>\$ 63,403,794.09</u>   | <u>\$5,995,000.00</u>       |

<sup>1</sup> Includes legal fees and other costs relating to issuance of the Series 2013 Bonds.

<sup>2</sup> \$5,384,788.34 from the proceeds of the Series 2013B Bonds will be used to fund capitalized interest on the Series 2013A Bonds.

**PART 9 - DASNY**

**Background, Purposes and Powers**

DASNY is a body corporate and politic constituting a public benefit corporation. DASNY was created in 1944 to finance and build dormitories at State teachers’ colleges to provide housing for the large influx of students returning to college on the G.I. Bill following World War II. Over the years, the State Legislature has expanded DASNY’s scope of responsibilities. Today, pursuant to the Dormitory Authority Act, DASNY is authorized to finance, design, construct or rehabilitate facilities for use by a variety of public and private not-for-profit entities.

DASNY provides financing services to its clients in three major areas: public facilities; not-for-profit healthcare; and independent higher education and other not-for-profit institutions. DASNY issues State-supported debt, including State Personal Income Tax Revenue Bonds and State Sales Tax Revenue Bonds, on behalf of public clients such as The State University of New York, The City University of New York, the Departments of Health and Education of the State, the Office of Mental Health, the Office of People with Developmental Disabilities, the Office of Alcoholism and Substance Abuse Services, the Office of General Services, and the Office of General Services of the State on behalf of the Department of Audit and Control. Other public clients for whom DASNY issues debt include Boards of Cooperative Educational Services (“BOCES”), school districts across the State and certain cities and counties that have accessed DASNY for the purpose of providing court facilities. DASNY’s private clients include independent colleges and universities, private hospitals, certain private secondary schools, special education schools, facilities for the aged, primary care facilities, libraries, museums, research centers and government-supported voluntary agencies, among others.

To carry out its programs, DASNY is authorized to issue and sell negotiable bonds and notes to finance the construction of facilities for such institutions, to issue bonds or notes to refund outstanding bonds or notes and to lend funds to such institutions. At September 30, 2013, DASNY had approximately \$45 billion aggregate principal amount of bonds and notes outstanding. DASNY also is authorized to make tax-exempt leases, with its Tax-Exempt Leasing Program (TELP). As part of its operating activities, DASNY also administers a wide variety of grants authorized by the State for economic development, education and community improvement and payable to both public and private grantees from proceeds of State Personal Income Tax Revenue Bonds issued by DASNY.

DASNY is a conduit debt issuer. Under existing law, and assuming continuing compliance with tax law, interest on most bonds and notes issued by DASNY has been determined to be excludable from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. All of DASNY’s outstanding bonds and notes, both fixed and variable rate, are special obligations of DASNY payable solely from payments required to be made by or for the account of the client institution for which the particular special obligations were issued. DASNY has no obligation to pay its special obligations other than from such payments. DASNY has always paid the principal of and interest on all of its obligations on time and in full; however, as a conduit debt issuer, payments on DASNY’s special obligations are solely dependent upon payments made by DASNY’s client for which the particular special obligations were issued and the security provisions relating thereto.

DASNY also offers a variety of construction services to certain educational, governmental and not-for-profit institutions in the areas of project planning, design and construction, monitoring project construction, purchasing of furnishings and equipment for projects, interior design of projects and designing and managing projects to rehabilitate older facilities.

In connection with the powers described above, DASNY has the general power to acquire real and personal property, give mortgages, make contracts, operate certain 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, borrow money and adopt a program of self-insurance.

DASNY has a staff of approximately 520 employees located in three main offices (Albany, New York City and Buffalo) and at approximately 55 field sites across the State.

## **Governance**

DASNY is governed by an eleven-member board. 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 DASNY meetings. The members of DASNY serve without compensation, but are entitled to

reimbursement of expenses incurred in the performance of their duties. One of the appointments to the Board by the Governor is currently vacant.

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

The current members of DASNY are as follows:

ALFONSO L. CARNEY, JR., *Chair*, New York.

Alfonso L. Carney, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Carney is a principal of Rockwood Partners, LLC, which provides medical consulting services in New York City. He has 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 managed the staff of the Foundation, provided strategic oversight of the administration, communications and legal affairs teams, and developed selected Foundation program initiatives. Mr. Carney has held senior level legal positions with Altria Group Inc., Philip Morris Companies Inc., Philip Morris Management Corporation, Kraft Foods, Inc. and General Foods Corporation. Mr. Carney holds a Bachelor's 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, 2016.

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

John B. Johnson, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Johnson is Chairman of the Board 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 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, 2016.

JACQUES JIHA, Ph.D., *Secretary*, Woodbury.

Jacques Jiha was appointed as a Member of DASNY by the Governor on December 15, 2008. Mr. Jiha is the Executive Vice President/Chief Operating Officer & Chief Financial Officer of Earl G. Graves, Ltd/Black Enterprise, a multi-media company with properties in print, digital media, television, events and the internet. He is a member of the Investment Advisory Committee of the New York Common Retirement Fund and previously served as Deputy Comptroller for Pension Investment and Public Finance in the Office of the State Comptroller. 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 expired on March 31, 2011 and by law he continues to serve until a successor shall be chosen and qualified.

BERYL L. SNYDER, J.D., New York.

Beryl L. Snyder was reappointed as a member of DASNY by the Governor on June 19, 2013. Ms. Snyder is a principal in HBJ Investments, LLC, an investment company where her duties include evaluation and analysis of a wide variety of investments in, among other areas: fixed income, equities, alternative investments and early stage companies. She holds a Bachelor of Arts degree in History from Vassar College and a Juris Doctor degree from Rutgers University. Her current term expires on August 31, 2016.

SANDRA M. SHAPARD, Delmar.

Sandra M. Shapard was appointed as a Member of DASNY by the State Comptroller on January 21, 2003. Ms. Shapard served as Deputy Comptroller for the Office of the State Comptroller from 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 the Budget from 1991 to 1994. She began her career in New York State government with the Assembly where 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. 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.

Gerard Ronski was reappointed as a Member of DASNY by the Temporary President of the State Senate on June 21, 2012. 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, New York. Mr. Ronski is also of counsel to the New York City law firm of Rich, Intelisano & Katz, LLP. Mr. Ronski 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.

Roman B. Hedges was appointed as a Member of DASNY 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. 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 previously served as the Director of Fiscal Studies of the Assembly Committee on Ways and Means. 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.

JOHN B. KING, JR., J.D., Ed.D., *Commissioner of Education of the State of New York*, Slingerlands; *ex-officio*.

John B. King, Jr. was appointed by the Board of Regents to serve as President of the University of the State of New York and Commissioner of Education on July 15, 2011. As Commissioner of Education, Dr. King serves as Chief Executive Officer of the State Education Department and as President of the University of the State of New York, which is comprised of public and non-public elementary and secondary schools, public and independent colleges and universities, libraries, museums, broadcasting facilities, historical repositories, proprietary schools and services for children and adults with disabilities. He holds a Bachelor of Arts degree in Government from Harvard University, a Master of Arts degree in Teaching of Social Studies from Teachers College, Columbia University, a Juris Doctor degree from Yale Law School and a Doctor of Education degree in Educational Administrative Practice from Teachers College, Columbia University.

NIRAV R. SHAH, M.D., M.P.H., *Commissioner of Health of the State of New York*, Albany; *ex-officio*.

Nirav R. Shah, M.D., M.P.H. was appointed Commissioner of Health on January 24, 2011. Prior to his appointment he served as Attending Physician at Bellevue Hospital Center, Associate Investigator at the Geisinger Center for Health Research in central Pennsylvania, and Assistant Professor of Medicine at the NYU Langone Medical Center. Dr. Shah is an expert in use of systems-based methods, a leading researcher in use of large scale clinical laboratories and electronic health records and he has served on the editorial boards of various medical journals. He is a graduate of Harvard College, received his medical and master of public health degrees from Yale School of Medicine, was a Robert Wood Johnson Clinical Scholar at UCLA and a National Research Service Award Fellow at NYU.

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

Robert L. 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. He holds Masters degrees in Public Policy from Fordham University and Economics from the London School of Economics.

The principal staff of DASNY is as follows:

PAUL T. WILLIAMS, JR. is the President and chief executive officer of DASNY. Mr. Williams is responsible for the overall management of DASNY's administration and operations. Prior to joining DASNY, Mr. Williams spent the majority of his career in law including 15 years as a founding partner in Wood, Williams, Rafalsky & Harris, where he helped to develop a national bond counsel practice, then as a partner in Bryan Cave LLP, where he counseled corporate clients in a range of areas. Mr. Williams later left the practice of law to help to establish a boutique Wall Street investment banking company where he served as president for several years. Throughout his career, Mr. Williams has made significant efforts to support diversity and promote equal opportunity, including his past service as president of One Hundred Black Men, Inc. and chairman of the Eagle Academy Foundation. Mr. Williams is licensed to practice law in the State of New York and holds a Bachelor's degree from Yale University and a Juris Doctor degree from Columbia University School of Law.

MICHAEL T. CORRIGAN is the Vice President of DASNY, and assists the President in the administration and operation of DASNY. Mr. Corrigan came to DASNY 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 DASNY, 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 DASNY bond issuance in the capital markets, implementing and overseeing financing programs, overseeing DASNY's compliance with continuing disclosure requirements and monitoring the financial condition of existing DASNY 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. She holds a Bachelor's degree from the State University of New York at Albany.

LINDA H. BUTTON is the Acting Chief Financial Officer and Treasurer of DASNY. Ms. Button oversees and directs the activities of the Office of Finance. She is responsible for supervising DASNY's investment program, general accounting, accounts payable, accounts receivable and financial reporting functions, as well as the development and implementation of financial policies, financial management systems and internal controls for financial reporting. Ms. Button has served in various capacities at DASNY over a long career, most recently as Director, Financial Management in the Office of Finance. She holds a Bachelor of Business Administration degree in Accounting from Siena College.

MICHAEL E. CUSACK is General Counsel to DASNY. Mr. Cusack is responsible for all legal services including legislation, litigation, contract matters and the legal aspects of all DASNY financings. He is licensed to practice law in the State of New York and the Commonwealth of Massachusetts, as well as the United States District Court for the Northern

District of New York. Mr. Cusack has over twenty years of combined legal experience, including management of an in-house legal department and external counsel teams (and budgets) across a five-state region. He most recently served as of counsel to the Albany, New York law firm of Young/Sommer, LLC, where his practice included representation of upstate New York municipalities, telecommunications service providers in the siting of public utility/personal wireless service facilities and other private sector clients. He holds a Bachelor of Science degree from Siena College and a Juris Doctor degree from Albany Law School of Union University.

STEPHEN D. CURRO, P.E. is the Managing Director of Construction. Mr. Curro is responsible for DASNY's construction groups, including design, project management, purchasing, contract administration, interior design, and engineering and other technology services. Mr. Curro joined DASNY 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 has worked in the construction industry for more than 20 years. 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. Ms. Wallace is responsible for strategic efforts in program development, including maximizing the utilization of Minority and Women-Owned Businesses, sustainability, training and marketing, as well as communications with DASNY's clients, vendors, the public and governmental officials. She has more than 20 years of senior leadership experience in diverse private-sector telecommunications businesses and civic organizations. Ms. Wallace holds a Bachelor's Degree in Business Management from Pepperdine University and recently obtained her Master's Degree in Public Administration from Columbia University.

### **Claims and Litigation**

Although certain claims and litigation have been asserted or commenced against DASNY, DASNY believes that such claims and litigation either are covered by insurance or by bonds filed with DASNY, or that DASNY has sufficient funds available or the legal power and ability to seek sufficient funds to meet any such claims or judgments resulting from such matters.

### **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 DASNY 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. DASNY obtains the approval of the PACB for the issuance of all of its bonds and notes.

#### ***Legislation***

From time to time, bills are introduced into the State Legislature which, if enacted into law, would affect DASNY and its operations. DASNY 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 DASNY) and their financing programs. Any of such periodic studies could result in proposed legislation which, if adopted, would affect DASNY and its operations.

#### ***Environmental Quality Review***

DASNY 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 to the extent such acts and regulations are applicable.



### ***Independent Auditors***

The accounting firm of KPMG LLP audited the financial statements of DASNY for the fiscal year ended March 31, 2013. Copies of the most recent audited financial statements are available upon request at the offices of DASNY.

## **PART 10 - LEGALITY OF THE SERIES 2013 BONDS FOR INVESTMENT AND DEPOSIT**

Under New York State law, the Series 2013 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 2013 Bonds may be deposited with the State Comptroller to secure deposits of State money in banks, trust companies and industrial banks.

## **PART 11 - NEGOTIABLE INSTRUMENTS**

The Series 2013 Bonds are negotiable instruments as provided in the Act, subject to the provisions for registration and transfer contained in the Resolution and in the Series 2013 Bonds.

## **PART 12 - TAX MATTERS**

### **Federal Income Taxes - Series 2013A Bonds**

#### ***General***

The Internal Revenue Code of 1986, as amended (the "Code"), imposes certain requirements that must be met subsequent to the issuance and delivery of the Series 2013A 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 2013A Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2013A Bonds. Pursuant to the Series 2013A Resolution, the Loan Agreement and the Tax Certificate, DASNY and the University have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2013A Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, DASNY and the University have made certain representations and certifications in the Series 2013A Resolution, the Loan Agreement and the Tax Certificate. Nixon Peabody LLP will also rely on the opinion of the University's counsel Bond, Schoeneck & King, PLLC as to all matters concerning the status of the University 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 and on the opinion of Willkie Farr & Gallagher LLP as to the federal income tax status of the University LLC. Nixon Peabody LLP will not independently verify the accuracy of those representations and certifications or those opinions.

In the opinion of Nixon Peabody LLP, Co-Bond Counsel, under existing law and assuming compliance with the aforementioned covenants, and the accuracy of certain representations and certifications made by DASNY and the University described above, interest on the Series 2013A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. Nixon Peabody LLP 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 2013A Bonds is, however, included in the adjusted current earnings of corporations for purposes of computing the alternative minimum tax imposed on corporations.

#### ***Original Issue Premium***

The Series 2013A Bonds are being offered at prices in excess of their principal amounts. An initial purchaser with an initial adjusted basis in a Series 2013A 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 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 Series 2013A Bond, an initial purchaser who acquires such obligation with an amortizable bond premium is required to decrease such purchaser's adjusted basis in such Series 2013A 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 Series 2013A Bonds. Owners of the Series 2013A Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Series 2013A Bonds.

#### ***Ancillary Tax Matters***

Ownership of the Series 2013A 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 2013A 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 2013A 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.

Interest paid on tax-exempt obligations such as the Series 2013A 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 2013A 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.

Nixon Peabody LLP is not rendering any opinion as to any federal tax matters other than those described in the form of its opinion attached as Appendix E to this Official Statement. 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 2013A Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

#### ***Changes in Tax 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 2013A Bonds for federal or state income tax purposes, and thus on the value or marketability of the Series 2013A 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 2013A Bonds from gross income for federal or state income tax purposes, or otherwise. We note that in 2011, and again in 2012 and 2013, President Obama released legislative proposals that would limit the extent of the exclusion of interest on state and local bonds (including the Series 2013A Bonds) for taxpayers whose income exceeds certain thresholds for tax years beginning after 2012. 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 2013A Bonds may occur. Prospective purchasers of the Series 2013A Bonds should consult their own tax advisers regarding the impact of any change in law on the Series 2013A Bonds.

Nixon Peabody LLP has not undertaken to advise in the future whether any events after the date of issuance and delivery of the Series 2013A Bonds may affect the tax status of interest on the Series 2013A Bonds. Nixon Peabody LLP expresses no opinion as to any federal, state or local tax law consequences with respect to the Series 2013A Bonds, or the interest thereon, if any action is taken with respect to the Series 2013A Bonds or the proceeds thereof upon the advice or approval of other counsel.

#### **Federal Income Taxes - Series 2013B Bonds**

The following is a summary of certain anticipated United States federal income tax consequences of the purchase, ownership and disposition of the federally taxable Series 2013B Bonds. The summary is based upon the provisions of the Code, the regulations promulgated thereunder and the judicial and administrative rulings and decisions now in effect, all of

which are subject to change. The summary generally addresses Series 2013B Bonds held as capital assets and does not purport to address all aspects of federal income taxation that may affect particular investors in light of their individual circumstances or certain types of investors subject to special treatment under the federal income tax laws, including but not limited to financial institutions, insurance companies, dealers in securities or currencies, persons holding such Bonds as a hedge against currency risks or as a position in a “straddle” for tax purposes, or persons whose functional currency is not the United States dollar. Potential purchasers of the Series 2013B Bonds should consult their own tax advisors in determining the federal, state or local tax consequences to them of the purchase, holding and disposition of the Series 2013B Bonds. The advice set forth in this section was not intended or written by Nixon Peabody LLP to be used and cannot be used by an owner of the Series 2013B Bonds for the purpose of avoiding penalties that may be imposed on the owner of the Series 2013B Bonds. The advice set forth herein is written to support the promotion or marketing of the Series 2013B Bonds. Each owner of the Series 2013B Bonds should seek advice based on its particular circumstances from an independent tax advisor.

The advice set forth in this section on the federal income tax treatment of the Series 2013B Bonds was not intended or written by Bond Counsel to be used and cannot be used by an owner of the Series 2013B Bonds for the purpose of avoiding penalties that may be imposed on the owner of the Series 2013B Bonds. The advice set forth herein is written to support the promotion or marketing of the Series 2013B Bonds. Each owner of the Series 2013B Bonds should seek advice based on its particular circumstances from an independent tax advisor.

### ***General***

In the opinion of Nixon Peabody LLP, interest on the Series 2013B Bonds is not excluded from gross income for federal income tax purposes and so will be fully subject to federal income taxation. Purchasers other than those who purchase Series 2013B Bonds in the initial offering at their principal amounts will be subject to federal income tax accounting rules affecting the timing and/or characterization of payments received with respect to such bonds. In general, interest paid on the Series 2013B Bonds and recovery of accrued original issue and market discount, if any, will be treated as ordinary income to a bondholder and, after adjustment for the foregoing, principal payments will be treated as a return of capital.

### ***Original Issue Discount***

The following summary is a general discussion of certain federal income tax consequences of the purchase, ownership and disposition of Series 2013B Bonds issued with original issue discount (“Discount 2013B Bonds”). A Series 2013B Bond will be treated as having been issued at an original issue discount if the excess of its “stated redemption price at maturity” (defined below) over its issue price (defined as the initial offering price to the public at which a substantial amount of the Series 2013B Bonds of the same maturity have first been sold to the public, excluding bond houses and brokers) equals or exceeds one quarter of one percent of such Series 2013B Bond’s stated redemption price at maturity multiplied by the number of complete years to its maturity.

A Series 2013B Bond’s “stated redemption price at maturity” is the total of all payments provided by the Series 2013B Bond that are not payments of “qualified stated interest.” Generally, the term “qualified stated interest” includes stated interest that is unconditionally payable in cash or property (other than debt instruments of the issuer) at least annually at a single fixed rate.

In general, the amount of original issue discount includible in income by the initial holder of a Discount 2013B Bond is the sum of the “daily portions” of original issue discount with respect to such Series 2013B Bond for each day during the taxable year in which such holder held such Series 2013B Bond. The daily portion of original issue discount on any Discount 2013B Bond is determined by allocating to each day in any “accrual period” a ratable portion of the original issue discount allocable to that accrual period.

An accrual period may be of any length, and may vary in length over the term of a Series 2013B Bond, provided that each accrual period is not longer than one year and each scheduled payment of principal or interest occurs at the end of an accrual period. The amount of original issue discount allocable to each accrual period is equal to the difference between (i) the product of the Series 2013B Bond’s adjusted issue price at the beginning of such accrual period and its yield to maturity (determined on the basis of compounding at the close of each accrual period and appropriately adjusted to take into account the length of the particular accrual period) and (ii) the amount of any qualified stated interest payments allocable to such accrual period. The “adjusted issue price” of a Discount 2013B Bond at the beginning of any accrual period is the sum of the issue price of the Discount 2013B Bond plus the amount of original issue discount allocable to all prior accrual periods minus the amount of any prior payments on the Series 2013B Bond that were not qualified stated interest payments. Under these

rules, holders will have to include in income increasingly greater amounts of original issue discount in successive accrual periods.

Holders utilizing the accrual method of accounting may generally, upon election, include all interest (including stated interest, acquisition discount, original issue discount, de minimis original issue discount, market discount, de minimis market discount, and unstated interest, as adjusted by any amortizable bond premium or acquisition premium) on the Series 2013B Bond by using the constant yield method applicable to original issue discount, subject to certain limitations and exceptions.

#### ***Market Discount***

Any owner who purchases a Series 2013B Bond at a price which includes market discount in excess of a prescribed de minimis amount (i.e., at a purchase price that is less than its adjusted issue price in the hands of an original owner) will be required to recharacterize all or a portion of the gain as ordinary income upon receipt of each scheduled or unscheduled principal payment or upon other disposition. In particular, such owner will generally be required either (a) to allocate each such principal payment to accrued market discount not previously included in income and to recognize ordinary income to that extent and to treat any gain upon sale or other disposition of such a Series 2013B Bond as ordinary income to the extent of any remaining accrued market discount (under this caption) or (b) to elect to include such market discount in income currently as it accrues on all market discount instruments acquired by such owner on or after the first day of the taxable year to which such election applies.

The Code authorizes the Treasury Department to issue regulations providing for the method for accruing market discount on debt instruments the principal of which is payable in more than one installment. Until such time as regulations are issued by the Treasury Department, certain rules described in the legislative history of the Tax Reform Act of 1986 will apply. Under those rules, market discount will be included in income either (a) on a constant interest basis or (b) in proportion to the accrual of stated interest.

An owner of a Series 2013B Bond who acquires such Series 2013B Bond at a market discount also may be required to defer, until the maturity date of such Series 2013B Bonds or the earlier disposition in a taxable transaction, the deduction of a portion of the amount of interest that the owner paid or accrued during the taxable year on indebtedness incurred or maintained to purchase or carry a Series 2013B Bond in excess of the aggregate amount of interest (including original issue discount) includable in such owner's gross income for the taxable year with respect to such Series 2013B Bond. The amount of such net interest expense deferred in a taxable year may not exceed the amount of market discount accrued on the Series 2013B Bond for the days during the taxable year on which the owner held the Series 2013B Bond and, in general, would be deductible when such market discount is includable in income. The amount of any remaining deferred deduction is to be taken into account in the taxable year in which the Series 2013B Bond matures or is disposed of in a taxable transaction. In the case of a disposition in which gain or loss is not recognized in whole or in part, any remaining deferred deduction will be allowed to the extent gain is recognized on the disposition. This deferral rule does not apply if the bondowner elects to include such market discount in income currently as described above.

#### ***Bond Premium***

A purchaser of a Series 2013B Bond who purchases such Series 2013B Bond at a cost greater than its then principal amount (or, in the case of a Series 2013B Bond issued with original issue premium, at a price in excess of its adjusted issue price) will have amortizable bond premium. If the holder elects to amortize the premium under Section 171 of the Code (which election will apply to all bonds held by the holder on the first day of the taxable year to which the election applies, and to all bonds thereafter acquired by the holder), such a purchaser must amortize the premium using constant yield principles based on the purchaser's yield to maturity. Amortizable bond premium is generally treated as an offset to interest income, and a reduction in basis is required for amortizable bond premium that is applied to reduce interest payments. Different rules apply to Discount 2013B Bonds that are acquired with "acquisition premium" (that is, at a price generally in excess of the Bond's adjusted issue price). Purchasers of any Series 2013B Bonds who acquire such Series 2013B Bonds at a premium (or with acquisition premium) should consult with their own tax advisors with respect to the determination and treatment of such premium for federal income tax purposes and with respect to state and local tax consequences of owning such Series 2013B Bonds.

#### ***Sale or Redemption of Series 2013B Bonds***

A bondowner's tax basis for a Series 2013B Bond is the price such owner pays for the Series 2013B Bond plus the amount of any original issue discount and market discount previously included in income, reduced on account of any

payments received (other than “qualified periodic interest” payments) and any amortized bond premium. Gain or loss recognized on a sale, exchange or redemption of a Series 2013B Bond, measured by the difference between the amount realized and the Series 2013B Bond basis as so adjusted, will generally give rise to capital gain or loss if the Series 2013B Bond is held as a capital asset (except as discussed above under “Market Discount”). The defeasance of the Series 2013B Bonds may result in a deemed sale or exchange of such Series 2013B Bonds under certain circumstances; owners of such Series 2013B Bonds should consult their tax advisors as to the federal income tax consequences of such an event.

### ***Backup Withholding***

A bondowner may, under certain circumstances, be subject to “backup withholding” (currently the rate of this withholding tax is 28%) with respect to interest or original issue discount on the Series 2013B Bonds. This withholding generally applies if the owner of a Series 2013B Bond (a) fails to furnish the Trustee or other payor with its taxpayer identification number; (b) furnishes the Trustee or other payor an incorrect taxpayer identification number; (c) fails to report properly interest, dividends or other “reportable payments” as defined in the Code; or (d) under certain circumstances, fails to provide the Trustee or other payor with a certified statement, signed under penalty of perjury, that the taxpayer identification number provided is its correct number and that the holder is not subject to backup withholding. Backup withholding will not apply, however, with respect to certain payments made to bondowners, including payments to certain exempt recipients (such as certain exempt organizations) and to certain Nonresidents (as defined below). Owners of the Series 2013B Bonds should consult their tax advisors as to their qualification for exemption from backup withholding and the procedure for obtaining the exemption.

The amount of “reportable payments” for each calendar year and the amount of tax withheld, if any, with respect to payments on the Series 2013B Bonds will be reported to the bondowners and to the Internal Revenue Service.

### ***Nonresident Bondowners***

Under the Code, interest and original issue discount income with respect to Series 2013B Bonds held by nonresident alien individuals, foreign corporations or other non-United States persons (“Nonresidents”) generally will not be subject to the United States withholding tax (or backup withholding) if DASNY (or other person who would otherwise be required to withhold tax from such payments) is provided with an appropriate statement that the beneficial owner of the Series 2013B Bond is a Nonresident. Notwithstanding the foregoing, if any such payments are effectively connected with a United States trade or business conducted by a Nonresident bondowner, they will be subject to regular United States income tax, but will ordinarily be exempt from United States withholding tax.

### ***ERISA***

The Employees Retirement Income Security Act of 1974, as amended (“ERISA”), and the Code generally prohibit certain transactions between a qualified employee benefit plan under ERISA or tax-qualified retirement plans and individual retirement accounts under the Code (collectively, the “Plans”) and persons who, with respect to a Plan, are fiduciaries or other “parties in interest” within the meaning of ERISA or “disqualified persons” within the meaning of the Code. All fiduciaries of Plans, in consultation with their advisors, should carefully consider the impact of ERISA and the Code on an investment in any Series 2013B Bonds.

### **State Taxes – Series 2013 Bonds**

Co-Bond Counsels are of the opinion that, by virtue of the Act, interest on the Series 2013 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.

Co-Bond Counsels express no opinion as to other State or local tax law consequences arising with respect to the Series 2013 Bonds nor as to the taxability of the Series 2013 Bonds or the income derived therefrom under the laws of any other state other than the State of New York. In all events, all investors should consult their own tax advisors in determining the federal, state, local and other tax consequences to them of the purchase, ownership and disposition of the Series 2013 Bonds.

### **PART 13 - STATE NOT LIABLE ON THE SERIES 2013 BONDS**

The Act provides that notes and bonds of DASNY are not a debt of the State, that the State is not liable on them and that such notes and bonds are not payable out of any funds other than those of DASNY. The Resolution specifically provides that the Series 2013 Bonds are not a debt of the State and that the State is not liable on them,

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

The Act states that the State pledges and agrees with the holders of DASNY's notes and bonds that the State will not limit or alter the rights vested in DASNY to provide projects, to establish and collect rentals therefrom and to fulfill agreements with the holders of DASNY'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 DASNY and with the holders of DASNY's notes or bonds.

### **PART 15 - LEGAL MATTERS**

Certain legal matters incidental to the authorization and issuance of the Series 2013 Bonds by DASNY are subject to the approval of Nixon Peabody LLP, New York, New York and Drohan Lee LLP, New York, New York, Co-Bond Counsels, whose approving opinions will be delivered with the Series 2013 Bonds. The proposed form of Co-Bond Counsels' opinion is set forth in Appendix E hereto.

Certain legal matters will be passed upon for the University by its counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York and by Wilkie Farr & Gallagher LLP, New York, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Winston & Strawn LLP, New York, New York.

There is not now pending any litigation restraining or enjoining the issuance or delivery of the Series 2013 Bonds or questioning or affecting the validity of the Series 2013 Bonds or the proceedings and authority under which they are to be issued.

### **PART 16 - UNDERWRITING**

Morgan Stanley & Co. LLC (the "Underwriter") has agreed, subject to certain conditions, to purchase the Series 2013 Bonds from DASNY at an aggregate purchase price of \$63,614,436.92 (representing the principal amount of the Series 2013 Bonds plus original issue premium of \$84,005.75 and net of underwriting discount of \$399,568.83) and to make a public offering of Series 2013 Bonds at prices that are not in excess of the public offering prices (or less than the yields) stated on the cover page of this Official Statement. The Underwriter will be obligated to purchase all such Series 2013 Bonds if any are purchased.

The Series 2013 Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter.

Morgan Stanley, parent company of Morgan Stanley & Co. LLC, the underwriter of the Series 2013 Bonds, has entered into a retail distribution arrangement with its affiliate Morgan Stanley Smith Barney LLC. As part of the distribution arrangement, Morgan Stanley & Co. LLC may distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, Morgan Stanley & Co. LLC may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the Series 2013 Bonds.

The Underwriter and its affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, principal investment, hedging, financing and brokerage activities. The Underwriter and its affiliates have, from time to time, performed, and may in the future perform, various investment banking services for DASNY and/or the University, for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the Underwriter and its affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial

instruments (which may include bank loans and/or credit default swaps) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve securities and instruments of DASNY and/or the University.

## PART 17 - CONTINUING DISCLOSURE

In order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), the University has undertaken in a written agreement (the “Continuing Disclosure Agreement”) for the benefit of the Bondholders to provide to Digital Assurance Certification LLC (“DAC”), on behalf of DASNY as DASNY’s disclosure dissemination agent, on or before 120 days after the end of each Fiscal Year, commencing with the Fiscal Year of the University ending May 31, 2014, for filing by DAC with the Municipal Securities Rulemaking Board (“MSRB”) and its Electronic Municipal Market Access System for municipal disclosures on an annual basis, operating data and financial information of the type hereinafter described (the “Annual Information”), together with the University’s annual consolidated financial statements prepared in accordance with generally accepted accounting principles and audited by an independent firm of certified public accountants in accordance with generally accepted accounting standards. However, if audited consolidated financial statements are not then available, unaudited consolidated financial statements are to be delivered to DAC for delivery to the MSRB when they become available.

If, and only if, and to the extent that it receives the Annual Information and annual consolidated financial statements described above from the University, DAC has undertaken in the Continuing Disclosure Agreement, on behalf of and as agent for the University and DASNY, to file such information and financial statements, as promptly as practicable, after receipt of the information by DAC from the University, with the MSRB.

The University also will undertake in the Continuing Disclosure Agreement to provide to DASNY, 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, DASNY has undertaken, for the benefit of the Bondholders, to provide such Notices to DAC, should DASNY have actual knowledge of the occurrence of a Notice Event (as hereinafter defined). Upon receipt of Notices from the University, the Trustee or DASNY, DAC will file the Notices with the MSRB in a timely manner. With respect to the Series 2013 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 University 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 Consolidated Financial Statements, Notices or any other information, disclosures or Notices provided to it by the University, the Trustee or DASNY and will not be deemed to be acting in any fiduciary capacity for DASNY, the University, the Holders of the Series 2013 Bonds or any other party. DAC has no responsibility for the failure of DASNY to provide to DAC a Notice required by the Continuing Disclosure Agreement or duty to determine the materiality thereof. DAC has no duty to determine or liability for failing to determine whether the University, the Trustee or DASNY has complied with the Continuing Disclosure Agreement and DAC may conclusively rely upon certifications of the University and DASNY with respect to their respective obligations under the Continuing Disclosure Agreement. In the event the obligations of DAC as DASNY’s disclosure dissemination agent terminate, DASNY will either appoint a successor disclosure dissemination agent or, alternatively, assume all responsibilities of the disclosure dissemination agent for the benefit of the Bondholders.

The Annual Information will consist of operating data and financial information of the type included in the “Operating Information” and the “Annual Financial Statement Information” tables located in “PART 4 - THE UNIVERSITY” of this Official Statement relating to: (1) *student admissions*, similar to that set forth under the heading, “Freshman Admission 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, “Full-Time Undergraduate Tuition And Fee Charges;” (4) *financial aid*, similar to that set forth under the heading, “Sources Of Scholarship And Grant Aid;” (5) *faculty*, similar to that set forth under the heading, “Faculty Profile;” (6) *endowment and similar funds*, similar to that set forth under the heading, “Investments;” (7) *plant values*, similar to that set forth under the heading, “Net Book Value of Plant Assets;” and (8) *outstanding long-term indebtedness*, similar to that set forth under the heading “Outstanding Indebtedness,” together with a narrative explanation as may be necessary to avoid misunderstanding regarding the presentation of financial and operating data concerning the University.

The Notices include notices of any of the following events (the “Notice Events”) with respect to the Series 2013 Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (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, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations or events affecting the tax-exempt status of the Series 2013A Bonds; (7) modifications to the rights of holders of the Series 2013 Bonds, if material; (8) bond calls, if material; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Series 2013 Bonds, if material; (11) rating changes; (12) tender offers; (13) bankruptcy, insolvency, receivership or similar event of the University; (14) consummation of a merger, consolidation or acquisition involving the University or the sale of all or substantially all of the assets of the University, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (15) appointment of a successor or additional trustee, or the change of name of a trustee, if material. In addition, DAC will undertake to provide to the MSRB, in a timely manner, notice of any failure by the University to provide the Annual Information and annual consolidated financial statements by the date required in the University’s undertaking described above.

The sole and exclusive remedy for breach or default under the Continuing Disclosure Agreement described above is an action to compel specific performance of the undertaking of DAC, the University, the Trustee and/or DASNY, and no person, including any Holder of the Series 2013 Bonds, may recover monetary damages thereunder under any circumstances. DASNY or the University may be compelled to comply with their respective obligations under the Continuing Disclosure Agreement (i) in the case of enforcement of their obligations to provide information required thereunder, by any Holder of Outstanding Series 2013 Bonds or by the Trustee on behalf of the Holders of Outstanding Series 2013 Bonds, or (ii) in the case of challenges to the adequacy of the information provided, by the Trustee on behalf of the Holders of the Series 2013 Bonds. However, the Trustee is not required to take any enforcement action except at the direction of the Holders of not less than 25% in aggregate principal amount of Series 2013 Bonds at the time Outstanding. A breach or default under the Continuing Disclosure Agreement will not constitute an Event of Default under the Resolution, the Series 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 Continuing Disclosure Agreement, insofar as the provision of Rule 15c2-12 no longer in effect required the providing of such information, will 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 or is no longer relevant because the operations to which it related have been materially changed or discontinued, a statement to that effect will be provided. The Continuing Disclosure Agreement, however, may be amended or modified without consent of the Holders of the Series 2013 Bonds under certain circumstances set forth therein. Copies of the Continuing Disclosure Agreement when executed by the parties thereto upon the delivery of the Series 2013 Bonds will be on file at the principal office of DASNY.

The University executed continuing disclosure undertakings (the “Prior Undertakings”) with regard to the Prior Bonds substantially similar to the Continuing Disclosure Agreement. The annual consolidated financial statements for the fiscal year ended May 31, 2009 were filed with the MSRB one day after the period required by the Prior Undertakings. The University has implemented procedures that are intended to ensure future timely compliance with the continuing disclosure undertakings.

## **PART 18 - RATINGS**

Moody’s Investors Service (“Moody’s”) has assigned a rating of “A3” to the Series 2013 Bonds and Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc. (“Standard & Poor’s”) has assigned a rating of “A-” to the Series 2013 Bonds. Such ratings reflect only the views of such organizations and any desired explanation of the significance of such ratings should be obtained from the rating agencies at the following addresses: Standard & Poor’s, 55 Water Street, New York, New York 10041 and Moody’s, 7 World Trade Center, 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 any or all of such rating agencies if, in the judgment of any or all of them, circumstances



so warrant. Any such downward revision or withdrawal of such rating or ratings may have an adverse effect on the market price of the Series 2013 Bonds.

#### **PART 19 - MISCELLANEOUS**

References in this Official Statement to the Act, the Resolution, the Series Resolutions and the Loan Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series Resolutions and the Loan Agreement for full and complete details of their provisions. Copies of the Resolution, the Series Resolutions and the Loan Agreement are on file with DASNY and the Trustee.

The agreements of DASNY with Holders of the Series 2013 Bonds are fully set forth in the Resolutions. Neither any advertisement of the Series 2013 Bonds nor this Official Statement is to be construed as a contract with purchasers of the Series 2013 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 University was supplied by the University. DASNY believes that this information is reliable, but DASNY makes no representations or warranties whatsoever as to the accuracy or completeness of this information.

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

"APPENDIX A - CERTAIN 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 and Drohan Lee, LLP, New York, New York, Co-Bond Counsels.

"APPENDIX B - CONSOLIDATED FINANCIAL STATEMENTS OF ST. JOHN'S UNIVERSITY WITH INDEPENDENT AUDITORS' REPORT THEREON" contains the audited financial statements of the University as of and for the years ended May 31, 2013 and 2012 and the report of the University's independent accountants, KPMG LLP, on such financial statements.

The University has reviewed the parts of this Official Statement describing the University, Bondholders' Risks, the principal and interest requirements, the Project, the estimated sources and uses of funds and Appendix B. The University, as a condition to issuance of the Series 2013 Bonds, is required to certify that as of the date of this Official Statement and as of the date of issuance of the Series 2013 Bonds, such parts do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading.

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

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

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

By:           /s/ Paul T. Williams, Jr.            
          Authorized Officer

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**APPENDIX A - CERTAIN DEFINITIONS**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

## CERTAIN DEFINITIONS

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

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

*“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 Bonds”* means the St. John’s University Revenue Bonds authorized to be issued pursuant to the Series 2013B Resolution Authorizing Up To \$71,000,000 of St. John’s University Revenue Bonds adopted on September 11, 2013.

*“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.

*“Annual Debt Service”* when used in connection with any Indebtedness, means as of any particular date of calculation the amount required to be paid by the University during the then current Fiscal Year to pay the principal, whether at maturity or upon mandatory redemptions and prepayments, of and interest on such Indebtedness; **provided, however**, that such amounts required to be paid on Short-Term Indebtedness shall include interest only; and provided further that such amount shall not include interest to be paid from proceeds of Indebtedness (i.e. capitalized interest) or principal amounts paid during the then current Fiscal Year from the proceeds of Refunding Debt.

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

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

## Appendix A

“*Authorized Bonds*” means the Bonds of the Series authorized by the Resolution.

“*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, the Deputy Chief Financial Officer, the Assistant Director, Financial Management, 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 University, when used with reference to any act or document, means the person or persons authorized by a resolution or the by–laws of the University 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.

“*Available Assets*” means the sum of all cash and cash equivalents, investments and assets held by trustees under bond indenture agreements (exclusive of amounts held by trustees attributable to Non-Recourse Indebtedness), less all permanently restricted net assets of the University, all as shown on the audited financial statements of the University, determined in accordance with generally accepted accounting principles then applicable to the University.

“*Available Assets to Debt Ratio*” means the ratio of Available Assets to Long-Term Indebtedness.

“*Available Money*” means:

- (i) when used in connection with Bonds other than Letter of Credit Secured Bonds, any money unless the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to them otherwise provides; and
- (ii) when used in connection with Letter of Credit Secured Bonds:
  - (A) the proceeds of such Bonds;
  - (B) money obtained by the Trustee pursuant to the Letter of Credit for such Bonds;
  - (C) money derived from the remarketing of such Bonds which is directly paid to and held by the Trustee for the payment of the Purchase Price of such Bonds;
  - (D) money which has been on deposit with the Trustee for at least one hundred twenty–four (124) days (or, if there are any affiliates of the University, three hundred sixty–six (366) days) prior to and during which no petition by or against the Authority or the University, under the United States Bankruptcy Code of 1978, as amended, 11 U.S.C. Sec. 101 et seq. (the “**Bankruptcy Code**”) shall have been filed or any bankruptcy or similar proceeding shall have been commenced, unless such petition or proceeding shall have been dismissed and such dismissal shall be final and not subject to appeal; or

(E) any other money the application of which to the payment of the principal, Redemption Price or purchase price of or interest on such Bond would not, in the opinion of Bond Counsel, constitute a voidable preference in the case of a filing for protection of the Authority or the University under the Bankruptcy Code; and

(F) the proceeds from the investment of money described in clauses (A) through (E) above.

“*Balloon Indebtedness*” is Long-Term Indebtedness of which 25% or more in principal amount matures, is mandatorily required to be redeemed or prepaid, or is required to be purchased by the University (either automatically or at the option of the holder of such Balloon Indebtedness) in any one year.

“*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, unless otherwise provided in a Series Resolution or a Bond Series Certificate with respect to a Series of Bonds, 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.

“*Capitalized Interest Account*” means the account within the Construction Fund so designated, established and created pursuant to the Resolution.

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

“*Collateral Security*” means a security interest in or pledge or any personal property, tangible or intangible, or mortgage on any real property or interest therein, given or made by the University to secure the University’s obligations under a Loan Agreement.

“*Construction Fund*” means the fund so designated, created and established by the Authority in connection with issuance of the Bonds.

“*Contract Documents*” means any general contract or agreement for the construction of the Project, notice to bidders, information for bidders, form of bid, general conditions, supplemental general conditions, general requirements, supplemental general requirements, Bonds, plans and specifications, addenda, change orders, and any

## *Appendix A*

other documents entered into or prepared by or on behalf of the University 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 of Issuance Account”* means the account within the Construction Fund so designated, established and created pursuant to the Series Resolution.

*“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 University 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 University 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 University), (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 University 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 Service Coverage Ratio”* is the ratio of Operating Income Available for Debt Service to 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, when used in connection with a particular Series of Bonds, a reserve fund for the payment of the principal and Sinking Fund Installments of and interest on such Series of Bonds, as so designated, created and established by the Authority by or pursuant to the Series Resolution authorizing the issuance of such Series of Bonds.



*“Debt Service Reserve Requirement”* means the amount of money required to be deposited in a Debt Service Reserve Fund as determined in accordance with the Series Resolution pursuant to which such Debt Service Reserve Fund has been established.

*“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;

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

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

Notwithstanding the foregoing, 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.

*“Deferred Income Bond”* means any Bond as to which interest accruing thereon prior to the Interest Commencement Date of such Bond is compounded on each Valuation Date for such Deferred Income Bond, and as to which interest accruing after the Interest Commencement Date is payable semiannually on September 1 and March 1 of each Bond Year (unless otherwise provided in a Series Resolution or a Bond Series Certificate with respect to a Series of Bonds).

*“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.

*“Event of Default”* has the meaning given to such term in the Loan Agreement.

*“Exempt Obligation”* means:

## Appendix A

(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 hereunder, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services;

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

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

“*Existing Pledges*” means, when used in connection with the Pledged Revenues (i) the pledge of or security interest given pursuant to, and to secure the University’s obligations under, the Loan Agreement, dated as of January 26, 2005, as amended and restated as of January 24, 2007, by and between the Authority and the University; (ii) the pledge of or security interest given pursuant to, and to secure the University’s obligations under, the Loan Agreement, dated as of March 26, 2008, by and between the Authority and the University; and (iv) the pledge of or security interest given pursuant to, and to secure the University’s obligations under, the Loan Agreement, dated as of June 20, 2012, by and between the Authority and the University, subject in each case to the express provisions of the Amended and Restated Intercreditor Agreement by and among the Authority and Bank of America, N.A. and U.S. Bank National Association and The Bank of New York Mellon (as Trustee for the Series 2007A Bonds and the Series 2007C Bonds) and The Bank of New York Mellon (as Trustee for the Series 2008B Bonds) and The Bank of New York Mellon (as Trustee for the Series 2012A and the Series 2012B Bonds) and The Bank of New York Mellon (as Trustee for the Series 2013A and the Series 2013B Bonds) and MBIA Insurance Corporation, dated September 24, 2008, as Amended and Restated on August 9, 2012, as further Amended and Restated on October 18, 2012 and as further Amended and Restated on November 20, 2013.

“*Expendable Resources*” means as of any particular date of calculation the sum of all unrestricted and temporarily restricted net assets (excluding unspent temporarily restricted net assets restricted for the purpose of capital projects as required to be reported on the University’s audited financial statements or in the footnotes to the University’s audited financial statements), exclusive of Plant Equity, in each case determined in accordance with generally accepted accounting principles then applicable to the University.

“*Expendable Resources to Debt Ratio*” is the ratio of Expendable Resources to Long-Term Indebtedness.

“*Expiration Date*” means, when used in connection with a particular Letter of Credit, the date on which such Letter of Credit will expire by its terms, as such date may be extended from time to time, or any earlier date on which such Letter of Credit shall terminate, expire or be canceled upon delivery of a substitute Letter of Credit, but does not include a Termination Date.

“*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 on June 1<sup>st</sup> of a calendar year and ending on May 31<sup>st</sup> of the next succeeding calendar year, or such other twelve month period as the University 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 created after the Loan Agreement, and having or asserting jurisdiction over the Project or any Mortgaged Property or any part thereof.

“*Hedge Agreement*” means any financial arrangement entered into by the Authority or the University with a Counterparty that is or in the nature of an interest rate exchange agreement, an interest rate cap or collar or other exchange or rate protection transaction, in each case executed for the purpose of moderating interest rate fluctuations, reducing interest cost or creating with respect to any Variable Interest Rate Bond the economic or financial equivalent of a fixed rate of interest on such Bond; *provided, however*, that no such agreement entered into by the University shall constitute a Hedge Agreement for purposes under the Loan Agreement unless consented to in writing by the Authority.

“*Indebtedness*” means, without duplication, indebtedness for borrowed money incurred or guaranteed by the University, 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 the University in accordance with generally accepted accounting principles then applicable to the University; provided, however, that Non-Recourse Indebtedness shall not constitute Indebtedness for purposes of the Loan Agreement.

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

## Appendix A

“*Intercreditor Agreement*” means an agreement by and among, *inter alia*, the Authority, the Trustee, creditors of the University, with respect to (i) the relative priorities of the liens upon the Shared Collateral, (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, (unless otherwise provided in a Series Resolution or a Bond Series Certificate with respect to a Series of Bonds).

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

“*Investment Agreement*” means 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 University 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, except as described in the Loan Agreement, any mortgage, pledge, lien, charge, security interest or assignment in the nature thereof (including any conditional sales agreement, equipment trust agreement, or other title retention agreement) or other encumbrance of whatsoever nature, other than:

- (i) any instrument recorded pursuant to Section 18 of the Loan Agreement;
- (ii) the lien of taxes and assessments which are not delinquent;
- (iii) the lien of taxes and assessments which are either not yet due or are delinquent but the validity of which is being contested in good faith unless the property or the interest of the Authority therein may be in danger of being lost or forfeited;
- (iv) minor defects and irregularities in the title to such property which do not in the aggregate materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held;

(v) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes for which it is or may reasonably be expected to be held; and

(vi) any other liens or other matters approved in writing by the Authority.

*“Liquidity Facility”* means a Letter of Credit, a surety bond, a loan agreement, a Standby Purchase Agreement, a line of credit or other agreement or arrangement pursuant to which money may be obtained by the Trustee upon the terms and conditions contained therein for the purchase of Bonds tendered for purchase in accordance with the terms of the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bonds.

*“Liquidity Facility Provider”* means, when used in connection with any particular Bonds, the issuer or provider of a Liquidity Facility related to such Bond.

*“Loan Agreement”* means the Loan Agreement, dated as of September 11, 2013, by and between the Authority and the University, as the same may be amended, supplemented or otherwise modified as permitted by the Resolution and by the Loan Agreement;

*“Long-Term Indebtedness”* means Indebtedness having an original maturity of greater than one (1) year or Indebtedness on which the University has an option to extend the maturity thereof for a period of greater than one (1) year beyond the date of the original incurrence thereof.

*“Management Consultant”* means a nationally recognized accounting or management consulting firm or other similar firm, experienced in reviewing and assessing the University’s operations, acceptable to the Authority.

*“Mandatory Tender Date”* means any date on which a Bond is required to be tendered for purchase in accordance with the Resolution.

*“Maximum Annual Debt Service”* when used in connection with any Indebtedness means as of any particular date of calculation the greatest amount required to be paid by the University during the then current or any future Fiscal Year to pay the principal, whether at maturity or upon mandatory redemptions and prepayments, of and interest on such Indebtedness; provided, however, that such amounts required to be paid on Short-Term Indebtedness shall include interest only; and provided further that such amount shall not include interest to be paid from the proceeds of Indebtedness (i.e. capitalized interest) or principal amounts paid during the then current Fiscal Year from proceeds of Refunding Debt.

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

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

*“Moody’s”* means Moody’s Investor Service, Inc. or its successors or assigns.

*“Mortgage”* means the mortgage, dated the date on which the Bonds are initially issued, on the property described therein, made by the University to the Authority to secure the University’s obligation under the Loan Agreement with respect to the Bonds, as the same may be amended from time to time.

*“Mortgaged property”* means the property described in the Mortgage.

## Appendix A

“*Non-Recourse Indebtedness*” means Indebtedness secured by a mortgage or other lien on property on which the creditor has agreed that it will not seek to enforce or collect such Indebtedness out of any property or assets of the University other than the property securing the same or to collect any deficiency upon a foreclosure, forced sale or other realization upon such property out of any other property or assets of the University.

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

“*Operating Income Available for Debt Service*” means total unrestricted operating revenues *minus* total unrestricted operating expenses, exclusive of depreciation and interest paid, all as shown on the audited financial statements of the University stated in accordance with generally accepted accounting principles then applicable to the University.

“*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 any Long-Term Indebtedness secured by a pledge of or security interest in the Pledged Revenues or a mortgage on the Mortgaged that is of equal priority with the pledge of or security interest in the Pledged Revenues or Mortgage on the Mortgaged Property securing the University’s obligations under the Loan Agreement.

“*Parity Indebtedness*” means any indebtedness for borrowed money issued, incurred, assumed or guaranteed by the University, other than pursuant to a Loan Agreement, that is secured by Collateral Security that, pursuant to an Intercreditor Agreement or otherwise, is of equal priority with the lien of such Collateral Security securing the University’s obligations under one or more Loan Agreements.

“*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;

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

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

*"Permitted Encumbrances"* means, when used in connection with any Mortgaged Property, any of:

(i) an instrument recorded pursuant to Section 20 hereof;

(ii) the Lien of the mortgage dated February 22, 2007, from the University to the Authority to secure a loan made by the Authority to the University in connection with the issuance by the Authority of its St. John's University Insured Revenue Bonds, Series 2007A and Series 2007C;

(iii) the Lien of the mortgage dated September 24, 2008, from the University to, among others, the Authority to secure a loan made by the Authority to the University in connection with the issuance by the Authority of its St. John's University Revenue Bonds (Letter of Credit Secured), Series 2008B;

(iv) the Lien of the mortgages, respectively, as consolidated, dated August 9, 2012, from the University to the Authority to secure a loan made by the Authority to the University in connection with the issuance by the Authority of its St. John's University Revenue Bonds, Series 2012A and 2012B;

(v) any Lien to secure the purchase price of any equipment of furnishings, provided that the indebtedness secured thereby does not exceed ninety-five percent (95%) of the cost of acquisition thereof;

(vi) mechanics liens or other encumbrances which are fully bonded by the University or insured against by a policy of title insurance;

(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 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,

## *Appendix A*

coal or other minerals, and other like purposes for which it is or may reasonably be expected to be held;

(xi) with respect to the Project property, the Project Mortgage and the Project Lease;

and

(xii) any other Lien or other matters approved in writing by the Authority.

*“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 long 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.

*“Plant Equity”* means property, plant and equipment, net, minus Long-Term Indebtedness.

*“Pledged Revenues”* means tuition and fees charged to students for academic instruction, the right to receive the same and the proceeds thereof.



“*Project*” means each of the buildings, improvements, fixtures, furnishings and equipment more particularly described in the Loan Agreement, which were acquired, constructed, reconstructed or otherwise renovated or improved with the proceeds of the Bonds.

“*Project Account*” means the account within the Construction Fund so designated, established and created pursuant to the Series Resolution.

“*Project Lease*” means the Lease, dated August 6, 2007, between Henley Residences LLC (as successor by assignment to H2H Residences, LLC) and the University as modified by (i) Letter Agreement, dated August 6, 2007; (ii) Letter Agreement, dated August 6, 2007; (iii) Letter Agreement, dated August 6, 2007; (iv) Addendum to Lease Agreement, dated August 6, 2007, (v) Second Addendum to Lease, dated May 11, 2009; (vi) Letter Agreement, dated May 11, 2009; (vii) Letter Agreement, dated May 13, 2009; (viii) Assignment and Assumption of Lease, dated October 5, 2009, between H2H Residences, LLC and Henley Residences, LLC; (ix) Assignment and Assumption of Lease dated as of September 16, 2013 between Henley Residences, LLC and the University; (x) Assignment and Assumption of Lease dated as of September 16, 2013 between the University and the University SPE; and (xi) First Amendment of Lease dated as of September 16, 2013 between the University and the University SPE.

“*Project Loan Agreement*” means the Loan Agreement, dated October 5, 2009, between Henley Residences, LLC, as borrower, and Regions Bank, as lender, as amended and the rights and obligation of Henley Residences, LLC assigned to and assumed by, Henley Road SPE, LLC, pursuant to an Omnibus Amendment and Assignment and Assumption Agreement, dated as of September 16, 2013, by and among Henley Residences, LLC, Henley Road SPE, LLC and Regions Bank, as trustee.

“*Project Mortgage*” means the Consolidated, Amended and Restated Mortgage, Security Agreement and Fixture Financing Statement dated as of October 5, 2009 from Henley Residences, LLC in favor of Regions Bank recorded on November 13, 2009, as CRFN 2009000371586 in the office of the City Register of the City of New York; as assumed by the University SPE pursuant to the Omnibus Amendment and Assignment and Assumption Agreement dated as of September 16, 2013 among Henley Residences, LLC, Regions Bank, the University and the University SPE.

“*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

## Appendix A

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.

“*Refunding Debt*” means Long-Term Indebtedness issued or incurred to pay or to provide for the payment of other Long-Term Indebtedness.

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

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

*“Reporting Date”* means the first business day that is 120 days after such Testing Date.

*“Resolution”* means the St. John’s University Revenue Bond Resolution, adopted by the Authority June 20, 2012, as from time to time amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions under the Resolution.

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

*“Revenues”* means, 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, or (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, and (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 any lien upon property of the University given to secure the University’s obligation under such Loan Agreement.

*“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 2013A Bonds”* means the Bonds authorized by the Series 2013A Resolution.

*“Series 2013B Bonds”* means the Bonds authorized by the Series 2013B Resolution.

*“Series Resolution”* means, individually, each of the resolutions of the Authority adopted September 11, 2013 entitled (i) “Series 2013A Resolution Authorizing Up To \$71,000,000 of St. John’s University Revenue Bonds,” which resolution authorized the issuance of the Series 2013A Bonds, together with the Bond Series Certificate, executed by the Authority in connection with issuance of the Series 2013A Bonds, in each case as the same may be amended, supplemented or otherwise modified, and (ii) “Series 2013B Resolution Authorizing Up To \$71,000,000 of St. John’s University Revenue Bonds,” which resolution authorized the issuance of the Series 2013B Bonds, together with the Bond Series Certificate, executed by the Authority in connection with issuance of the Series 2013B Bonds, in each case as the same may be amended, supplemented or otherwise modified.

*“Shared Collateral”* means the lien of any Collateral Security securing the University’s obligations under a Loan Agreement that, in accordance with an Intercreditor Agreement or otherwise, is of equal priority with the lien on such Collateral Security that secures the University’s obligations under one or more other Loan Agreements or on Parity Indebtedness.

*“Short-Term Indebtedness”* means any Indebtedness that is not Long-Term Indebtedness.

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

## Appendix A

(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 (or such other date as provided in a Series Resolution or a Bond Series Certificate with respect to a Series of Bonds) 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.

“*Standby Purchase Agreement*” means an agreement by and between the Authority and another person or by and among the Authority, the University and another person, pursuant to which such person is obligated to purchase an Option Bond or a Variable Interest Rate Bond tendered for purchase.

“*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 Bonds in which the Authority makes representations and agreements as to arbitrage and 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 thereon is excluded from gross income of the holder thereof 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 the last day of the University’s 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.

“*University*” means St. John’s University, New York, 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.

“*University SPE*” means Henley Road SPE, LLC, a limited liability company duly organized under the laws of the State of Delaware for the sole purpose of acquiring the Project property and assuming the Project Mortgage.

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

*“Variable Interest Rate”* means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing such interest rate or rates specified in the 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.

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**APPENDIX B - CONSOLIDATED FINANCIAL STATEMENTS OF ST. JOHN'S UNIVERSITY  
WITH INDEPENDENT AUDITORS' REPORT THEREON**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**





**ST. JOHN'S UNIVERSITY**

Consolidated Financial Statements

May 31, 2013 and 2012

(With Independent Auditors' Report Thereon)



KPMG LLP  
345 Park Avenue  
New York, NY 10154-0102

## Independent Auditors' Report

The Board of Trustees  
St. John's University:

We have audited the accompanying consolidated financial statements of St. John's University (the University), which comprise the consolidated balance sheets as of May 31, 2013 and 2012, and the related consolidated statements of activities and cash flows for the years then ended, and the related notes to the consolidated financial statements.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditors' Responsibility*

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits 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 consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



***Opinion***

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of St. John's University as of May 31, 2013 and 2012, and the changes in its net assets and its cash flows for the years then ended, in accordance with U.S. generally accepted accounting principles.

***Emphasis of Matter***

As discussed in note 6 to the consolidated financial statements, during July 2013, the University sold a parcel of real property for \$223.0 million resulting in a gain of approximately \$173.0 million. Our opinion is not modified with respect to the matter emphasized.

**KPMG LLP**

September 23, 2013

**ST. JOHN'S UNIVERSITY**

Consolidated Balance Sheets

May 31, 2013 and 2012

| <b>Assets</b>   | <b>2013</b>      | <b>2012</b>   |
|---|------------------|---------------|
|   | <hr/>            | <hr/>         |
| Cash and cash equivalents   | \$ 7,771,868     | 11,542,295    |
| Accounts receivable:  |                  |               |
| Students (net of allowance of \$3,100,000 and \$3,700,000 in 2013 and 2012, respectively)                 | 5,209,379        | 5,123,168     |
| Other   | 16,661,638       | 15,640,946    |
| Contributions receivable, net (note 5)  | 17,984,075       | 19,822,039    |
| Investments, at fair value (notes 3, 4, and 11)   | 392,223,260      | 327,915,262   |
| Deferred bond issuance costs and other assets   | 17,882,639       | 10,428,029    |
| Student loans receivable (net of allowance of \$1,994,000 and \$1,843,000 in 2013 and 2012, respectively) | 24,627,753       | 27,095,052    |
| Funds held by bond trustees (notes 7 and 11)  | 23,191,668       | 25,026,882    |
| Asset held for sale (note 6)  | 45,735,295       | —             |
| Plant assets, net (notes 6 and 7)   | 571,694,343      | 619,800,773   |
|   | <hr/>            | <hr/>         |
| Total assets  | \$ 1,122,981,918 | 1,062,394,446 |
|   | <hr/> <hr/>      | <hr/> <hr/>   |
| <b>Liabilities and Net Assets</b>   |                  |               |
| Liabilities:  |                  |               |
| Accounts payable and accrued expenses   | \$ 70,140,692    | 66,611,694    |
| Deferred revenues   | 14,148,882       | 11,986,519    |
| Line of credit (note 12)  | 8,000,000        | —             |
| Voluntary separation offer (note 14)  | 7,224,211        | 10,484,597    |
| Present value of annuities payable  | 3,501,629        | 3,557,593     |
| Interest rate swap liability (notes 7 and 11)   | 3,682,210        | 6,611,978     |
| Refundable U.S. government advances   | 14,212,687       | 14,114,969    |
| Long-term debt (notes 7 and 11)   | 505,289,778      | 516,412,714   |
|   | <hr/>            | <hr/>         |
| Total liabilities   | 626,200,089      | 629,780,064   |
|   | <hr/>            | <hr/>         |
| Commitments and contingencies (notes 11, 13, and 15)  |                  |               |
| Net assets (note 4):  |                  |               |
| Unrestricted  | 361,001,309      | 316,601,951   |
| Temporarily restricted (note 9)   | 49,734,049       | 34,110,830    |
| Permanently restricted (note 9)   | 86,046,471       | 81,901,601    |
|   | <hr/>            | <hr/>         |
| Total net assets  | 496,781,829      | 432,614,382   |
|   | <hr/>            | <hr/>         |
| Total liabilities and net assets  | \$ 1,122,981,918 | 1,062,394,446 |
|   | <hr/> <hr/>      | <hr/> <hr/>   |

See accompanying notes to consolidated financial statements.

**ST. JOHN'S UNIVERSITY**  
Consolidated Statements of Activities  
Years ended May 31, 2013 and 2012

|   | <b>2013</b>    | <b>2012</b>  |
|---|----------------|--------------|
| Changes in unrestricted net assets:   |                |              |
| Operating revenues:   |                |              |
| Tuition and fees (net of scholarship allowances of \$188,740,849 in 2013 and \$185,243,754 in 2012) | \$ 352,566,214 | 350,262,879  |
| Investment return utilized (note 3):  |                |              |
| Endowment   | 13,548,914     | 12,564,486   |
| Other   | 168,626        | 20,155       |
| Private gifts, grants, and contracts  | 12,911,141     | 13,780,586   |
| Government grants and contracts   | 11,958,777     | 13,820,316   |
| Auxiliary enterprises   | 65,833,039     | 66,188,809   |
| Other revenues  | 10,537,444     | 9,151,654    |
| Net assets released from restrictions   | 6,287,051      | 5,755,013    |
| Total operating revenues  | 473,811,206    | 471,543,898  |
| Operating expenses (note 10):   |                |              |
| Instruction   | 177,468,077    | 168,800,694  |
| Research  | 9,293,064      | 7,314,307    |
| Academic support  | 64,517,981     | 63,055,546   |
| Student services  | 46,257,484     | 43,004,188   |
| Institutional support   | 86,044,725     | 82,477,515   |
| Auxiliary enterprises   | 74,320,369     | 72,469,312   |
| Total operating expenses  | 457,901,700    | 437,121,562  |
| Excess of operating revenues over operating expenses  | 15,909,506     | 34,422,336   |
| Nonoperating activities:  |                |              |
| Investment return greater than (less than) amount utilized in operations (note 3)                   | 29,501,568     | (22,854,364) |
| Change in fair value of interest rate swap (note 7)   | 2,929,768      | (6,186,720)  |
| Effect of advance refunding of long-term debt (note 7)  | (3,188,633)    | —            |
| Other   | (752,851)      | —            |
| Increase in unrestricted net assets   | 44,399,358     | 5,381,252    |
| Changes in temporarily restricted net assets:   |                |              |
| Investment return, net (note 3)   | 21,390,933     | (3,248,739)  |
| Private gifts, grants, and contracts  | 2,121,537      | 2,840,813    |
| Net assets released from restrictions   | (6,287,051)    | (5,755,013)  |
| Contributions receivable write – offs   | (1,602,200)    | —            |
| Increase (decrease) in temporarily restricted net assets  | 15,623,219     | (6,162,939)  |
| Changes in permanently restricted net assets:   |                |              |
| Private gifts, grants, and contracts  | 4,144,870      | 3,635,941    |
| Increase in permanently restricted net assets   | 4,144,870      | 3,635,941    |
| Increase in net assets  | 64,167,447     | 2,854,254    |
| Net assets at beginning of year   | 432,614,382    | 429,760,128  |
| Net assets at end of year   | \$ 496,781,829 | 432,614,382  |

See accompanying notes to consolidated financial statements.

**ST. JOHN'S UNIVERSITY**  
Consolidated Statements of Cash Flows  
Years ended May 31, 2013 and 2012

|   | <b>2013</b>   | <b>2012</b>  |
|---|---------------|--------------|
| Cash flows from operating activities:   |               |              |
| Increase in net assets  | \$ 64,167,447 | 2,854,254    |
| Adjustments to reconcile increase in net assets to net cash provided by operating activities: |               |              |
| Change in fair value of interest rate swap  | (2,929,768)   | 6,186,720    |
| Effect of advance refunding of long-term debt   | 3,188,633     | —            |
| Depreciation  | 32,295,963    | 31,278,190   |
| Amortization of deferred bond issuance costs  | 562,108       | 628,179      |
| Amortization of bond premium and discount, net  | (2,195,154)   | (1,890,183)  |
| Bad debt expense – student accounts receivable  | 1,698,906     | 2,500,000    |
| Bad debt expense and cancellations and write-offs – student loans                             | 263,859       | 260,458      |
| Contributions receivable write-offs   | 1,602,200     | —            |
| Net (appreciation) depreciation in fair value of investments                                  | (60,008,690)  | 17,683,663   |
| Contributions restricted for permanent investment and capital                                 | (4,315,487)   | (3,975,167)  |
| Changes in operating assets and liabilities:  |               |              |
| Student accounts receivable   | (1,785,117)   | (2,283,396)  |
| Other receivables   | (1,020,692)   | 195,776      |
| Nonendowment and noncapital contributions receivable  | 486,579       | (275,269)    |
| Other assets  | (1,551,865)   | (555,810)    |
| Noncapital accounts payable and accrued expenses  | 3,277,524     | 6,211,364    |
| Voluntary separation offer  | (3,260,386)   | (10,564,092) |
| Deferred revenues   | 2,162,363     | 557,253      |
| Net cash provided by operating activities   | 32,638,423    | 48,811,940   |
| Cash flows from investing activities:   |               |              |
| Plant assets acquired   | (20,624,828)  | (16,585,525) |
| Other assets  | (6,366,937)   | —            |
| Change in accounts payable and accrued expenses related to plant asset acquisitions           | 251,474       | 117,028      |
| Purchase of investments   | (75,731,611)  | (71,316,128) |
| Sale of investments   | 71,432,303    | 39,282,433   |
| Student loans – disbursements   | (1,537,600)   | (2,242,941)  |
| Student loans – collections   | 3,741,040     | 3,642,706    |
| Net cash used in investing activities   | (28,836,159)  | (47,102,427) |
| Cash flows from financing activities:   |               |              |
| Proceeds from line of credit  | 43,000,000    | 15,000,000   |
| Repayment of line of credit   | (35,000,000)  | (15,000,000) |
| Proceeds from bonds issued  | 105,514,974   | —            |
| Principal payments from refinancing and retirement of debt                                    | (110,634,488) | —            |
| Payment of long-term debt principal   | (14,705,253)  | (13,486,406) |
| Bond issuance costs incurred  | (1,689,564)   | —            |
| Change in funds held by bond trustees   | 1,835,214     | (5,788,671)  |
| Contributions restricted for permanent investment and capital                                 | 4,315,487     | 3,975,167    |
| Change in endowment and capital receivables   | (250,815)     | 2,582,968    |
| Change in present value of annuities payable  | (55,964)      | (403,515)    |
| Change in refundable U.S. government advances   | 97,718        | 6,113        |
| Net cash used in financing activities   | (7,572,691)   | (13,114,344) |
| Net decrease in cash and cash equivalents   | (3,770,427)   | (11,404,831) |
| Cash and cash equivalents at beginning of year  | 11,542,295    | 22,947,126   |
| Cash and cash equivalents at end of year  | \$ 7,771,868  | 11,542,295   |
| Supplemental disclosure of cash flow information:   |               |              |
| Cash paid during the year for interest  | \$ 17,218,410 | 16,851,465   |
| Noncash financing and investing activity:   |               |              |
| Plant assets acquired under capital leases  | \$ 9,300,000  | 13,000,000   |

See accompanying notes to consolidated financial statements.

## ST. JOHN'S UNIVERSITY

### Notes to Consolidated Financial Statements

May 31, 2013 and 2012

#### (1) Organization

St. John's University, founded by the Vincentian community in 1870, is an independent not-for-profit institution of higher education, accredited by the Middle States Association of Colleges and Secondary Schools and by the State of New York Department of Education. The University is one of the largest Catholic universities in the United States with more than 20,000 students on six campuses — Queens, Staten Island, Manhattan, and Oakdale in New York; Rome, Italy; and Paris, France. The University offers undergraduate and graduate degree programs in over 100 majors.

The consolidated financial statements of St. John's University include the accounts of the following affiliates (collectively referred to as the University):

- St. John's Paris Association, a separately incorporated French affiliate, incorporated in August 2008.
- St. John's University SRL (Rome SRL), a separately incorporated Italian affiliate, incorporated in January 2009.

The purpose of these affiliates is to provide a study abroad experience to American students, and especially students of the University, in France and Italy.

#### (2) Summary of Significant Accounting Policies

The significant accounting policies followed by the University are described below:

##### (a) *Basis of Presentation*

The University's consolidated financial statements are prepared on the accrual basis of accounting in accordance with U.S. generally accepted accounting principles (GAAP). All material intercompany transactions and balances have been eliminated.

The net assets of the University and changes therein are classified and reported as follows:

*Unrestricted net assets* – Net assets that are not subject to donor-imposed restrictions. In addition, changes to this category of net assets include restricted gifts whose donor-imposed restrictions were met in the year received, through the passage of time, or through fulfillment of the restricted purpose.

*Temporarily restricted net assets* – Net assets subject to donor-imposed restrictions that will be met either by actions of the University or the passage of time. Expirations of temporary restrictions on net assets are reported as net assets released from restrictions in the accompanying consolidated statements of activities.

*Permanently restricted net assets* – Net assets subject to donor-imposed restrictions, which stipulate that the principal be maintained permanently by the University, but permit the University to expend part or all of the income and gains derived there from.

Revenues and gains and losses on investments and other assets and liabilities are reported as changes in unrestricted net assets unless limited by explicit donor-imposed restrictions or by law. Expenses are reported as decreases in unrestricted net assets.

## ST. JOHN'S UNIVERSITY

### Notes to Consolidated Financial Statements

May 31, 2013 and 2012

The University delineates changes in unrestricted net assets as operating or nonoperating activities. Nonoperating activities include investment return in excess of or less than the amount utilized in operations in accordance with the University's spending rate policy, change in fair value of interest rate swaps, and nonrecurring items.

**(b) Use of Estimates**

The preparation of the consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingencies at the date of the financial statements and the reported amounts of revenues and expenses during the year. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include the useful lives of plant assets; allowances for doubtful student accounts and loans; allowance for uncollectible contributions receivable; depreciation on plant assets; valuation of investments, interest rate swaps, and annuities payable.

**(c) Cash Equivalents**

Cash equivalents consist of money market accounts, demand notes, savings accounts, and certificates of deposit purchased with original maturities of three months or less, except for such instruments purchased by the University's investment managers as part of their ongoing investment strategies.

**(d) Investments**

The University's investments (including investments held by bond trustees) are reported at estimated fair value based upon quoted market prices or, with respect to alternative investments, at estimated fair value using net asset values as a practical expedient, provided by the general partners of limited partnerships or other external investment managers. These net asset values are reviewed and evaluated by the University. Due to the inherent uncertainties of these estimates, these values may differ from the values that would have been used had a ready market existed for such investments.

**(e) Contributions**

Contributions, including unconditional promises to give (pledges), are reported as revenues in the period received or pledged. Contributions subject to donor-imposed restrictions that are met in the same reporting period are reported as unrestricted revenues.

Contributions with purpose or time restrictions that are not met in the same reporting period as received are reported as increases in temporarily restricted net assets and are reclassified to unrestricted net assets when the purpose or time restrictions are met. Contributions subject to donor-imposed stipulations that the corpus be maintained permanently are recognized as increases in permanently restricted net assets.

Conditional promises to give are not recognized until they become unconditional, that is, when the conditions on which they depend are substantially met. Contributions of assets other than cash are recorded at their estimated fair value.



**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

The University reports contributions of plant assets as increases in unrestricted net assets unless the donor places restrictions on their use. Contributions expected to be received after one year are discounted at a risk-adjusted rate of return. Amortization of the discount is recorded as additional contribution revenue in accordance with the donor-imposed restrictions, if any, on the contribution.

**(f) Plant Assets**

Plant assets are stated at cost. Library books are not capitalized. Depreciation of plant assets is computed on a straight-line basis over the estimated useful lives as follows:

|                         |                |
|-------------------------|----------------|
| Buildings               | 50 years       |
| Building improvements   | 20 years       |
| Site improvements       | 10 to 20 years |
| Furniture and equipment | 4 to 10 years  |

**(g) Refundable U.S. Government Advances**

Funds provided by the U.S. government under the Federal Perkins and Health Professions Student Loan programs 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 consolidated balance sheets as a liability.

**(h) Tax Status**

The University is exempt from federal income taxes under the provisions of Section 501(c)(3) of the Internal Revenue Code, except for any unrelated business income activities. A portion of the activities of the Paris Association is subject to corporate income and value added tax (VAT) under the provisions of the French Tax Code. The activities of the Rome SRL are subject to corporate and VAT taxes under the provisions of the Italian Tax Code. The University recognizes the effects of income tax positions only if those positions are more likely than not of being sustained. The University evaluates, on an annual basis, the effects of any uncertain tax positions on its consolidated financial statements. As of May 31, 2013 and 2012, the University has not identified or provided for any such positions.

**(i) Reclassifications**

Certain amounts in the 2012 consolidated financial statements have been reclassified to conform to the 2013 presentation.

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

**(3) Investments**

As of May 31, 2013 and 2012, fair value of investments consisted of the following:

|                          | <u>2013</u>           | <u>2012</u>        |
|--------------------------|-----------------------|--------------------|
| Cash equivalents         | \$ 5,039,181          | 4,170,696          |
| Charitable trusts        | 6,091,723             | 5,628,465          |
| Equities – domestic      | 165,457,825           | 127,806,464        |
| Equities – international | 82,102,472            | 67,094,556         |
| Fixed income securities  | 19,322,347            | 18,925,429         |
| Alternative investments  | <u>114,209,712</u>    | <u>104,289,652</u> |
| Total                    | <u>\$ 392,223,260</u> | <u>327,915,262</u> |

The University's investment return in 2013 and 2012 was as follows:

|   | <u>2013</u>          | <u>2012</u>         |
|---|----------------------|---------------------|
| Pooled investments:   |                      |                     |
| Dividends and interest  | \$ 5,883,817         | 5,030,864           |
| Net appreciation (depreciation) in fair value   | 59,845,859           | (17,593,730)        |
| Investment expenses   | <u>(1,347,078)</u>   | <u>(1,028,337)</u>  |
|   | 64,382,598           | (13,591,203)        |
| Short-term and other nonpooled investments, including those held by the bond trustees | <u>227,443</u>       | <u>72,741</u>       |
| Total   | <u>\$ 64,610,041</u> | <u>(13,518,462)</u> |
| Reported in the consolidated statements of activities as follows:                     |                      |                     |
| Unrestricted operating revenue  | \$ 13,717,540        | 12,584,641          |
| Unrestricted nonoperating revenue   | 29,501,568           | (22,854,364)        |
| Temporarily restricted revenue  | <u>21,390,933</u>    | <u>(3,248,739)</u>  |
|   | <u>\$ 64,610,041</u> | <u>(13,518,462)</u> |

## ST. JOHN'S UNIVERSITY

### Notes to Consolidated Financial Statements

May 31, 2013 and 2012

#### (4) Endowment Funds

The University's endowment consists of over 500 individual funds established for a number of purposes. The endowment includes donor-restricted funds, temporarily restricted charitable trusts and annuity funds, and funds designated by the Board of Trustees (the Board) of St. John's University, including operating surpluses to function as endowments. Net assets associated with endowment funds are classified and reported based on the existence or absence of donor-imposed restrictions.

##### (a) *Spending Policy*

The University established a spending rate policy designed to preserve the value of these investments in real terms and provide a predictable flow of funds to support operations. Presently, the University's spending rate is equal to 5% of the fair value of the investment pool based on a three-year moving average as of May 31 of each year.

##### (b) *Return Objectives*

The endowment assets are invested in a manner that is intended to earn, over the market cycle, a compound annual rate of return in excess of inflation, the spending rate, and fund expenses while maintaining a moderate risk level considered prudent based upon all the facts and circumstances known at that time. The University pools its investments and manages them to achieve a prudent long-term total return.

##### (c) *Interpretation of Relevant Law*

Pursuant to the investment policy approved by the Board, the University has interpreted the New York Prudent Management of Institutional Funds Act (NYPMIFA) as allowing the University to appropriate for expenditure or accumulate so much of a donor-restricted endowment fund as the University deems prudent for the uses, benefits, purposes, and duration for which the endowment fund is established, subject to the intent of the donor as expressed in the gift instrument absent explicit donor stipulations to the contrary. The University considers the duration and preservation of the fund, the purposes of the University and endowment funds, general economic conditions, the possible effect of inflation and deflation, the expected total return from income and the appreciation of investments, the University's investment policy, and certain other resources in making a determination to appropriate or accumulate endowment funds.

Appreciation on donor-restricted endowment funds is classified as temporarily restricted net assets until those amounts are appropriated for expenditure by the University. The amounts appropriated for expenditure are based on the endowment spending rate, which is approved by the Board as part of the University's operating budget.

##### (d) *Funds with Deficiencies*

From time to time, the fair value of assets associated with a permanently restricted fund may fall below the fund's original value. Deficiencies of this nature are reported in unrestricted net assets. Subsequent gains that restore the fair value of such fund to the required level are classified as an increase in unrestricted net assets. As of May 31, 2013 and 2012, the fair values of certain

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

endowment funds were below their original corpuses. Those deficits totaled approximately \$1,000 and \$760,000, respectively.

The tables below present the endowment net assets, excluding contributions receivable of \$2,054,288 and \$1,473,275 at May 31, 2013 and 2012, respectively, by type of fund:

| <b>2013</b>  |                       |                               |                               |                    |
|--|-----------------------|-------------------------------|-------------------------------|--------------------|
|  | <b>Unrestricted</b>   | <b>Temporarily restricted</b> | <b>Permanently restricted</b> | <b>Total</b>       |
| Donor-restricted endowment funds                   | \$ (1,044)            | 30,765,621                    | 83,992,183                    | 114,756,760        |
| Board-designated/operating surplus endowment funds | <u>277,466,500</u>    | <u>—</u>                      | <u>—</u>                      | <u>277,466,500</u> |
| Total endowment                                    | <u>\$ 277,465,456</u> | <u>30,765,621</u>             | <u>83,992,183</u>             | <u>392,223,260</u> |

| <b>2012</b>  |                       |                               |                               |                    |
|--|-----------------------|-------------------------------|-------------------------------|--------------------|
|  | <b>Unrestricted</b>   | <b>Temporarily restricted</b> | <b>Permanently restricted</b> | <b>Total</b>       |
| Donor-restricted endowment funds                   | \$ (759,757)          | 14,649,909                    | 80,428,326                    | 94,318,478         |
| Board-designated/operating surplus endowment funds | <u>233,596,784</u>    | <u>—</u>                      | <u>—</u>                      | <u>233,596,784</u> |
| Total endowment                                    | <u>\$ 232,837,027</u> | <u>14,649,909</u>             | <u>80,428,326</u>             | <u>327,915,262</u> |

The tables below present the changes in endowment net assets for the years ended May 31, 2013 and 2012:

| <b>2013</b>                        |                       |                               |                               |                    |
|------------------------------------|-----------------------|-------------------------------|-------------------------------|--------------------|
|                                    | <b>Unrestricted</b>   | <b>Temporarily restricted</b> | <b>Permanently restricted</b> | <b>Total</b>       |
| Endowment net assets, May 31, 2012 | \$ 232,837,027        | 14,649,909                    | 80,428,326                    | 327,915,262        |
| Investment return:                 |                       |                               |                               |                    |
| Investment income, net             | (103,251)             | 4,639,990                     | —                             | 4,536,739          |
| Net appreciation                   | <u>43,153,649</u>     | <u>16,260,759</u>             | <u>72,425</u>                 | <u>59,486,833</u>  |
| Total investment return            | 43,050,398            | 20,900,749                    | 72,425                        | 64,023,572         |
| New gifts                          | —                     | 357,881                       | 3,166,805                     | 3,524,686          |
| Appropriation for expenditure      | (13,548,914)          | (4,639,990)                   | —                             | (18,188,904)       |
| Transfers and other changes        | <u>15,126,945</u>     | <u>(502,928)</u>              | <u>324,627</u>                | <u>14,948,644</u>  |
| Endowment net assets, May 31, 2013 | <u>\$ 277,465,456</u> | <u>30,765,621</u>             | <u>83,992,183</u>             | <u>392,223,260</u> |

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

|                                    | <b>2012</b>           |                                   |                                   |                     |
|------------------------------------|-----------------------|-----------------------------------|-----------------------------------|---------------------|
|                                    | <u>Unrestricted</u>   | <u>Temporarily<br/>restricted</u> | <u>Permanently<br/>restricted</u> | <u>Total</u>        |
| Endowment net assets, May 31, 2011 | \$ 216,592,744        | 22,429,333                        | 74,543,153                        | 313,565,230         |
| Investment return:                 |                       |                                   |                                   |                     |
| Investment income, net             | (71,889)              | 4,074,416                         | —                                 | 4,002,527           |
| Net depreciation                   | <u>(9,544,999)</u>    | <u>(7,834,109)</u>                | <u>(63,427)</u>                   | <u>(17,442,535)</u> |
| Total investment return            | (9,616,888)           | (3,759,693)                       | (63,427)                          | (13,440,008)        |
| New gifts                          | —                     | 46,420                            | 5,948,600                         | 5,995,020           |
| Appropriation for expenditure      | (12,564,486)          | (4,066,151)                       | —                                 | (16,630,637)        |
| Transfers and other changes        | <u>38,425,657</u>     | <u>—</u>                          | <u>—</u>                          | <u>38,425,657</u>   |
| Endowment net assets, May 31, 2012 | \$ <u>232,837,027</u> | <u>14,649,909</u>                 | <u>80,428,326</u>                 | <u>327,915,262</u>  |

**(5) Contributions Receivable**

Contributions receivable were as follows at May 31, 2013 and 2012:

|  | <u>2013</u>          | <u>2012</u>       |
|--|----------------------|-------------------|
| Amounts expected to be collected in:         |                      |                   |
| Less than one year                           | \$ 2,706,342         | 3,320,309         |
| One to five years                            | 5,981,130            | 6,181,836         |
| More than five years                         | <u>19,347,415</u>    | <u>25,406,515</u> |
|  | 28,034,887           | 34,908,660        |
| Less:  |                      |                   |
| Discount for net present value (1.59%–6.00%) | (9,300,812)          | (14,336,621)      |
| Allowance for uncollectible amounts          | <u>(750,000)</u>     | <u>(750,000)</u>  |
|  | \$ <u>17,984,075</u> | <u>19,822,039</u> |

Pledges from five donors accounted for 58% and 55% of gross contributions receivable at May 31, 2013 and 2012, respectively.

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

**(6) Plant Assets**

Plant assets at May 31, 2013 and 2012 consisted of the following:

|                         | <b>2013</b>    |                                 |                           |
|-------------------------|----------------|---------------------------------|---------------------------|
|                         | <b>Cost</b>    | <b>Accumulated depreciation</b> | <b>Net carrying value</b> |
| Land                    | \$ 28,446,732  | —                               | 28,446,732                |
| Site improvements       | 47,717,452     | 34,950,985                      | 12,766,467                |
| Buildings               | 502,823,627    | 140,420,732                     | 362,402,895               |
| Building improvements   | 220,383,421    | 92,917,989                      | 127,465,432               |
| Furniture and equipment | 72,118,989     | 31,506,172                      | 40,612,817                |
| Total                   | \$ 871,490,221 | 299,795,878                     | 571,694,343               |

  

|                                 | <b>2012</b>    |                                 |                           |
|---------------------------------|----------------|---------------------------------|---------------------------|
|                                 | <b>Cost</b>    | <b>Accumulated depreciation</b> | <b>Net carrying value</b> |
| Land                            | \$ 43,346,732  | —                               | 43,346,732                |
| Site improvements               | 44,247,959     | 32,838,616                      | 11,409,343                |
| Transferable development rights | 12,885,508     | —                               | 12,885,508                |
| Buildings                       | 518,283,617    | 134,100,170                     | 384,183,447               |
| Building improvements           | 217,325,877    | 83,920,752                      | 133,405,125               |
| Furniture and equipment         | 65,196,656     | 30,626,038                      | 34,570,618                |
| Total                           | \$ 901,286,349 | 281,485,576                     | 619,800,773               |

On May 23, 2013, the University entered into an agreement to sell a parcel of real property located in Manhattan for \$223.0 million. Pursuant to the agreement, the University will leaseback the property until June 2014. The net carrying value of the property is shown on the accompanying 2013 consolidated balance sheet as asset held for sale. The sale closed on July 15, 2013 resulting in a gain of approximately \$173 million.

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

**(7) Long-Term Debt**

The University's plant includes acquisition and construction costs for various facilities financed through revenue obligations of the Dormitory Authority of the State of New York (the Dormitory Authority) and capital leases. The following obligations were outstanding at May 31, 2013 and 2012:

|   | <u>2013</u> | <u>2012</u> |
|---|-------------|-------------|
| Dormitory Authority:  |             |             |
| St. John's University, Insured Revenue Bonds, Series 1998, 4.750% (net of unamortized original issue discount of \$216,669 in 2012) (Series 1998 Bonds) (a) (b)   | \$ —        | 34,068,331  |
| St. John's University, Insured Revenue Bonds, Series 2001A, 5.000% to 5.125%, serial and term bonds (net of unamortized original issue discount of \$18,854 in 2012) (Series 2001A Bonds) (a) (b)                                     | —           | 9,961,146   |
| St. John's University, Insured Revenue Bonds, Series 2005A, 3.500% to 5.000%, (including unamortized premium of \$379,000 in 2012) (Series 2005A Bonds) (a) (b)   | —           | 17,379,000  |
| St. John's University, Insured Revenue Bonds, Series 2007A, 5.000% to 5.250%, term bonds due from 2015 to 2038 (including unamortized premium of \$5,334,654 and \$5,911,783 in 2013 and 2012, respectively) (Series 2007A Bonds) (a) | 119,334,654 | 119,911,783 |
| St. John's University, Insured Revenue Bonds, Series 2007C, 4.000% to 5.250%, term bonds due to 2031 (including unamortized premium of \$5,989,113 and \$7,042,037 in 2013 and 2012, respectively) (Series 2007C Bonds) (a)           | 117,644,113 | 121,477,037 |
| St. John's University, Revenue Bonds, Series 2008A, variable rate demand bonds (interest rate at May 31, 2012 was 0.170%) (Series 2008A Bonds) (b)  | —           | 53,175,000  |
| St. John's University, Revenue Bonds, Series 2008B-1, variable rate demand bonds due from 2010 through 2035 (interest rate at May 31, 2013 was 0.120% and 2012 was 0.230%) (Series 2008B-1 Bonds) (c) (e)                             | 66,140,000  | 66,575,000  |

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

|   | <u>2013</u>           | <u>2012</u>        |
|---|-----------------------|--------------------|
| St. John's University, Revenue Bonds,<br>Series 2008B-2, variable rate demand bonds due from<br>2015 through 2038 (interest rate at May 31, 2013 was<br>0.100% and 2012 was 0.220%)<br>(Series 2008B-2 Bonds) (c) (e) | \$ 67,760,000         | 67,760,000         |
| St. John's University, Revenue Bonds,<br>Series 2012A, 2.000% to 5.000%, due from 2014 to 2029<br>(including unamortized premium of \$6,710,930 in 2013)<br>(Series 2012A Bonds) (b)                                  | 55,170,930            | —                  |
| St. John's University, Revenue Bonds<br>Series 2012B, 1.000% to 5.000%, due from 2014 to 2031<br>(including unamortized premium of \$5,864,918 in 2013)<br>(Series 2012B Bonds) (b)                                   | 49,794,918            | —                  |
| Obligations under capital leases (d)  | <u>29,445,163</u>     | <u>26,105,417</u>  |
|   | <u>\$ 505,289,778</u> | <u>516,412,714</u> |

- (a) Under agreements with the Dormitory Authority, the University issued revenue bonds to finance construction, renovations, furnishings, and information technology upgrades. The University has granted the Dormitory Authority a security interest in tuition revenue equal to the maximum annual debt service in any one year, and a mortgage on certain property, including certain fixtures, furnishings, and equipment.
- (b) The Series 2012A and 2012B Bonds were issued in order to reduce the University's overall interest costs, with the proceeds being used to refund Series 1998, Series 2001A, Series 2005A Insured Revenue Bonds, and Series 2008A Variable Rate Demand Bonds. These funds were deposited in irrevocable trusts with an escrow agent and used to purchase noncancelable U.S. government securities to provide for future debt service payments of the advanced refunded portion of the bonds. In conjunction with the creation of these trusts, the Dormitory Authority released the University from its obligation relating to the advance refunded portion of the bonds. Accordingly, the trusteed assets and the refunded portion of the bonds are not reflected in the accompanying 2013 consolidated balance sheet. The effect of the refunding, a nonoperating charge of approximately \$3.2 million in fiscal year 2013, reflects the write-off of unamortized bond issuance costs and net premium associated with the refunded bonds.
- (c) The University entered into an interest rate swap agreement with an original notional amount of \$58,400,000 to mitigate interest rate risk associated with a portion of the University's variable rate debt. Under the terms of the agreement, as amended, the University pays a fixed rate of 3.30% and receives 64.20% of the 10-year International Swap Dealers Association (ISDA) rate on the notional amount (\$55,775,000 at May 31, 2013). At May 31, 2013 and 2012, the fair value of the interest rate swap was a liability of \$3,682,210 and \$6,611,978, respectively. The change in fair value is reported as nonoperating gain or loss in the accompanying consolidated statements of activities.
- (d) The University has entered into multiple master lease and sublease agreements with the Dormitory Authority under the Dormitory Authority's Tax Exempt Leasing Program (TELP). Pursuant to the



**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

agreements, the University has borrowed \$47,296,665 (including \$9,300,000 in fiscal year 2013) to fund the purchase of energy efficient equipment and to replace and upgrade various technology equipment. Lease obligations are collateralized by the equipment and are payable in equal monthly installments, including interest, of approximately \$701,000 (expiration dates range from August 11, 2013 through August 10, 2023 and interest rates range from 1.35% to 3.92%).

- (e) The Series 2008B-1 Bonds and Series 2008B-2 Bonds are secured by letters of credit that are scheduled to expire in October 2015.

Future debt service payments, assuming an interest rate of 3.00% on the Series 2008B-1 Bonds and the Series 2008B-2 Bonds, are as follows:

|                          | <u>Principal</u>             | <u>Interest</u>              | <u>Total debt service</u> |
|--------------------------|------------------------------|------------------------------|---------------------------|
| Year ending May 31:      |                              |                              |                           |
| 2014                     | \$ 14,304,212                | 20,237,923                   | 34,542,135                |
| 2015                     | 17,236,640                   | 19,766,528                   | 37,003,168                |
| 2016                     | 17,588,987                   | 19,152,467                   | 36,741,454                |
| 2017                     | 17,845,046                   | 18,493,148                   | 36,338,194                |
| 2018                     | 18,819,460                   | 17,786,414                   | 36,605,874                |
| Thereafter               | <u>395,595,818</u>           | <u>158,541,783</u>           | <u>554,137,601</u>        |
|                          | 481,390,163                  | \$ <u><u>253,978,263</u></u> | <u><u>735,368,426</u></u> |
| Plus unamortized premium | <u>23,899,615</u>            |                              |                           |
|                          | \$ <u><u>505,289,778</u></u> |                              |                           |

The University is required to establish and deposit with bond trustees certain funds for the benefit of bondholders. Bond trustees invest such amounts as permitted under the applicable bond agreements until they are withdrawn to affect the purposes for which they were generated. Deposits held by bond trustees, principally U.S. Treasury notes at fair value, consisted of the following at May 31, 2013 and 2012:

|   | <u>2013</u>                 | <u>2012</u>              |
|---|-----------------------------|--------------------------|
| Debt service funds                              | \$ 14,739,664               | 16,704,498               |
| Building and equipment reserve funds            | —                           | 1,434,686                |
| Unspent Tax Exempt Leasing Program (TELP) funds | <u>8,452,004</u>            | <u>6,887,698</u>         |
|   | \$ <u><u>23,191,668</u></u> | <u><u>25,026,882</u></u> |

**(8) Pension and Other Retirement Benefits**

The University has defined-contribution retirement plans covering substantially all academic and nonacademic personnel. Costs for the years ended May 31, 2013 and 2012 were approximately \$13,957,000 and \$12,986,000, respectively.

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

**(9) Temporarily and Permanently Restricted Net Assets**

Temporarily restricted net assets at May 31, 2013 and 2012, consisting principally of endowment appreciation and contributions receivable, were available for the following purposes:

|   | <u>2013</u>          | <u>2012</u>       |
|---|----------------------|-------------------|
| Future periods for general university purposes                              | \$ 5,244,398         | 8,949,661         |
| Scholarship programs  | 24,729,305           | 12,515,178        |
| Educational programs  | 15,955,012           | 10,207,364        |
| Capital improvements  | 421,598              | 756,566           |
| Charitable remainder trusts to support educational and scholarship programs | <u>3,383,736</u>     | <u>1,682,061</u>  |
|   | <u>\$ 49,734,049</u> | <u>34,110,830</u> |

Permanently restricted net assets at May 31, 2013 and 2012 are restricted to investment in perpetuity, with investment return available to support the following activities:

|   | <u>2013</u>          | <u>2012</u>       |
|---|----------------------|-------------------|
| Scholarship programs  | \$ 57,623,985        | 53,586,827        |
| Educational programs  | 26,407,572           | 26,379,102        |
| Other programs  | 1,231,105            | 1,224,288         |
| Charitable remainder trusts to support educational and scholarship programs | <u>783,809</u>       | <u>711,384</u>    |
|   | <u>\$ 86,046,471</u> | <u>81,901,601</u> |

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

**(10) Allocation of Certain Expenses**

The University allocates operation and maintenance of plant, depreciation, and interest expense based on proportional expenditures using estimates of building square footage and the functional use of each facility financed by debt. For the year ended May 31, 2013 (and comparative totals for the year ended May 31, 2012), the following allocation of expenses was included in the consolidated statement of activities:

|                         | <b>Operation<br/>and<br/>maintenance<br/>of plant</b> | <b>Depreciation</b> | <b>Interest</b>   | <b>2013<br/>Total</b> | <b>2012<br/>Total</b> |
|-------------------------|---|---------------------|-------------------|-----------------------|-----------------------|
| Instruction             | \$ 15,992,096   | 10,624,502          | 3,714,094         | 30,330,692            | 29,441,992            |
| Research                | 744,771   | 601,581             | —                 | 1,346,352             | 1,307,070             |
| Academic support        | 5,210,539   | 3,090,220           | 358,140           | 8,658,899             | 8,364,075             |
| Student services        | 8,712,077   | 5,617,838           | 64,054            | 14,393,969            | 13,932,271            |
| Institutional support   | 7,333,892   | 3,750,812           | 3,853,777         | 14,938,481            | 14,157,608            |
| Auxiliary enterprises   | 16,829,870  | 8,611,010           | 8,033,919         | 33,474,799            | 32,713,671            |
|                         | <u>\$ 54,823,245</u>                                  | <u>32,295,963</u>   | <u>16,023,984</u> | <u>103,143,192</u>    |                       |
| Year ended May 31, 2012 | \$ 53,122,821   | 31,278,190          | 15,515,676        |                       | <u>99,916,687</u>     |

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

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

The carrying amount of student accounts receivable, other receivables, and accounts payable and accrued expenses approximates fair value due to the short maturity of these financial instruments. The fair value of investments in debt and equity securities, including funds held by bond trustees, is based upon values provided by the external investment managers or quoted market values. The fair value of the interest rate swap is calculated by the counterparty to the agreement using an income approach, and assessed by management for reasonableness.

A reasonable estimate of the fair value of student loans receivable under government loan programs could not be made because the notes are not marketable and can only be assigned to the U.S. government or its designees. The fair value of notes receivable from students under the University's loan programs approximates carrying value.

The fair value of the University's long-term debt (carrying value of \$505,289,778) approximates \$518,000,000 principally reflecting higher than current market rates on the Series 2007C bonds. The fair value of long-term debt, excluding obligations under capital leases, was estimated by discounting future cash flows associated with the debt by current market rates for loans with similar maturities and credit quality. The carrying value of obligations under capital leases approximates fair value. The inputs to these estimates are considered Level 2 in the fair value hierarchy.

## ST. JOHN'S UNIVERSITY

### Notes to Consolidated Financial Statements

May 31, 2013 and 2012

For financial and nonfinancial instruments measured at fair value on a recurring basis, the University uses the three-tiered hierarchy to categorize those assets and liabilities based on the valuation methodologies employed. In addition, classification of certain of these investments within the fair value hierarchy is based on the University's ability to timely redeem its interest rather than on valuation inputs. This hierarchy is defined as follows:

Level 1 – Valuation based on quoted prices (unadjusted) in an active market that are accessible at the measurement date for identical assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.

Level 2 – Valuations based on observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities, as well as those alternative investments (measured at net asset value) that are redeemable on or near the consolidated balance sheet date.

Level 3 – Valuations based on unobservable inputs are used when little or no market data is available, as well as those alternative investments that are not redeemable near the consolidated balance sheet date. The fair value hierarchy gives lowest priority to Level 3 inputs. Transfers in and out of Level 3 are recognized at the beginning of the fiscal year.

As of May 31, 2013, the University's commingled fund and alternative investments are allocated between the following investment strategies:

*Hedge fund of funds* (\$78,411,205) consists of three funds representing investments in a broad range of investments strategies that seek to exploit opportunities as they occur in the markets due to temporary dislocations or structural inefficiencies. These investments contain various restrictions with liquidation dates ranging from 65 to 365 days. In addition, a certain portion of these investments are retained by fund managers until the issuance of their respective financial statements.

*Private equity fund of funds and direct investment* (\$35,798,507) consists of 10 funds representing limited partnerships, which were formed for the purpose of investing in private equity funds including venture capital, buyouts, growth capital, international private equity, and other private equity investments. Under the terms of certain private equity agreements, the University had open commitments of approximately \$19,390,000 and \$25,200,000 at May 31, 2013 and 2012, respectively. These investments are generally less liquid, and redemption of these investments is at the discretion of the general manager over the duration of the investment term.

*Commingled fund* (\$26,836,220) consists of one fund representing beneficial interest in an investment trust which purpose is to invest in a diverse portfolio consisting primarily of foreign equity securities that are listed on a foreign exchange or quoted on an established foreign over-the-counter market.

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

As of May 31, 2013 and 2012, the following tables summarize the redemption frequency by category of commingled fund and alternative investments:

|                       |       | <b>2013</b>       |                    |                       |              |
|-----------------------|-------|-------------------|--------------------|-----------------------|--------------|
|                       |       | <u>Commingled</u> | <u>Hedge funds</u> | <u>Private equity</u> | <u>Total</u> |
| Redemption frequency: |       |                   |                    |                       |              |
| Monthly               | \$    | 26,836,220        | —                  | —                     | 26,836,220   |
| Quarterly             |       | —                 | 61,476,687         | —                     | 61,476,687   |
| Semiannual            |       | —                 | 11,575,708         | —                     | 11,575,708   |
| Lockup                |       | —                 | 5,358,810          | —                     | 5,358,810    |
| No redemptions        |       | —                 | —                  | 35,798,507            | 35,798,507   |
|                       | Total | \$ 26,836,220     | 78,411,205         | 35,798,507            | 141,045,932  |
|                       |       | <b>2012</b>       |                    |                       |              |
|                       |       | <u>Commingled</u> | <u>Hedge funds</u> | <u>Private equity</u> | <u>Total</u> |
| Redemption frequency: |       |                   |                    |                       |              |
| Monthly               | \$    | 41,407,572        | —                  | —                     | 41,407,572   |
| Quarterly             |       | —                 | 54,331,854         | —                     | 54,331,854   |
| Semiannual            |       | —                 | 10,254,482         | —                     | 10,254,482   |
| Lockup                |       | —                 | 4,728,442          | —                     | 4,728,442    |
| No redemptions        |       | —                 | —                  | 34,974,874            | 34,974,874   |
|                       | Total | \$ 41,407,572     | 69,314,778         | 34,974,874            | 145,697,224  |

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

The following tables present the University's fair value hierarchy for investments, funds held by bond trustees, and bond interest rate swap measured at fair value as of May 31, 2013 and 2012. The charitable trusts included in investments have a corresponding liability of \$3,501,629 and \$3,557,593 at May 31, 2013 and 2012, respectively.

| Assets                           | 2013           |                |                |                         |
|----------------------------------|----------------|----------------|----------------|-------------------------|
|                                  | Level 1        | Level 2        | Level 3        | Total                   |
| Investments:                     |                |                |                |                         |
| Cash equivalents                 | \$ 5,039,181   | —              | —              | 5,039,181               |
| Equities – domestic:             |                |                |                |                         |
| Common stock                     | 20,953,190     | —              | —              | 20,953,190              |
| Mutual funds                     | 144,504,635    | —              | —              | 144,504,635             |
| Equities – international:        |                |                |                |                         |
| Commingled fund                  | —              | 26,836,220     | —              | 26,836,220              |
| Emerging markets mutual funds    | 55,158,931     | —              | —              | 55,158,931              |
| Publicly traded funds            | 107,321        | —              | —              | 107,321                 |
| Fixed income securities:         |                |                |                |                         |
| Income funds – fixed             | 17,817,291     | —              | —              | 17,817,291              |
| U.S. Treasury notes – fixed      | 210,528        | —              | —              | 210,528                 |
| Corporate bonds – fixed          | —              | 1,294,528      | —              | 1,294,528               |
| Alternative investments:         |                |                |                |                         |
| Hedge fund of funds              | —              | 61,476,687     | 16,934,518     | 78,411,205              |
| Private equity fund of funds     | —              | —              | 34,765,777     | 34,765,777              |
| Private equity direct investment | —              | —              | 1,032,730      | 1,032,730               |
| Charitable trusts                | —              | 6,091,723      | —              | 6,091,723               |
| Total investments                | 243,791,077    | 95,699,158     | 52,733,025     | 392,223,260             |
| Funds held by bond trustees:     |                |                |                |                         |
| U.S. Treasury notes              | 23,191,668     | —              | —              | 23,191,668              |
| Total assets                     | \$ 266,982,745 | 95,699,158     | 52,733,025     | 415,414,928             |
| <b>Liabilities</b>               | <b>Level 1</b> | <b>Level 2</b> | <b>Level 3</b> | <b>Fair value total</b> |
| Interest rate swap               | \$ —           | (3,682,210)    | —              | (3,682,210)             |

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

| Assets                           | 2012           |                |                | Total                   |
|----------------------------------|----------------|----------------|----------------|-------------------------|
|                                  | Level 1        | Level 2        | Level 3        |                         |
| Investments:                     |                |                |                |                         |
| Cash equivalents                 | \$ 4,170,696   | —              | —              | 4,170,696               |
| Equities – domestic:             |                |                |                |                         |
| Common stock                     | 34,649,473     | —              | —              | 34,649,473              |
| Mutual funds                     | 93,156,991     | —              | —              | 93,156,991              |
| Equities – international:        |                |                |                |                         |
| Commingled fund                  | —              | 41,407,572     | —              | 41,407,572              |
| Emerging markets mutual funds    | 25,603,415     | —              | —              | 25,603,415              |
| Publicly traded funds            | 83,569         | —              | —              | 83,569                  |
| Fixed income securities:         |                |                |                |                         |
| Income funds – fixed             | 17,064,665     | —              | —              | 17,064,665              |
| U.S. Treasury notes – fixed      | 210,778        | —              | —              | 210,778                 |
| Corporate bonds – fixed          | —              | 1,649,986      | —              | 1,649,986               |
| Alternative investments:         |                |                |                |                         |
| Hedge fund of funds              | —              | 54,331,854     | 14,982,924     | 69,314,778              |
| Private equity fund of funds     | —              | —              | 34,763,444     | 34,763,444              |
| Private equity direct investment | —              | —              | 211,430        | 211,430                 |
| Charitable trusts                | —              | 5,628,465      | —              | 5,628,465               |
| Total investments                | 174,939,587    | 103,017,877    | 49,957,798     | 327,915,262             |
| Funds held by bond trustees:     |                |                |                |                         |
| U.S. Treasury notes              | 25,026,882     | —              | —              | 25,026,882              |
| Total assets                     | \$ 199,966,469 | 103,017,877    | 49,957,798     | 352,942,144             |
| <b>Liabilities</b>               | <b>Level 1</b> | <b>Level 2</b> | <b>Level 3</b> | <b>Fair value total</b> |
| Interest rate swap               | \$ —           | (6,611,978)    | —              | (6,611,978)             |

**ST. JOHN'S UNIVERSITY**

Notes to Consolidated Financial Statements

May 31, 2013 and 2012

The following tables present the changes in Level 3 investments for the years ended May 31, 2013 and 2012:

|  | <b>2013</b>           |                    |                   |
|--|-----------------------|--------------------|-------------------|
|  | <u>Private equity</u> | <u>Hedge funds</u> | <u>Total</u>      |
| Fair value at beginning of year                    | \$ 34,974,874         | 14,982,924         | 49,957,798        |
| Unrealized (depreciation) appreciation             | (876,201)             | 1,951,594          | 1,075,393         |
| Realized gains                                     | 3,331,515             | —                  | 3,331,515         |
| Purchase of investments                            | 6,271,996             | —                  | 6,271,996         |
| Proceeds from sale or distributions of investments | (7,903,677)           | —                  | (7,903,677)       |
| Fair value at end of year                          | <u>\$ 35,798,507</u>  | <u>16,934,518</u>  | <u>52,733,025</u> |
|  | <b>2012</b>           |                    |                   |
|  | <u>Private equity</u> | <u>Hedge funds</u> | <u>Total</u>      |
| Fair value at beginning of year                    | \$ 30,661,307         | 14,906,994         | 45,568,301        |
| Unrealized appreciation                            | 361,278               | 75,930             | 437,208           |
| Realized gains                                     | 2,659,668             | —                  | 2,659,668         |
| Purchase of investments                            | 7,119,437             | —                  | 7,119,437         |
| Proceeds from sale or distributions of investments | (5,826,816)           | —                  | (5,826,816)       |
| Fair value at end of year                          | <u>\$ 34,974,874</u>  | <u>14,982,924</u>  | <u>49,957,798</u> |

**(12) Line of Credit**

The University maintains a three-year committed line of credit for \$50 million. Borrowings under the line bear interest at LIBOR plus 60 basis points. A fee of 10 basis points is also charged on the unused portion.

At May 31, 2013, \$8 million was outstanding under the line. The line of credit expires on March 31, 2016.

**(13) Lease Commitments**

The University has entered into operating leases for certain facilities, which expire at various dates through July 2024. Future minimum rental lease commitments are as follows:

|                     |                      |
|---------------------|----------------------|
| Year ending May 31: |                      |
| 2014                | \$ 6,444,000         |
| 2015                | 5,977,000            |
| 2016                | 5,977,000            |
| 2017                | 5,977,000            |
| 2018                | 5,977,000            |
| Thereafter          | <u>40,494,000</u>    |
|                     | <u>\$ 70,846,000</u> |



## ST. JOHN'S UNIVERSITY

### Notes to Consolidated Financial Statements

May 31, 2013 and 2012

Rent expense for the years ended May 31, 2013 and 2012 was \$5,674,000 and \$5,388,000, respectively.

#### **(14) Voluntary Separation Offer**

During the year ended May 31, 2010, the University extended a Voluntary Separation Offer (VSO) to eligible staff, administrators, and tenured faculty. The VSO provides for separation allowances comprising salary based on length of service and fringe benefits, principally medical coverage, if eligible, and tuition remission. In 2010, the University recorded a VSO charge of \$37,260,166 that will be payable through May 31, 2017.

#### **(15) Contingent Liabilities**

The University is a defendant in various lawsuits arising in the normal course of business. Management does not expect the ultimate resolution of these actions to have a material adverse effect on the University's financial position.

#### **(16) Subsequent Events**

The University evaluated events subsequent to May 31, 2013 through September 23, 2013, the date on which the consolidated financial statements were issued. The University did not have any material subsequent events during the period, except as disclosed in note 6 or discussed below.

On September 16, 2013, the University purchased an off-campus student residence hall for approximately \$63.7 million. The University previously leased the property under an operating lease, which expires on July 1, 2024. Under the agreement, the University assumed an existing mortgage with an outstanding principal balance of \$42,074,640. The mortgage is collateralized by the property, carries interest at 6.94%, and is payable in monthly installments equal to the previously existing lease payments that range from \$389,953 to \$550,003 through July 1, 2024.

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**APPENDIX C - SUMMARY OF CERTAIN PROVISIONS  
OF THE LOAN AGREEMENT**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

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

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

### **Project Financing**

(a) The Authority agrees, upon satisfaction of the conditions to the issuance of the Bonds contained in the Loan Agreement to be satisfied by the University, to use its best efforts to sell, issue and deliver the Bonds in an aggregate principal amount, subject to the limitation thereon set forth in the Series Resolution, sufficient (i) to pay or to provide for the payment of the Costs of the Project and (ii) to pay the costs of issuance of the Bonds. Upon receipt of evidence satisfactory to the Authority that (i) the University has paid or advanced to the University SPE money for the payment of the cash portion of the purchase price for the Project property, (ii) title to the Project property has been acquired by the University SPE and (iii) the Project Mortgage has been assumed by the University SPE, the Authority on or as soon as practicable after the date of issuance of the Bonds shall reimburse the University from the proceeds of the Bonds for the money paid or advanced by it for the such portion of the purchase price.

Additional proceeds of the Bonds will be advanced by the Authority to the University in an amount sufficient to prepay the outstanding principal balance of the Project Mortgage, but no event more than \$35,488,500, on the date, or as soon as practicable thereafter, that the Authority has received evidence satisfactory to it that the Project Mortgage has been or is to be prepaid. The University covenants and agrees that it shall prepay or cause the University SPE to prepay the Project Mortgage in full on or prior to November 15, 2016, whether or not the aforementioned proceeds are sufficient therefor.

Upon the date that the Project Mortgage is paid in full, or at any time thereafter, the University may dissolve the University SPE, provided that thereupon all of the University SPE's rights, title and interest in and to the real property constituting the Project and all other assets of the University SPE shall be transferred or assigned to the University.

(b) The University agrees that, upon the request of an Authorized Officer of the Authority and as a condition to the issuance of the Bonds, it shall deliver to the Authority a certificate of an Authorized Officer of the University satisfactory to an Authorized Officer of the Authority setting forth and representing (i) the amount of Restricted Gifts theretofore received by the University or the University SPE, (ii) that all of such amount has been or will be spent on the Project or will have otherwise been applied in a manner acceptable to an Authorized Officer of the Authority; (iii) that such amount shall not be reimbursed from the proceeds of the sale of the Bonds, (iv) whether the University reasonably expects any additional Restricted Gifts to be received by it or the University SPE while the Bonds are Outstanding, and (v) such other matters as may be required by an Authorized Officer of the Authority to determine whether issuance of the Bonds will comply with the requirements of the Code.

If, prior to the date on which the Project Mortgage is prepaid, satisfied, and discharged, the University or the University SPE receives any Restricted Gift required to be used to pay any item which is a Cost of the Project paid or intended to be paid from the proceeds of Bonds, the University shall apply an amount of money equal to such Restricted Gift to the extent necessary to complete the Project. If, after the Project Mortgage has been prepaid, the University or the University SPE receives any Restricted Gift, which, prior to such prepayment, it reasonably expected to receive, the University shall deliver a like amount to the Trustee for deposit in the Debt Service Fund and application in accordance with the Resolution.

The University represents, warrants and covenants that it has expended or will expend on the Project, from sources other than proceeds of the Bonds, an amount equal to or greater than the amount of Restricted Gifts received and reasonably expected to be received by it or the University SPE in the future from pledges or otherwise, and no such money will be pledged as collateral for the Bonds. For purposes of this paragraph, it is understood that all or any part of the Project may be named in honor of a donor or donors in

## ***Appendix C***

recognition of pledges, contributions or services of the donor or donors that are unrelated to the Costs of the Project, and amounts pledged or contributed by the donor or donors for purposes unrelated to the Costs of the Project will not be considered to have been raised for purposes of acquiring the Project.

*(Section 4)*

### **Construction of Projects**

The University agrees that, whether or not there is sufficient money in the Construction Fund or otherwise available to it under the provisions of the Resolution, the Series Resolution and the Loan Agreement, the University shall complete the acquisition, design, construction, reconstruction, rehabilitation and improving or otherwise providing and furnishing and equipping of the Project, and the prepayment of the Project Mortgage, 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 University to be reimbursed for, or pay, any costs and expenses incurred by the University which constitute Costs of the Project, provided such costs and expenses are approved by the Authority, which approval shall not be unreasonably withheld or delayed.

*(Section 5)*

### **Project Amendment**

The Project may be amended with the prior written consent of the Authority, which consent will not be unreasonably withheld, to decrease, increase or otherwise modify the scope thereof. Any such increase may provide for the addition of any further acquisition, design, construction, reconstruction, rehabilitation, renovation, improving, or otherwise providing, furnishing and equipping of the Project which the Authority is authorized to undertake. The University shall provide such money as in the reasonable judgment of the Authority may be required for the cost of completing the Project in excess of the money in the Construction Fund, whether such money is required as a result of an increase in the scope of the Project or otherwise.

*(Section 6)*

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

(a) Except to the extent that money is available therefor under the Resolution or the Loan Agreement, including money in the Debt Service Fund (other than money required to pay the Redemption Price or purchase price of Outstanding Bonds theretofore called for redemption or contracted to be purchased, plus interest accrued to the date of redemption or purchase), and excluding interest accrued but unpaid on investments held in the Debt Service Fund, the University by the Loan Agreement unconditionally agrees to pay, or cause to be paid, 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 Bonds, the Authority Fee agreed to by the Authority and the University in connection with issuance of the Bonds;

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

(iii) On each June 10<sup>th</sup> and December 10<sup>th</sup>, the interest, if any, coming due on the Bonds on the next succeeding interest payment therefor;

(iv) On each June 10<sup>th</sup>, the principal and Sinking Fund Installments coming due on the Bonds on the next succeeding July 1<sup>st</sup>;

(v) Unless the redemption of 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 Bonds previously called for redemption or to be purchased;

(vi) On December 10<sup>th</sup> of each Bond Year, one-half (1/2) of the Annual Administrative Fee payable during such Bond Year, and on June 10<sup>th</sup> of each Bond Year the balance of the Annual Administrative Fee payable during such Bond Year;

(vii) 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 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 University of all the provisions of the Loan Agreement or the Mortgage in accordance with the terms of the Loan Agreement or the Mortgage, 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 Resolutions;

(viii) 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 University as a result of an acceleration pursuant to the Loan Agreement; and

(ix) Promptly upon demand by the Authority, the difference between the amount on deposit in the Arbitrage Rebate Fund or otherwise available 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 Bonds.

Subject to the provisions of the Loan Agreement and of the Resolution or the Series Resolutions, the University shall receive a credit against the amount required to be paid by the University during a Bond Year pursuant to paragraph (iv) 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 Bonds to be redeemed through such Sinking Fund Installment prior to the succeeding July 1, the University delivers to the Trustee for cancellation one or more Bonds to be so redeemed on such July 1. The amount of the credit shall be equal to the principal amount of the Bonds so delivered.

The Authority by the Loan Agreement directs the University, and the University by the Loan Agreement agrees to make: (1) the payments required by subparagraphs (iii) and (viii) 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 Bonds called for optional redemption or purchase in lieu of optional redemption; (3) 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; (4) the payments required by subparagraph (vii) of this paragraph (a), directly to the Trustee for application in accordance with the Resolution; (5) the payments required by subparagraph (ix) of this paragraph (a) directly to the Trustee for deposit in the Arbitrage Rebate Fund, and (6) the payments required by subparagraphs (i) and (vi) of this paragraph (a) directly to the Authority.

(b) Notwithstanding any provision in the Loan Agreement or in the Resolution or a Series Resolution to the contrary (except as otherwise specifically provided for in this paragraph), (1) all money paid by the University to the Trustee pursuant to subparagraphs (iii), (iv) and (viii) of this paragraph (a) of this section (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 University's indebtedness to the Authority with respect to the interest on and principal or Redemption Price of the Bonds to the extent of such payment is applied to the payment of the principal or Redemption Price of or interest on the 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

## *Appendix C*

deemed, upon such transfer, receipt by the Authority from the University of a payment in satisfaction of the University's indebtedness to the Authority with respect to the Redemption Price of the 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 Resolutions for the sole and exclusive benefit of the Bondholders, regardless of the actual due date or applicable payment date of any payment to the Holders of the Bonds, except in respect to the payment to the University by the Trustee as provided for in the Resolution.

(c) The obligations of the University 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 University may otherwise have against the Authority, the Trustee or any Holder of a Bond for any cause whatsoever including, without limiting the generality of the foregoing, failure of the University to complete the Project or the completion thereof with defects, failure of the University to occupy or use the Project, any declaration or finding that the Bonds are or the Resolution or a 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 contained in the Loan Agreement or any of its other duties or obligations, and in the event the Authority shall fail to perform any such agreement, duty or obligation, the University 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 University for, or to pay, the Costs of the Project beyond the extent of money in any fund or account established in connection with the issuance of bonds by the Authority for payment of the Costs of the Project.

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

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

(e) The Authority shall have the right in its sole discretion to make on behalf of the University any payment required pursuant to this section which has not been made by the University 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 University'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 University to make such payment.

(f) The University, 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 Bonds in accordance with the Resolution. Upon any voluntary payment by the University 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 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 Bonds then Outstanding, or to pay or provide for the payment of all Bonds then Outstanding in accordance with the Resolution, the Authority agrees, in accordance with the instructions of the University, to direct the Trustee to purchase or redeem all Bonds Outstanding, or to cause all Bonds Outstanding to be paid or to be deemed paid in accordance with the Resolution.



(g) 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 University of, the actual Authority Fee incurred by the University 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 University pursuant to paragraph (a) of this section. If upon such determination the actual amount of the Authority Fee incurred by the University 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 University the amount paid in excess of such actual amount.

*(Section 9)*

**Security Interest in Pledged Revenues**

As security for the payment of all liabilities and the performance of all obligations of the University pursuant to the Loan Agreement, the University does continuously pledge, grant a security interest in, and assign to the Authority the Pledged Revenues, together with the University's right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues. This pledge, security interest and assignment shall have the priority provided for in the applicable intercreditor agreement.

The University represents and warrants that (i) no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any Lien (other than the Existing Pledges), (ii) all corporate action on the part of the University to authorize the pledge thereof and the granting of a security interest therein has been duly and validly taken and (iii) the Pledged Revenues assigned pursuant to the Loan Agreement are legally available to provide security for the University's performance under the Loan Agreement. The University covenants and agrees that (i) other than as permitted by the Loan Agreement, it shall not create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge of the Pledged Revenues made by this section and (ii) it shall at all times, to the extent permitted by law, defend, preserve and protect such pledge and security interest and all of the rights of the Authority and the Holders of Bonds against all claims and demands of all persons whomsoever.

*(Section 10)*

**Collection of Pledged Revenues**

(a) Subject to the provisions of paragraph (b) of this section and the terms of any intercreditor agreement relating to Parity Debt, commencing on the date on which the Bonds are first issued and delivered and continuing until no Bonds are Outstanding, the University shall deliver to the Trustee for deposit in accordance with the Resolution and the Series Resolution all Pledged Revenues (other than the amounts subject to Parity Debt) within ten (10) days following the University's receipt thereof unless and until there is on deposit in the Debt Service Fund an amount at least equal to the sum of (i) the interest coming due on or prior to the earlier of the next succeeding January 1 or July 1, (ii) the principal and Sinking Fund Installments of Outstanding Bonds payable on and prior to the next succeeding July 1, and (iii) the Redemption Price or purchase price of Outstanding Bonds theretofore called for redemption or contracted to be purchased and accrued interest thereon to the date of redemption or purchase. In the event that, pursuant to the Loan Agreement, the Authority notifies the University that account debtors are to make payments directly to the Authority or to the Trustee, such payments shall be made directly to the Authority or the Trustee notwithstanding anything contained in this subdivision, but the University shall continue to deliver to the Trustee for deposit in accordance with the Resolution any payments received by the University with respect to the Pledged Revenues (other than such amounts as are subject to the Existing Pledges).

(b) Notwithstanding anything to the contrary in paragraph (a) of this section, in the event that, on or prior to the date on which a payment is to be made pursuant to the Loan Agreement on account of the principal, Sinking Fund Installments or Redemption Price of or interest on Outstanding Bonds, the University has made such payment from its general funds or from any other money legally available to it for such purpose, the University shall not be required solely by virtue of paragraph (a) of this section, to deliver Pledged Revenues to the Trustee.

## ***Appendix C***

Any Pledged Revenues collected by the University that are not required to be paid to the Trustee pursuant to the Loan Agreement shall be free and clear of the security interest granted by the Loan Agreement and may be disposed of by the University for any of its corporate purposes provided that no Event of Default (as defined in the Loan Agreement) nor any event which but for the passage of time or the receipt of notice or both would be an Event of Default has occurred and is continuing.

*(Section 11)*

### **Mortgage**

At or before the delivery by the Authority of the Bonds, the University shall execute and deliver to the Authority a mortgage in form and substance acceptable to the Authority and in recordable form, mortgaging the Mortgaged Property to the Authority, which Mortgage shall constitute a first lien on such Mortgaged Property, subject only to the Permitted Encumbrances.

*(Section 12)*

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

The University warrants and represents to the Authority that (i) it has or will have good and marketable title to the Mortgaged Property and that the University SPE will have good and marketable title to the Project, in each case free and clear of Liens, except Permitted Encumbrances, so as to permit it to have quiet enjoyment and use thereof for purposes as described in the Loan Agreement and the University's programs and (ii) the University, or, with respect to the Project, the University SPE, 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 and use by the University of the Project.

The University 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 Encumbrances and such other Liens, commitments with respect thereto or other matter approved in writing by the Authority.

The University 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 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 and encumbrances except Permitted Encumbrances, 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, if applicable.

The University warrants, represents and covenants that (i) the Project and the Mortgaged Property are and/or 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 University or others. Such access, however, may be through common roads or walks owned by the University used also for other parcels owned by the University.

*(Section 13)*

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

(c) The University 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 the Loan Agreement, (ii) the security interest in and pledge of the Pledged Revenues and the Mortgage

granted by the University under the Loan Agreement, and (iii) all funds and accounts established by the Series Resolutions pledged thereby, in each case to the extent pledged and assigned pursuant to or in accordance with the Resolution and the Series Resolutions, to secure any payment or the performance of any obligation of the University 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 University 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 University's obligation to make all payments required by the Loan Agreement and to performing all other obligations required to be performed by the University by the Loan Agreement.

(d) The University warrants and represents that:

(i) it has the requisite power and authority to enter into the Loan Agreement, to incur the indebtedness under the Loan Agreement in the manner and to the extent provided in the Loan Agreement and in the Resolution and the Series Resolutions, to make and deliver the Mortgage and to pledge and grant a security interest in the Pledged Revenues and the Mortgaged Property to the Authority as security for performance of its obligations under the Loan Agreement;

(ii) the Loan Agreement and the Mortgage are valid, binding and legal obligations of the University enforceable against the University 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; and

(iii) the execution and delivery of the Loan Agreement and the Mortgage, the pledge of and grant of a security interest in the Pledged Revenues and the Mortgaged Property, the consummation of the transactions contemplated by the Loan Agreement and compliance with the provisions of the Loan Agreement 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 University or any indenture or mortgage, or any trusts, endowments or other commitments or agreements to which the University 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 University or any of its properties.

*(Section 14)*

#### **Tax-Exempt Status of University**

The University 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 subject to taxation under Section 511 of the Code.

The University 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 University 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, nor shall it permit, acquiesce in or suffer the performance by the University SPE of, any act or enter into any agreement to use or permit the Project to be used in any manner, or for any trade or business

## ***Appendix C***

or other non-exempt use unrelated to the purposes of the University, which could adversely affect the exclusion of interest on the Bonds from federal gross income pursuant to Section 103 of the Code.

The University further covenants not to do or fail to do, or to permit, acquiesce in or suffer the performance by the University SPE of any act or the failure by the University SPE to perform, any act the performance of which or the failure to perform such act would cause the University SPE to cease to be considered as a “disregarded entity” for federal income tax purposes pursuant to the Code and, in particular, §301.7701-3(b)(ii) of the Treasury Regulations.

*(Section 15)*

### **Securities Acts Status**

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

*(Section 16)*

### **Maintenance of Corporate Existence**

The University covenants that it will maintain its corporate existence, will continue to operate as a non-profit educational organization, will obtain, maintain and keep in full force and effect such governmental approvals, consents, licenses, permits and accreditations as may be necessary for it to continue to operate, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another person or permit one or more persons to consolidate with or merge into it. The University, with the Insurer’s Consent and the prior written consent of the Authority may (i) sell or otherwise transfer all or substantially all of its assets to, or consolidate with or merge into, another organization or corporation which qualifies under Section 501(c)(3) of the Code, or any successor provision of federal income tax law, or (ii) permit one or more corporations or any other organization to consolidate with or merge into it, or (iii) acquire all or substantially all of the assets of one or more corporations or other organizations.

Notwithstanding the foregoing provisions of this section, no disposition, transfer, consolidation or merger otherwise permitted by the Loan Agreement shall be permitted unless: (i) the same would not in the opinion of Bond Counsel adversely affect the exclusion of interest on any Bond from gross income for purposes of federal income taxation; (ii) the transaction does not result in a conflict, breach or default of the University’s representation as to its corporate organization, authorization and powers referred to in the Loan Agreement and in the Resolution; (iii) the University will not as a result thereof be in default under the Loan Agreement; (iv) the surviving, resulting or transferee corporation, as the case may be, is incorporated under the laws of the State and is qualified as an organization described in Section 501(c)(3) of the Code or any successor provision of federal income tax law; and (v) the surviving, resulting or transferee corporation of the University (a) assumes in writing all of the obligations of the University under the Loan Agreement and furnishes to the Authority such certificates and documents as the Authority may reasonably require to establish compliance with this section and (b) executes, delivers, registers, records and files such other instruments as the Authority and the Trustee may reasonably require to confirm, perfect or maintain the security granted under the Loan Agreement and the Resolution.

The University shall not, without the prior written consent of the Authority, cause or permit any amendment, modification or other change to be made to the Certificate of Formation of the University SPE, as filed with the Secretary of State of the State of Delaware on August 7, 2013 at 5:21 O’clock P.M., or the Limited Liability Company Agreement of Henley Road SPE, LLC, executed as of September 16, 2013, by the University, as the sole member of the University SPE, and Steven P. Zimmer, as the independent director of the University SPE; nor shall the University permit the formation, acquisition, merger,

consolidation, change in ownership or dissolution of or by the University SPE without the prior written consent of the Authority.

*(Section 17)*

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

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

*(Section 18)*

#### **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 University shall have sole and exclusive control and possession of and responsibility for the Project and the Mortgaged Property, the supervision of the activities conducted therein or in connection with any part thereof, and the maintenance, repair and replacement of the Project; *provided, however*, that, except as otherwise limited by the Loan Agreement, the foregoing shall not prohibit the use of the Project or the Mortgaged Property by persons other than the University if, in the opinion of Bond Counsel, such use will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for purposes of federal income taxation.

The University covenants that it will not transfer, sell or convey the Mortgaged Property or the Project or any part thereof or interest therein, including development rights, or permit the University to transfer, sell or convey the Project or any part thereof or interest therein, including development rights, unless (a) in the opinion of Bond Counsel such transfer, sale or conveyance will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for purposes of federal income taxation and (b) the University shall comply with any applicable provisions of the Loan Agreement. Unless otherwise required in order to maintain the exclusion of interest on the Bonds from the gross income of the owners thereof for purposes of federal income taxation, upon any transfer, sale or other conveyance of the Mortgaged Property or the Project or any portion thereof the provisions of the Loan Agreement relating to the Mortgaged Property and the Project and its use, other than this section, shall no longer apply to the Mortgaged Property or Project or portion thereof so sold.

The University shall not, without the prior written consent of the Authority, permit the University SPE to transfer, sell or convey the Project or any part thereof or interest therein to any person unless any such transfer or conveyance is to the University.

The University 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 a portion thereof is sold for the fair market value thereof, such Project or any portion thereof will 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 will not prohibit the free exercise of any religion; and provided, further, that if at any time after the effective date of 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.

*(Sections 19 and 20)*

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

The University 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,

## ***Appendix C***

working order and condition, reasonable wear and tear expected and will 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 University further agrees that it will 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**

The University 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 University, 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 University shall at all times also maintain workers' compensation coverage and disability benefits insurance coverage as required by the laws of the State.

If the Authority shall so request in writing, the University 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 proceeds of any insurance, condemnation or eminent domain award shall, if in excess of \$250,000, be paid upon receipt thereof by the University or the Authority to the Trustee for the Bonds for deposit in the Construction Fund, and

(i) if within one hundred twenty (120) days by the Authority of actual notice or knowledge of the occurrence, the University and the Authority agree in writing that the Mortgaged Property or the Project or the affected portion thereof shall be repaired, replaced or restored, the University shall proceed to repair, replace or restore the Mortgaged Property or the Project, 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 University and approved in writing by the Authority, such approval not to be unreasonably withheld or delayed. 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 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 University;

(ii) if no agreement for the repair, restoration or replacement of the Project or the Mortgaged Property or the affected portion thereof shall be reached by the Authority and the University within such one hundred twenty (120) day period, the proceeds then held by the University shall be paid to the Trustee for deposit to the Debt Service Fund and the proceeds then held in the Construction Fund shall be transferred to the Debt Service Fund, whereupon such proceeds shall be applied to the purchase or redemption of Outstanding Bonds.

*(Section 23)*

### **Taxes and Assessments**

The University shall pay when due without penalty at its own expense, and hold the Authority harmless from, all taxes, assessments, water and sewer charges and other impositions, if any, which may be levied or assessed upon the Project or the Mortgaged Property or any part thereof, and upon all ordinary costs of operating, maintaining, renovating, repairing and replacing the Project and the Mortgaged Property and its equipment. The University shall file exemption certificates as required by law. The University agrees to exhibit to the Authority within ten (10) days after written demand by the Authority, certificates or receipts issued by the appropriate authority showing full payment of all taxes, assessments, water and sewer charges and other impositions; *provided, however*, that the good faith contest of such impositions shall be deemed to be complete compliance with the requirements of the Loan Agreement if the University sets aside such reserves as may be required by good accounting practices. Notwithstanding the foregoing, the Authority in its sole discretion, after notice in writing to the University, may pay (such payment shall be made under protest if so requested by the University) any such charges, taxes and assessments if, in the reasonable judgment of the Authority, the Project or the Mortgaged Property or any part thereof, would be in substantial danger by reason of the University's failure to pay such charges, taxes and assessments of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise subjected to any proceeding, equitable remedy, Lien, charge, fee or penalty that would impair: (i) the interests or security of the Authority under the Loan Agreement, under the Series Resolutions or under the Resolution or the Mortgage; (ii) the ability of the Authority to enforce its rights thereunder; (iii) the ability of the Authority to fulfill the terms of any covenants or perform any of its obligations under the Loan Agreement, under the Series Resolutions or under the Resolution; or (iv) the ability of the University to fulfill the terms of the covenants or perform any of its obligations under the Loan Agreement or under the Resolution, the Series Resolutions, or the Mortgage. The University agrees to reimburse the Authority for any such payment, with interest thereon from the date payment was made by the Authority at a rate equal to the highest rate of interest payable on any investment held for the Debt Service Fund on the date such payment was made by the Authority.

*(Section 24)*

### **Defaults and Remedies**

- (a) As used in the Loan Agreement the term "Event of Default" shall mean:
- (i) the University shall default in the timely payment of any amount payable pursuant to the Loan Agreement or the payment of any other amounts required to be delivered or paid by the University 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 University defaults in the due and punctual performance of any other covenant in the Loan Agreement and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given to the University by the Authority or Trustee or, if such default is not capable of being cured within thirty (30) days, the University fails to commence to cure the same within such thirty (30) days or to diligently prosecute the cure thereof;
  - (iii) as a result of any default in payment or performance required of the University pursuant to the Loan Agreement or any other Event of Default under the Loan Agreement, whether or not declared, continuing or cured, the Authority shall be in default in the payment or performance of any of its obligations under the Resolution or an "event of default" (as defined in the Resolution) shall have been declared under the Resolution so long as such default or event of default shall remain uncured or the Trustee or Holders of the Bonds shall be seeking the enforcement of any remedy under the Resolution as a result thereof;
  - (iv) the University (i) is not generally paying its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition under the United States

## *Appendix C*

Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (iii) makes a general assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (v) is adjudicated insolvent or liquidated or (vi) takes corporate action for the purpose of any of the foregoing;

(v) a court or governmental authority of competent jurisdiction enters an order appointing, without consent by the University, 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 is 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 University, or any petition for any such relief is filed against the University and such petition is not dismissed or stayed within ninety (90) days;

(vi) the charter of the University is suspended or revoked;

(vii) a petition to dissolve the University shall be filed by the University with the Board of Regents of the University of the State of New York, the legislature of the State or other governmental authority having jurisdiction over the University;

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

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

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

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

(xii) the University shall be in default on any Parity Debt; or

(xiii) the University shall be in default under the Mortgage.

(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 University 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 Bonds or the Construction Fund or otherwise to which the University may otherwise be entitled under the Loan Agreement and in the Authority's sole discretion apply any such proceeds or money for such purposes as are authorized by the Resolution and the Series Resolution;

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

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

(v) realize upon any pledge of or security interest in the Pledged Revenues and the rights to receive the same, all to the extent provided in the sections of the Loan Agreement described above under the headings "Security Interest in Pledged Revenues" and "Collection of Pledged Revenues", by any one or more of the following actions: (A) enter the University and examine and make copies of the financial books and records of the University relating to the Pledged Revenues and, to the extent of the assigned Pledged Revenues, take possession of all checks or other orders for payment of money and money in the possession of the University representing Pledged Revenues or proceeds thereof; (B) notify any account debtors obligated on any Pledged Revenues to make payment directly to the Authority or to the Trustee, as the Authority may direct, and of the amount to be so paid; **provided, however**, that (1) the Authority may, in its discretion, immediately collect the entire amount of interest, principal, or Sinking Fund Installments, if any, coming due on Outstanding Bonds on the next interest payment date therefor, and may continue to do so commencing on each such interest payment date to the extent of amounts due on Outstanding Bonds on the next interest payment date therefor, with respect to the Pledged Revenues, until such amounts are fully collected, (2) written notice of such notification shall be mailed to the University five (5) days prior to mailing or otherwise making such notification to account debtors and (3) until the University shall receive such notice it shall have full authority and responsibility to enforce and collect Pledged Revenues owing from its account debtors; (C) following the above mentioned notification to account debtors, collect, compromise, settle, compound or extend amounts payable as Pledged Revenues which are in the form of accounts receivable or contract rights from the University's account debtors by suit or other means and give a full acquittance therefor and receipt therefor in the name of the University whether or not the full amount of any such account receivable or contract right owing shall be paid to the Authority; (D) require the University to deposit all money, checks or other orders for the payment of money which represent Pledged Revenues in an amount equal to the Pledged Revenues assigned under the Loan Agreement within five (5) Business Days after receipt of written notice of such requirement, and thereafter as received, into a fund or account to be established for such purpose by the Authority; **provided, however**, that (1) the money in such fund or account shall be applied by the Authority to the payment of any of the obligations of the University under the Loan Agreement, including the fees and expenses of the Authority, (2) the Authority in its sole discretion may authorize the University to make withdrawals from such fund or account for its corporate purposes and (3) the requirement to make such deposits shall cease and the balance of such fund or account shall be paid to the University when all Events of Default under the Loan Agreement by the University have been cured; (E) forbid the University to extend, compromise, compound or settle any accounts receivable or contract rights which represent any unpaid assigned Pledged Revenues, or release, wholly or partly, any person liable for the payment thereof (except upon receipt of the full amount due) or allow any credit or discount thereon; or (F) endorse in the name of the University any checks or other orders for the payment of money representing any unpaid assigned Pledged Revenues or the proceeds thereof;

(vi) to the extent permitted by law, (i) 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 University, consent to such entry being given by the University

## *Appendix C*

under the Loan Agreement, (ii) at any time discontinue any work commenced in respect of the construction of a Project or change any course of action undertaken by the University and not be bound by any limitations or requirements of time whether set forth in the Loan Agreement or otherwise, (iii) assume any construction contract made by the University 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 University, whether or not previously incorporated into the construction of such Project, and (iv) in connection with the construction of the Project undertaken by the Authority pursuant to the provisions of the Loan Agreement (x) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of such Project, (y) 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 (z) take or refrain from taking such action under the Loan Agreement as the Authority may from time to time determine. The University will be liable to the Authority for all sums paid or incurred for construction of the Project whether the same is paid or incurred pursuant to the Loan Agreement 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 University to the Authority upon demand. The University 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 University for the purpose of exercising the rights granted to the Authority by the Loan Agreement during the term of the Loan Agreement; and

(vii) 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.

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

(d) 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)*

### **Investment of Moneys**

The Authority may in its sole discretion direct the investment of certain moneys held under the Resolution as provided therein.

*(Section 31)*

### **Limitation on Agreements**

The University shall not enter into any contract or agreement or perform any act which may materially adversely affect any of the rights of the Authority under the Loan Agreement or of the Holders of any Bonds.

*(Section 33)*

**Arbitrage; Tax Exemption**

Each of the University 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 Bonds, which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code, and any proposed or final regulations thereunder as are applicable to the Bonds at the time of such action, investment or use or otherwise cause interest on the Bonds to be included in the gross income of the owners thereof for purposes of federal income taxation. Neither the University nor any "related person" (as such term is defined in Section 147(a)(2) of the Code) shall purchase any 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 of Bonds by the University or by a related person will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for purposes of federal income taxation.

The University covenants that it will not take or permit the University SPE to take, or to acquiesce in any action or fail to take, or permit the University SPE to fail to take, any action which would cause any representation or warranty of the University contained in a Tax Certificate then to be untrue and shall comply with all covenants and agreements of the University 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 the Bonds from gross income for federal income tax purposes.

In the event that the Authority is notified in writing that the 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 University. In the event that the University is notified in writing that the 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 University and the Authority shall fully cooperate with one another and participate in all aspects of the conduct of the response thereto.

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 University and its agents and representatives, any of whom may make copies thereof. Upon written request therefor from the University the Authority shall as soon as practicable provide the University with a copy of any such document, report or computation. The Authority shall also provide the University 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 Bonds are conditioned upon the receipt by the Authority at or prior to delivery of the Bonds of a certificate of an Authorized Officer of the University acceptable to and 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 Bonds as if made on the date of delivery of the Bonds.

*(Section 35)*

**Amendments to Loan Agreement**

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

*(Section 39)*

## Appendix C

### Termination

The Loan Agreement will remain in full force and effect until no Bonds are Outstanding and until all other payments, expenses and fees payable under the Loan Agreement by the University shall have been made or provision made for the payment thereof; *provided, however*, that the liabilities and the obligations of the University to provide reimbursement for or indemnification against expenses, costs or liabilities made or incurred under the Loan Agreement shall nevertheless survive any such termination.

(Section 40)

### Additional Covenants

The Loan Agreement contains certain covenants of the University wherein the University agrees to the following:

#### *Maintenance of Covenants*

##### Debt Service Coverage Ratio Covenant

(i) The Debt Service Coverage Ratio Requirement. During each Fiscal Year, the University covenants to charge and maintain student tuition, fees and other charges and to budget operating expenses sufficient to provide a Debt Service Coverage Ratio of 1.1 : 1.

(ii) Reporting Requirement. On or prior to each Reporting Date, the University shall file with the Authority a certificate of an Authorized Officer of the University stating whether at the immediately preceding Testing Date the Debt Service Coverage Ratio requirement is satisfied and setting forth the calculation upon which such statement is based.

(iii) Remedies. (a) If on two consecutive Testing Dates the University does not satisfy the Debt Service Coverage Ratio requirement, or (b) if on any Testing Date the Debt Service Coverage Ratio falls below 1:1, the Authority may require the University to retain a Management Consultant. Failure to maintain the required Debt Service Coverage Ratio, however, shall not be an Event of Default under the Loan Agreement.

##### Available Assets to Debt Ratio Covenant

(i) Available Assets to Debt Ratio Requirement. Commencing with the University's Fiscal Year ending in 2014, the University covenants to have available on each Testing Date (a) for Fiscal Years ending in 2014 through 2015, Available Assets at least equal to 35% of the University's Long-Term Indebtedness, (b) for Fiscal Years ending in 2016 and thereafter, the University covenants to have available on each Testing Date, Available Assets at least equal to 40% of the University's Long-Term Indebtedness.

(ii) Reporting Requirement. On or prior to each Reporting Date, the University shall file with the Authority a certificate of an Authorized Officer of the University stating whether at the immediately preceding Testing Date the Available Assets to Debt Ratio requirement is satisfied and setting forth the calculation upon which such statement is based.

(iii) Remedies. If on any Testing Date (a) the University does not satisfy the Available Assets to Debt Ratio requirement described in (i) above, or (b), the percentage decline in the Available Assets to Debt Ratio from the Fiscal Year two years prior to the current Fiscal Year to the current Fiscal Year is fifty percent (50%) or greater, the Authority may require the

University to retain a Management Consultant. Failure to maintain the required Available Assets to Debt Ratio, however, shall not be an Event of Default under the Loan Agreement.

Management Consultant Call-In.

If the Authority elects to require the University to retain the services of a Management Consultant in accordance with the provisions described under “Maintenance Covenants” in the Loan Agreement, then the Authority shall, at its election which shall be exercised in writing within sixty (60) days of notice of the applicable covenant failure, request the University to engage, at the University's expense, a Management Consultant to review the fees and tuition, operations and management of the University and any other matter deemed appropriate by the Authority and to make such recommendations with respect to such fees and tuition, operations, management and other matters as will enable the University to comply with such covenants within a reasonable period acceptable to the Authority. The University shall engage a Management Consultant within sixty (60) days of such request by the Authority.

Compliance With Recommendations.

Whenever a Management Consultant is required to be engaged by the University pursuant to this section, copies of the report and recommendations of such Management Consultant shall be filed with the Authority, the Trustee, the Board of Trustees of the University and an Authorized Officer of the University no later than one hundred twenty (120) days following the date of the engagement of such Management Consultant. The University shall, to the extent feasible, promptly upon its receipt of such recommendations, and subject to applicable requirements or restrictions imposed by law or regulation, revise its tuition, fees and charges, its methods of operation or collections or its debt and investment management and shall take such other action as shall be in conformity with such recommendations. The University shall deliver to the Authority and the Trustee within forty-five (45) days of receipt of such Management Consultant's report; (A) a report setting forth in reasonable detail the steps the University proposes to take to implement the recommendations of such Management Consultant; and (B) a certified copy of a resolution adopted by the Board of Trustees of the University accepting both the Management Consultant's report and the report prepared by the University as required in clause (A) of this paragraph; and, subsequently, (C) quarterly reports demonstrating the progress made by the University in implementing the recommendations of the Management Consultant.

If the University complies in all material respects with the reasonable recommendations of the Management Consultant to the satisfaction of the Authority, the University will be deemed to have complied with the covenants described above under the heading “*Maintenance of Covenants*” for the University's Fiscal Year in which the Management Consultant's report is delivered.

*Additional Indebtedness*

Except as otherwise provided below, the University will not issue, incur, assume or guaranty any Indebtedness without the prior written consent of the Authority.

Long-Term Indebtedness.

The University may issue, incur, assume or guaranty Long-Term Indebtedness without the consent of the Authority provided that (i) it maintains a debt rating that is at least in the “BBB/Baa” rating category without regard for “+” or “-” from at least one Rating Service **and** (ii) (a) such Long-Term Indebtedness issued, assumed or guaranteed in any Fiscal Year is in an amount less than or equal to ten percent (10%) of the amount of its unrestricted and temporarily restricted net assets as reported for the most recently concluded Fiscal Year for which audited financial statements are available **or** (b) the University provides to the Authority a certificate of an Authorized Officer of the University containing *pro forma* calculations demonstrating that the maintenance covenants described under the heading “*Maintenance of Covenants*” would be met for the most recently concluded Fiscal Year for which audited financial statements are available taking into account the additional Long-Term Indebtedness proposed to be issued.

## *Appendix C*

For purposes of calculating the Debt Service Coverage Ratio for such pro forma calculations, Annual Debt Service will be equal to projected Maximum Annual Debt Service. Indebtedness which does not bear interest at a fixed rate will be deemed to bear interest at a rate which is equal to 120% of the average of the actual interest rates which were in effect (weighted according to the length of the period during which each such interest rate was in effect) for the most recent 24-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a 24-month period, provided that if such information is available for less than a 12-month period, such Indebtedness will be deemed to bear interest at 120% of the weighted average of the SIFMA Municipal Swap Index rates for the 24-month period ending on the date of calculation). The principal of Balloon Indebtedness will be deemed to mature in equal annual installments over the remaining term of such Indebtedness (or such other assumed term acceptable to the Authority). In the event the project to be financed with such additional Long-Term Indebtedness is expected to generate additional revenues, such revenues, net of anticipated expenses, may be included in the pro forma calculations of the Debt Service Coverage Ratio provided that such estimations of additional net revenues are deemed reasonable in the sole discretion of the Authority

### Refunding Debt.

The University may issue, incur, assume or guaranty Refunding Debt without the consent of the Authority or compliance with the requirements of described above under the heading “Long-Term Indebtedness” provided that, after giving effect to such Refunding Debt, the Annual Debt Service on the University’s Long-Term Indebtedness to be outstanding thereafter will not be increased in any Fiscal Year as established by a certificate or report to that effect by an Authorized Officer of the University delivered to the Authority on or prior to the date such Refunding Debt is issued, incurred, assumed or guaranteed; ***provided, however,*** that the Authority’s consent will be required if the security interest in the collateral securing such Refunding Debt is proposed to be prior to the security interest in the collateral securing any Authority Indebtedness.

### Non-Recourse Indebtedness.

Notwithstanding the foregoing, the University may issue Non-Recourse Indebtedness without the Authority’s consent provided that any assets pledged as collateral or for the repayment of such indebtedness must have been acquired by the University after the issuance of the Bonds.

### Short-Term Indebtedness.

The University may incur Short-Term Indebtedness without the Authority’s consent if, with respect to such indebtedness, during any twelve (12) month period, there will be no outstanding balance for a period of not less than thirty (30) days or such shorter period as acceptable to the Authority.

### Parity Debt.

Notwithstanding certain provisions of the Loan Agreement, the University may issue, incur, assume or guaranty Parity Debt secured by Pledged Revenues and/or Mortgaged Property subject to existing liens, with the prior written consent of the Authority and the execution of an intercreditor agreement, in form and substance satisfactory to the Authority, by and among the Authority, the Trustee and each other creditor with a lien on such Pledged Revenues and/or Mortgaged Property.

### *Exceptions*

Notwithstanding the foregoing, the University will not be considered to have failed to meet the Debt Service Coverage Ratio requirement in accordance with the provisions described under the heading “Debt Service Coverage Ration Covenant” or the Available Assets to Debt Ratio requirement in accordance with the provisions described under the heading “Available Assets to Debt Service Covenant” if the University can demonstrate that such failure was solely due to a change in generally accepted

accounting principles applicable to the University or to the application to the University of generally accepted accounting principles not previously applicable to the University.

*Amendments*

The Authority and the University may, without obtaining the consent of the Trustee or the Bondholders, amend the provisions of the Additional Covenants of the Loan Agreement and the related definitions upon which the calculations included in the Additional Covenants are based to provide for other alternative measures of the University's performance and ability to issue, incur, assume or guaranty additional Indebtedness.

**[THIS PAGE INTENTIONALLY LEFT BLANK]**



**APPENDIX D - SUMMARY OF CERTAIN PROVISIONS  
OF THE RESOLUTION**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

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

The following is a brief summary of certain provisions of the Resolution pertaining to the 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 herein shall have the meanings ascribed to them in Appendix A or in the body of this Official Statement.

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

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 or permitted by the Resolution.

*(Section 1.03)*

### **Additional Bonds and Other Obligations**

The issuance of Bonds shall be authorized by a Series Resolution or Series Resolutions. The Authority shall, in addition to other requirements, a certificate of an Authorized Officer of the University stating that the University is not in default under the Loan Agreement, an opinion of Bond Counsel concerning the validity of the Resolution and the Bonds, and, if there is Collateral Security given to secure the Loan Agreement related to such Series of Bonds, which Collateral Security related to such Bonds constitutes Shared Collateral, an Intercreditor Agreement or an amendment to or modification of an existing Intercreditor Agreement, executed in connection with issuance of such Bonds.

*(Section 2.02)*

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 the Resolution, or prior or equal to the rights of the Authority and Holders of Bonds as provided by the Resolution.

*(Section 2.05)*

### **Pledge of Resolution**

The proceeds from the sale of the Bonds of a Series, the Revenues derived from the Loan Agreement entered into in connection with the Bonds of such Series or from any realization upon any Collateral Security given in connection with such Loan Agreement, and, except as otherwise provided in the Resolution, all funds and accounts established by or pursuant to the Series Resolution authorizing the issuance of such Series of Bonds are pledged and assigned to the Trustee as security for the payment of the principal and Redemption Price of and interest on the Bonds of such Series and as security for the performance of any other obligation of the Authority under the Resolution and under the Series Resolution authorizing the issuance of such Series of Bonds, all in accordance with the provisions thereof.

The pledges made are valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of the Bonds, the Revenues, all funds and accounts established by or pursuant to any Series Resolution which are pledged by the Resolution and the Authority's security interests in the Collateral Security shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties

## ***Appendix D***

having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds of each Series shall be special obligations of the Authority payable solely from and secured by a pledge of the proceeds from the sale of the Bonds of such Series, the Revenues, all the funds and accounts established by or pursuant to the Series Resolution authorizing the issuance of the Bonds of such Series which are pledged by the Resolution as provided in the Resolution and the Authority's security interest in the Collateral Security.

*(Section 5.01)*

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

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

Construction Fund, consisting of the Project Account, the Capitalized Interest Account and the Cost of Issuance Account;

Debt Service Fund; and

Arbitrage Rebate Fund.

*(Section 5.02)*

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

As soon as practicable after the delivery of each Series of Bonds, the Trustee shall deposit in the Construction Fund the amount required to be deposited therein pursuant to the Series Resolution authorizing the issuance of such Series of Bonds or by the Bond Series Certificate relating to such Series. Moneys deposited in the Construction Fund shall be used only to pay Costs of Issuance of the applicable Series of Bonds and the Costs of the Project. The Trustee shall also deposit in the Construction Fund all amounts paid to it by the University which by the terms of the Loan Agreement are required to be deposited therein.

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 Debt Service Fund, 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 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 on deposit 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 theretofore contracted to be purchased or called for redemption pursuant to the provisions of the Resolution summarized herein under the heading “Debt Service Fund” 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 thereafter 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 theretofore contracted to be purchased or called for redemption pursuant to the provisions of the Resolution summarized herein under the heading “Debt Service Fund” 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 University of any balance of Revenues remaining on the first day of the next 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 University, in the respective amounts set forth in such direction. Any amounts paid to the University 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 all 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.

The amounts paid out pursuant to the preceding clauses shall be irrevocably pledged to and applied to such payments.

(b) Notwithstanding the provisions of this paragraph (a), the Authority may, at any time subsequent to the first day of July 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

## ***Appendix D***

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 University pursuant to a Loan Agreement may deliver, at any time subsequent to July 1 (or such other date as provided in a Series Resolution or a Bond Series Certificate with respect to a Series of Bonds) 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.

*(Section 5.06)*

### **Arbitrage Rebate Fund**

The Trustee shall deposit to the Arbitrage Rebate Fund any money delivered to it by the University for deposit therein and, notwithstanding any other provisions of this Article V, 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 such times and in such amounts as shall be set forth in such directions.

Money on deposit on 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 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 thereto.

*(Section 5.07)*

### **Application of Moneys 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 University. 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 provisions of the Resolution summarized herein under the headings “Debt Service Fund” and “Defeasance” 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**

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

(b) In lieu of the investments of money in obligations authorized in paragraph (a) of this 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.

## ***Appendix D***

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

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

(e) 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 University 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.

(f) 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 University, 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 Liquidity Facility Provider and the University. 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 with respect to the Shared Collateral or the Revenues, 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 Collateral Security and the funds and accounts established by the Resolution 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.

*(Section 7.06)*

**Enforcement of Duties and Obligations of the University**

The Authority shall take all legally available action to cause the University to perform fully all duties and acts and comply fully with the covenants of the University 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 the 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 the Loan Agreement, discontinue such action or proceeding if the University shall have cured each event of default under the Loan Agreement.

*(Section 7.07)*

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

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**

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 University's obligations under the Loan Agreement that is not contrary to or inconsistent with the covenants and agreements of the University contained in the Loan Agreement; (ii) to prescribe further limitations and restrictions upon the University's right to incur, issue, assume or guaranty indebtedness that are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect; (iii) to surrender any right, power or privilege reserved to or conferred upon the University, if surrender of such right, power or privilege is not contrary to

## *Appendix D*

or inconsistent with the covenants and agreements of the University 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 University 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.

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 hereinafter provided if such amendment, change, modification, alteration, termination or waiver (i) reduces the amount of Revenues payable by the University 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 thereunder, 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 thereto. 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 University shall not be deemed Outstanding for the purpose of consent provided for in this Section, and neither the Authority nor the University 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.

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 thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the initial offering, reoffering or resale of the Bonds of such Series. 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 Article X of 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 thereto; “**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 thereto, 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 University, 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**

The Authority may adopt at any time or from time to time Series Resolutions or Supplemental Resolutions: (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 theretofore in effect; (d) to surrender any right, power or privilege reserved to or conferred upon the Authority by the terms of the Resolution, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Resolution; (e) to confirm, as further assurance, any pledge under the Resolution and 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 moneys, Securities or funds; (f) to modify any of the provisions of the Resolution or any previously

## ***Appendix D***

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 Insurers and 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 University and the Rating Service upon its becoming effective.

*(Section 9.02)*

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

The Resolutions 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 or any Paying Agent any instrument elsewhere provided in the Resolution 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, must 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 University and to each Liquidity Facility Provider upon its becoming effective.

The Trustee is authorized to accept delivery of a certified copy of any Series Resolution or Supplemental Resolution permitted or authorized pursuant to the provisions of the Resolution and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee will 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 hereinafter provided in the provisions of the Resolution summarized herein under the heading "Consent of Holders of Bonds", (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 summarized herein under the heading “Powers of Amendment” to take effect when and as provided in this paragraph. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Bondholders for their consent thereto 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 provided in the Resolution). 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 provisions of the Resolution summarized herein under the heading “Powers of Amendment” 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 hereinafter in this Section provided. 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 hereinafter in this Section 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

## ***Appendix D***

such consents have been so filed. At any time thereafter notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds 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 hereinabove 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.

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

*(Section 10.02)*

### **Modifications by Unanimous Consent**

The terms and provisions of the Resolution and the rights and obligations of the Authority and of the Holders of the Bonds 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 provisions of the Resolution summarized herein under the heading “Consent of Holders of Bonds”, except that no notice to the Bondholders either by mailing or publication shall be required.

*(Section 10.03)*

### **Events of Default**

Events of default under the Resolution and each Series Resolution include: failure to pay the principal, Sinking Fund Installments or Redemption Price of, or an installment of interest on, any Bond when the same shall become due and payable; default in the due and punctual performance of the covenants, conditions, agreements and provisions contained in the Bonds or in the Resolutions or any Series Resolution on the part of the Authority to be performed and such default continues for a period of thirty (30) days after written notice specifying such default and requiring the same to be remedied has been given to the Authority by the Trustee, which may give such notice in its discretion and must give such notice upon 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; the Authority defaults in the due and punctual performance of any covenants contained in the Series Resolution and, as a result thereof, the interest on the Bonds for a Series is no longer excludable from gross income under Section 103 of the Code (a “Taxability Default”); or an “Event of Default” as defined in a Loan Agreement shall have occurred and be continuing and all sums payable by the University 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 provisions of the Resolution summarized herein under the heading “Events of Default”, other than a Taxability Default, 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. If all defaults shall have been remedied to the satisfaction of the Trustee, 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 Outstanding, by written notice to the Authority the Trustee may, provided certain conditions are satisfied, annul such declaration and its consequences.

*(Section 11.03)*

**Enforcement of Remedies**

Upon the happening and continuance of any event of default specified in the provisions of the Resolution summarized herein under the heading “Events of Default”, 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 Taxability Default, of the Holders of not less than twenty–five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall proceed (subject to the provisions of the Resolution) 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 therein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights.

*(Section 11.04)*

**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 a Taxability Default, the Holders of not less than twenty–five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted 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 therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time.

*(Section 11.08)*

**Defeasance**

(a) If the Authority shall pay or cause to be paid to the Holders of Bonds of a Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, in the Resolution, and in the applicable Series Resolution and Bond Series

## *Appendix D*

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 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 University. 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.

(b) 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 Section 12.01(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; and (v) 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 thereof, 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 hereinabove to pay the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on such Bonds, as realized, be paid by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to 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 University. 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.

(c) 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 therein in accordance with the direction of an Authorized Officer of the Authority; second, 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 University. 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.

(d) Option Bonds will be deemed to have been paid in accordance with clause (ii) of the second sentence of paragraph (b) above only if 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 therein in accordance with the direction of an Authorized Officer of the Authority; second, 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 University. Such

## *Appendix D*

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.

(e) 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 thereto and the Holders of Bonds shall look only to the Authority for the payment of such Bonds; ***provided, however,*** that, before being required to make any such payment to the Authority, the Trustee 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)*

### **Certain Provisions Relating to Capital Appreciation Bonds and Deferred Income Bonds**

For the purposes of (i) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity, (ii) receiving payment of a Capital Appreciation Bond if the principal of all Bonds is declared immediately due and payable following an “event of default”, as provided in the Resolution or (iii) computing the principal amount of Bonds held by the registered owner of a Capital Appreciation Bond in giving to the Authority, the University or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the then current Accreted Value of such Bond shall be deemed to be its principal amount. Notwithstanding any other provision of the Resolution, the amount payable at any time with respect to the principal of and interest on any Capital Appreciation Bond shall not exceed the Accreted Value thereof at such time. For purposes of receiving payment of the Redemption Price or principal of a Capital Appreciation Bond called for redemption prior to maturity or the principal of which has been declared to be immediately due and payable pursuant to the Resolution, the difference between the Accreted Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds of the Series of which it is a part were first issued shall be deemed not to be accrued and unpaid interest thereon.

For the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed, or (ii) receiving payment of a Deferred Income Bond if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in the Resolution or (iii) computing the principal amount of Bonds held by the registered owner of a Deferred Income Bond in giving to the Authority or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the then current Appreciated Value of such Bond shall be deemed to be its principal amount. Notwithstanding any other provision of the Resolution, the amount payable at any time prior to the Interest Commencement Date with respect to the principal of and interest on any Deferred Income Bond shall not exceed the Appreciated Value thereof at such time. For purposes of receiving payment prior to the Interest Commencement Date of the Redemption Price or principal of a Deferred Income Bond called for redemption prior to maturity or the principal of which has been declared to be immediately due and payable pursuant to the provisions of the Resolution summarized herein under the heading “Acceleration of Maturity”, the difference between the Appreciated Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds were first issued shall be deemed not to be accrued and unpaid interest thereon.

*(Section 14.07)*

**APPENDIX E - FORM OF APPROVING OPINIONS  
OF CO-BOND COUNSELS**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

FORM OF OPINION OF CO-BOND COUNSEL

[Date of Delivery]

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 \$57,935,000 aggregate principal amount of St. John's University Revenue Bonds, Series 2013A (the "Series 2013A 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, 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 2013A Bonds are issued under and pursuant to the Act, the St. John's University Revenue Bond Resolution of the Authority, adopted on June 20, 2012 (the "Resolution"), the Series Resolution Authorizing Up To \$71,000,000 St. John's University Revenue Bonds, adopted on September 11, 2013 (the "Series 2013A Resolution") and the Bond Series Certificate, dated as of October 31, 2013, relating to the Series 2013A Bonds (the "2013 Bond Series Certificate"). Said resolutions and the 2013 Bond Series Certificate are herein collectively referred to as the "Resolutions." Unless otherwise defined herein, capitalized terms used herein have the respective meanings given to them in the Resolutions.

The Series 2013A 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 2013A Bonds are being issued for the purposes set forth in the Resolutions.

The Authority is authorized to issue Bonds, in addition to the Series 2013A Bonds, only upon the terms and conditions set forth in the Resolution and such Bonds, when issued, will with all other Bonds which have been or may be issued, be entitled to the benefit, protection and security of the provisions, covenants and agreements of the Resolution. The Series 2013A Bonds are being issued simultaneously with the issuance by the Authority of \$5,995,000 aggregate principal amount of its St. John's University Revenue Bonds, Series 2013B. Said bonds, together with the Series 2013A Bonds are collectively referred to herein as the "Series 2013 Bonds."

The Series 2013A Bonds are dated and bear interest from their date of delivery and mature on July 1, 2044 in the principal amount of \$57,935,000, and bear interest, payable January 1, 2014 and semiannually thereafter on each July 1 and January 1, at the rate of 5.00% pre annum.

The Series 2013A Bonds are issuable in the form of fully registered Bonds in denominations of \$5,000 or integral multiples thereof. The Series 2013A Bonds are numbered consecutively from one upward in order of issuance. The Series 2013A Bonds are subject to redemption and purchase-in-lieu-of optional redemption prior to maturity as provided in the Resolutions.

The Series 2013A Bonds are being issued to finance a loan by the Authority to St. John's University (the "University"). The Authority and the University have entered into a Loan Agreement, dated as of September 11, 2013 (the "Loan Agreement"), by which the University is required to make payments sufficient to pay the principal and Redemption Price of and interest on the Series 2013 Bonds, as well as 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 for payment of the principal or Redemption Price of or interest on the

Series 2013 Bonds have been pledged by the Authority for the benefit of the Holders of Outstanding Series 2013 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 Series 2013A Bonds thereunder.

2. The Series 2013A Resolution has been duly adopted by the Authority in accordance with the provisions of the Resolution and is authorized and permitted by the Resolution. The Series 2013A Resolution and the Resolution have 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 2013A 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 2013A 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 Resolution 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 constitute legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms.

5. The Internal Revenue Code of 1986, as amended (the "Code") sets forth certain requirements which must be met subsequent to the issuance and delivery of the Series 2013A 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 2013A Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2013A Bonds. The Authority has covenanted in the Series 2013A Resolution and the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141–150 of the Internal Revenue Code of 1986 (the "Tax Certificate") and the University has covenanted in the Loan Agreement and the Tax Certificate to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2013A Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Authority and the University have made certain representations and certifications in the Tax Certificate and the Loan Agreement. We are also relying on the opinion of counsel to the University as to all matters concerning the status of the University 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. We have not independently verified the accuracy of those certifications and representations or that opinion.

Under existing law, assuming compliance with the tax covenants described above, and the accuracy of certain representations and certifications made by the Authority and the University described above, interest on the Series 2013A 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 2013A Bonds is, however, included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax imposed on such corporations.\*

6. Interest on the Series 2013A 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.

We have examined an executed Series 2013A Bond and, in our opinion, the form of said bond and its execution are regular and proper.

The opinions contained in paragraphs 2, 3 and 4 above are qualified to the extent that the enforceability of the Resolutions, the Loan Agreement and the Series 2013A Bonds 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 paragraphs 5 and 6 above, we express no opinion as to any other federal,

---

\* The information set forth in paragraph number 5 related to the federal tax laws is solely given by Co-Bond Counsel Nixon Peabody LLP and is not attributable to Co-Bond Counsel Drohan Lee LLP.

state or local tax consequences of the ownership or disposition of the Series 2013A Bonds. Furthermore, we express no opinion as to any federal, state or local tax law consequences with respect to the Series 2013A Bonds, or the interest thereon, if any action is taken with respect to the Series 2013A 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 University. We have assumed the due authorization, execution and delivery of the Loan Agreement by the University.

Very truly yours,

**[THIS PAGE INTENTIONALLY LEFT BLANK]**



## FORM OF OPINION OF CO-BOND COUNSEL

[Date of Delivery]

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 \$5,995,000 aggregate principal amount of St. John's University Revenue Bonds, Series 2013B (Federally Taxable) (the "Series 2013B 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, 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 2013B Bonds are issued under and pursuant to the Act, the St. John's University Revenue Bond Resolution of the Authority, adopted on June 20, 2012 (the "Resolution"), the Series Resolution Authorizing Up To \$71,000,000 St. John's University Revenue Bonds, adopted on September 11, 2013 (the "Series 2013B Resolution") and the Bond Series Certificate, dated as of October 31, 2013, relating to the Series 2013B Bonds (the "2013 Bond Series Certificate"). Said resolutions and the 2013 Bond Series Certificate are herein collectively referred to as the "Resolutions." Unless otherwise defined herein, capitalized terms used herein have the respective meanings given to them in the Resolutions.

The Series 2013B 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 2013B Bonds are being issued for the purposes set forth in the Resolutions.

The Authority is authorized to issue Bonds, in addition to the Series 2013B Bonds, only upon the terms and conditions set forth in the Resolution and such Bonds, when issued, will with all other Bonds which have been or may be issued, be entitled to the benefit, protection and security of the provisions, covenants and agreements of the Resolution. The Series 2013B Bonds are being issued simultaneously with the issuance by the Authority of \$57,935,000 aggregate principal amount of its St. John's University Revenue Bonds, Series 2013A. Said bonds, together with the Series 2013B Bonds are collectively referred to herein as the "Series 2013 Bonds."

The Series 2013B 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, 2014 and semiannually thereafter on each July 1 and January 1, at the respective rates per annum set forth below:

| <u>Year</u> | <u>Principal<br/>Amount</u> | <u>Interest<br/>Rate</u> |
|-------------|-----------------------------|--------------------------|
| 2023        | \$2,800,000                 | 4.282%                   |
| 2029        | 3,195,000                   | 4.982                    |

The Series 2013B Bonds are issuable in the form of fully registered Bonds in denominations of \$5,000 or integral multiples thereof. The Series 2013B Bonds are numbered consecutively from one upward in order of issuance. The Series 2013B Bonds are subject to redemption and purchase-in-lieu-of optional redemption prior to maturity as provided in the Resolutions.

The Series 2013B Bonds are being issued to finance a loan by the Authority to St. John's University (the "College"). The Authority and the University have entered into a Loan Agreement, dated as of September 11, 2013 (the "Loan Agreement"), by which the University is required to make payments sufficient to pay the principal and Redemption Price of and interest on the Series 2013 Bonds, as well as 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 for payment of the principal or Redemption Price of or interest on the Series 2013 Bonds have been pledged by the Authority for the benefit of the Holders of Outstanding Series 2013 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 Series 2013B Bonds thereunder.

2. The Series 2013B Resolution has been duly adopted by the Authority in accordance with the provisions of the Resolution and is authorized and permitted by the Resolution. The Series 2013B Resolution and the Resolution have 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 2013B 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 2013B 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 Resolution 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 constitute legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms.

5. Interest on the Series 2013B Bonds is not excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended, and so will be fully subject to federal income taxation. This opinion is not intended or provided by Bond Counsel to be used and cannot be used by an owner of the Series 2013B Bonds for the purpose of avoiding penalties that may be imposed on the owner of the Series 2013B Bonds. The opinions set forth herein are provided to support the promotion or marketing of such Series 2013B Bonds. Each owner of the Series 2013B Bonds should seek advice based on its particular circumstances from an independent tax advisor.

6. Interest on the Series 2013B 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.

We have examined an executed Series 2013B Bond and, in our opinion, the form of said bond and its execution are regular and proper.

The opinions contained in paragraphs 2, 3 and 4 above are qualified to the extent that the enforceability of the Resolutions, the Loan Agreement and the Series 2013B Bonds 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 paragraphs 5 and 6 above, we express no opinion as to any other federal,

state or local tax consequences of the ownership or disposition of the Series 2013B Bonds. Furthermore, we express no opinion as to any federal, state or local tax law consequences with respect to the Series 2013B Bonds, or the interest thereon, if any action is taken with respect to the Series 2013B 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 University. We have assumed the due authorization, execution and delivery of the Loan Agreement by the University.

Very truly yours,

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**[THIS PAGE INTENTIONALLY LEFT BLANK]**



