

**NEW ISSUE**  
**(Book-Entry Only)**

**RATING**  
**Standard & Poor's: "BBB+"**

*In the opinion of Nixon Peabody LLP, New York, New York, Bond Counsel, under existing law and assuming compliance with the tax covenants referred to herein, and the accuracy of certain representations and certifications made by the Issuer and the College, described herein, interest on the Series 2009 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Bond Counsel is also of the opinion that such interest will not be treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Bond Counsel is further of the opinion that interest on the Series 2009 Bonds is also exempt from personal income taxes imposed by the State of New York and any political subdivisions of the State of New York. See "Tax Matters" herein regarding certain other tax considerations.*



**\$50,000,000**  
**TOWN OF HEMPSTEAD**  
**LOCAL DEVELOPMENT CORPORATION**  
**REVENUE BONDS, SERIES 2009**  
**(MOLLOY COLLEGE PROJECT)**

**Dated:** Date of Delivery

**Due:** July 1, as shown on the inside front cover

The above-referenced bonds (the "Series 2009 Bonds") are special obligations payable solely out of the revenues or other receipts, funds or monies of the Town of Hempstead Local Development Corporation (the "Issuer") pledged therefor or otherwise available to U.S. Bank National Association, as trustee (the "Trustee"), for the payment thereof, including those derived under a certain Loan Agreement, dated as of November 1, 2009, between the Issuer and Molloy College (the "College").

Capitalized terms used in this Official Statement (including this cover page) shall have the meanings ascribed to such terms in Appendix B hereto unless otherwise specified herein.

The Series 2009 Bonds are issuable only in fully registered form, without coupons, and when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"). Purchases of beneficial interests in the Series 2009 Bonds will be made in book-entry only form, in the denomination of \$5,000 or any integral multiple thereof. Purchasers of beneficial interests will not receive certificates representing their interest in the Series 2009 Bonds. So long as Cede & Co. is the Bondowner, as nominee of DTC, references herein to the Bondowners or registered owners shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners (as defined herein) of the Series 2009 Bonds. See "THE SERIES 2009 BONDS - Book-Entry Only System" herein.

The Series 2009 Bonds will be dated and will bear interest from the date of delivery thereof. Interest on the Series 2009 Bonds will be payable semiannually on January 1 and July 1 of each year, commencing January 1, 2010. Principal of, premium, if any, and interest on the Series 2009 Bonds will be paid directly to DTC by U.S. Bank National Association, as Trustee and Paying Agent. So long as DTC or its nominee, Cede & Co., is the Bondowner, disbursement of such payments to the DTC Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the DTC Participants and the Indirect Participants, as more fully described herein.

The Series 2009 Bonds are subject to optional redemption and mandatory redemption prior to maturity as described herein.

**THE SERIES 2009 BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER AND NEITHER THE STATE OF NEW YORK, NOR ANY POLITICAL SUBDIVISION THEREOF (INCLUDING WITHOUT LIMITATION, THE TOWN OF HEMPSTEAD, NEW YORK) IS OBLIGATED TO PAY, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING AUTHORITY OF THE STATE OF NEW YORK OR ANY POLITICAL SUBDIVISION THEREOF (INCLUDING THE TOWN OF HEMPSTEAD, NEW YORK) IS PLEDGED TO THE PAYMENT OF PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2009 BONDS. THE SERIES 2009 BONDS ARE PAYABLE SOLELY FROM AND ARE SECURED BY RECEIPTS AND REVENUES OF THE ISSUER UNDER THE SERIES 2009 LOAN AGREEMENT AND OTHER MONIES AVAILABLE THEREFOR AS DESCRIBED HEREIN. THE ISSUER HAS NO TAXING AUTHORITY.**

The Series 2009 Bonds are offered when, as and if issued by the Issuer and accepted by the Underwriter subject to prior sale, withdrawal or modification of the offer without notice, and subject to the approval of legality by Nixon Peabody LLP, New York, New York, Bond Counsel. Certain legal matters will be passed upon for the College by its counsel, Spellman Rice Schure Gibbons McDonough & Polizzi, LLP, Garden City, New York and Farrell Fritz, P.C., Uniondale, New York, for the Issuer by its counsel, Ryan, Brennan & Donnelly LLP, Floral Park, New York and for the Underwriter by its counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York. It is expected that the Series 2009 Bonds in definitive form will be available for delivery through the facilities of DTC on or about November 13, 2009, in New York, New York, against payment therefor.

**Barclays Capital**

Dated: November 5, 2009

**\$50,000,000**  
**TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION**  
**REVENUE BONDS, SERIES 2009**  
**(MOLLOY COLLEGE PROJECT)**

**MATURITIES, AMOUNTS, INTEREST RATES, YIELDS AND CUSIP NUMBERS**

Year (July 1)	Principal Amount	Interest Rate	Yield	CUSIP Number*
2012	\$ 250,000	5.00 %	3.00%	424682AX0
2013	850,000	5.00	3.50	424682AY8
2014	895,000	5.00	4.00	424682AZ5
2015	940,000	5.00	4.30	424682BA9
2016	985,000	5.00	4.55	424682BB7
2017	1,035,000	5.00	4.75	424682BC5
2018	1,090,000	5.25	4.95	424682BD3
2019	1,145,000	5.25	5.05	424682BE1

\$3,500,000 5.75% Term Bonds due July 1, 2023, Yield 5.25%<sup>†</sup>, CUSIP Number\* 424682BH4

\$1,740,000 5.25% Term Bonds due July 1, 2023, Yield 5.35%<sup>†</sup>, CUSIP Number\* 424682BJ0

\$10,365,000 5.70% Term Bonds due July 1, 2029, Yield 5.70%<sup>†</sup>, CUSIP Number\* 424682BF8

\$27,205,000 5.75% Term Bonds due July 1, 2039, Yield 5.88%<sup>†</sup>, CUSIP Number\* 424682BG6

<sup>†</sup> Priced to the first par call on July 1, 2019.

\* CUSIP numbers have been assigned by an independent company not affiliated with the Issuer and are included solely for the convenience of the holders of the Bonds. The Issuer is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as indicated above. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Bonds.

TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION  
(State of New York)  
350 Front Street, 2nd Floor  
Hempstead, New York 11550

Chairman	Theodore P. Sasso, Jr.
Vice Chairman	Paul F. Conte
Treasurer	Jonathan B. Kohan
Secretary	Cheryl Petri
Member	Ari Brown
Member	Albert D'Agostino
Member	Patricia Mezeul

AGENCY COUNSEL  
John E. Ryan, Esq.  
Ryan, Brennan & Donnelly LLP  
Floral Park, New York

BOND COUNSEL  
Nixon Peabody LLP  
New York, New York

TRUSTEE  
U.S. Bank National Association  
New York, New York

UNDERWRITER  
Barclays Capital  
New York, New York

No person has been authorized to give any information or to make any representations not contained in this Official Statement and, if given or made, such information or representations must not be relied upon as having been authorized by the Issuer, the College, the Trustee or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Series 2009 Bonds by any person in any jurisdiction in which such offer, solicitation or sale is not authorized or in which it is unlawful to make such offer, solicitation or sale. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

This Official Statement is not to be construed as a contract with the purchasers of the Series 2009 Bonds. The information set forth herein has been obtained from the Issuer, the College and other sources believed to be reliable but is not guaranteed as to accuracy or completeness by the Underwriter. Statements contained in this Official Statement which involve estimates, forecasts or other matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as representations of fact. This information and expressions of opinions herein are subject to change without notice, and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the College since the date hereof. This Official Statement, including any supplement or amendment hereto, is intended to be deposited with one or more nationally recognized municipal securities information repositories.

If and when included in this Official Statement, the words "expects," "forecasts," "projects," "intends," "anticipates," "estimates," "assumes" and analogous expressions are intended to identify forward-looking statements and any such statements inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those that have been projected. Such risks and uncertainties which could affect the amount of revenue collected by the College include, among others, changes in economic conditions and various other events, conditions and circumstances, many of which are beyond the control of the College. Such forward-looking statements speak only as of the date of this Official Statement. The Issuer and the College disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any changes in the College's expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

THE SERIES 2009 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE INDENTURE HAS NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON THE EXEMPTIONS CONTAINED IN SUCH ACTS.

The order and placement of materials in this Official Statement, including the Appendices hereto, are not to be deemed to be a determination of relevance, materiality or importance, and this Official Statement, including the Appendices, must be considered in its entirety.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE COLLEGE AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

IN CONNECTION WITH THE OFFERING OF THE SERIES 2009 BONDS, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2009 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE SERIES 2009 BONDS TO CERTAIN DEALERS AND DEALER BANKS AND OTHERS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICES STATED ON THE INSIDE COVER PAGE HEREOF, AND SAID PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

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## **OFFICIAL STATEMENT**

**\$50,000,000**

**TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION  
REVENUE BONDS, SERIES 2009  
(MOLLOY COLLEGE PROJECT)**

### **INTRODUCTION**

The purpose of this Official Statement, which includes the cover page, the Table of Contents and the Appendices hereto, is to furnish certain information with respect to the issuance by the Town of Hempstead Local Development Corporation (the "Issuer") of its Revenue Bonds, Series 2009 (Molloy College Project) in the aggregate principal amount of \$50,000,000 (the "Series 2009 Bonds"). The Series 2009 Bonds are being issued pursuant to a certain Indenture of Trust, dated as of November 1, 2009 (the "Indenture"), to be entered into by and between the Issuer and U.S. Bank National Association, as trustee (the "Trustee").

Reference is hereby made to the Indenture for a description of the property pledged, assigned and otherwise available for the payment of the Series 2009 Bonds, the provisions, among others, with respect to the nature and extent of the security for the Series 2009 Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Owners of the Series 2009 Bonds, and the terms upon which the Series 2009 Bonds are issued and secured. Capitalized terms used in this Official Statement and not otherwise defined shall have the meanings assigned thereto in "APPENDIX B - Schedule of Definitions and Summary of Documents".

The Series 2009 Bonds are authorized to be issued pursuant to the New York Membership Corporation law as in effect in 1966, as superseded by Section 1411 of the New York Not-For-Profit Corporation Law (the "Act") and a resolution of the Issuer adopted on October 28, 2009.

The proceeds of the Series 2009 Bonds, together with other available funds of Molloy College (the "College") are being used to finance and refinance the costs of certain facilities located on portions of the College's approximately 23.78 acre campus located at 1000 Hempstead Avenue, in the Village of Rockville Centre, Town of Hempstead, Nassau County, New York (the "Campus"), consisting of (A) the acquisition, construction, furnishing and equipping of (i) an approximately 36,000 square foot residence hall, (ii) an approximately 59,000 square foot campus center and associated parking area, and (iii) an approximately 6,000 square foot two-story maintenance building, and (B) the renovation and improvement of various walkways, parking areas, landscaped areas and courtyards located on the Campus (collectively, the "Project"). Proceeds from the sale of the Series 2009 Bonds will also be used to pay certain capitalized interest on the Series 2009 Bonds during the construction period and pay costs of issuance of the Series 2009 Bonds.

The Series 2009 Bonds are special obligations of the Issuer and are payable solely from the revenues, receipts and other payments derived from a certain Loan Agreement, dated as of November 1, 2009 (the "Series 2009 Loan Agreement"), between the Issuer and the College, and pledged to the Trustee under the terms of the Indenture and as otherwise provided in the Indenture. The payment of the principal of, Redemption Price of and interest on the Series 2009

Bonds is an unconditional obligation of the College and will be secured by the Mortgage (as defined below) and a pledge of Gross Revenues (as defined below).

The principal of, Redemption Price of and interest on the Series 2009 Bonds shall not constitute or give rise to an obligation of the State of New York (the "State") or any municipality or subdivision thereof (including, without limitation, the Town of Hempstead, New York) and neither the State nor any municipality or political subdivision thereof (including, without limitation, the Town of Hempstead, New York) shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute special obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from the Series 2009 Loan Agreement (except for Unassigned Rights).

The Series 2009 Bonds will bear interest payable on each January 1 and July 1, commencing January 1, 2010 (each a "Debt Service Payment Date") to the Owner in whose name each Series 2009 Bond is registered at the close of business on the Record Date with respect to such Debt Service Payment Date (1) by check or draft mailed on the Debt Service Payment Date to each registered Owner, or (2) by wire transfer on the Debt Service Payment Date to each Owner of at least \$500,000 in aggregate principal amount of Series 2009 Bonds, upon written notice provided by the Owner to the Trustee not later than five (5) days prior to the Record Date for such Debt Service Payment Date. Except as provided in the Series 2009 Bonds and the Indenture, payment of interest upon redemption of any Series 2009 Bond shall be made only upon presentation and surrender of such Series 2009 Bond as provided in the Indenture, irrespective of any transfer or exchange of such Series 2009 Bond subsequent to such Record Date and prior to such Debt Service Payment Date. See "THE SERIES 2009 BONDS".

Pursuant to the Indenture, all payments due from the College to the Issuer under the Series 2009 Loan Agreement (except for Unassigned Rights and except for the moneys and investments from time to time in the Rebate Fund, established under the Indenture) are assigned by the Issuer to the Trustee to secure the payment of the principal or Redemption Price of and interest on the Series 2009 Bonds.

Payments under the Series 2009 Loan Agreement are to be made by the College to the Trustee in amounts sufficient, together with any moneys then held by the Trustee and available for such purpose, to pay the principal or Redemption Price of, and interest on the Series 2009 Bonds as the same become due, whether at maturity, upon redemption or by acceleration or otherwise. The payments under the Series 2009 Loan Agreement are an absolute and unconditional obligation of the College.

Pursuant to a certain Tax Compliance Agreement, dated the date of issuance of the Series 2009 Bonds, between the College and the Issuer, the College has made various covenants in connection with (i) the preservation of the exclusion of the interest on the Series 2009 Bonds from gross income for federal income tax purposes and (ii) for purposes of compliance with the arbitrage rebate requirements set forth in the Treasury Regulations. See "TAX MATTERS".

Brief descriptions follow of the Issuer, the Plan of Finance, Estimated Sources and Uses of Funds, the Series 2009 Bonds, Debt Service Requirements on the Series 2009 Bonds, Security



for the Series 2009 Bonds, the College, Negotiability, Tax Matters, Auditors, Absence of Litigation, Underwriting, Rating, Legality for Investment, Legal Matters and Secondary Market Disclosure. Appendix A contains the Audited Financial Statements of the College for the years ended June 30, 2009 and 2008. Appendix B contains a Schedule of Definitions used herein and summaries of each of the Indenture and the Series 2009 Loan Agreement. Appendix C contains a form of the opinion of Bond Counsel which Nixon Peabody LLP, New York, New York, proposes to render upon the delivery of the Series 2009 Bonds. Appendix D contains a form of the Continuing Disclosure Agreement to be entered into by the College and the Trustee. The descriptions and summaries previously listed do not purport to be comprehensive or definitive and are qualified in their entirety by reference to the respective documents and to "APPENDIX B - Schedule of Definitions and Summary of Documents." All such descriptions and summaries are further qualified in their entirety by reference to bankruptcy laws, insolvency or other laws or enactments now or hereafter enacted by the State or the United States relating to or affecting generally the enforcement of creditor's rights and the availability of equitable remedies, and to the extent, if any, that enforceability of the indemnification and contribution provisions of the Bond Documents may be limited by law. Insofar as any statements are made in this Official Statement involving matters of opinion, regardless of whether so stated, they are intended merely as such and not as representations of fact. Copies of the Bond Documents may be obtained, upon written request, from the Underwriter during the offering period and, after the initial delivery of the Series 2009 Bonds, at the corporate trust office of the Trustee located at 100 Wall Street, Suite 1600, New York, New York 10005 (the "Office of the Trustee").

The information appearing in this Official Statement relating to the Project, the use of the Series 2009 Bond proceeds and the College has been furnished by the College, and neither the Issuer nor the Underwriter makes any representation or warranty as to the accuracy or completeness of such information.

### **THE ISSUER**

The Issuer was established in 1966, as a local development corporation pursuant to the Act for the purpose of promoting the economic welfare of the inhabitants of the Town of Hempstead and promoting, attracting, encouraging and developing economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration. The Town of Hempstead, New York (the "Town") is the sole member of the Issuer and the Town as the sole member of the Issuer, acting through the Town Board, appoints the Board of Directors of the Issuer.

As provided in the Act, the Issuer is authorized and empowered to make a loan to the College pursuant to the Series 2009 Loan Agreement; to issue, execute and deliver the Series 2009 Bonds; to secure the Series 2009 Bonds by a pledge of the moneys payable by the College under the Series 2009 Loan Agreement; and to enter into the Bond Documents.

By a preliminary resolution adopted on September 23, 2009, and a resolution adopted on October 28, 2009, the Issuer will have taken official action relating to the issuance of the Series 2009 Bonds. The Issuer has held or will hold the required public hearings, in compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), with respect to the issuance of the Series 2009 Bonds, following the timely publication of notice of the hearing.

By a Certificate of Approval to be executed by the Applicable Elected Representative (as defined in the Code), the Supervisor of the Town of Hempstead, New York is expected to approve the issuance of the Series 2009 Bonds.

The Board of Directors of the Issuer is presently composed of members appointed by the Town of Hempstead. The names and positions of the current members of the Issuer are as follows:

<b><u>Position</u></b>	<b><u>Name</u></b>
Chairman	Theodore P. Sasso, Jr.
Vice Chairman	Paul F. Conte
Treasurer	Jonathan B. Kohan
Secretary	Cheryl Petri
Member	Ari Brown
Member	Albert D'Agostino
Member	Patricia Mezeul

The Executive Director and Chief Executive Officer and the Deputy Executive Director and Chief Financial Officer of the Issuer are appointed by the Board of Directors of the Issuer. The Executive Director and Chief Executive Officer of the Issuer is Frederick E. Parola, Esq. and the Deputy Executive Director and Chief Financial Officer of the Issuer is Edith M. Longo.

#### **THE COLLEGE**

Founded in 1955 by the Dominican Sisters of Amityville, Molloy College ("Molloy" or the "College") is an independent, co-educational, non-profit institution of higher education, organized and existing under the laws of the State of New York. The College is located on 25 acres in Rockville Centre, New York and includes classrooms, labs, offices, a gym, a theater, a cafeteria and a library. The campus offers more than 261,000 gross square feet of building space in five major buildings. For the fall term of the 2008-2009 school year, the College enrolled 2,871 undergraduate and 920 graduate students. For more information about the College, see "APPENDIX A – Information Pertaining to Molloy College."

#### **PLAN OF FINANCE**

The are being issued for the purposes of financing the costs of: (i) the Project, (ii) paying capitalized interest on the Series 2009 Bonds during the construction period of the Project and (iii) paying certain costs of issuance of the Series 2009 Bonds. See "APPENDIX A – Information Pertaining to Molloy College – The Project."

## **ESTIMATED SOURCES AND USES OF FUNDS**

The table below sets forth the estimated sources and uses of funds. The payment of additional costs related to the Project or with respect to the issuance of the Series 2009 Bonds will be paid from the College's own funds.

### **Sources of Proceeds**

Principal Amount of Series 2009 Bonds	\$50,000,000.00
Less Net Original Issue Discount	(175,027.20)
College's Contribution	<u>238,530.55</u>
Total Sources	<u>\$50,063,503.35</u>

### **Uses of Proceeds**

Deposit to Project Fund	\$43,994,319.39
Deposit to Capitalized Interest Fund	4,582,153.96
Underwriter's Discount	625,000.00
Costs of Issuance *	<u>862,030.00</u>
Total Uses	<u>\$50,063,503.35</u>

\* Including, but not limited to, fees of the Issuer, attorneys' fees, rating agency fees and trustee fees.

## **THE SERIES 2009 BONDS**

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

The following is a summary of certain provisions of the Series 2009 Bonds and should not be considered a full statement thereof. Reference is made to the Indenture (including the form of Series 2009 Bond) for the detailed provisions thereof and the discussion herein is qualified by such reference.

### **General Provisions**

The Series 2009 Bonds are dated the date of delivery. The Series 2009 Bonds mature on July 1 of the years and bear interest at the rates set forth on the inside front cover page hereof, and are issuable in the form of fully registered Series 2009 Bonds without coupons in minimum denominations of \$5,000 or integral multiples thereof. The Series 2009 Bonds will bear interest, computed on the basis of a 360 day year of twelve 30-day months, from the date of delivery, payable on January 1 and July 1 of each year, commencing on January 1, 2010 (each a "Debt Service Payment Date").

Interest on Series 2009 Bonds due on any Debt Service Payment Date shall be payable to the Owner in whose name each Series 2009 Bond is registered at the close of business on the Record Date with respect to such Debt Service Payment Date by (1) check mailed on the Debt

Service Payment Date to the Owner or (2) by wire transfer on the Debt Service Payment Date to each Owner of not less than \$500,000 in aggregate principal amount of Series 2009 Bonds, upon written notice provided by each Owner to the Trustee not later than five (5) days prior to the Record Date for such Debt Service Payment Date, except that payment of interest on redemption of any Series 2009 Bonds shall be made only upon presentation and surrender of such Series 2009 Bond as provided in the Indenture, irrespective of any transfer or exchange of such Series 2009 Bond subsequent to such Record Date and prior to such Debt Service Payment Date, unless the Issuer shall default in the payment of interest due on such Debt Service Payment Date. In the event of any such default, such defaulted interest shall be payable to the Person in whose name such Series 2009 Bond is registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed by or on behalf of the Issuer to the Owners of Series 2009 Bonds not less than fifteen (15) days preceding such special record date. Such notices shall be mailed to the Persons in whose name the Series 2009 Bonds are registered at the close of business on the fifth (5th) day preceding the date of mailing. Payment of interest on Series 2009 Bonds by mail will be made to the registered address of the Person entitled thereto.

Payment of the principal and, in the case of any Series 2009 Bonds redeemed prior to maturity, payment of the Redemption Price, if any, and interest accrued to the redemption date, shall be made, upon presentation and surrender at the principal corporate trust office of the Trustee, or at the office designated for such payment by any successor trustee or paying agent or at such other place as may be agreed upon in advance by the Trustee and the Owner of a Series 2009 Bond. The principal, Redemption Price of, and interest on the Series 2009 Bonds are payable in lawful money of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

### **Redemption Prior to Maturity**

The Series 2009 Bonds are subject to optional, mandatory and extraordinary redemption prior to their stated maturity as described below.

Optional Redemption. The Series 2009 Bonds maturing on or after July 1, 2023 are subject to redemption prior to maturity by the Issuer, at the option of the College, on or after July 1, 2019, in whole at any time or in part on any Debt Service Payment Date, at the Redemption Prices equal to 100% of the principal amount thereof plus accrued interest.

Sinking Fund Installment Redemption. The Series 2009 Bonds maturing on July 1, 2023 and bearing interest at 5.75% are subject to mandatory redemption in part commencing on July 1, 2020 by lot by operation of Sinking Fund Payments at a Redemption Price equal to the principal amount of the Series 2009 Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Series 2009 Bonds are set forth in the following table:

<u>Sinking Fund Payment Date</u>	<u>Amount</u>
July 1, 2020	\$800,000
July 1, 2021	850,000
July 1, 2022	905,000
July 1, 2023 <sup>†</sup>	945,000

<sup>†</sup> Final Maturity

The Series 2009 Bonds maturing on July 1, 2023 and bearing interest at 5.25% are subject to mandatory redemption in part commencing on July 1, 2020 by lot by operation of Sinking Fund Payments at a Redemption Price equal to the principal amount of the Series 2009 Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Series 2009 Bonds are set forth in the following table:

<u>Sinking Fund Payment Date</u>	<u>Amount</u>
July 1, 2020	\$405,000
July 1, 2021	420,000
July 1, 2022	440,000
July 1, 2023 <sup>†</sup>	475,000

<sup>†</sup> Final Maturity

The Series 2009 Bonds maturing on July 1, 2029 are subject to mandatory redemption in part commencing on July 1, 2024 by lot by operation of Sinking Fund Payments at a Redemption Price equal to the principal amount of the Series 2009 Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Series 2009 Bonds are set forth in the following table:

<u>Sinking Fund Payment Date</u>	<u>Amount</u>
July 1, 2024	\$1,495,000
July 1, 2025	1,580,000
July 1, 2026	1,675,000
July 1, 2027	1,770,000
July 1, 2028	1,870,000
July 1, 2029 <sup>†</sup>	1,975,000

<sup>†</sup> Final Maturity

The Series 2009 Bonds maturing on July 1, 2039 are subject to mandatory redemption in part commencing on July 1, 2030 by lot by operation of Sinking Fund Payments at a Redemption Price equal to the principal amount of the Series 2009 Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Series 2009 Bonds are set forth in the following table:

<u>Sinking Fund Payment Date</u>	<u>Amount</u>
July 1, 2030	\$2,090,000
July 1, 2031	2,210,000
July 1, 2032	2,335,000
July 1, 2033	2,470,000
July 1, 2034	2,610,000
July 1, 2035	2,760,000
July 1, 2036	2,920,000
July 1, 2037	3,090,000
July 1, 2038	3,265,000
July 1, 2039 <sup>†</sup>	3,455,000

<sup>†</sup> Final Maturity

**Mandatory Taxability Redemption.** The Series 2009 Bonds shall be redeemed in whole as soon as practicable after the occurrence of an Event of Taxability and the receipt by the Trustee of written notice from any Owner of the College of the occurrence of an Event of Taxability (but in no event later than one hundred twenty (120) days following the date a Responsible Officer of the Trustee is notified of an Event of Taxability), at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest thereon to the Redemption Date.

#### **Selection of Series 2009 Bonds to be Redeemed**

In the case of Series 2009 Bonds to be redeemed at the election or direction of the Issuer, the Issuer (at the direction of the College) will select the maturities and principal amounts of Series 2009 Bonds to be redeemed. In the event that redemption of Series 2009 Bonds is made in an amount less than the amount of all Series 2009 Bonds having the same maturity, all Series 2009 Bonds having the same maturity shall be redeemed pro rata.

#### **Notice of Redemption**

When Series 2009 Bonds are to be redeemed pursuant to the Indenture, the Trustee shall give notice of the redemption of the Series 2009 Bonds in the name of the Issuer stating: (i) the Series 2009 Bonds to be redeemed; (ii) the Redemption Date; (iii) that such Series 2009 Bonds will be redeemed at the Office of the Trustee; (iv) that on the Redemption Date there shall become due and payable upon each Series 2009 Bond to be redeemed the Redemption Price thereof, together with interest accrued to the Redemption Date; and (v) that from and after the Redemption Date interest thereon shall cease to accrue.

Notice of redemption required by the Indenture shall be given by mailing at least thirty (30) days and not more than sixty (60) days prior to such Redemption Date to the Owner of each Series 2009 Bond to be redeemed at the address shown on the registration books; provided, however, that the failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of Series 2009 Bonds.

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

The following description of the procedures and record keeping with respect to beneficial ownership interests in the Series 2009 Bonds, payment of interest and other payments on the Series 2009 Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in the Series 2009 Bonds and other related transactions by and between DTC, DTC Participants and Beneficial Owners is based on certain information furnished by DTC. Accordingly, neither the Issuer, the College, the Underwriter nor the Trustee makes any representations concerning these matters.

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

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

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

behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2009 Bonds, except in the event that use of the book-entry system for the Series 2009 Bonds is discontinued.

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

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

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

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

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

The Trustee and the Issuer may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2009 Bonds registered in its name for the purposes of payment of



the principal of or interest on the Series 2009 Bonds, giving any notice permitted or required to be given to registered owners, registering the transfer of the Series 2009 Bonds, obtaining consent or other action to be taken by registered owners and for all other purposes whatsoever. Conveyance of notices and other communications by DTC to Participants, by DTC to Indirect Participants and by Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory and regulatory requirements as may be in effect from time to time.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF ANY DTC SERIES OF SERIES 2009 BONDS AS NOMINEE OF DTC, REFERENCES HEREIN TO THE HOLDERS OF SUCH DTC SERIES OF SERIES 2009 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF SUCH SERIES OF SERIES 2009 BONDS.

NEITHER THE ISSUER, THE COLLEGE NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO THE PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY PARTICIPANT, (2) THE PAYMENT BY DTC OR ANY PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT, SINKING FUND INSTALLMENT FOR, REDEMPTION PRICE OF OR INTEREST ON THE SERIES 2009 BONDS; (3) THE DELIVERY BY DTC OR ANY PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE INDENTURE TO BE GIVEN TO HOLDERS OF SERIES 2009 BONDS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF SERIES 2009 BONDS; OR (5) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS HOLDER OF SERIES 2009 BONDS.

DTC may discontinue providing its service with respect to the Series 2009 Bonds at any time by giving notice to the Trustee and the Issuer and discharging its responsibilities with respect thereto under applicable law, or the Issuer may terminate its participation in the system of book-entry transfer through DTC at any time by giving notice to DTC. In either event, the Issuer may retain another securities depository for the Series 2009 Bonds or may authenticate and deliver Series 2009 Bonds in the form of fully registered bond certificates in accordance with instructions from DTC or its successor. If the Issuer delivers such bond certificates, principal of the Series 2009 Bonds, and any premium, if applicable, would be payable in lawful money of the United States of America at such office as may be designated by the Issuer and interest on the Series 2009 Bonds will be payable by wire transfer or by check mailed to the respective addresses of the registered owners thereof as shown on the registration books of the Issuer as of the close of business on the last day of the calendar month preceding the applicable interest payment date.

### **DEBT SERVICE REQUIREMENTS ON THE SERIES 2009 BONDS**

The following table sets forth, for the period ending July 1 of each year, the debt service on the Series 2009 Bonds.

Twelve-Month Period Ending July 1	Principal Payments on the Series 2009 Bonds	Interest Payments on the Series 2009 Bonds	Total Debt Service
2010	-	\$1,781,427	\$1,781,427
2011	-	2,812,780	2,812,780
2012	\$ 250,000	2,812,780	3,062,780
2013	850,000	2,800,280	3,650,280
2014	895,000	2,757,780	3,652,780
2015	940,000	2,713,030	3,653,030
2016	985,000	2,666,030	3,651,030
2017	1,035,000	2,616,780	3,651,780
2018	1,090,000	2,565,030	3,655,030
2019	1,145,000	2,507,805	3,652,805
2020	1,205,000	2,447,693	3,652,693
2021	1,270,000	2,380,430	3,650,430
2022	1,345,000	2,309,505	3,654,505
2023	1,420,000	2,234,368	3,654,368
2024	1,495,000	2,155,093	3,650,093
2025	1,580,000	2,069,878	3,649,878
2026	1,675,000	1,979,818	3,654,818
2027	1,770,000	1,884,343	3,654,343
2028	1,870,000	1,783,453	3,653,453
2029	1,975,000	1,676,863	3,651,863
2030	2,090,000	1,564,288	3,654,288
2031	2,210,000	1,444,113	3,654,113
2032	2,335,000	1,317,038	3,652,038
2033	2,470,000	1,182,775	3,652,775
2034	2,610,000	1,040,750	3,650,750
2035	2,760,000	890,675	3,650,675
2036	2,920,000	731,975	3,651,975
2037	3,090,000	564,075	3,654,075
2038	3,265,000	386,400	3,651,400
2039	3,455,000	198,663	3,653,663
<b>TOTAL:</b>	<b>\$50,000,000</b>	<b>\$56,275,912</b>	<b>\$106,275,912</b>

## **SECURITY FOR THE SERIES 2009 BONDS**

The principal or Redemption Price of, and interest on the Series 2009 Bonds are payable solely from (i) the moneys payable by the College under the Series 2009 Loan Agreement and (ii) all moneys and obligations which are deposited or required to be deposited in the Bond Fund, the Project Fund or any other fund established under the Indenture (except the Rebate Fund).

Pursuant to the Indenture, the Issuer will pledge and assign to the Trustee a security interest in certain moneys due or to become due, and certain other rights and remedies of the Issuer, under or arising out of the Series 2009 Loan Agreement (except for certain rights specially reserved to the Issuer, the "Unassigned Rights"). The College's obligation to make payments under the Series 2009 Loan Agreement is an unconditional obligation of the College, and is secured as described below.

### **Series 2009 Loan Agreement**

The Series 2009 Loan Agreement obligates the College to make monthly payments to the Trustee in amounts sufficient to pay, among other things, the College's allocable portion of the principal and Sinking Fund Installments of, and interest on, the Outstanding Bonds as they become due. With respect to the Series 2009 Bonds, each payment will be equal to one-sixth of the interest coming due on the next Debt Service Payment Date and one-twelfth of the principal and Sinking Fund Installments coming due on the next Debt Service Payment Date, as adjusted for any shorter initial period.

### **Mortgage**

The College's obligation to make payments under the Series 2009 Loan Agreement is secured by the Building Loan Mortgage and Security Agreement, dated as of November 1, 2009, from the College to the Issuer (the "Building Loan Mortgage") and the Project Loan Mortgage and Security Agreement, dated as of November 1, 2009, from the College to the Issuer (the "Project Loan Mortgage" and, together with the Building Loan Mortgage, the "Mortgage") relating to certain property of the College. See "APPENDIX A – Information Pertaining to Molloy College – Mortgaged Property." The Issuer will assign the Mortgage to the Trustee upon the issuance of the Series 2009 Bonds.

### **Gross Revenues**

The College's obligation to make payments under the Series 2009 Loan Agreement is also secured by a pledge of its Gross Revenues.

### **Additional Bonds**

The Indenture provides that additional bonds ("Additional Bonds") may be issued thereunder and such Additional Bonds will be secured on a parity with the Series 2009 Bonds. Conditions to the issuance of Additional Bonds include: (i) that the College enter into a loan agreement relating to the payment of such Additional Bonds and (ii) that the College satisfies the provisions of the Series 2009 Loan Agreement relating to the issuance of additional Indebtedness.

### **Additional Indebtedness**

Pursuant to the Series 2009 Loan Agreement, the College may incur Long-Term Indebtedness (including relating to Additional Bonds and including that secured by a parity or subordinate lien on the Mortgaged Property and/or the College's Gross Revenues), provided that the Maximum Annual Debt Service on all outstanding Long-Term Indebtedness (including the Series 2009 Bonds, any Additional Bonds and such additional Long-Term Indebtedness) shall not exceed 10% of the College's unrestricted revenues, gains and other support determined in accordance with generally accepted accounting principles in the last completed fiscal year of the College for which financial statements are available. The College may also incur up to \$5 million of Short-Term Indebtedness provided that such Short-Term Indebtedness is fully retired for at least 30 days in each fiscal year.

### **Limitations on Liens**

In the Series 2009 Loan Agreement, the College covenants that it will not create or allow Liens upon any of its Property, including without limitation on Gross Revenues or investments, except that the College may create or allow (i) Liens on the Mortgaged Property and/or Gross Revenues provided that the Indebtedness secured by such Lien is permitted to be incurred in accordance with the limitations on additional Indebtedness set forth in the Series 2009 Loan Agreement and such Lien is not senior to the Mortgage or the security interest in Gross Revenues granted by the College in the Series 2009 Loan Agreement and the holder of such Lien has entered into an intercreditor agreement with the Trustee pursuant to which such lienholder has agreed that the Trustee shall as collateral agent for the benefit of the Holders of all Series 2009 Bonds and any other Indebtedness permitted under the Series 2009 Loan Agreement control all remedies related to the Mortgaged Property, (ii) Liens on real property of the College (and improvements and personal property located thereon) other than the Mortgaged Property, and (iii) Permitted Liens.

### **Special Obligations; Limited Resources**

The Series 2009 Bonds are special obligations of the Issuer and are payable solely from the revenues, receipts and other payments derived from the Series 2009 Loan Agreement and the Indenture. Payments pursuant to the Series 2009 Loan Agreement are required to be made by the College directly to the Trustee and to be deposited in a separate Bond Fund held by the Trustee for the payment of the principal of, redemption premium, if any, and interest on the Series 2009 Bonds.

THE SERIES 2009 BONDS ARE NOT OBLIGATIONS OF THE STATE OF NEW YORK OR ANY POLITICAL SUBDIVISION THEREOF (INCLUDING, WITHOUT LIMITATION, THE TOWN OF HEMPSTEAD, NEW YORK), AND NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF (INCLUDING, WITHOUT LIMITATION, THE TOWN OF HEMPSTEAD, NEW YORK) HAS ANY LIABILITY, LEGAL, MORAL OR OTHERWISE THEREUNDER. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF NEW YORK OR ANY POLITICAL SUBDIVISION THEREOF (INCLUDING, WITHOUT LIMITATION, THE TOWN OF HEMPSTEAD, NEW YORK) HAS BEEN PLEDGED TOWARDS THE

PAYMENT OF THE SERIES 2009 BONDS. THE SERIES 2009 BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SOURCES PROVIDED IN THE INDENTURE AND THE OTHER SERIES 2009 BOND DOCUMENTS. THE SERIES 2009 BONDS DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER. NEITHER THE DIRECTORS, OFFICERS, MEMBERS OR EMPLOYEES OF THE ISSUER, THE TRUSTEE OR ANY PERSON EXECUTING THE SERIES 2009 BONDS SHALL BE LIABLE PERSONALLY OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF. THE ISSUER HAS NO TAXING POWERS.

## **TAX MATTERS**

### **Federal Income Taxes**

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 2009 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 2009 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2009 Bonds. The Issuer and the College have covenanted in the Series 2009 Loan Agreement, the Indenture, and the Tax Compliance Agreement to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2009 Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Issuer and the College have made certain representations and certifications in the Series 2009 Loan Agreement, the Indenture and the Tax Compliance Agreement. Bond Counsel will also rely on the opinion of Farrell Fritz, P.C., counsel to the College, as to all matters concerning the status of the College as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code. Bond Counsel will not independently verify the accuracy of those representations and certifications or that opinion.

In the opinion of Nixon Peabody LLP, New York, New York, Bond Counsel, under existing law and assuming compliance with the aforementioned covenants, and the accuracy of certain representations and certifications made by the Issuer and the College described above interest on the Series 2009 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Interest on the Series 2009 Bonds is excluded from the adjusted current earnings of corporations for purposes of computing the alternative minimum tax imposed on corporations. Bond Counsel is also of the opinion that interest on the Series 2009 Bonds is exempt from personal income taxes imposed by the State of New York and any political subdivisions of the State of New York.

Original Issue Discount. Bond Counsel is further of the opinion that the difference between the principal amount of the Series 2009 Bonds maturing on July 1, 2023 and bearing interest at 5.25% and July 1, 2039 (collectively the "Discount Bonds") and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in

the capacity of underwriters or wholesalers) at which price a substantial amount of such Discount Bonds of the same maturity was sold constitutes original issue discount which is excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2009 Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such initial offering price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment. Owners of the Discount Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Discount Bonds.

Original Issue Premium. The Series 2009 Bonds maturing on July 1, 2012 through July 1, 2019, inclusive, and on July 1, 2023 and bearing interest at 5.75% (collectively, the “Premium Bonds”) are being offered at prices in excess of their principal amounts. An initial purchaser with an initial adjusted basis in a Premium Bond in excess of its principal amount will have amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each Premium Bond based on the purchaser’s yield to maturity (or, in the case of Premium Bonds callable prior to their maturity, over the period to the call date, based on the purchaser’s yield to the call date and giving effect to any call premium). For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation with an amortizable bond premium is required to decrease such purchaser’s adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Series 2009 Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.

### **Ancillary Tax Matters**

Ownership of the Series 2009 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, individuals seeking to claim the earned income credit, and taxpayers (including banks, thrift institutions and other financial institutions) who may be deemed to have incurred or continued indebtedness to purchase or carry the Series 2009 Bonds; for certain bonds issued during 2009 and 2010, the American Recovery and Reinvestment Act of 2009 modifies the application of those rules as they apply to financial institutions. Prospective investors are advised to consult their own tax advisors regarding these rules.

Commencing with interest paid in 2006, interest paid on tax-exempt obligations such as the Series 2009 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 2009 Bonds may be subject to backup withholding if such interest is paid to a registered

owner that (a) fails to provide certain identifying information (such as the registered owner's taxpayer identification number) in the manner required by the IRS, or (b) has been identified by the IRS as being subject to backup withholding.

Bond Counsel is not rendering any opinion as to any Federal tax matters other than those described in the opinions attached as Appendix C. 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 2009 Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

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

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

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

### **LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale of the Series 2009 Bonds will be passed upon by Nixon Peabody LLP, New York, New York, Bond Counsel for the Issuer, which opinion will be substantially in the form attached hereto as Appendix C. Certain legal matters will be passed upon for the College by its counsel, Spellman Rice Schure Gibbons McDonough & Polizzi, LLP, Garden City, New York and Farrell Fritz P.C., Uniondale, New York, for the Issuer by its counsel, Ryan, Brennan & Donnelly LLP, Floral Park, New York and for the Underwriter by its counsel, Orrick, Herrington & Sutcliffe, LLP, New York, New York.

### **ABSENCE OF LITIGATION**

There is no litigation of any nature pending or threatened against the Issuer at the date of this Official Statement restraining or enjoining the issuance, sale, execution or delivery of the Series 2009 Bonds, or in any way contesting or affecting the validity of the Series 2009 Bonds or any proceedings of the Issuer taken with respect to the issuance or sale thereof, or the pledge or

application of any moneys or the security provided for the payment of the Series 2009 Bonds, or the existence or powers of the Issuer, or the use and operation of the Project.

There is no action, suit, investigation or proceeding pending or, to the knowledge of the College, threatened against the College or any properties or rights of the College before any court, arbitrator or administrative or governmental body which in the opinion of management of the College might result in any material adverse change in the business, condition or operations of the College or which involves the possibility of materially adversely affecting the ability of the College to comply with the Series 2009 Loan Agreement.

### **RATINGS**

Standard & Poor's has assigned the College the rating of "BBB+". Any desired explanation of the significance of such ratings should be obtained from Standard & Poor's. There is no assurance that a particular rating will pertain for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of Standard & Poor's, circumstances so warrant. Any downward revision or withdrawal of any such rating could have an adverse effect on the market price of the Series 2009 Bonds. Neither the Underwriter, the Issuer, nor the College has undertaken any responsibility either to bring to the attention of the Owners of the Series 2009 Bonds any proposed change in or withdrawal of such ratings or to oppose any such revision or withdrawal.

### **UNDERWRITING**

Barclays Capital Inc. (the "Underwriter") has agreed, subject to certain customary conditions precedent to closing, to purchase the Series 2009 Bonds at an aggregate underwriter's discount of \$625,000 from the initial public offering prices set forth on the inside front cover of this Official Statement. The Underwriter will be obligated to purchase all such Series 2009 Bonds if any such Series 2009 Bonds are purchased. The Series 2009 Bonds may be offered and sold to certain dealers (including depositing the Series 2009 Bonds into investment trusts, which may be investment trusts sponsored by the Underwriter or such dealers) at prices lower than such public offering prices, and such public offering prices may be changed by the Underwriter from time to time following the initial offering without any requirement of public notice.

### **INDEPENDENT AUDITOR**

The financial statements as of June 30, 2009 and 2008 and for the years then ended, included in this Official Statement, have been audited by Grant Thornton, LLP, independent certified public accountants, as stated in their report appearing herein.

### **LEGALITY FOR INVESTMENT**

The Series 2009 Bonds are securities in which all public officers and bodies of the State and all municipalities and municipal subdivisions, all insurance companies and associations and all other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on banking business, may properly and legally invest funds, including capital in their control or belonging to them.



## **CERTIFICATE WITH RESPECT TO OFFICIAL STATEMENT**

At the time of the original delivery and payment for the Series 2009 Bonds, the College will deliver a certificate of its President to the effect that he has examined this Official Statement (including the Appendices) and the financial and other data concerning the College contained herein and that (i) the Official Statement, both as of its date and as of the date of delivery of the Series 2009 Bonds, does not, with respect to the College, contain any untrue statement of a material fact or omit any statement of a material fact necessary to make the statements herein, in light of the circumstances under which they were made, not misleading and (ii) between the date of the Official Statement and the date of delivery of the Series 2009 Bonds, there has been no material change in the affairs (financial or other), financial condition or results of operations of the College except as set forth in or contemplated by the Official Statement.

## **SECONDARY MARKET DISCLOSURE**

The College and the Trustee shall enter into an undertaking (the "Continuing Disclosure Agreement"), for the benefit of the holders of the Series 2009 Bonds, pursuant to the requirements of Securities and Exchange Commission Rule 15c2-12. A copy of the proposed form of Continuing Disclosure Agreement is contained in Appendix D.

## **ADDITIONAL INFORMATION**

The references herein to the Indenture, the Series 2009 Loan Agreement, and other documents and the Act, the Code and other statutes are brief summaries of certain provisions thereof. Such summaries do not purport to be complete and reference is made to the full text of the originals for a full and complete statement of such provisions.

This Official Statement is not to be construed as a contract or an agreement between the College or the Issuer and the purchasers or holders of any of the Series 2009 Bonds. Any statements made in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended merely as an opinion and not as representations of fact. The information and expressions of opinion herein are subject to change without notice and neither the delivery of the Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no material change in the affairs of the College since the date hereof.

The information contained in this Official Statement relating to the Project, the Estimated Uses of Funds and the College has been supplied by the College, and neither the Issuer nor the Underwriter makes any representation or warranty as to the accuracy or completeness of such information.

The distribution of this Official Statement to prospective purchasers of the Series 2009 Bonds by the Underwriter has been duly authorized by the Issuer and the College. This Official Statement is made available only in connection with the sale of the Series 2009 Bonds and may not be used in whole or in part for any other purpose.

Additional copies of this Official Statement may be obtained upon request from the Underwriter.

TOWN OF HEMPSTEAD LOCAL  
DEVELOPMENT CORPORATION

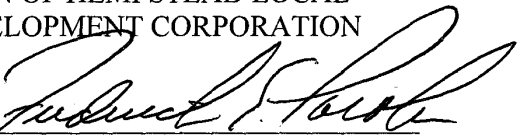
By:     /s/ Frederick E. Parola      
Name: Frederick E. Parola  
Title: Executive Director and Chief Executive  
Officer

MOLLOY COLLEGE

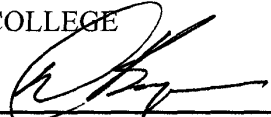
By:     /s/ Drew Bogner      
Name: Drew Bogner  
Title: President

Additional copies of this Official Statement may be obtained upon request from the Underwriter.

TOWN OF HEMPSTEAD LOCAL  
DEVELOPMENT CORPORATION

By:   
Name: Frederick E. Parola  
Title: Executive Director and Chief Executive Officer

MOLLOY COLLEGE

By:   
Name: Drew Bogner, Ph.D.  
Title: President

## **APPENDIX A**

### **Information Pertaining to Molloy College**

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## **APPENDIX A INFORMATION PERTAINING TO MOLLOY COLLEGE**

### **General**

Founded in 1955 by the Dominican Sisters of Amityville, Molloy College (“Molloy” or the “College”) is an independent, co-educational, non-profit institution of higher education, organized and existing under the laws of the State of New York. The College is located on 25 acres in Rockville Centre, New York and includes classrooms, labs, offices, a gym, a theater, a cafeteria and a library. The campus offers more than 261,000 gross square feet of building space in five major buildings. For the fall term of the 2008-2009 school year, the College enrolled 2,871 undergraduate and 920 graduate students.

Molloy, an independent, Catholic college, rooted in the Dominican tradition of study, spirituality, service, and community is committed to academic excellence with respect for each person. Through transformative education, Molloy promotes a lifelong search for truth and the development of ethical leadership.

The College is in the midst of a multi-phase capital plan which is intended to enhance the experience of its students and which will significantly transform its campus. Phase I of this plan includes the construction of the Public Square, a three-story building that will be centrally located on campus and contain approximately 58,000 square feet of space. A major feature of this facility will be a 550 seat theatre. In addition, Phase I includes the construction of a student residence to provide the College with its first on-campus dormitory for undergraduate students.

### **Strategic Plan**

In September 2007, the College developed a strategic plan which outlines the goals deemed necessary to further its mission. These goals include: (i) committed to being Catholic and Dominican in philosophy and outlook, (ii) student centered learning, (iii) academic quality, (iv) leadership through service, (v) engagement with the wider community, and (vi) stewardship. The plan sets forth specific objectives for each goal and assigns oversight responsibility to individual leadership teams in order facilitate the plan’s implementation.

### **Board of Trustees**

The College’s governing documents specify that a Board of Trustees of up to thirty members shall govern the College. Up to eight, but no less than three of the Trustees must be Sisters of the Order of St. Dominic, Amityville, New York. At the present time, the Board of Trustees consists of twenty-seven members. The College’s governing documents also provide that Trustees are elected for not more than four consecutive terms (12 years). The Board is further divided into three classes according to expiration of term with approximately one third of the Board in each class.

The Board of Trustees meets four times each year for regular meetings and conducts an annual planning retreat. The Executive Committee may transact such business of the College as the Board may transact, except to grant degrees, or to remove or elect members of the Board. The Executive Committee is composed of the Chairperson, Vice-Chairperson of the Board, the President of the College (in an ex-officio capacity) and Standing Committee chairpersons. The Chairperson may appoint not more than two additional members at-large subject to the approval of a majority of the permanent members of the Executive Committee.

There are seven standing committees of the Board, including an Executive Committee, Academic Affairs Committee, Facilities Committee, Development Committee, Fiscal Affairs Committee, Mission Effectiveness Committee and Committee on Trustees. The current members and officers of the Board of Trustees follow.

Board of Trustee Member

Occupation

Mr. Daniel T. Henry, *Chairperson\**

Chief Financial Officer,  
American Express

Ms. Crisler Quick, *Vice-Chairperson\**

President  
The Finance Department

Mr. Drew Bogner\*

President  
Molloy College

Ms. Theresa P. Ahlstrom

Managing Partner  
KPMG LLP

Ms. Ann Barlow

Consultant

S. Marilyn A. Breen, O.P.

Administrator, SVP for Operations.  
Our Lady of Consolation Geriatric Care Center

Dr. Daniel W. Bythewood\*

Orthodontist  
Garden City, NY

Ms. Laura A. Cassell\*

Chief Executive Officer  
Catholic Charities, Diocese of Rockville Centre

Mr. John F. Coghlan\*<sup>1</sup>

Managing Director  
Barclays Capital

Ms. Sheila C. D’Nodal

Vice President of Ambulatory Services,  
Chief Diversity Officer  
South Nassau Communities Hospital

Mr. Edward L. Donnelly, Jr.

Chief Executive Officer  
Dynavox

Mr. Jeffrey H. Greenfield\*

Managing Member  
NGL Insurance Group

Mr. David C. Howard

Executive Vice President, Business Operations  
N.Y. Mets

S. Mary Hughes, O.P.

Prioress, Sisters of St. Dominic  
Queen of the Rosary Motherhouse

Mr. Gerald Kaiser

Retired Attorney; President of Theodore Roosevelt  
Council of Boy Scouts of America, Nassau County

Mr. William K. Lloyd

Superintendent  
Uniondale Public Schools

Mr. Welquis Ray Lopez

Executive Director for the State Empire Zone Program  
Town of Hempstead

S. Kathleen McCarthy, O.P.

Pastoral Associate  
St. Matthew’s Church, Dix Hills

Mr. Daniel T. McGowan

Retired – CEO of HIP

Rev. John P. McGuire, O.P.

Pastor  
University Parish of St. Joseph

Mr. Daniel L. Murphy\*

Chairman and CEO  
Madison National Bank

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<sup>1</sup> Barclays Capital Inc. is the underwriter of the Bonds.

Most Rev. William Francis Murphy, D.D., S.T.D.	Bishop Diocese of Rockville Centre
S. Margaret Murphy, O.P.*	Associate Professor of Religious Studies Division Mount Saint Mary College
Mr. Charles M. Piluso	Chairman & CEO Data Storage Corporation
Mr. John Pohlman	Vice President of Finance Good Samaritan Hospital Medical Center
Ms. Kathleen Sideli	Associate Vice President for Overseas Study Indiana University
S. Kathleen Sullivan, O.P.*	Chancellor for External Affairs Dominican College of Blauvelt
Ms. Lisa M. Tepper	Regional President Travelers

\*Member of the Executive Committee

### **Administration**

The following table sets forth the names of the President and other senior management and the position held by each. A brief statement of the background of each such officer is set forth after the table:

<u>Name</u>	<u>Position</u>
Dr. Drew Bogner	President
Dr. Valerie Collins	Vice President for Academic Affairs and Dean of Faculty
Michael A. McGovern	Vice President for Finance and Treasurer
Robert C. Houlihan	Vice President for Student Affairs
Linda Finley Albanese	Vice President for Enrollment Management
Dr. Robert Paterson	Vice President for Planning, Research and Technology
Edward J. Thompson	Vice President for Advancement
S. Dorothy Anne Fitzgibbons, O.P.	Vice President for Mission

The principal administrative officers of Molloy College are listed below:

#### ***Drew Bogner, President***

Dr. Drew Bogner held several positions in higher education before assuming the presidency at Molloy College in July 2000: Executive Vice President for Academic Affairs, Dean of Community Education, and Professor of Education and Professor of Biology at Newman University, Wichita, Kansas. Dr. Bogner currently serves on the President's Council for NCAA Division II, and is active in numerous community groups on Long Island serving on the Board of Directors for Catholic Charities, Long Island Housing Partnership, Tomorrow's Hope Foundation, Long Island Index and Theodore Roosevelt Council of the Boy Scouts of America. Dr. Bogner holds B.S. degrees in History and Biology from Newman University and a M.S., Ed.D. and Ph.D. in Philosophy and History of Education from the University of Kansas.



***Valerie Collins, Vice President for Academic Affairs & Dean of the Faculty***

Dr. Collins has served as Vice President of Academic Affairs for ten years. Prior to assuming the position of Vice President of Academic Affairs, Dr. Collins was Director of the Undergraduate Nursing Program. Dr. Collins holds a B.S. degree from Molloy College and an M.A. and Ph.D. degree from New York University.

***Michael A. McGovern, Vice President for Finance & Treasurer***

Michael A. McGovern was appointed Vice President for Finance & Treasurer in 2002. Mr. McGovern serves as the College's chief financial officer. Prior to joining Molloy College, Mr. McGovern was Chief Financial Officer for the New York Foundling Hospital. Mr. McGovern received a B.S. in Accounting from Athens State University.

***Robert C. Houlihan, Vice President for Student Affairs***

Robert Houlihan is the Vice President for Student Affairs at Molloy College, a position he has held for nine years. Prior to assuming his current position, Mr. Houlihan was the Director of Athletics and coached intercollegiate athletics for 20 years. Mr. Houlihan has a B.A. in Criminal Justice from New York Institute of Technology, and two M.S. degrees from L.I.U. Brooklyn in Criminal Justice and Education Guidance and Counseling.

***Linda Finley Albanese, Vice President for Enrollment Management***

Linda Finley Albanese is Vice President of Enrollment Management, a position to which she was named in 2001. Ms. Albanese received a B.A. from Molloy College and an M.A. from the C.W.Post Center of L.I.U.

***Robert Paterson, Vice President for Information Technology, Planning & Research***

Dr. Robert Paterson was appointed Vice President for Information Technology, Planning and Research at Molloy College in 2009. Dr. Paterson has been in the Information Technology field since 1985. He served as Director of Academic Computing and then Dean for Computing and Telecommunications at Pacific Lutheran University in Tacoma, WA. He has been Executive Director of Information Technology at the University of San Francisco and at Capital University in Columbus, OH. He has also served as Chief Information Officer at Salem State College, in Salem, MA. Dr. Paterson has a B.S. from the University of Miami, a M.S. from Central Michigan University and a Ph.D. from Virginia Polytechnic Institute and State University.

***Edward Thompson, Vice-President for Advancement***

Edward Thompson has been the Vice President for Advancement at Molloy College since his arrival in 1998. Mr. Thompson received a B.A. in History and Economics at the College of the Holy Cross, a J.D. from St. John's University School of Law and studied comparative law at the London School of Economics.

***S. Dorothy Fitzgibbons, O.P., Vice President for Mission***

Sister Dorothy Fitzgibbons, O.P., has been the Vice President for Mission since 2001. Sister Dorothy came to Molloy College in 1985 as Assistant to the President for Planning, establishing the Office of Planning and Research and forming the first Strategic Planning Committee. Sister Dorothy is actively involved in the

Dominican Colleges Consortium, serving as Secretary/Treasurer in the Dominican Higher Education Council, and she chairs the President's Advisory Board on Multicultural Concerns. Sister Dorothy Fitzgibbons, O.P., received a B.S. in Education from St. John's University, a Master's in Education from Boston College, and an Ed.D. from Columbia University.

### Academic Programs

The College's academic departments are organized into six degree-granting divisions. The single discipline divisions are Business, Education and Nursing. The multi-disciplinary divisions consist of the Humanities, Natural Sciences and the Social Sciences. The College's curriculum features three associate and four bachelors degrees through 32 undergraduate majors and 43 minors as well as 8 masters degrees, including one through a partnership with Fordham University. Undergraduate majors include:

Accounting	Economics	Philosophy
Anthropology	Education	Psychology
Art	Environmental Studies	Political Science
Biology	English	Respiratory Care
Business Management	Health Service Leadership	Social Work
Cardiovascular Technology	History	Sociology
Chemistry	Interdisciplinary Studies	Spanish
Communication	Mathematics	Speech Language Pathology/Audiology
Computer Science	Music	Theater Arts
Computer Information Systems	Nuclear Medicine Technology	Theology and Religious Studies
Criminal Justice	Nursing	

The **Division of Business** offers a Bachelor of Science in Accounting, Business Management, and Dual Degree Bachelor of Science and M.B.A. in Accounting and/or Management. There is also a dual degree B.S./M.B.A. Management/Personal Financial Planning and an M.B.A. offered in Personal Financial Planning.

The **Division of Education** offers programs accredited by the National Council for Accreditation of Teacher Education (NCATE). The degrees offered to the students include the Bachelor of Arts, the Bachelor of Science, and multiple Dual Degree B.S./M.S. programs. There are also programs for educational special subjects such as Music and Visual Arts.

The **Division of Humanities** encompasses the departments of Art, Communication Arts and Sciences, English, History and Political Science, Interdisciplinary Studies, Modern Languages, Music, Philosophy and Theology. The offerings include both undergraduate and graduate degrees in Bachelor of Fine Arts, Bachelor of Science, Bachelor of Arts, Master of Science in Music Therapy (which is the only school on Long Island with this degree). In addition, a B.S./M.S. Dual Degree in Music Therapy and Master of Science in Speech Language Pathology is awarded.

The **Division of Natural Sciences** includes the departments of Biology, Chemistry and Environmental Studies, as well as the Department of Mathematics and Computer Studies and Allied Health. Offerings include an A.A.S, Bachelor of Science and Bachelor of Arts, including a Double Major in Mathematics/Computer Science.

The **Division of Social Sciences** includes the departments of Criminal Justice, Psychology, Social Work and Sociology and Anthropology. It offers a major in Social Work, as well as both majors and minors in Criminal Justice, Psychology, and Sociology. The Division provides minors in Anthropology, Applied Sociological Research, Diversity and Tolerance Studies, Gerontology and Legal Studies. Offerings include a Bachelor of Arts, Bachelor of Science, B.A./M.S. 5-year Dual Degree in Criminal Justice, Bachelor of Social

Work, M.A. in Criminal Justice and a Masters of Social Work from the Fordham University Graduate School of Social Service at Molloy College.

The **Division of Nursing** provides programs that are evidence-based, humanistic and responsive to the ethical, cultural, spiritual and psychosocial needs of individuals, families and communities. The Division of Nursing offers a Bachelor of Science, Dual Degree programs, LPN to B.S./R.N. Program and a Masters of Science in various nursing tracks. Notably, Molloy’s undergraduate nursing program is the 6th largest nursing program in the United States and the largest in the northeast. The following table shows the College’s market position, based on undergraduate nursing enrollment in 2008. The College is awaiting approval by the New York State Education Department for a program leading to a Ph.D. Degree in Nursing, the first Ph.D. program at the College.

**Largest Undergraduate Nursing Programs in the U.S.**

<u>Institution</u>	<u>Generic Baccalaureate</u>
Hawaii Pacific University	1,720
Southeastern Louisiana University	1,678
The University of Alabama	1,253
The University of Louisiana at Lafayette	1,202
Kent State University	1,074
Molloy College	1,064

*Source: American Association of Colleges of Nursing*

The College also offers the St. Thomas Aquinas Program (STAP), which seeks to assist students who have the potential for success at the collegiate level but who lack the usual academic credentials required for regular admission.

**Special Programs, Centers and Institutes**

In an effort to engage the student and the community, the College operates fourteen Special Programs, Centers and Institutes. The **Center for Social and Ethical Concerns** provides a forum to those committed to the study of ethical issues and social justice. The **Institute for Departmental Leadership** has designed activities to develop and enhance leadership abilities. The **Institute for Interfaith Dialogue** presents programs to celebrate diversity and build a road towards fellowship among all faiths. The **Mill-Molloy Institute for Lifelong Learning** is affiliated with the national movement of the Elderhostel Institute Network. The **Science and Math Education Institute** was established to serve the K-12 science and mathematics education community on Long Island. The **Service-Learning Program** enables student to participate fully in community life by placing students in volunteer service on Long Island. The **Siena Women’s Center** promotes awareness of issues concerning women in today’s world. **Energia** is committed to educating leaders for the benefit of all people who live and work on Long Island.

Other Special Programs, Centers and Institutes include **Continuing Education and Professional Development**, the **Institute for Cross-Cultural and Cross-Ethnic Studies**, the **Institute of Gerontology**, and **ROTC – Reserve Officer’s Training Corps**.

In 2009, the College launched two new institutes. The **Sustainability Institute** serves as a core resource on environmental responsibility. The **Irish Institute** will illuminate and document the central role of Irish Americans in the United States.

### **Accreditations and Affiliations**

In 1967, the College received the academic accreditation of the Middle States Association of Colleges and Schools and the first Masters degrees were awarded in 1992. In addition, the College and certain of its programs are accredited by the Board of Regents of the University of the State of New York, the Middle States Association of Colleges and Schools (2004-2009), the Commission on Accreditation of Allied Health Education Programs, the Joint Review Committee on Education Programs in Nuclear Medicine Technology (July 2009), the Joint Review Committee on Education in Cardiovascular Technology (July 2006), the American Health Information Management Association, the Committee on Accreditation for Respiratory Care (2006), the Council on Social Work Education (June 2009), the Commission on Collegiate Nursing Education Commissioners, which granted full approval to both Undergraduate and Graduate programs for a period of 10 years (April 2009), and National Council for Accreditation of Teacher Education (NCATE) (2005).

The College also has affiliation agreements with a number of local institutions to facilitate clinical experiences for students in nursing and social work. Among the College's long-term relationships are the following: Good Samaritan Hospital (since 1998); Mercy Medical Center (since 1999); Winthrop University Hospital (since 1997); St. Francis Medical Center (since 1997); Long Island Jewish Medical Center, New Hyde Park (since 1992); North Shore University Hospital at Manhasset (since 1992) and North Shore University Hospital at Plainview (since 1995).

### **Faculty and Staff**

The following table reflects the number of faculty for the five academic years indicated. The calculation of full-time equivalents ("FTE") for part-time faculty is based on their percentage of a full-time teaching load for the academic year:

#### **College Faculty**

<u>Academic Year</u>	<u>Full Time</u>	<u>Part Time FTE</u>	<u>Total</u>
2004-2005	143	283	426
2005-2006	147	294	480
2006-2007	158	311	469
2007-2008	162	333	495
2008-2009	169	326	495

Of the 169 full-time faculty in 2008-2009, 34 are professors, 45 are associate professors, 78 are assistant professors and 12 are instructors. Approximately 70% of the faculty have obtained a Ph.D. or other terminal degree and approximately 63% of the full-time faculty are tenured. The student to faculty ratio at Molloy is 11:1.

### **College Properties**

The campus consists of 25 acres with more than 261,000 gross square feet of building space in five major buildings.

### **Applications and Admissions**

Applications to the College have increased by 216% since Fall 2001 and 71% over the past five years, while freshman enrollment has grown by 46% since Fall 2005. The following table sets forth the freshman applications, offers of admission and new enrollment for the last four academic years and the current academic year.

### **Freshman Applications, Acceptances & Enrollments**

<u>Academic Year</u>	<u>Applications</u>	<u>Acceptances</u>	<u>Selectivity Ratio</u>	<u>Enrollments</u>	<u>Matriculation Ratio</u>
2005-2006	1,079	841	77.9%	287	34.1%
2006-2007	1,235	931	75.4%	281	30.2%
2007-2008	1,490	1,130	75.8%	375	33.2%
2008-2009	1,654	1,138	68.8%	399	35.1%
2009-2010	1,850	1,266	68.4%	418	33.0%

### **Student Enrollment**

Total enrollment at the College has grown by approximately 65% since 2001 and 18% over the last five years, with increases at both the undergraduate and graduate levels. The following table sets forth the full-time equivalent (FTE) undergraduate and graduate enrollments for the last four academic years and the current academic year.

### **Enrollment (Full-Time Equivalent)**

<u>Academic Year</u>	<u>Undergraduate</u>	<u>Graduate</u>	<u>Total</u>
2005-2006	2,161	387	2,548
2006-2007	2,277	376	2,653
2007-2008	2,379	377	2,756
2008-2009	2,372	425	2,979
2009-2010*	2,556	463	3,019

Preliminary, as of October 5, 2009.

### **Undergraduate Student Profile**

As an indication of the academic quality of the student body, the following table presents the mean standardized test scores of entering freshmen for the fall semester of the last four academic years and the current academic year available in comparison to the national average.

### **Summary of SAT Scores**

<u>Academic Year</u>	<u>SAT Math</u>	<u>SAT Verbal</u>	<u>Combined</u>	<u>National Average</u>
2005-2006	524	506	1,030	1,028
2006-2007	508	492	1,000	1,021
2007-2008	516	498	1,014	1,017
2008-2009	515	499	1,014	1,017
2009-2010	525	513	1,038	1,008

### **Tuition and Fees and Competition**

A summary of the College's tuition and fees for undergraduate students for the last five academic years is set forth below:

**Annual Tuition**

<u>Academic Year</u>	<u>Tuition and Fees</u>
2004-2005	\$16,050
2005-2006	16,706
2006-2007	17,506
2007-2008	18,575
2008-2009	19,635

The College competes for students with many other colleges and universities, including various institutions within Long Island and the State of New York. The following table includes the College's major private university competitors.

**Annual Tuition and Fee Rates**  
**2008-2009 Academic Year**

<u>Institution</u>	<u>Tuition and Fees</u>
St. John's University	\$31,640
Hofstra University	28,630
Long Island University - C.W. Post Campus	27,400
Adelphi University	25,240
New York Institute of Technology	22,160
Dowling College	20,410
Molloy College	19,635

*Sources: Websites of the Respective Colleges and Universities*

**Financial Aid**

During the 2008-2009 academic year, approximately 92% of the College's full-time undergraduate students received a form of financial aid. Molloy College participates in the Federal and State financial aid programs and offers institutional support in the form of grants and scholarships. Institutional scholarships are awarded based various criteria which include academic record, financial need and athletic ability. The College also offers Institutional scholarships which are funded through specific donor contributions and are available based on the criteria established by the donor. The following table shows all financial aid provided to College students by the listed assistance programs for the last five academic years.

**Summary of Student Financial Aid**  
(In Thousands of Dollars)

<u>Academic Year</u>	<u>Federal Assistance</u>	<u>Student Loans</u>	<u>College Expenditures</u>	<u>New York State Programs, Other</u>	<u>Total</u>
2004-2005	\$12,297	\$3,848	\$4,604	\$1,612	\$22,361
2005-2006	19,221	2,311	5,369	1,665	28,566
2006-2007	25,294	4,330	6,632	3,164	39,420
2007-2008	22,572	4,095	8,455	3,427	38,549
2008-2009	26,449	4,821	9,713	3,304	44,287

## **Degrees Conferred**

The following table presents the number of academic degrees conferred by the College over the past five academic years.

### **Annual Degrees Conferred**

<u>Academic Year</u>	<u>Undergraduate</u>	<u>Graduate/Post-Baccalaureate</u>	<u>Total Degrees</u>
2004-2005	455	197	652
2005-2006	523	239	762
2006-2007	562	250	812
2007-2008	621	240	861
2008-2009	621	242	863

## **Financial Statements**

The College maintains its accounts in accordance with the accounting principles generally accepted in the United States of America (“GAAP”) and are prepared using the accrual basis of accounting. As required by GAAP, the College’s financial statements distinguish between unrestricted, temporarily restricted, and permanently restricted net assets and changes in net assets.

The audited consolidated financial statements of the College are presented in Appendix B to the Official Statement and provide financial information as of June 30, 2009 for the fiscal year then ended along with certain summarized financial information for the fiscal year ended June 30, 2008.

## **Budgetary Matters**

The College constructs an annual operating budget which the Treasurer and President present to the Fiscal Affairs Committee and the Board of Trustees for review and approval. The Board specifically approves tuition and fee rate increases, increases in salaries, wages and employee benefits, provisions for financial assistance and major capital expenditures. Monthly reports comparing actual performance to budget are prepared and are reviewed by the Treasurer. Quarterly, the President and the Treasurer present to the Fiscal Affairs Committee and the Board of Trustees comparisons of budget to actual, including projections for year end results and comparative balance sheets.

## **Financial Operations**

The table on the following page summarizes the financial position of the College at the end of the last five fiscal years.

**Statement of Financial Position**  
(In Thousands of Dollars)

	As of June 30,				
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Total Assets	\$56,335	\$55,531	\$53,100	\$48,195	\$42,114
Total Liabilities	<u>12,104</u>	<u>11,318</u>	<u>10,539</u>	<u>10,122</u>	<u>8,045</u>
Total Net Assets	<u>\$44,231</u>	<u>\$44,213</u>	<u>\$42,561</u>	<u>\$38,073</u>	<u>\$34,069</u>

From June 30, 2008 to June 30, 2009, total net assets grew by approximately 0.5%, and from June 30, 2005 to June 30, 2009, total net assets grew by 30%.

The following table summarizes the breakdown of the College's net assets at the end of the last five fiscal years.

**Net Assets**  
(In Thousands of Dollars)

	As of June 30,				
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Unrestricted	\$36,085	\$37,694	\$36,419	\$33,314	\$30,707
Temporarily Restricted	5,137	3,618	3,375	2,167	895
Permanently Restricted	<u>3,009</u>	<u>2,990</u>	<u>2,767</u>	<u>2,592</u>	<u>2,467</u>
Total Net Assets	<u>\$44,231</u>	<u>\$44,212</u>	<u>\$42,561</u>	<u>\$38,073</u>	<u>\$34,069</u>

**Operating Results**

The College's operating revenues net of operating expenses has ranged from \$5,599,000 in 2005 to as \$676,000 in 2009 for the last five years ended June 30, 2009. Overall, operations have remained stable during this time period as represented in the following Consolidated Statement of Activities. The information in the following table was derived from the audited financial statements of the College.



**Consolidated Statement of Activities**  
(In Thousands of Dollars)

	As of June 30,				
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Revenue, gains and other support:					
Student tuition and fees	\$ 64,632	\$59,575	\$54,327	\$49,645	\$46,088
Less: Institutional aid	<u>(9,714)</u>	<u>(8,455)</u>	<u>(6,632)</u>	<u>(5,368)</u>	<u>(4,604)</u>
Student tuition and fees, net	54,918	51,120	47,695	44,277	41,484
Government grants and programs	1,302	1,197	1,220	1,135	1,184
Gifts and private grants	834	645	664	533	527
Special events	530	702	597	560	632
Auxiliary enterprises	140	142	139	132	610
Other revenue	353	333	269	363	353
Interest and dividends	1,079	1,339	1,275	1,131	608
Total revenue, gains and other support	<u>59,156</u>	<u>55,478</u>	<u>51,859</u>	<u>48,131</u>	<u>45,398</u>
Expenses:					
Instruction	34,780	31,759	29,567	25,722	22,777
General administration	4,123	3,866	3,721	3,440	3,075
General institutional	4,785	4,609	3,829	3,704	3,590
Public relations and development	3,994	3,585	3,700	3,038	2,375
Special events	190	292	256	285	282
Student services	7,690	7,105	6,620	5,883	5,106
Library	2,436	2,266	2,107	1,964	1,787
Auxiliary enterprises	<u>482</u>	<u>377</u>	<u>346</u>	<u>343</u>	<u>807</u>
Total expenses	<u>58,480</u>	<u>53,859</u>	<u>50,146</u>	<u>44,379</u>	<u>39,799</u>
Increase in net assets from operations, before cumulative effect of change in accounting principle	676	1,619	1,713	3,752	5,599
Non-operating activities:					
Capital campaign revenues	1,515	521	1,147	1,123	
Government capital grants	400	36	169	264	394
Market valuation fluctuations	<u>(2,573)</u>	<u>(524)</u>	<u>1,459</u>	<u>113</u>	<u>(60)</u>
Total non-operating activities	(658)	33	2,775	1,500	334
Increase in net assets, before cumulative effect of change in accounting principle	18	1,652	4,488	5,252	5,933
Cumulative effect of change in accounting principle	=	=	=	<u>(1,248)</u>	=
Increase in net assets	18	1,652	4,488	4,004	5,933
Net assets, beginning of year	44,213	42,561	38,073	34,069	28,136
Net assets, end of year	<u>\$ 44,231</u>	<u>\$ 44,213</u>	<u>\$ 42,561</u>	<u>\$ 38,073</u>	<u>\$ 34,069</u>

## Capital Campaign

Since 2002, the College has devoted significant resources to research and staffing to improve its outreach to both alumni and the government. In 2004, Molloy College launched a \$12 million capital campaign and grant application effort to support its capital plan, augment its annual fund efforts and endow scholarships. To date, Molloy has raised over \$18 million, exceeding that goal. Eight pledges and gifts from board members and former board members in the range of \$100,000 to \$1,250,000 (the first seven-figure gift for the College) have been received and four additional gifts at that level have been pledged from alumni and friends of the College. The current fundraising effort is the most successful in the College's 50-year history.

Of the amount raised to date, \$11.5 million has been allocated by the College for the construction of the Public Square. This amount includes a proposed \$5 million grant from the Empire State Development Corporation, which is currently under State budgetary review and, if confirmed, would be the largest ever government grant for the College. The amount allocated to the Public Square also includes a \$400,000 grant from the Empire State Development Corporation for design and planning and a \$1,063,346 Higher Education Capital Match Grant. The College was also successful in securing a \$400,000 Challenge Grant from the Kresge Foundation, a first for the College, which it has allocated to the Public Square.

## Investment Policy and Portfolio

The primary investment objectives of the College are to provide funds for scholarships and the operation of the College and to maintain and enhance the value of the investment assets. Investment assets are rebalanced at least annually, with fixed income and equity and other classes allocation targets of 70% and 30%, respectively. The College spending rule for investments is 5.0% or less of the 3-year moving average of the market values, adjusted for contributions and distributions. However, the College currently only includes in its operating budget the interest and dividends it receives on these investments. Investments are overseen by the Fiscal Affairs Committee of the Board and the Vice President of Finance & Treasurer and are managed by Credit Suisse Securities (USA) LLC.

The College reports the estimated fair value of investments based on market prices, except for certain alternative investments, for which quoted market prices are not available. The estimated fair value of these investments is based on valuations provided by external investment managers as of June 30. The fair market value of long-term investments consisted of the following at June 30 of the respective fiscal year:

### Long Term Investments (In Thousands of Dollars)

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Cash and cash equivalents	\$1,125	\$1,169	\$1,653	\$651	\$5,100
U.S. Government and agency	5,955	9,230	8,805	7,810	3,028
Corporate bonds	8,747	5,372	4,864	4,669	2,289
Equities	4,809	7,493	7,339	5,550	2,509
Real estate investment trusts	66	72	89	80	18
Private equity investments	986	778	171	--	--
Mutual Funds	--	30	60	18	--
Exchange-traded funds	<u>5</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>--</u>
Total	<u>\$21,692</u>	<u>\$24,144</u>	<u>\$22,981</u>	<u>\$18,777</u>	<u>\$12,944</u>

**State Aid**

As an independent institution of higher education in the State of New York, the College has benefited from the New York State Direct Institutional Aid program, known as Bundy Aid, which pays unrestricted aid based on the number and kinds of academic degrees conferred each year. The amount of aid received over the last five fiscal years is outlined in the table below.

**Summary of State Aid**  
(In Thousands of Dollars)

<u>Fiscal Year</u>	<u>Bundy Aid</u>
2004-2005	\$215
2005-2006	221
2006-2007	212
2007-2008	283
2008-2009	289

**Private Gifts**

The College records contributions of gifts and private grants according to the manner in which they are received, as specified by the donor. Gifts and private grants are recorded at the fair market value of the assets received and are classified as either unrestricted, temporarily restricted or permanently restricted, depending on whether the donor has imposed a restriction on the use of such assets. Gifts and private grants (including pledges) to the College for the past five fiscal years (other than those attributable to the capital campaign described under the "Capital Campaign") are shown in the following table in accordance with GAAP:

**Summary of Private Gifts**  
(In Thousands of Dollars)

<u>Fiscal Year</u>	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
2004-2005	\$100	\$333	\$94	\$527
2005-2006	66	342	125	533
2006-2007	260	229	175	664
2007-2008	258	276	111	645
2008-2009	393	360	81	834

**Plant Assets**

The table below summarizes the College's land, buildings and equipment at June 30 for the past five years. The College capitalizes assets acquired for \$1,000 or more with a useful life of greater than one year. These assets are stated at cost, representing purchase price or, if donated, the fair market value at date of gift, less accumulated depreciation, computed on a straight-line basis over the estimated useful lives. The estimated lives for buildings and improvements range from 10 to 50 years and the estimated life for furniture, furnishing and equipment is 3 to 10 years.

**Land, Buildings, and Equipment**

(In Thousands of Dollars)

	As of June 30,				
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Buildings	\$15,750	\$15,520	\$15,750	\$15,724	\$13,869
Furniture, furnishings and equipment	15,908	15,034	13,911	12,831	12,083
Building Improvements	9,839	9,026	7,879	6,831	5,769
Land	435	435	435	435	435
Leasehold improvements	1,153	1,153	1,153	1,512	1,128
Construction in progress	<u>4,696</u>	<u>1,738</u>	<u>1,152</u>	<u>836</u>	=
	47,781	43,136	40,280	37,809	32,284
Less accumulated depreciation	<u>(26,262)</u>	<u>(24,239)</u>	<u>(22,236)</u>	<u>(20,265)</u>	<u>(18,450)</u>
Total, net	<u>\$21,519</u>	<u>\$18,897</u>	<u>\$18,044</u>	<u>\$17,543</u>	<u>\$14,834</u>

**Pension Plan**

The College participates in a defined contribution pension plan administered by Teachers Insurance and Annuity Association, which covers substantially all of its full-time faculty and administrative personnel. It is the University's policy to fully-fund pension costs accrued. Total pension expense was \$2,055,231 and \$1,948,391 for the years ended June 30, 2009 and 2008, respectively.

**Outstanding Indebtedness**

The College currently has a \$2,500,000 revolving line of credit, of which \$1,600,000 million had been drawn as of October 26, 2009. The College plans to retire this line with the Series 2009 bond proceeds.

In fiscal year 2004, the College entered into a \$1,250,000 loan agreement with a financial institution, the balance of which was paid off in fiscal 2009.

The College has no other indebtedness.

**Insurance**

The College maintains insurance with such coverage as it believes is customarily carried by private colleges and universities in New York. This includes coverage Buildings and Contents, Consequential Loss, Miscellaneous Property Personal Effects (Students and Faculty), Comprehensive General Liability, Sexual Misconduct Liability, Employee Dishonesty and Crime, Employee Benefits Administration & Fiduciary Liability, Garage Keepers Liability, Professional Liability, Excess Directors and Officers, Excess Liability, Medical Professional Liability, Boiler and Machinery, Automobile Liability, Automobile Damage, Student Accident, Travel Accident, Student Health, Disability and Workers compensation. The College exercises risk management practices that it believes are consistent with those of other higher education institutions.

**Litigation/Legal Proceedings**

Molloy College is not aware of any litigation pending or threatened wherein any unfavorable decision would adversely affect the ability of the College to enter into the Agreement and to carry out its obligations thereunder or would have a materially adverse impact on the financial condition of the College.

## **Mortgaged Property**

The College's obligations under the Loan Agreement will be secured by a mortgage on the Rockville Centre campus. Off-campus properties owned by the College will not be subject to the mortgage.

Molloy has retained Goodman-Marks Associates, Inc., Mineola, NY, to appraise the value of the College's property. Goodman-Marks Associates, Inc. is a licensed real estate broker in the State of New York and members of the firm are licensed appraisers in the States of New York and New Jersey. Goodman-Marks Associates, Inc. concluded that, as of September 14, 2009, the appraised value of the campus "as is" (that is, including only the buildings currently on the campus and not including the Public Square or student residence facility to be constructed) was \$73 million and the appraised value of the campus "as proposed" (that is, including the Public Square and the student residence facility) was \$115 million. The appraisal is subject to certain extraordinary assumptions and limiting conditions described in the appraisal. A copy of the appraisal is on file with the Trustee and is available upon request.

## **Purpose of the Series 2009 Bonds**

Proceeds from the Series 2009 Bonds will be used to (i) finance the cost of capital projects to be constructed on the main campus, including the Public Square and the student residence facility; (ii) fund capitalized interest during the construction period; and (iii) pay costs of issuance associated with the Series 2009 Bonds.

## **The Project**

### *The Public Square*

The Public Square is intended to provide a centrally-located place on campus for students to gather and for future resident and commuting students to interact. As currently designed, the Public Square will be a three-story 58,000 square foot building that will house a wide range of student-oriented services and academic departments. The Public Square will include a 550-seat theatre, six music practice rooms, four classrooms primarily for new course offerings from the Music Department, three commons areas, an art gallery, conference and meeting rooms, ten study rooms, offices for student support services and departmental offices.

The theatre will have the technology to broadcast stage performances and concerts. The theatre will also be used as an instructional space for student instruction in areas of theatre, orchestra and chorus as well as for lectures, symposia and other activities geared to a larger audience. The three "information commons" areas will have access to computers and to a WiFi network that will be interconnected with the College's Library and Media Center. Departmental offices for Art, Music, Career Development, Academic Support and Student Affairs will be consolidated in the Public Square building.

### *Student Residence*

Molloy College does not currently have any on-campus student housing. As part of the development of the College's Long Term Campus and Facilities Master Plan, Molloy determined that the ability to provide housing would benefit the College in recruiting new students and enhance the students' college experience.

The student residence has been designed to provide a variety of room options. The current design is for a three story facility containing a total of 156 total beds. The configuration of the beds in the residence includes 53 double rooms, 6 suites with 6 beds in each suite, and 14 single rooms. Each floor has a central common space which will facilitate student gathering and group studying. Student rooms will contain access to a variety of electronic medium.

It is planned that 25 percent of the beds will be made available to incoming freshmen with the remainder available for students in other years. This will allow for bed availability for new freshmen in future years.

### *Construction Contracts*

The College estimates that the cost of constructing and equipping the Public Square and the student residence facility and completing other site work will be approximately \$60-61 million, with a portion of such costs to be paid with the proceeds of the Series 2009 Bonds and the remainder to be paid with other funds of the College (including certain gifts and grants as described under "Capital Campaign"). The College has not yet executed contracts for construction management services, but expects to select a contractor and enter into guaranteed maximum price contracts within the next few months through a comprehensive competitive bidding process. The College has completed all of the construction drawings, which will enable the bidders to give firm prices. There will be separate contracts for the three major phases of the project (the Public Square, the student residence facility and site improvements).

### **Management's Discussion of Financial Projections**

In preparation for the planned projects, the College developed a five-year pro forma financial model. The key assumptions used in the model are outlined below. **These projections are based on certain assumptions, some or all of which may not materialize and unanticipated events may occur that could affect the actual results during these future periods; therefore, no assurance can be given that these projections will be realized. The variation of actual results from these predictions may be material.** The accuracy of the projections may be affected by, among other things, (i) enrollment declining or not increasing as much as anticipated, (ii) financial aid awards being higher than anticipated due to requirements for additional need-based aid, (iii) demand for student housing being lower than anticipated, (iv) costs associated with the new facilities being higher than anticipated or the incurrence of additional costs associated with the opening of such facilities, (v) salary and other personnel costs exceeding estimates, (vi) earnings rates on endowment funds being lower than anticipated, and (vii) the opening of the student residence facility being delayed beyond 2011-2012.

Increases in revenues from tuition and fees are projected to increase as a result of increased enrollment and increases in tuition charges. The projections assume an increase in undergraduate full-time enrollment of 2.00% per year from 2011-12 to 2013-14 due, in part, to the expansion of the Nursing Program, the addition of a new track and field athletic team in academic year 2009-2010 and the additional classroom capacity that is anticipated to result from the Public Square. Graduate enrollment is expected to increase by 1.50% in 2011-12 and 1.00% in 2012-13, with no increase projected for 2013-14. Undergraduate and graduate tuition charges are each projected to increase by 6.00% in 2011-12, 5.50% in 2012-13, and 5.00% in 2013-14. Revenues from other than tuition and board include revenues from continuing education and other programs and, for 2012-2015, revenues for the new residence facility based on the assumption that the new residence facility will experience its first full year of occupancy in 2011-12 and that room rates will range between \$4,535 and \$5,200 per semester in 2011-12 and will increase by 4.00% each year thereafter.

Expense projections reflect projected increases in staffing and operational expenses associated with the new academic departments, sports teams and the new facilities. Salary increases are projected to be 3.50% in 2011-12 and 4.50% in 2012-13 and 2013-14. Fringe benefit projections include a 13% projected annual increase in health insurance costs. Expenses classified as "Other Than Personnel" are projected to increase by 2.50% in 2011-12, 4.00% in 2012-13 and 5.00% in 2013-14. Expenses associated with the new student residence facility are projected to be approximately equal to the revenues from such facility. Series 2009 Bond debt service assumes that interest during construction of the new facilities is paid with bond proceeds.

Total expenses are projected to be lower in fiscal year 2010 than actual fiscal year 2009 results due to certain cost reduction measures instituted by the College. While the College's operating margins have been positive for each of the five prior years (fiscal years 2005 through 2009), the operating margins have narrowed in each year. The College expects operating margins to remain positive and increase over the next five years (fiscal years 2010 through 2014) due primarily to tuition and enrollment growth.

**Cashflow Projection**

	2010	2011	2012	2013	2014
<b>Revenues</b>					
Net Tuition and Fees	\$56,254,726	\$61,028,921	\$65,410,326	\$69,616,432	\$74,092,913
Other Tuition and Board	1,403,325	1,403,325	2,828,441	2,885,446	2,944,730
Government Grants & Programs	1,592,563	1,592,563	1,592,563	1,592,563	1,592,563
Other Revenues	3,049,050	3,106,153	3,193,309	3,235,519	3,267,783
<b>Total Unrestricted Revenues</b>	<b>\$62,299,664</b>	<b>\$67,130,962</b>	<b>\$73,024,639</b>	<b>\$77,329,960</b>	<b>\$81,897,989</b>
<b>Expenses</b>					
Personnel Services	\$44,104,460	\$46,394,301	\$48,906,710	\$51,649,311	\$54,488,476
Other Than Personnel	13,294,415	13,798,469	14,343,815	15,085,686	15,881,891
Other Expenses	302,000	302,000	302,000	302,000	302,000
<b>Total Expenses</b>	<b>\$57,700,875</b>	<b>\$60,494,770</b>	<b>\$63,552,525</b>	<b>\$67,036,997</b>	<b>\$70,672,367</b>
<b>Cash Available for Debt Service</b>	<b>\$4,598,789</b>	<b>\$6,636,192</b>	<b>\$9,472,114</b>	<b>\$10,292,963</b>	<b>\$11,225,622</b>
Debt Service*	\$0	\$0	\$3,808,806	\$3,810,306	\$3,809,806
<b>Cashflow After Debt Service</b>	<b>\$4,598,789</b>	<b>\$6,636,192</b>	<b>\$5,663,308</b>	<b>\$6,482,657</b>	<b>\$7,415,816</b>

\* Actual debt service on the Series 2009 Bonds is lower than projected. See "DEBT SERVICE REQUIREMENTS ON THE SERIES 2009 BONDS."

**APPENDIX B**

Audited Financial Statements of the College  
for the Years Ended June 30, 2009 and 2008



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FINANCIAL STATEMENTS TOGETHER WITH  
REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

**MOLLOY COLLEGE**

For the year ended June 30, 2009,  
with comparative information for the year ended June 30, 2008

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Audit • Tax • Advisory

**Grant Thornton LLP**  
666 Third Avenue, 13th Floor  
New York, NY 10017-4011

T 212.599.0100  
F 212.370.4520  
[www.GrantThornton.com](http://www.GrantThornton.com)

## REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

To the Board of Trustees of  
**Molloy College:**

We have audited the accompanying statement of financial position of Molloy College (the "College") as of June 30, 2009, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the College's management. Our responsibility is to express an opinion on these financial statements based on our audit. The prior year summarized comparative information has been derived from the College's financial statements as of and for the year ended June 30, 2008 and, in our report dated November 20, 2008, we expressed an unqualified opinion on those financial statements.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Molloy College as of June 30, 2009, and the changes in its net assets and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

*Grant Thornton LLP*

Melville, New York  
October 29, 2009

## Molloy College

## STATEMENTS OF FINANCIAL POSITION

As of June 30, 2009 and 2008

<u>ASSETS</u>	<u>2009</u>	<u>2008</u>
Current assets:		
Cash and cash equivalents	\$ 6,472,565	\$ 4,816,240
Short-term investments (Note D)	-	2,500,000
Student accounts receivable, net of allowance for doubtful accounts of \$517,786 and \$397,085 as of June 30, 2009 and 2008, respectively	990,107	1,067,925
Capital campaign pledges receivable (Note C)	565,023	384,990
Government grants and other receivables	1,014,870	865,107
Prepaid expenses and other current assets	553,586	406,595
Total current assets	<u>9,596,151</u>	<u>10,040,857</u>
Capital campaign pledges receivable, net (Note C)	1,703,901	792,429
Long-term investments (Note D)	21,692,135	24,143,880
Loans receivable	1,823,363	1,657,162
Property, plant and equipment, net (Note E)	21,519,465	18,896,557
Total assets	<u>\$ 56,335,015</u>	<u>\$ 55,530,885</u>
<u>LIABILITIES AND NET ASSETS</u>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 6,737,432	\$ 5,825,293
Student credit balances and deposits	543,781	471,621
Deferred tuition and fee revenue	1,915,469	1,960,671
Current portion of long-term debt (Note G)	-	304,282
Total current liabilities	<u>9,196,682</u>	<u>8,561,867</u>
Noncurrent liabilities:		
Conditional asset retirement obligations (Note F)	1,620,508	1,528,781
Refundable U.S. government grants	1,286,446	1,227,579
Total noncurrent liabilities	<u>2,906,954</u>	<u>2,756,360</u>
Total liabilities	<u>12,103,636</u>	<u>11,318,227</u>
Commitments and contingencies (Note M)		
Net assets:		
Unrestricted	36,085,386	37,693,999
Temporarily restricted (Note B)	5,137,282	3,618,387
Permanently restricted	3,008,711	2,900,272
Total net assets	<u>44,231,379</u>	<u>44,212,658</u>
Total liabilities and net assets	<u>\$ 56,335,015</u>	<u>\$ 55,530,885</u>

*The accompanying notes are an integral part of these statements.*

Molloy College

STATEMENT OF ACTIVITIES

For the year ended June 30, 2009,  
with comparative totals for the year ended June 30, 2008

	Unrestricted	Temporarily Restricted	Permanently Restricted	2009 Total	2008 Total
Revenue, gains and other support:					
Student tuition and fees	\$ 64,632,128	\$ -	\$ -	\$ 64,632,128	\$ 59,575,497
Less: Institutional aid	(9,713,597)	-	-	(9,713,597)	(8,455,506)
Student tuition and fees, net	54,918,531	-	-	54,918,531	51,119,991
Government grants and programs	1,302,155	-	-	1,302,155	1,197,376
Gifts and private grants	392,539	360,118	81,118	833,775	644,675
Special events (Note I)	502,900	-	27,321	530,221	701,788
Auxiliary enterprises (Note J)	139,503	-	-	139,503	142,105
Other revenue	352,942	-	-	352,942	332,869
Interest and dividends (Note D)	992,068	87,056	-	1,079,124	1,339,332
Net assets released from restrictions	541,252	(541,252)	-	-	-
Total revenue, gains and other support	59,141,890	(94,078)	108,439	59,156,251	55,478,136
Expenses (Note K):					
Instruction	34,779,876	-	-	34,779,876	31,758,652
General administration	4,122,933	-	-	4,122,933	3,865,616
General institutional	4,784,948	-	-	4,784,948	4,608,960
Public relations and development	3,994,061	-	-	3,994,061	3,584,945
Special events (Note I)	190,578	-	-	190,578	292,323
Student services	7,690,411	-	-	7,690,411	7,105,329
Library	2,435,813	-	-	2,435,813	2,265,976
Auxiliary enterprises (Note J)	481,638	-	-	481,638	376,854
Total expenses	58,480,258	-	-	58,480,258	53,858,655
Change in net assets from operations	661,632	(94,078)	108,439	675,993	1,619,481
Non-operating activities:					
Capital campaign revenues	-	1,515,369	-	1,515,369	520,968
Government capital grants	400,000	-	-	400,000	36,012
Realized and unrealized investments (losses) gains (Note D)	(2,670,245)	97,604	-	(2,572,641)	(524,698)
Total non-operating activities	(2,270,245)	1,612,973	-	(657,272)	32,282
Change in net assets	(1,608,613)	1,518,895	108,439	18,721	1,651,763
Net assets, beginning of year	37,693,999	3,618,387	2,900,272	44,212,658	42,560,895
Net assets, end of year	\$ 36,085,386	\$ 5,137,282	\$ 3,008,711	\$ 44,231,379	\$ 44,212,658

The accompanying notes are an integral part of this statement.

Molloy College

**STATEMENTS OF CASH FLOWS**

For the years ended June 30, 2009 and 2008

	<u>2009</u>	<u>2008</u>
Cash flows from operating activities:		
Increase in net assets	\$ 18,721	\$ 1,651,763
Adjustments to reconcile increase in net assets to net cash (used in) provided by operating activities:		
Depreciation and amortization	2,022,852	2,002,763
Accretion of interest on conditional asset retirement obligation	91,727	86,535
Unrealized and realized losses on long-term investments	2,572,641	524,698
Increase in allowance for doubtful accounts	(120,701)	(291,372)
Permanently restricted contributions	(108,439)	(133,440)
Changes in assets and liabilities:		
Decrease in student accounts and other receivables	48,756	150,832
Increase in prepaid expenses and other current assets	(146,991)	(37,630)
(Increase) decrease in capital campaign pledges receivable	(1,091,505)	103,486
Increase in accounts payable and accrued expenses	912,139	655,110
Increase (decrease) in student credit balances and deposits	72,160	(61,544)
(Decrease) increase in deferred tuition and fee revenue	(45,202)	362,925
Net cash provided by operating activities	<u>4,226,158</u>	<u>5,014,126</u>
Cash flows from investing activities:		
Purchase of property, plant and equipment	(4,645,760)	(2,855,235)
Sales of investments	3,944,168	2,061,380
Purchase of investments	(1,565,064)	(6,248,828)
Changes in loans receivable	(166,201)	(273,745)
Net cash used in investing activities	<u>(2,432,857)</u>	<u>(7,316,428)</u>
Cash flows from financing activities:		
Payments on debt obligations	(304,282)	(288,464)
Permanently restricted contributions	108,439	133,440
Changes in refundable U.S. government grants	58,867	24,354
Net cash used in financing activities	<u>(136,976)</u>	<u>(130,670)</u>
Increase (decrease) in cash and cash equivalents	1,656,325	(2,432,972)
Cash and cash equivalents, beginning of year	<u>4,816,240</u>	<u>7,249,212</u>
Cash and cash equivalents, end of year	<u>\$ 6,472,565</u>	<u>\$ 4,816,240</u>
Supplemental information:		
Interest paid during the year	<u>\$ 8,889</u>	<u>\$ 25,020</u>

*The accompanying notes are an integral part of this statement.*

Molloy College

**NOTES TO FINANCIAL STATEMENTS**

June 30, 2009 and 2008

**NOTE A - NATURE OF BUSINESS**

Founded in 1955 by the Dominican Sisters of Amityville, Molloy College (the “College” or “Molloy”) is an independent Catholic college, rooted in the Dominican tradition of study, spirituality, service, and community, and is committed to academic excellence with respect for each person. Through transformative education, Molloy promotes a lifelong search for truth and the development of ethical leadership.

The College provides a student-centered learning experience which enhances the intellectual, ethical, spiritual and social development of every student, and strives to continually enhance the quality of its academic programs, faculty and teaching learning environment. In order to augment its position within the local community, the College will continually identify, recruit and educate students who demonstrate leadership qualities, understand the need for civic engagement and aspire to serve the community. The College operates with the understanding that both immediate and long-term financial stability is needed in order to achieve these goals. For the fall term of the 2008-2009 school year, the College enrolled 2,871 undergraduate and 920 graduate students. For the 2008-2009 academic year, there were 621 undergraduate and 242 graduate degrees conferred.

The College is located on approximately 24 acres in Rockville Centre, NY and includes classrooms, labs, offices, a gym, a theater, cafeteria and a library. The College is a dynamic learning institution with outstanding faculty, state-of-the-art-technology and distinguished academic programs. Notably, Molloy’s nursing program is the 4th largest nursing program in the country and the largest in the northeast.

The College’s curriculum features three associate and four bachelor’s degrees through 32 undergraduate majors and 43 minors as well as 8 master’s degrees, including one through a partnership with Fordham University.

The College is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and a similar provision of the New York State income tax laws. Accordingly, no provision for income taxes has been reflected in the accompanying financial statements.



Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*1. Basis of Presentation*

The College's financial statements are prepared using the accrual basis of accounting and are presented in accordance with accounting principles generally accepted in the United States of America ("US GAAP"). As required by US GAAP, the College's financial statements distinguish between unrestricted, temporarily restricted, and permanently restricted net assets and changes in net assets. The College's net assets consist of the following:

Unrestricted Net Assets - consist of all resources of the College which are expendable for carrying on the College's operations. Unrestricted net assets include investment in plant, which is the net property, plant and equipment owned by the College less long-term debt, as well as quasi-endowment funds designated by the Board of Trustees.

Temporarily Restricted Net Assets - consist of the College's net assets which have been limited by donor-imposed stipulations that either expire with the passage of time or can be fulfilled and removed by the actions of the College pursuant to those stipulations.

Temporarily restricted net assets at June 30, 2009 and 2008 consisted of the following:

	<u>2009</u>	<u>2008</u>
Funded scholarships	\$ 384,632	\$ 461,383
Other grants and restricted donations	374,911	376,251
Capital campaign	4,306,183	2,709,197
Student loan funds and other	71,556	71,556
	<u>\$ 5,137,282</u>	<u>\$ 3,618,387</u>

Permanently Restricted Net Assets - include funds wherein the donors have stipulated that the principal contributed be invested and maintained in perpetuity. Income earned from those investments is available for expenditures according to restrictions, if any, imposed by the donors. Permanently restricted net assets at June 30, 2009 and 2008 consisted of scholarship funds.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE B (continued)**

*2. Fair Value Measurements*

In September 2006, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards No. 157, “Fair Value Measurements” (“SFAS No. 157”), which was effective for the College’s fiscal year beginning July 1, 2008. SFAS 157 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The new standard provides a consistent definition of fair value, which focuses on an exit price between market participants in an orderly transaction as prescribed by SFAS 157. The standard also prioritizes, within the measurement of fair value, the use of market-based information over entity-specific information and establishes a three-level hierarchy for fair value measurements based on the transparency of information used in the valuation of an asset or liability as of the measurement date.

Assets and liabilities measured and reported at fair value are classified and disclosed in one of the following categories:

Level 1: Quoted prices in active markets for identical assets or liabilities. Level 1 assets and liabilities include debt and equity securities that are traded in an active exchange market, as well as U.S. Treasury securities.

Level 2: Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. Level 2 assets and liabilities include debt securities with quoted market prices that are traded less frequently than exchange-traded instruments. This category generally includes certain U.S. government and agency mortgage-backed securities, and corporate-debt securities.

Level 3: Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the asset or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. This category generally includes certain private debt and equity instruments and alternative investments.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE B (continued)**

Fair value estimates are made at a specific point in time, based on available market information and judgments about the financial asset, including estimates of timing, amount of expected future cash flows and the credit standing of the issuer. In some cases, the fair value estimates cannot be substantiated by comparison to independent markets. In addition, the disclosed fair values do not reflect any premium or discount that could result from offering for sale at one time an entire holding of a particular financial asset. Potential taxes and other assets that would be incurred in an actual sale or settlement are not reflected in amounts disclosed.

3. *Cash and Cash Equivalents*

Cash and cash equivalents include cash held in banks, money market funds, and U.S. Treasury bills. The College considers all highly liquid financial instruments with original maturities of three months or less to be cash equivalents. Cash and cash equivalents do not include cash held for long-term investing purposes. At June 30, 2009, the College's cash and cash equivalents were considered Level 1 under SFAS No. 157.

4. *Short-Term Investments*

Short-term investments include certificates of deposit with original maturities in excess of three months but less than one year.

5. *Long-Term Investments*

The estimated fair value of investments is based on quoted market prices, except for certain alternative investments, for which quoted market prices are not available. The estimated fair value of these investments is based on valuations provided by external investment managers as of June 30, 2009 and 2008. Because the alternative investments which consisted of private equity funds are not readily marketable, their estimated value is subject to uncertainty and therefore may differ from the value that would have been used had a ready market for such investments existed. Such a difference could be material. The statement of activities recognizes unrealized gains and losses on investments as increases and decreases, respectively, in unrestricted net assets unless their use is temporarily or permanently restricted by explicit donor stipulation.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE B (continued)**

6. *Loans Receivable*

Loans receivable represent student loans principally issued under the federal Perkins Student Loan program. Student loans are guaranteed by the federal government.

7. *Property, Plant and Equipment*

The College capitalizes assets acquired for \$1,000 or more with a useful life greater than one year. Property, plant and equipment are carried at cost for those assets purchased by the College. Fixed assets donated to the College are recorded at fair market value as of the date of the donation.

Property, plant and equipment are depreciated beginning in the year they are placed in service using a half-year convention. Depreciation is calculated using the straight-line method over the following useful lives:

Buildings	50 years
Improvements	10 - 20 years
Furniture, furnishings and equipment	5 - 10 years
Computers	3 - 5 years

Costs incurred for repairs, maintenance and minor improvements are charged to expense as incurred. Major improvements, which substantially extend the useful lives of the assets, are capitalized.

8. *Refundable U.S. Government Grants*

Funds provided by the federal government under the federal Perkins Student Loan programs are loaned to qualified students and may be reloaned after collection. These funds are ultimately refundable to the government and are presented in the statement of financial position as a liability.

9. *Revenue*

Revenue is recorded on the accrual basis of accounting. The College derives its revenue primarily from student tuition and fees, government grants and aid, contributions and investment earnings. The carrying value of student receivables has been reduced by an appropriate allowance for uncollectible accounts, based on historical collection experience, and therefore, approximates net realizable value. Receivables are written off in the period in which they are deemed to be uncollectible. Amounts received in advance are reported as deferred revenues.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE B (continued)**

*10. Contributions*

The College records contributions of cash and other assets when an unconditional promise to give such assets is received from a donor. Contributions are recorded at the fair market value of the assets received and are classified as either unrestricted, temporarily restricted or permanently restricted, depending on whether the donor has imposed a restriction on the use of such assets.

The College reports gifts of cash or other assets as temporarily restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions.

The College reports gifts of property, plant and equipment as unrestricted support unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire assets are reported as restricted support. Absent explicit donor stipulations about how long such assets must be maintained, the College reports expirations of donor restrictions when the donated or acquired long-lived assets are placed in service.

*11. Functional Expenses*

Expenses are allocated into functional categories depending upon the ultimate purpose of the expenditure. Plant operation and maintenance, depreciation, amortization and accretion expenses, and interest expense have been allocated to functional categories.

*12. Operations*

The statement of activities presents the changes in net assets by distinguishing between operating and nonoperating activities. Operating activities principally include all revenues and expenses that relate to the College's educational programs, research, training, and supporting activities. Operating revenues also include interest and dividends earned on the College's long-term and short-term investments. Unrestricted operating revenues also include release of temporarily restricted net assets in support of operating activities and all unrestricted contributions, except for those intended for capital or endowment purposes.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE B (continued)**

The College has defined nonoperating activities principally to include realized and unrealized gains (losses) on long-term and short-term investments; capital contributions added to the endowment or supporting major capital acquisition or construction; other grants supporting capital acquisition or construction; and net assets released from restrictions designated for capital expenditures.

13. *Use of Estimates*

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

14. *Reclassification*

Certain information in the fiscal 2008 financial statements has been reclassified to conform to the fiscal 2009 presentation. Specifically, the fiscal 2008 summarized totals presented on the statement of activities have been reclassified to reflect the College's fiscal 2009 operating and nonoperating measure presentation.

**NOTE C - CAPITAL CAMPAIGN PLEDGES RECEIVABLE, NET**

Capital campaign pledges receivable, net, are summarized as follows at June 30, 2009 and 2008:

	<u>2009</u>	<u>2008</u>
Unconditional promises expected to be collected in:		
Less than one year	\$ 565,023	\$ 384,990
One to five years	<u>1,817,377</u>	<u>856,667</u>
	2,382,400	1,241,657
Less: Unamortized discount	<u>(113,476)</u>	<u>(64,238)</u>
Capital campaign pledges receivable, net	<u>\$ 2,268,924</u>	<u>\$ 1,177,419</u>

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE C (continued)**

Contributions to be received after one year are discounted using a risk-free rate of return. The discount rate on outstanding contributions was 2.4% for pledges received in fiscal year 2009, 3.0% for pledges received in fiscal year 2008 and 5.0% for fiscal years 2007 and prior. No allowance for uncollectible contributions receivable is provided at June 30, 2009 and 2008, based upon management's judgment including such factors as prior collection history, type of contribution and nature of fund-raising activity.

**NOTE D - INVESTMENTS**

Long-term investments consisted of the following at June 30, 2009 and 2008:

	Market Value		Cost	
	2009	2008	2009	2008
Cash and cash equivalents	\$ 1,125,035	\$ 1,168,571	\$ 1,125,035	\$ 1,168,571
U.S. Government and agency bonds	5,954,555	9,229,648	5,876,584	9,333,531
Corporate bonds	8,746,583	5,371,852	8,622,733	5,391,021
Equities	4,808,553	7,492,947	5,508,458	6,633,269
Real estate investment trusts	66,012	72,182	82,425	71,298
Private equity investments	986,233	778,357	1,087,378	775,000
Mutual funds	-	30,323	-	48,188
Exchange-trade funds	5,164	-	4,178	-
	<u>\$ 21,692,135</u>	<u>\$ 24,143,880</u>	<u>\$ 22,306,791</u>	<u>\$ 23,420,878</u>

As of June 30, 2009, the College had outstanding commitments to invest an additional \$930,100 in certain private equity interests.

Short-term investments consisted of Certificates of Deposit totaling \$0 and \$2,500,000 at June 30, 2009 and 2008, respectively.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE D (continued)**

Investment return is comprised of the following for the years ended June 30, 2009 and 2008:

	<u>2009</u>	<u>2008</u>
Interest and dividends	\$ 1,079,124	\$ 1,339,332
Realized (losses) gains	(1,359,247)	88,800
Unrealized losses	<u>(1,213,394)</u>	<u>(613,498)</u>
Total investment (loss) return	<u>\$ (1,493,517)</u>	<u>\$ 814,634</u>

The following table represents the College's fair value hierarchy for its investments, measured at fair value, as of June 30, 2009. At June 30, 2009, Level 3 assets comprised approximately 4.5% of the College's total assets at fair value.

	<u>Fair Value</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Cash and cash equivalents	\$ 1,125,035	\$ 1,125,035	\$ -	\$ -
U.S. Government and agency bonds	5,954,555	5,954,555	-	-
Corporate Bonds	8,746,583	8,746,583	-	-
Equities	4,808,553	4,808,553	-	-
Real estate investment trusts	66,012	66,012	-	-
Private equity investments	986,233	-	-	986,233
Exchange-trade funds	5,164	5,164	-	-
Total	<u>\$ 21,692,135</u>	<u>\$ 20,705,902</u>	<u>\$ -</u>	<u>\$ 986,233</u>

The following table presents a reconciliation for Level 3 assets measured at fair value for the year ending June 30, 2009.

<u>Financial Assets</u>	<u>Level 3 Assets</u>
Balance, July 1, 2008	\$ 778,357
Contributions	320,925
Fees and expenses	(12,980)
Distributions	(8,832)
Unrealized losses	<u>(91,237)</u>
Balance, June 30, 2009	<u>\$ 986,233</u>



Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE E - PROPERTY, PLANT AND EQUIPMENT, NET**

Property, plant and equipment, net, consisted of the following at June 30, 2009 and 2008:

	<u>2009</u>	<u>2008</u>
Buildings	\$ 15,750,271	\$ 15,750,271
Furniture, furnishings and equipment	15,907,604	14,934,954
Building improvements	9,839,450	9,124,612
Land	435,000	435,000
Leasehold improvements	1,153,027	1,153,027
Construction in progress	<u>4,696,133</u>	<u>1,737,861</u>
	47,781,485	43,135,725
Less: Accumulated depreciation and amortization	<u>(26,262,020)</u>	<u>(24,239,168)</u>
	<u>\$ 21,519,465</u>	<u>\$ 18,896,557</u>

Depreciation and amortization expense for the years ended June 30, 2009 and 2008 was \$2,022,852 and \$2,002,763, respectively.

**NOTE F - CONDITIONAL ASSET RETIREMENT OBLIGATIONS**

The College recognizes the cost associated with the eventual remediation and abatement of asbestos contained within its physical plant. The cost of the abatement is based upon the estimate of a contractor who specializes in such abatements. The College recognized accretion expense of \$91,727 and \$86,535 in fiscal 2009 and 2008, respectively, relating to this obligation. At June 30, 2009 and 2008, the College's conditional asset retirement obligation was \$1,620,508 and \$1,528,781, respectively.

**NOTE G - LONG-TERM DEBT**

In June 2004, the College entered into a loan agreement with a financial institution for \$1,250,000. The loan bears interest at a fixed rate of 5.35% per annum and is secured by the assets of the College. The proceeds from the loan were used to acquire a modular structure. The agreement called for six interest-only monthly payments, which commenced on July 1, 2004. Monthly principal and interest payments of \$26,097 commenced in January 2005. The College had principal of \$0 and \$304,282 outstanding at June 30, 2009 and 2008, respectively.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE H - ENDOWMENTS**

During the year ended June 30, 2009, the College adopted FASB Staff Position No. 117-1, "Endowments of Not-for-Profit Organizations." This FASB Staff Position provides guidance on the net asset classification of donor-restricted endowment funds, and therefore, the information below is not intended to disclose information as it pertains to all net asset funds. The College's endowment consists of approximately 85 individual funds established for a variety of purposes. Its endowment includes both donor-restricted endowment funds and funds designated by the Board of Trustees to function as endowments. As required by US GAAP, net assets associated with endowment funds, including funds designated by the Board of Trustees to function as endowments, are classified and reported based on the existence or absence of donor-imposed restrictions.

The following table summarizes endowment net asset composition by type of fund as of June 30, 2009:

	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
Donor-restricted endowment funds	\$ -	\$384,632	\$3,008,711	\$ 3,393,343
Board-designated endowment funds	<u>18,247,652</u>	<u>-</u>	<u>-</u>	<u>18,247,652</u>
	<u>\$18,247,652</u>	<u>\$384,632</u>	<u>\$3,008,711</u>	<u>\$21,640,995</u>

The following table summarizes endowment net asset composition by type of fund as of June 30, 2008:

	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
Donor-restricted endowment funds	\$ -	\$461,383	\$2,900,272	\$ 3,361,655
Board-designated endowment funds	<u>20,885,417</u>	<u>-</u>	<u>-</u>	<u>20,885,417</u>
	<u>\$20,885,417</u>	<u>\$461,383</u>	<u>\$2,900,272</u>	<u>\$24,247,072</u>

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE H (continued)**

The changes in endowment net assets for the fiscal year ended June 30, 2009 are as follows:

	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
Endowment assets, beginning of year	\$20,885,417	\$ 461,383	\$2,900,272	\$24,247,072
Contributions	-	12,976	108,439	121,415
Net purchases and sales	106,116	-	-	106,116
Transfers	(800,000)	-	-	(800,000)
Scholarships/expenses	-	(191,667)	-	(191,667)
Investment earnings	<u>(1,943,881)</u>	<u>101,940</u>	<u>-</u>	<u>(1,841,941)</u>
Balance, June 30, 2009	<u>\$18,247,652</u>	<u>\$ 384,632</u>	<u>\$3,008,711</u>	<u>\$21,640,995</u>

The changes in endowment net assets for the fiscal year ended June 30, 2008 are as follows:

	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
Endowment assets, beginning of year	\$19,872,400	\$ 427,656	\$2,765,574	\$23,065,630
Contributions	-	3,600	134,698	138,298
Net purchases and sales	76,047	-	-	76,047
Transfers	800,000	-	-	800,000
Scholarships/expenses	-	(130,487)	-	(130,487)
Investment earnings	<u>136,970</u>	<u>160,614</u>	<u>-</u>	<u>297,584</u>
Balance, June 30, 2008	<u>\$20,885,417</u>	<u>\$ 461,383</u>	<u>\$2,900,272</u>	<u>\$24,247,072</u>

From time to time, the fair value of the assets associated with individual donor-restricted endowment funds may fall below the level that the donor requires the College to retain as a fund of perpetual duration. In accordance with US GAAP, deficiencies of this nature are reported in unrestricted net assets. There were no underwater endowments as of June 30, 2009 and 2008.

Molloy College

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2009 and 2008

NOTE I - SPECIAL EVENTS

The College received revenue from the following special events during the years ended June 30, 2009 and 2008:

<u>Special Events</u>	<u>Gross Revenue</u>		<u>Direct Expenses</u>		<u>Net Revenue</u>	
	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>
Trustees' Dinner Dance	\$ 302,011	\$ 339,777	\$ 111,455	\$ 130,909	\$ 190,556	\$ 208,868
Golf Outing	-	189,640	-	83,474	-	106,166
Alumni Phonathon	39,646	45,506	14,685	13,753	24,961	31,753
Energeia Golf Outing	135,589	75,200	38,784	34,856	96,805	40,344
St. Martin de Porres Dinner	52,975	51,665	25,654	29,331	27,321	22,334
	<u>\$ 530,221</u>	<u>\$ 701,788</u>	<u>\$ 190,578</u>	<u>\$ 292,323</u>	<u>\$ 339,643</u>	<u>\$ 409,465</u>

Net proceeds from the St. Martin de Porres Dinner are transferred to a permanently restricted fund based on donor intent. Net revenues from all other special events are allocated to the undesignated fund.

NOTE J - AUXILIARY ENTERPRISES

The following represents revenue and expenses recognized by the College relating to auxiliary enterprises for the years ended June 30, 2009 and 2008:

<u>Auxiliary Enterprises</u>	<u>Gross Revenue</u>		<u>Direct Expenses</u>		<u>Net Revenue</u>	
	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>
College Bookstore	\$ 139,503	\$ 142,105	\$ 67,597	\$ 63,205	\$ 71,906	\$ 78,900
Anselma Room Cafeteria and Mane Street Cafe	-	-	414,041	313,649	(414,041)	(313,649)
	<u>\$ 139,503</u>	<u>\$ 142,105</u>	<u>\$ 481,638</u>	<u>\$ 376,854</u>	<u>\$ (342,135)</u>	<u>\$ (234,749)</u>

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE K - ALLOCATION OF CERTAIN EXPENSES**

The College allocates operation and maintenance of plant, depreciation, amortization and accretion and interest expense to specific program and supporting service activities on the basis of utilization of the underlying assets. For the years ended June 30, 2009 and 2008, the following allocation of expenses was included in the accompanying statement of activities:

	2009			Total
	Operation and Maintenance of Plant	Depreciation, Amortization and Accretion	Interest	
Instruction	\$ 2,407,730	\$ 1,182,371	\$ 4,969	\$ 3,595,070
General administration	243,945	119,795	504	364,244
General institutional	71,095	34,913	147	106,155
Public relations and development	65,690	32,259	136	98,085
Student services	802,518	394,095	1,657	1,198,270
Library	453,273	222,590	936	676,799
Auxiliary enterprises	261,786	128,556	540	390,882
	<u>\$ 4,306,037</u>	<u>\$ 2,114,579</u>	<u>\$ 8,889</u>	<u>\$ 6,429,505</u>

	2008			Total
	Operation and Maintenance of Plant	Depreciation, Amortization and Accretion	Interest	
Instruction	\$ 2,201,819	\$ 1,168,242	\$ 13,990	\$ 3,384,051
General administration	223,083	118,359	1,417	342,859
General institutional	65,015	34,490	413	99,918
Public relations and development	60,072	31,871	382	92,325
Student services	733,886	389,383	4,663	1,127,932
Library	414,509	219,933	2,634	637,076
Auxiliary enterprises	239,397	127,020	1,521	367,938
	<u>\$ 3,937,781</u>	<u>\$ 2,089,298</u>	<u>\$ 25,020</u>	<u>\$ 6,052,099</u>

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE L - EMPLOYEE BENEFIT PLAN**

The College participates in a defined contribution pension plan administered by Teachers Insurance and Annuity Association, which covers substantially all of its full-time faculty and administrative personnel. Total pension expense was \$2,055,231 and \$1,948,391 for the years ended June 30, 2009 and 2008, respectively.

**NOTE M - COMMITMENTS AND CONTINGENCIES**

A provision for amounts due to government agencies for costs which may be disallowed upon examination by government auditors has not been included in the accompanying financial statements. Management believes that the effect of such disallowances, if any, would not have a material effect on the financial position, changes in net assets or cash flows of the College.

The College is obligated under various lease agreements and employment contracts expiring through December 31, 2013. Future minimum payments under all agreements at June 30, 2009 are as follows:

<u>Fiscal Year</u>	
2010	\$ 1,795,199
2011	827,844
2012	85,396
2013	<u>13,834</u>
	<u>\$ 2,722,273</u>

Rent expense for the years ended June 30, 2009 and 2008 was \$370,242 and \$368,096, respectively.

The College, in the normal course of its operations, is a party to various legal proceedings and complaints, some of which are covered by insurance. While it is not feasible to predict the ultimate outcomes of such matters, management of the College is not aware of any claims or contingencies, which are not covered by insurance that would have a material adverse effect on the College's financial position, changes in net assets and cash flows.

Molloy College

**NOTES TO FINANCIAL STATEMENTS (continued)**

June 30, 2009 and 2008

**NOTE N - SUBSEQUENT EVENTS**

In May 2009, the FASB issued Statement 165, "Subsequent Events" ("SFAS No. 165"), to incorporate the accounting and disclosure requirements for subsequent events into US GAAP. SFAS No. 165 introduces new terminology, defines a date through which management must evaluate subsequent events and lists the circumstances under which an entity must recognize and disclose events or transactions occurring after the statement of financial position date. The College adopted SFAS No. 165 as of June 30, 2009, which was the required effective date.

The College evaluated its June 30, 2009 financial statements for subsequent events through October 29, 2009, the date of the financial statements were available to be issued. Other than the events noted below, the College is not aware of any subsequent events which would require recognition or disclosure in the financial statements.

On October 29, 2009, the College issued a preliminary official statement for the town of Hempstead Local Development Corporation Revenue Bonds ("Bonds"), Series 2009, amounting to \$50,000,000. The proceeds of the Bonds, together with other available funds of the College, will be used to finance the costs of certain facilities located on portions of the College's campus including: the acquisition, construction, furnishing and equipping of a residence hall; a campus center and associated parking area; a maintenance building; and the renovation and improvement of various walkways, parking areas, landscaped areas and courtyards located on the campus.

On August 18, 2009, Molloy entered into a \$2,500,000 Line of Credit ("LOC") agreement with State Bank of Long Island ("State Bank") for preliminary construction costs. Under the agreement, Molloy is required to make monthly interest only payments on the principal sum with the final payment of unpaid principal and interest due by August 31, 2010. It is anticipated that the loan will be repaid with the bond proceeds. The interest rate is State Bank's "base rate" less one-half percent. The "base rate" was 4%. The LOC is secured by securities totaling approximately \$3,000,000 par value. As of October 29, 2009, Molloy has drawn down \$1,600,000.

## **APPENDIX C**

### **Schedule of Definitions and Summary of Documents**



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## APPENDIX C

### SCHEDULE OF DEFINITIONS AND SUMMARY OF DOCUMENTS

*The following is a schedule of definitions and brief summaries of certain provisions of the Indenture, the Series 2009 Loan Agreement, the Mortgage and the Assignment of Mortgages. The summaries do not purport to be complete and reference is made to the respective documents for full and complete statements of such and all provisions.*

#### SCHEDULE OF DEFINITIONS

“Act” means, collectively, the New York Membership Corporation Law as in effect in 1966, as amended and supplemented by Section 1411 of the New York Not-For-Profit Corporation Law.

“Act of Bankruptcy” means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the College or the Issuer under any applicable bankruptcy, reorganization, insolvency or similar law as is now or hereafter in effect.

“Additional Bonds” or “Series of Additional Bonds” means any Series of Additional Bonds issued by the Issuer on behalf of the College pursuant to Section 2.14 of the Loan Agreement.

“Affiliate” shall mean a corporation, partnership, association, limited liability company, joint venture, business trust or similar entity organized under the laws of any state that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common contract with, the College.

“Annual Compliance Fee” means the \$1,000 Annual Compliance Fee to be paid by the College to the Issuer on or before January 1 of each year pursuant to Section 5.3(a) of the Loan Agreement.

“Applicable Elected Representative” means any Person constituting an “applicable elected representative” within the meaning given to the term in Section 147(f)(2)(E) of the Code.

“Assignment of Mortgages” means collectively, (i) the Assignment of Building Loan Mortgage, dated November 13, 2009 from the Issuer to the Trustee as collateral and security for the Series 2009 Bonds, (ii) the Assignment of Project Loan Mortgage, dated November 13, 2009 from the Issuer to the Trustee as collateral and security for the Series 2009 Bonds, and (iii) the assignment of any other Mortgages, from the Issuer to the Trustee to secure any Series of Additional Bonds.

“Authorized Investments” means:

- A. Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the

Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (Eximbank)

Direct obligations are fully guaranteed certificates of beneficial ownership

2. Farmers Home Administration (FmHA)

Certificates of beneficial ownership

3. Federal Financing Bank

4. Federal Housing Administration Debentures (FHA)

5. General Services Administration

Participation Certificates

6. Government National Mortgage Association (GNMA or "Ginnie Mae")

GNMA – guaranteed mortgage-backed bonds

GNMA – guaranteed pass-through obligations

(not acceptable for certain cash-flow sensitive issues)

7. U.S. Maritime Administration

Guaranteed Title XI financing

8. U.S. Department of Housing and Urban Development (HUD)

Project Notes

Local Authority Bonds

New Communities Debentures – U.S. government guaranteed debentures

U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds

- C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):
1. Federal Home Loan Bank System  
Senior debt obligations
  2. Federal Home Loan Mortgage Corporation (“FHLMC” or “Freddie Mac”)  
Participation Certificates  
Senior debt obligations
  3. Federal National Mortgage Association (“FNMA” or “Fannie Mae”)  
Mortgage-backed securities and senior debt obligations
  4. Student Loan Marketing Association (“SLMA” or “Sallie Mae”)  
Senior debt obligations
  5. Resolution Funding Corp. (REFCORP) obligations
  6. Farm Credit System  
Consolidated systemwide bonds and notes
- D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933. Said funds include The Common Fund for Short Term Investments (the “Short Term Fund”) organized by the Commonfund Group located in Wilton, Connecticut.
- E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the Trustee must have a perfected first security interest in the collateral.

- F. Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.
- G. Investment Agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements provided by banks and other institutions rated AAA by S&P and Aaa by Moody's or secured by collateral and structured as described in (A), (B) and (E) above.
- H. Commercial paper rated, at the time of purchase, Prime – 1 by Moody's and A-1 or better by S&P.
- I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.
- J. Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of Prime – 1 or A3 or better by Moody's and A-1 or A or better by S&P.
- K. Repurchase agreements providing for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date.
  - 1. Repurchase agreements must be between the Issuer and a dealer bank or securities firm.
    - a. Primary dealers on a Federal Reserve reporting dealer list which are rated A or better by S&P and Moody's or
    - b. Banks rated A or above by S&P, Fitch and Moody's.
  - 2. The written repurchase agreements contract must include the following:
    - a. Securities which are acceptable for transfer are:
      - (1) Direct U.S. governments, or
      - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA and FHLMC)
    - b. The term of the repurchase agreements may be up to 30 days.

- c. The collateral must be delivered to the Issuer, the Trustee (if the Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
- d. Valuation of collateral:
  - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest.
    - (a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repurchase agreements plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

3. Legal opinion which must be delivered to the Issuer:

- a. Repurchase agreements meet guidelines under state law for legal investment of public funds.

“Authorized Representative” means, in the case of the Issuer, the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, Deputy Executive Director and Chief Financial Officer, the Secretary or the Assistant Secretary of the Issuer; in the case of the College, the President or the Treasurer of the College; and, in the case of either of the Issuer and the College, such additional persons as, at the time, are designated to act on behalf of the Issuer or the College, as the case may be, by written certificate furnished to the Trustee, the Issuer or the College, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Issuer by the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, Deputy Executive Director and Chief Financial Officer, the Secretary or the Assistant Secretary of the Issuer, or (ii) the College by the President or the Treasurer of the College.

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

“Bankruptcy Code” means the United States Bankruptcy Code, as amended from time to time.

“Bond” or “Bonds” or “Series of Bonds” means collectively the Series 2009 Bonds and any Series of Additional Bonds.

“Bond Counsel” means the law firm of Nixon Peabody LLP or an attorney or other firm of attorneys whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

“Bond Documents” means the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Tax Compliance Agreement, the Mortgage, the Assignment of Mortgages, the Note, the Building Loan Agreement, the Continuing Disclosure Agreement, the Preliminary Official Statement and the Official Statement.

“Bond Fund” means the fund so designated which is established by Section 4.01 of the Indenture.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated November 5, 2009, among the Issuer, the College and the Underwriter, as the same may be amended from time to time.

“Bond Proceeds” means the aggregate amount, including any accrued interest, paid to the Issuer by the Bondholders pursuant to the Indenture as the purchase price of the Series 2009 Bonds.

“Bond Rate” means the tax-exempt rate of interest from time to time payable on any of the Series 2009 Bonds as defined therein.

“Bond Resolution” means the resolution duly adopted by the Issuer on October 28, 2009, authorizing the issuance, execution, sale and delivery of the Series 2009 Bonds and the execution and delivery of Issuer Documents, as such resolution may be amended or supplemented from time to time.

“Bond Year” means with respect to the Series 2009 Bonds, each 1-year period (or shorter period from the date of issue) that ends at the close of business on the day in the calendar year that is selected by the Issuer (and approved by the College), which must be the last day of a compounding interval used in computing the yield on the Series 2009 Bonds.

“Bondholder” means Owner.

“Building Loan Agreement” means the Building Loan Agreement, dated as of November 1, 2009, by and among the Issuer, the College and the Trustee.

“Building Loan Mortgage” means the Building Loan Mortgage and Security Agreement, dated as of November 1, 2009, from the College to the Issuer, as the same may be amended, modified or assigned from time to time.

“Business Day” means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York or any city in which the principal office of the Trustee or any Paying Agent is located are authorized by law or executive order to remain closed.

“Certificate of Authentication of the Trustee” and “Trustee’s Certificate of Authentication” means the certificate executed by an authorized signatory of the Trustee certifying the due authentication of each of the Series 2009 Bonds issued under the Indenture.

“Closing Date” means the date of sale and delivery of the Series 2009 Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the final, temporary and proposed rules, regulations, rulings and interpretations of the Department of the Treasury promulgated thereunder.

“College” means Molloy College, an education corporation duly organized and validly existing under the laws of the State of New York, and its successors and assigns.

“College Documents” means the Bond Purchase Agreement, the Loan Agreement, the Tax Compliance Agreement, the Mortgage, the Note, the Building Loan Agreement, the Continuing Disclosure Agreement, Environmental Compliance and Indemnification Agreement, the Preliminary Official Statement, and the Official Statement.

“Completion Certificate” means the Completion Certificate delivered by the College to the Issuer and the Trustee pursuant to Section 4.4 of the Loan Agreement.

“Completion Date” means the date of completion of the Project as certified to pursuant to Section 4.4 of the Loan Agreement.

“Computation Period” means “Computation Period” as defined in the Tax Compliance Agreement.

“Condemnation” means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under governmental authority.

“Construction Account” means the Construction Account within the Project Fund which is established by Section 4.01 of the Indenture.

“Construction Costs” shall have the meaning assigned thereto in the Tax Compliance Agreement.

“Construction Period” means, with respect to the Project, the period (i) beginning on the date of commencement of renovation, construction, equipping and furnishing of the Project, which date shall not be prior to July 1, 2005, and (ii) ending on the Completion Date with respect to the Project.



“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated as of November 1, 2009, between the College and the Trustee.

“Cost of the Project” or “Costs of the Project” means all those costs and items of expense listed in Section 4.3 of the Loan Agreement.

“Debt Service Payment” means, with respect to any Debt Service Payment Date, (i) the interest payable on such Debt Service Payment Date on all Bonds then Outstanding, plus (ii) the principal or Redemption Price, if any, payable on such Debt Service Payment Date on all such Bonds.

“Debt Service Payment Date” means any date on which each Debt Service Payment shall be payable on any of the Series 2009 Bonds so long as the Series 2009 Bonds shall be outstanding.

“Default Rate” shall have the meaning assigned thereto in the Series 2009 Bonds.

“Demand Indebtedness” means any Long Term Indebtedness the principal of and accrued interest on are payable by the College upon demand of the holder of such Indebtedness.

“DTC” means The Depository Trust Company, New York, New York.

“DTC Letter of Representation” means the Letter of Representation from the Issuer to DTC.

“Environmental Compliance and Indemnification Agreement” means the Environmental Compliance and Indemnification Agreement, dated as of November 1, 2009 from the College to the Issuer and the Trustee.

“Equipment” means all machinery, equipment and other personal property used and to be used in connection with the Project and financed with Bond Proceeds.

“Event of Default” (i) when used with respect to the Indenture means any of those events defined as an Event of Default by Section 8.01 of the Indenture, and (ii) when used with respect to the Loan Agreement, means any of the events defined as Events of Default by Section 10.1 of the Loan Agreement,.

“Event of Taxability” means:

(i) a final determination by any court of competent jurisdiction or a final determination by the Internal Revenue Service to which the College shall consent or from which no timely appeal shall be taken to the effect that interest on the Series 2009 Bonds is includible in the gross income of the owner thereof under Section 61 of the Code; or

(ii) the delivery to the College and to the Issuer of an opinion of Bond Counsel (reasonably satisfactory to the College) to the effect that interest on the

Series 2009 Bonds is includible in the gross income of the owner thereof under Section 61 of the Code.

“Exempt Organization” means an organization described in Section 501(c)(3) of the Code and which is exempt from federal income taxation pursuant to Section 501(a) of the Code.

“Extraordinary Services” and “Extraordinary Expenses” means all services rendered and all fees and expenses incurred by or due to the Trustee or any Paying Agent under the Indenture other than Ordinary Services and Ordinary Expenses, including reasonable fees and disbursements of Trustee’s counsel.

“Fiscal Year” means the twelve (12) month period beginning on July 1 in any year or such other fiscal year as the College may select from time to time.

“Fitch” means Fitch Ratings and its successors and assigns.

“Government Obligations” means:

1. U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – “SLGS”).

2. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.

3. Resolution Funding Corp. (REFCORP). Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.

4. Pre-refunded municipal bonds rated Aaa by Moody’s and AAA by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations or AAA rated pre-refunded municipals to satisfy this condition.

5. Obligations issued by the following agencies which are backed by the full faith and credit of the U.S.:

a. U.S. Export-Import Bank (Eximbank)

Direct obligations are fully guaranteed certificates of beneficial ownership

b. Farmers Home Administration (FmHA)

Certificates of beneficial ownership

c. Federal Financing Bank

d. General Services Administration

Participation Certificates

- e. U.S. Maritime Administration

Guaranteed Title XI financing

- f. U.S. Department of Housing and Urban Development (HUD)

Project Notes

Local Authority Bonds

New Communities Debentures – U.S. government guaranteed debentures

U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds

“Gross Revenues” means all student tuition, room and board charges, student fees and charges, receipts, revenues, income or other moneys received by or on behalf of the College from the operations of all the College’s facilities, all the proceeds, product, offspring, rent and profits of all the College’s facilities and all other income available to the College from any other source, all proceeds of insurance available to the College pursuant to or required by the Loan Agreement (including rights and proceeds under policies of business interruption insurance, but not under policies of casualty insurance) and all rights to receive the same including present and future accounts, accounts receivable, contract rights, contracts and agreements, proceeds from the sale of general intangibles, documents, instruments and inventory and all proceeds from any thereof owned, leased or used by the College in the conduct of all or any part of its business operated in all the College’s facilities, all investment income, gifts, bequests, contributions, grants and donations, excluding only grants, gifts, bequests, contributions and other donations and any income derived therefrom to the extent specifically restricted by the donor or grantor to a special object or purpose or certain purposes, and all supporting evidence and documents relating to any of the above-described property, including, without limitation, payment records, correspondence, together with all books of account and ledgers in which the same are reflected or maintained, all whether now owned or existing or hereafter arising or coming into existence; provided, however, Gross Revenues shall not include the portion of any student board plan revenues or other food service revenues payable by the College to any food service provider pursuant to a contract with such food service provider.

“Gross Revenue Fund” means the fund so designated which is established by Section 4.01 of the Indenture.

“Hazardous Substance” means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum constituents, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related

materials, pollutants, or toxic pollutants, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Sections 1251 et seq.), Articles 17 and 27 of the New York State Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder. “Holder” means Owner.

“Improvements” means all those buildings, improvements, structures and other related facilities (i) financed with Bond Proceeds or of any payment by the College pursuant to the Loan Agreement, and (ii) not part of the Equipment, all as they may exist from time to time.

“Indebtedness” means, without duplication, indebtedness for borrowed money incurred or guaranteed by the College, whether or not evidenced by notes, bonds, debentures or other similar evidences of indebtedness, including guaranties, reimbursement obligations, 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 College in accordance with generally accepted accounting principles then applicable to the College.

“Indenture” means the Indenture of Trust, dated as of November 1, 2009, by and between the Issuer and the Trustee, entered into in connection with the issuance, sale, delivery and payment of the Series 2009 Bonds and the security therefor as the same may be amended or supplemented from time to time.

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Issuer, the College or the Trustee.

“Information Report” means Form 8038 used by the issuers of certain tax-exempt bonds to provide the Internal Revenue Service with the information required to monitor the State volume limitations.

“Initial Bondholder” means Cede & Co., as nominee for DTC, as the initial owner of the Series 2009 Bonds.

“Initial Compliance Fee” means the Initial Compliance Fee in the amount of \$2,500 paid by the College to the Issuer on the Closing date pursuant to Section 5.3(a) of the Loan Agreement.

“Issuer” means (i) the Town of Hempstead Local Development Corporation, its successors and assigns, and (ii) any local governmental body resulting from or surviving any consolidation or merger to which the Issuer or its successors may be a party.

“Issuer Documents” means the Bond Purchase Agreement, the Series 2009 Bonds, the Loan Agreement, the Indenture, the Mortgage, the Assignment of Mortgages, the Note, the Building Loan Agreement, the Tax Compliance Agreement, Environmental Compliance and Indemnification Agreement, the Information Report, the Preliminary Official Statement and the Official Statement.

“Lien” means any interest in Property securing an obligation owed to a Person whether such interest is based on the common law, statute or contract, and including but not limited to the security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” also means any reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar encumbrances affecting real property. For the purposes of this definition, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Loan Agreement” means the Series 2009 Loan Agreement or any other Loan Agreement entered into in connection with any Series of Additional Bonds.

“Loan Term” means the duration of the loan term created in the Loan Agreement.

“Long-Term Indebtedness” means Indebtedness with a term greater than one (1) year.

“Maximum Annual Debt Service” means the highest amount of principal and interest payable with respect to the College’s Long-Term Indebtedness during the then current or any succeeding Bond Year over the remaining term of any Bonds. For purposes of calculating Maximum Annual Debt Service, (i) variable rate Indebtedness is deemed to bear interest at the most recent Bond Buyer 25 Revenue Bond Index (if tax-exempt) or the 30-year United States Treasury Rate (if taxable) and (ii) the principal of Balloon Indebtedness will be deemed to mature in equal annual installments over a term equal to the lesser of (x) twenty years or (y) the actual term of such Indebtedness.

“Moody’s” means Moody’s Investor Service.

“Mortgage” or “Mortgages” shall mean collectively, the Building Loan Mortgage, the Project Loan Mortgage, any mortgage and security agreement granted by the College to secure any Additional Bonds or Parity Indebtedness, and shall include any and all amendments thereof and supplements thereto and assignment of interests therein hereafter made in conformity therewith, and with the Indenture and the Loan Agreement.

“Net Proceeds” means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys’ fees) incurred in obtaining such gross proceeds.

“Note” or “Promissory Note” means the Promissory Note dated the Closing Date, from the College to the Issuer, substantially in the form of Exhibit D to the Loan Agreement, evidencing the College’s obligations to make Loan Payments to the Issuer.

“Office of the Trustee” means the principal corporate trust office of the Trustee, as specified in Section 12.04 of the Indenture, or such other address as the Trustee shall designate.

“Official Statement” means the Official Statement, dated November 5, 2009, distributed by the Underwriter and the College in connection with the sale of the Series 2009 Bonds.

“Ordinary Services” and “Ordinary Expenses” means those services normally rendered and those fees and expenses normally incurred by or due to a trustee or paying agent, as the case may be, under instruments similar to the Indenture, including reasonable fees and disbursements of counsel for the Trustee.

“Outstanding” or “Bonds Outstanding” or “Outstanding Bonds” means all bonds which have been authenticated by the Trustee and delivered by the Issuer under the Indenture, or any supplement thereto, except: (i) any Bond cancelled by the Trustee because of payment or redemption prior to maturity; (ii) any bond deemed paid in accordance with the provisions of Section 7.01 of the Indenture, except that any such Bond shall be considered Outstanding until the maturity date thereof only for the purposes of being exchanged or registered; and (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to Section 2.11 of the Indenture, unless proof satisfactory to the Trustee is presented that any Bond, for which a Bond in lieu of or in substitution therefor shall have been authenticated and delivered, is held by a bona fide purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, as amended, in which case both the Bond so substituted and replaced and the Bond or Bonds so authenticated and delivered in lieu thereof or in substitution therefor shall be deemed Outstanding.

“Owner” means the registered owner of any Bond as shown on the registration books maintained by the Trustee pursuant to the Indenture.

“Parity Indebtedness” means any Indebtedness including Additional Bonds issued pursuant to Section 2.14 of the Indenture and Indebtedness by the College pursuant to Section 8.13 of the Loan Agreement which is secured by a parity lien on the Mortgaged Property and the Gross Revenues of the College.

“Paying Agent” means the Trustee, acting as such, and any additional paying agent for the Series 2009 Bonds appointed pursuant to Article IX of the Indenture, their respective successors and any other corporation which may at any time be substituted in their respective places pursuant to the Indenture.

“Permitted Encumbrances” means (i) the Loan Agreement, (ii) the Mortgage, (iii) the Assignment of Mortgages (iv) the Building Loan Agreement and (x) any Permitted Liens.

“Permitted Liens” means: (i) any judgment lien or notice of pending action against the College as to which the College is insured as to the full amount of potential liability, or if the College is uninsured or underinsured, so long as such judgment or pending action is being contested and execution thereon is stayed; (ii)(A) rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law, affecting any Property, to (1) terminate such right, power franchise, grant, license or permit, provided that the exercise of such right would not materially impair the use of the Property or materially and adversely affect the value thereof, or (2) purchase, condemn, appropriate or recapture, or designate a purchaser of, such Property; (B) any Liens on any Property for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any Liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Property, which are not due and payable or which are not delinquent or which, or the amount of validity of which, are being contested and execution thereon is stayed or, with respect to Liens of mechanics, materialmen, and laborers, have been due for less than sixty (60) days; and (C) easements, utility, access and other easements, rights-of-way, servitudes, restrictions and other minor defects, encumbrances, and irregularities in the title to any Property which do not materially impair the use of such Property or materially and adversely affect the value thereof; (iii) any Lien which will come into existence on or is existing on the Closing Date provided that no such Lien (or the amount of Indebtedness secured thereby) may be increased, extended, renewed or modified to apply to any Property of the College not subject to such Lien on such date, unless such Lien as so increased, extended, renewed or modified otherwise qualifies as a Permitted Lien hereunder; (iv) purchase money security interests and security interests existing on any Property prior to the time of its acquisition through purchase, merger, consolidation or otherwise, or placed upon Property to secure a portion of the purchase price thereof, or lessor’s interests in leases required to be capitalized in accordance with generally accepted accounting principles; provided that the aggregate principal amounts secured by any such interests shall not exceed at the time of incurrence or assumption the fair market value of such Property subject to such security interests and equipment leases of less than one (1) year; (v) liens arising by reason of good faith deposits in connection with leases of real estate, bids or contracts (other than contracts for the payment of money), deposits to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges; (vi) any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to secure letters or lines of credit issued to fulfill statutory obligations including bonds for the performance of any employer’s obligations under worker’s compensation self insurance programs, or to enable the College to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workers’ compensation, unemployment insurance, pension or profit-sharing plans or other similar arrangements, or to share in the privileges or benefits required for companies participating in such arrangements, or in favor of a bank or trust

company on deposits with such bank or trust company or to enable a bank or trust company to use deposits with such bank or trust company for set-off of Indebtedness of the College to such bank or trust company; (vii) any Lien arising by reason of an irrevocable deposit; (viii) any Lien in favor of a trustee on the proceeds of Indebtedness prior to the application of such proceeds or on moneys to repay Indebtedness while held in a debt service fund, debt service reserve fund or a redemption fund, or on any moneys to secure payment of the trustee's fees; (ix) liens for taxes or special assessments not then delinquent or which are being contested in good faith; (x) liens on Property due to rights of third-party payors for set-off or recoupment of amounts paid to the College; (xi) any Lien arising solely by reason of a lease of Property to others which lease (A) would not have any material adverse effect upon (1) the security for the Bonds, (2) the operations of the Property, or (3) the amount of Gross Revenues, or (B) is of a customary type such as office space for educational institutions, food service facilities, book store, gift shops or other special services, and similar departments; and (xii) other Liens and encumbrances in favor of the Issuer or the Trustee.

"Person" or "Persons" means an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision or branch thereof.

"Plans and Specifications" means those plans and specifications, if any, for the Improvements, as may be from time to time prepared for the College, as revised from time to time in accordance with the Loan Agreement.

"Preliminary Official Statement" means the Preliminary Official Statement, dated October 29, 2009, distributed by the Underwriter and the College in connection with the sale of the Series 2009 Bonds.

"Project" means the Project as more particularly described in the Loan Agreement and including the Improvements and the Equipment financed by the College the proceeds of the Series 2009 Bonds loaned by the Issuer to the College under the Loan Agreement.

"Project Fund" means the fund so designated which is created by Section 4.01 of the Indenture.

"Project Loan Mortgage and Security Agreement" means the Project Loan Mortgage and Security Agreement, dated as of November 1, 2009, as the same may be amended, modified or assigned thereto from time to time.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Public Purposes" shall mean the State's objective to create industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and to empower such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now



in existence or under construction, which shall be suitable for civic, manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living.

“Rating Agency” means Moody’s, Fitch, S&P or such other nationally recognized rating agency which shall have issued and is maintaining a rating on the Series 2009 Bonds.

“Rating Agency Letter” means the rating letter from each Rating Agency assigning a rating on the Series 2009 Bonds.

“Rebate Amount” means, with respect to the Series 2009 Bonds, the amount computed as described in Section 8.5 of the Tax Compliance Agreement.

“Rebate Fund” means the fund so designated pursuant to Section 4.01 of the Indenture.

“Record Date” means, with respect to any Debt Service Payment Date, the fifteenth (15<sup>th</sup>) day of the month next preceding such Debt Service Payment Date (whether or not a Business Day).

“Redemption Date” means, when used with respect to a Bond, the date of redemption thereof established pursuant to Section 3.01 of the Indenture.

“Redemption Price” means, when used with respect to a Bond, the principal amount thereof plus the applicable premium, if any, payable upon the prior redemption thereof pursuant to the Indenture.

“Renewal Fund” means the fund so designated and created pursuant to Section 4.01 of the Indenture.

“Responsible Officer”, when used with respect to the Trustee, means any officer of the Trustee with responsibility for the administration of the Indenture and, when used with respect to a particular corporate trust matter, also means any other officer to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“Schedule of Definitions” means the words and terms set forth in the Schedule of Definitions attached to the Indenture as the same may be amended from time to time.

“SEQR Act” means the State Environmental Quality Review Act and the regulations thereunder.

“Series 2009 Bonds” means the Issuer’s Revenue Bonds, Series 2009 (Molloy College Project) issued pursuant to the terms of the Indenture on November 13, 2009 in the aggregate principal amount of \$50,000,000 and substantially in the form of Exhibit A of the Indenture.

“Series 2009 Bonds Capitalized Interest Account” means the account within the Project Fund which is established by Section 4.01 of the Indenture.

“Series 2009 Loan Agreement” means the Loan Agreement dated as of November 1, 2009, by and between the Issuer and the College with respect to the Project, as the same may be amended from time to time.

“Series 2009 Tax Compliance Agreement” means the Tax Compliance Agreement, dated the Closing Date, between the Issuer and the College, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof and with the terms of the Indenture.

“Short-Term Indebtedness” means Indebtedness with a term of one (1) year or less, but not including accounts payable by the College in the ordinary course of its operations.

“Sinking Fund Payments” means payments made on a Debt Service Payment Date to pay the Redemption Price of bonds called for redemption pursuant to Section 3.01(f) of the Indenture.

“S&P” or “Standard & Poor’s” means Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc.

“State” means the State of New York.

“Supplemental Indenture” means any indenture supplemental to or amendatory of the Indenture or in connection with the issuance of any Additional Bonds adopted by the Issuer in accordance with Article X of the Indenture.

“Tax Compliance Agreement” means the Series 2009 Tax Compliance Agreement or any other Tax Compliance Agreement entered into in connection with any Series of Additional Bonds.

“Tax Incidence Date” means the date from which the interest on the Series 2009 Bonds is deemed to be includible in the gross income of the owner of a Bond by virtue of an Event of Taxability.

“Triggering Event” shall have the meaning assigned thereto in Section 8.19 of the Loan Agreement.

“Trust Estate” means the rights assigned pursuant to the Indenture and all Property which may from time to time be subject to the Lien of the Indenture.

“Trustee” means (i) U.S. Bank National Association, a national banking association having trust powers duly organized and existing under the laws of the United States of America, having an office at 100 Wall Street, Suite 1600, New York, New York 10005, and (ii) its successors and any corporation resulting from or surviving any

consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

“Unassigned Rights” means the rights of the Issuer and moneys payable pursuant to and under Sections 5.3(b), 6.4(b) and (c), 6.7, 8.2, 8.8, 10.2(a)(i)(A) and (B), (iii) and (vi), 10.4(a) and 11.2(b) of the Loan Agreement.

“Underwriter” means (i) Barclay Capital Inc., having an office at 745 Seventh Avenue, 19<sup>th</sup> Floor, New York, New York 10019, or (ii) its successors and assigns.

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## SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

### **Authentication**

No Series 2009 Bond shall be valid for any purpose or shall be entitled to any right or benefit hereunder unless there shall be endorsed on such Bond a Certificate of Authentication, duly executed by the Trustee, substantially in the form set forth in the Form of Series 2009 Bonds included in the Indenture. Such executed Certificate of Authentication by the Trustee upon any such Series 2009 Bond shall be conclusive evidence that such Series 2009 Bond has been authenticated and delivered under the Indenture. The Trustee's Certificate of Authentication on any Series 2009 Bond shall be deemed to have been executed by it if signed by an authorized signatory of the Trustee, but it shall not be necessary that the same person sign the Certificate of Authentication on all of the Series 2009 Bonds issued under the Indenture.

### **Mutilated, Lost, Stolen or Destroyed Bonds**

(a) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and, upon its request, the Trustee shall authenticate and deliver, a new Bond of like maturity, series, interest rate and principal amount and bearing the same number (or such number as the Trustee shall permit) as the mutilated, destroyed, lost or stolen Bond, in exchange for the mutilated Bond, or in substitution for the Bond so destroyed, lost or stolen. In every case of exchange or substitution, the applicant shall furnish to the Issuer and to the Trustee (i) such security or indemnity as may be required by them to hold each of them harmless from all risks, however remote, and (ii) evidence to their satisfaction of the mutilation, destruction, loss or theft of the applicant's Bond and of the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees, of the Issuer or the Trustee. In case any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Issuer may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Issuer and to the Trustee such security or indemnity as they may require to hold them harmless and evidence to the satisfaction of the Issuer and the Trustee of the mutilation, destruction, loss or theft of such Bond and of the ownership thereof.

(b) Every new Bond issued pursuant to the provisions of the Indenture shall constitute an additional contractual, special obligation of the Issuer (whether or not the destroyed, lost or stolen Bond shall be found at any time after the issuance of such new Bonds, in which case the destroyed, lost or stolen Bond shall be void and unenforceable) and shall be entitled to all the benefits of the Indenture equally and proportionately with any and all other Bonds duly issued under the Indenture.

(c) All Bonds shall be held and owned upon the express condition that the provisions of the Indenture are exclusive, with respect to the replacement or payment of

mutilated, destroyed, lost or stolen Bonds, and shall preclude all other rights or remedies, notwithstanding any law or statute existing or enacted to the contrary.

### **Additional Bonds**

(a) So long as the Indenture is in effect, one or more Series of Additional Bonds may be issued, authenticated and delivered upon original issuance for the purpose of (i) financing additional costs with respect to the Project, (ii) providing funds in excess of Net Proceeds to repair, relocate, replace, rebuild or restore the Project in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions, improvements or facilities to the Project, the purpose of which shall be to constitute a "project" within the meaning of the Act, (iv) funding the costs of acquiring, constructing, equipping and start-up costs of any capital project of the College that qualifies as a "Project" under the Act, (v) refunding Outstanding Bonds or Indebtedness of the College or (vi) refunding any other Indebtedness or bonds for which the College is the primary obligor, or for which the College is responsible for paying the debt service payments in connection therewith, or which the College has guaranteed. Such Additional Bonds shall be payable from the receipts and revenues payable to the Issuer from a Loan Agreement between the Issuer and the College. Prior to the issuance of a Series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, (x) the Issuer and the Institution shall enter into a new Loan Agreement providing, among other things, that the payments payable under the new Loan Agreement shall be computed so as to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith and (y) the Mortgage shall be amended, modified or supplemented and consolidated to secure such series of Additional Bonds and the pledge of Gross Revenues shall be extended to secure such Series of Additional Bonds.

(b) Each such series of Additional Bonds shall be deposited with the Registrar and thereupon shall be authenticated by the Authenticating Agent. Upon payment to the Trustee of the proceeds of sale of the Additional Bonds, they shall be delivered by the Registrar at the direction of the Trustee to or upon the order of the purchaser or purchasers thereof, but only upon receipt by the Trustee of:

(i) a copy of the resolution, duly certified by the Chairman, Vice Chairman, Secretary, Assistant Secretary or Executive Director and Chief Executive Officer of the Issuer, authorizing, issuing and awarding the Additional Bonds to the purchaser or purchasers thereof and providing the terms thereof and authorizing the execution of any Supplemental Indenture and any amendments of or supplements to the Sublease Agreement;

(ii) original executed counterparts of the Supplemental Indenture and the new Loan Agreement, expressly providing that, to the extent applicable, for all purposes of the Supplemental Indenture and the new Loan Agreement, the project referred to therein and the premises financed or refinanced thereunder shall include the buildings, structures, improvements, machinery, equipment or other facilities being financed, and the Bonds referred to therein shall mean and

include the Additional Bonds being issued as well as the Bonds now being issued and any Additional Bonds theretofore issued;

(iii) a written opinion of Bond Counsel, to the effect that the issuance of the Additional Bonds and the execution thereof have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled;

(iv) a certificate of an Authorized Representative of the College to the effect that each Bond Document, as amended, to which it is a party continues in full force and effect and that there is no Event of Default nor any event which upon notice or lapse of time or both would become an Event of Default;

(v) an original, executed counterpart of the amendment to each Bond Document;

(vi) an executed municipal bond insurance policy issued by a bond insurer or other credit facility issued by a bank which guarantees or secures the payment of principal of and interest on the Additional Bonds, in each case, only if such Additional Bonds are to be insured by a bond insurer or secured by a credit facility issued by a bank; and

(vii) a written order to the Trustee executed by an Authorized Representative of the Issuer to authenticate and deliver the Additional Bonds to the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price therein specified, plus accrued interest, if any; and

(viii) a certificate of the Chief Financial Officer of the College evidencing that the issuance of such series of Additional Bonds complies with Section 2.13 of the Series 2009 Loan Agreement.

(c) (i) Upon the request of the College, one or more series of Additional Bonds may be authenticated and delivered upon original issuance to refund ("Refunding Bonds") all Outstanding Bonds or any part of Outstanding Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make such deposits required by the provisions of the Indenture and of the resolution authorizing said Refunding Bonds. In the case of the refunding under Indenture of less than all Bonds Outstanding, the Trustee shall proceed to select such Bonds in accordance with the Indenture.

(ii) Refunding Bonds may be authenticated and delivered only upon receipt by the Trustee (in addition to the receipt by it of the documents required by Section 2.14(b) hereof, as may be applicable) of:

(A) Irrevocable written instructions from the Issuer to the Trustee, at least forty-five (45) days prior to the Redemption Date, satisfactory to the Trustee, to give due notice of redemption pursuant to Section 6.03 hereof to the Holders of all the Outstanding Bonds to be refunded prior to maturity on the Redemption Date specified in such instructions;

(B) Either:

- (1) moneys in an amount sufficient to effect payment at maturity or upon redemption at the applicable Redemption Price, together with accrued interest on such Bonds to the maturity or Redemption Date, which moneys shall be held by the Trustee or any Paying Agent in a separate account irrevocably in trust for and assigned to the respective Holders of the Outstanding Bonds being refunded, which moneys shall be held in trust and used as provided in Section 7.01 hereof, or
- (2) Government Obligations in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of Section 7.01 hereof, and any moneys required pursuant to said Section (with respect to all Outstanding Bonds or any part of one or more series of Outstanding Bonds being refunded), which Government Obligations and moneys shall be held in trust and used only as provided in said Section 7.01.

(iii) The College shall furnish to the Trustee and the Issuer at the time of delivery of the Series of Refunding Bonds a certificate of an independent public accountant stating that the Trustee and/or the Paying Agent (and/or any escrow agent as shall be appointed in connection therewith) hold in trust the moneys or such Government Obligations and moneys required to effect such payment at maturity or earlier redemption.

(d) Each Series of Additional Bonds issued pursuant to this summarized section shall be equally and ratably secured under the Indenture with the Series 2009 Bonds and all other Series of Additional Bonds, if any, issued pursuant to this summarized section, without preference, priority or distinction of any Bond over any other Bonds except as expressly provided in or permitted by the Indenture.

(e) Notwithstanding anything to the contrary contained in the Indenture, no series of Additional Bonds shall be issued unless: (i) at the time of issuance of such Series of Additional Bonds and after the application of proceeds thereof, there is no Event of Default under any Bond Document; (ii) the Loan Agreement are in effect and at the time of issuance there is no Event of Default under any such document nor any event which upon notice or lapse of time or both would become such an Event of Default; and (iii) the Rating Agency, if any, has confirmed in writing that the issuance of such Additional Bonds will not result in a reduction or withdrawal of the then current rating on the Bonds Outstanding.

(f) The Supplemental Indenture providing for the issuance of any Series of Additional Bonds shall contain applicable provisions for the payment of principal of, Redemption Price of, and interest on such Series of Additional Bonds including any interest rate modes applicable to such Series of Additional Bonds, redemption provisions

applicable to such Series of Additional Bonds, such Funds, Accounts or subaccounts to be created or held by the Trustee under Article IV hereof with respect to such Series of Additional Bonds, collateral and security (including credit facilities securing such Series of additional Bonds) and such other terms and provisions as the Issuer may determine are necessary in connection with the issuance of such Additional Bonds.

### **Establishment of Funds**

The following trust funds are established under the Indenture with the Trustee and shall be held, maintained and administered by the Trustee on behalf of the Issuer in accordance with the Indenture:

(a) Town of Hempstead Local Development Corporation Bond Fund – Molloy College (the “Bond Fund”), and within such Bond Fund, an “Interest Account” and a “Principal Account” and within such Interest Account and Principal Accounts, Sub-Accounts for the Series 2009 Bonds and the Series of Additional Bonds.

(b) Town of Hempstead Local Development Corporation Project Fund – Molloy College (the “Project Fund”), and within such Project Fund, a “Series 2009 Bonds Capitalized Interest Account”, a “Capitalized Interest Account” for any Series of Additional Bonds issued hereunder, if applicable, and a “Construction Account”.

(c) Town of Hempstead Local Development Corporation Rebate Fund – Molloy College (the “Rebate Fund”).

(d) Town of Hempstead Local Development Corporation Renewal Fund – Molloy College (the “Renewal Fund”).

(e) Town of Hempstead Local Development Corporation Gross Revenue Fund – Molloy College (the “Gross Revenue Fund”).

(f) Upon the issuance of any series of Additional Bonds pursuant to the Indenture, the Supplemental Indenture entered into with such series of Additional Bonds shall create such Funds and Accounts and/or subaccounts within any Account with respect to such series of Bonds.

### **Moneys to Be Held in Trust**

All moneys deposited with, paid to or received by the Trustee for the accounts of the Issuer (other than amounts deposited in the Rebate Fund) shall be held by the Trustee in trust, and shall be subject to the lien of the Indenture and held for the security of the Owners of the particular Series of Bonds until paid in full; provided, however, that moneys which have been deposited with, paid to or received by the Trustee (i) for the redemption of a portion of the particular Series of Bonds, notice of the redemption of which has been given, or (ii) for the payment of the particular Series of Bonds or interest thereon due and payable otherwise than upon acceleration by declaration, shall be held in trust for and subject to a Lien in favor of only the Owners of such Series of Bonds so called for redemption or so due and payable. Upon the issuance of any series of



Additional Bonds pursuant to the Indenture, the Supplemental Indenture entered into with such series of Additional Bonds shall create such Funds and Accounts and/or subaccounts within any Account with respect to such series of Bonds.

#### **Use of the Moneys in Project Fund**

(a) Moneys in the Project Fund shall be applied and expended by the Trustee in accordance with the provisions of the Indenture and of the Loan Agreement and particularly Section 4.3 of the Loan Agreement.

(b) On each Debt Service Payment Date during the Construction Period, the Trustee is authorized and directed to transfer from the Series 2009 Capitalized Interest Account to the Series 2009 Interest Sub-Account of the Interest Account of the Bond Fund an amount necessary to pay interest on the Series 2009 Bonds on such Debt Service Payment Date. The Trustee shall maintain adequate records pertaining to the Capitalized Interest Account of Project Fund and all disbursements therefrom.

(c) Except as otherwise provided in summarized subsections (a) and (b) above, the Trustee is directed to issue its checks for each disbursement from the Construction Account of the Project Fund upon being furnished with a written requisition therefor certified by an Authorized Representative of the College and substantially in the form of annexed to the Indenture to pay the Costs of the Project. The Trustee shall maintain adequate records pertaining to the Project Fund and all disbursements therefrom.

(d) The completion of the Project and payment or provision for payment of all Costs of the Project shall be evidenced by the filing with the Trustee of the Completion Certificate required by the Loan Agreement. As soon as practicable and in any event not more than sixty (60) days after the date of the filing with the Trustee of the Completion Certificate referred to in the preceding sentence, any balance remaining in the Construction Account of the Project Fund, except amounts the College shall have directed the Trustee, in writing, to retain for any Cost of the Project not then due and payable, and after the making of any transfer to the Rebate Fund that the College shall have directed the Trustee, in writing, to make as required by the Tax Compliance Agreement and the Indenture, shall without further authorization be transferred to the Bond Fund and thereafter applied as provided in Indenture.

(e) Within sixty (60) days after transfer of the balance in the Project Fund relating to the Series 2009 Bonds to the Bond Fund, the Trustee shall file an accounting thereof with the Issuer and the College and the Trustee shall call the Series 2009 Bonds for redemption pursuant to the Indenture.

(f) All earnings on amounts held in the Project Fund shall be retained in the respective account of the Project Fund until the Completion Date. Any transfers by the Trustee of amounts to the Rebate Fund (only at the direction of the College) shall be drawn by the Trustee from the Project Fund.

(g) If an Event of Default under the Loan Agreement shall have occurred and the outstanding principal amount of the Bonds shall have been declared due and payable, the entire balance remaining in the Project Fund, after making any transfer to the Rebate Fund directed to be made by the College pursuant to the Tax Compliance Agreement and the Indenture, shall be transferred to the Bond Fund.

#### **Payments into Bond Fund**

In addition to the payment into the Bond Fund of the accrued interest, if any, on the Series 2009 Bonds pursuant to the Indenture, there shall be deposited in the Bond Fund, as and when received (a) all payments received by the Trustee under Section 5.3(a) of the Series 2009 Loan Agreement or any similar provision in any Loan Agreement with respect to the payment of debt service on any Series of Additional Bonds; (b) amounts transferred from the Capitalized Interest Account to the applicable interest subaccount of the Interest Account pursuant to the Indenture; (c) the balance in the Project Fund and the Renewal Fund to the extent specified in the Indenture; (d) amounts transferred from the Gross Revenue Fund pursuant to the Indenture; (e) the amount of net income or gain received from the investments of moneys in the Bond Fund and all Funds and Accounts (other than the Rebate Fund) held under the Indenture after the Completion Date; (f) amounts transferred pursuant to the Loan Agreement and (g) all other moneys received by the Trustee pursuant to any of the provisions of the Loan Agreement or the Indenture and designated for deposit in the Bond Fund.

#### **Use of Moneys in Bond Fund**

(a) Except as otherwise expressly provided in the Indenture, moneys in the Bond Fund shall be used solely for the purchase or redemption of Series 2009 Bonds and any Series of Additional Bonds as provided in the Indenture. Moneys deposited in the Bond Fund in accordance with the provisions of Sections 4.04(c), 4.07(b) and 4.07(c) of the Indenture, however, may not be used for the payment of interest on the Series 2009 Bonds and any Series of Additional Bonds.

(b) The Trustee shall, on or before each Debt Service Payment Date of the Series 2009 Bonds, pay out of the monies then held for the credit of the Interest Account the amounts required for the payment of interest becoming due on the respective series of the Series 2009 Bonds and any Series of Additional Bonds on such Debt Service Payment Date, and such amounts so withdrawn are irrevocably dedicated for and shall be applied to the payment of interest.

(c) The Trustee shall, on or before each Debt Service Payment Date, when principal of the Series 2009 Bonds and any Series of Additional Bonds or Sinking Fund Payments are due, pay out of the monies then held for the credit of the Principal Account the amounts required for the payment of principal or Sinking Fund Payments becoming due at maturity, on a Sinking Fund Payment Date, or upon redemption of the respective series of the Series 2009 Bonds and any Series of Additional Bonds on such Debt Service Payment Date or Sinking Fund Payment Date and such amounts so withdrawn are

irrevocably dedicated for and shall be applied to the payment of principal or Sinking Fund Payments.

(d) Moneys transferred to the Bond Fund from the Project Fund pursuant to the Indenture, from the Renewal Fund pursuant to the Indenture or transferred to the Bond Fund pursuant to the Loan Agreement shall be invested, at the written direction of the College with yield not in excess of (i) the yield on the Bonds or (ii) yield on tax-exempt obligations as described in Section 148(b)(3) of the Code, subject to limitations on earnings as set forth in the Tax Compliance Agreement, and such moneys and earnings thereon shall be applied only to pay the principal of the Series 2009 Bonds and any Series of Additional Bonds as they become due and payable or the Redemption Price of Bonds subject to redemption pursuant to the Indenture.

(e) In the event there shall be on any Debt Service Payment Date, a deficiency in the Bond Fund (a "Payment Deficiency"), with respect to any Bond or Series of Bonds, the Trustee shall make up any such deficiency from the Gross Revenue Fund to the extent of the amounts in the Gross Revenue Fund, by the withdrawal of monies from the Gross Revenue Fund, to the extent available and by the sale or redemption of securities held in the Gross Revenue Fund sufficient to make up any deficiency. The Issuer shall charge the College a late payment penalty under the Loan Agreement in the amounts certified by the Trustee required to make up any deficiencies in the Gross Revenue Fund.

(f) The Trustee shall call the Series 2009 Bonds for redemption according to the Indenture, upon written direction of the Issuer or the College to the Trustee, on or after the date the Series 2009 Bonds are subject to optional redemption pursuant to the Indenture, whenever the assets of the Bond Fund shall be sufficient in the aggregate to provide monies to pay, redeem or retire all the Series 2009 Bonds then Outstanding or to redeem the Series 2009 Bonds in part pursuant to the Indenture, including accrued interest thereon to the Redemption Date. The Trustee shall call any series of Additional Bonds for redemption in accordance with the Supplemental Indenture providing for the issuance of such series of Additional Bonds.

(g) Moneys in the Bond Fund shall be used by the Trustee, upon request of an Authorized Representative of the College, to purchase the Series 2009 Bonds and any Series of Additional Bonds on the most advantageous terms obtainable with reasonable diligence, provided that no such purchase shall be made:

(i) if an Event of Default under the Loan Agreement or the Mortgage has occurred and is continuing;

(ii) within forty-five (45) days prior to any date on which Series 2009 Bonds or any Series of Additional Bonds are subject to redemption pursuant to the Indenture;

(iii) if the amount remaining in the Bond Fund, after giving effect to such purchase, is less than the amount required for the payment of the principal or

Redemption Price of the Series 2009 Bonds or any Series of Additional Bonds theretofore matured or called for redemption, plus interest to the date of maturity or the Redemption Date, as the case may be, in all cases where such Series 2009 Bonds or any Series of Additional Bonds have not been presented for payment; or

(iv) at a price in excess of that specified by the College in its request to the Trustee, plus accrued interest to the date of purchase.

The Trustee shall promptly notify the Issuer and the College of the principal amount and the maturity of each Series of Bond so purchased and the balance held in the Bond Fund after such purchase.

(h) In connection with the purchase of Series 2009 Bonds with moneys on deposit in the Bond Fund as provided in the Indenture, the Trustee shall negotiate or arrange for such purchases in such manner (through brokers or otherwise and with or without receiving tenders) as it shall in its discretion determine.

(i) If the balance in the Bond Fund, not otherwise required for scheduled payments of principal of, Redemption Price or interest on the Series 2009 Bonds or any Series of Additional Bonds, forty-five (45) days prior to any date on which Series 2009 Bonds or any Series of Additional Bonds are subject to redemption pursuant to the Indenture equals or exceeds \$50,000, the Trustee shall, upon request of an Authorized Representative of the College, apply as much of such balance as can be so applied to the redemption of Series 2009 Bonds or any Series of Additional Bonds on such next succeeding Redemption Date in the manner provided in the Indenture. The Trustee shall promptly notify the Issuer and the College of the principal amount and maturity of each Series 2009 Bond or any Series of Additional Bonds so redeemed and the balance held in the Bond Fund after such redemption.

(j) Whenever the amount in the Bond Fund is sufficient to redeem all of the Outstanding Series 2009 Bonds or any Series of Additional Bonds and to pay accrued interest to maturity or the date of redemption, the Trustee shall, upon request of an Authorized Representative of the College, take and cause to be taken the necessary steps to redeem all such Series 2009 Bonds or any Series of Additional Bonds on the next succeeding Redemption Date for which the required redemption notice may be given or on such later Redemption Date as may be specified by the College.

#### **Payments into Renewal Fund; Application of Renewal Fund**

a) The Net Proceeds resulting from any insurance award, condemnation award or recovery from any contractor or subcontractor with respect to the Project shall be deposited in the Renewal Fund. The amounts in the Renewal Fund shall be subject to a security interest, lien and charge in favor of the Trustee until disbursed as provided in the Indenture.

(b) If the College elects to replace, repair, rebuild, restore or relocate the Project pursuant to Article VII of the Loan Agreement, the Trustee shall, at the written

direction of the College, apply the amounts on deposit in the Renewal Fund, after making any transfer to the Rebate Fund, at the written direction of the College, as required by the Tax Compliance Agreement and the Indenture, to such replacement, repair, rebuilding, restoration or relocation. Upon the completion of such replacement, repair, rebuilding, restoration or relocation, and after making any transfer to the Rebate Fund, at the written direction of the College, as required by the Tax Compliance Agreement and the Indenture, any balance remaining in the Renewal Fund shall without further authorization be transferred to the Bond Fund and applied as provided in the Indenture. If the College elects not to replace, repair, restore or relocate the Project pursuant to Article VII of the Loan Agreement, any balance remaining in the Renewal Fund shall without further authorization be transferred to the Bond Fund and applied as provided in the Indenture.

(c) If any Event of Default shall exist at the time of the receipt by the Trustee of the Net Proceeds in the Renewal Fund and be continuing, the Trustee, unless it exercises the remedy provided by the Loan Agreement, shall, after making any transfer to the Rebate Fund, at the written direction of the College, as required by the Tax Compliance Agreement and the Indenture, transfer the amounts deposited in the Renewal Fund to the Bond Fund to be applied in accordance with the Indenture.

(d) If the College elects to replace, repair, rebuild, restore or relocate the Project pursuant to Article VII of the Loan Agreement, the Trustee is authorized to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same shall have been paid by or on behalf of the College or the Issuer) of the costs required for the replacement, repair, rebuilding, restoration or relocation of the Project. The Trustee is further authorized and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee and signed by an Authorized Representative of the College. Such requisition shall be in the same form and subject to the same conditions as requisitions from the Project Fund.

#### **Investment Earnings on Funds; Application of Investment Earnings on Funds**

(a) All investment income or earnings on amounts held in the Project Fund, the Renewal Fund, the Bond Fund or any other special fund held under any of the Bond Documents (other than the Rebate Fund) prior to the Completion Date shall be deposited upon receipt by the Trustee into the Project Fund and used for the purposes set forth in the Indenture and after the Completion Date shall be used to pay any remaining sums due for costs of the Project not previously paid, or deposited by the Trustee into the Interest Account of the Bond Fund and used to pay the interest component of the next upcoming Debt Service Payment. The Trustee shall keep separate accounts of all investment earnings from each fund and account hereunder to indicate the source of the income or earnings.

(b) Within thirty (30) days after the end of each Computation Period, the Trustee, at the written direction of an Authorized Representative of the College, shall transfer to the Rebate Fund instead of the Project Fund or the Interest Account of the Bond Fund an amount of the investment earnings on the funds and accounts hereunder, such that the amount transferred to the Rebate Fund is equal to that amount as is set forth

as the Rebate Amount in a written certificate delivered by the College to the Trustee pursuant to the Tax Compliance Agreement and the Indenture.

**Payments into Rebate Fund; Application of Rebate Fund**

(a) The Rebate Fund and the amounts deposited therein shall not be subject to a security interest, pledge, assignment, lien or charge in favor of the Trustee or any Owner of any Series of Bond or any other Person.

(b) The Trustee, upon the receipt of a certification of the Rebate Amount from an Authorized Representative of the College, shall transfer, from moneys in the Project Fund or the Renewal Fund, or from any other moneys paid by the College under the Tax Compliance Agreement, into the Rebate Fund, within thirty (30) days after the end of each Bond Year, an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of the last day of the immediately preceding Bond Year. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion of the Project pursuant to the Loan Agreement at any time during a Bond Year, the Trustee shall deposit in the Rebate Fund within thirty (30) days of the Completion Date an amount received from the College such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated at the completion of the Project. The amount deposited in the Rebate Fund pursuant to the Indenture shall be paid by the College pursuant to the Tax Compliance Agreement.

(c) In the event that on the first day of any Bond Year the amount on deposit in the Rebate Fund exceeds the Rebate Amount, the Trustee, upon the receipt of written instructions from an Authorized Representative of the College, shall withdraw such excess amount and deposit it in the Project Fund until the completion of the Project, or, after the Completion Date, deposit it in the Bond Fund.

(d) The Trustee, upon the receipt of written instructions from an Authorized Representative of the College, shall pay to the United States, out of amounts in the Rebate Fund, (i) not later than thirty (30) days after the last day of the fifth Bond Year and after every fifth Bond Year thereafter, an amount such that, together with prior amounts paid to the United States, the total paid to the United States is equal to ninety percent (90%) of the Rebate Amount with respect to the Series 2009 Bonds as of the date of such payment, and (ii) notwithstanding the provisions of the Indenture, not later than thirty (30) days after the date on which all Series 2009 Bonds have been paid in full, one hundred (100%) percent of the Rebate Amount as of the date of payment.

(e) The Trustee shall have no obligation under the Indenture to transfer any amounts to the Rebate Fund unless the Trustee shall have received specific written instructions from the College to make such transfer.

**Payment into Gross Revenue Fund; Application of Gross Revenue Fund**

(a) There shall be credited to the Gross Revenue Fund all amounts received by the Trustee pursuant to an assignment for such purpose described in the Loan

Agreement and other such amounts as the College may from time to time deposit with the Trustee for such purpose.

(b) Subject to summarized subsection (d) below, amounts credited to the Gross Revenue Fund shall not be subject to withdrawal by the College without the prior written consent of the Issuer and the Trustee.

(c) The Trustee shall on the first Business Day of each month commencing on the first Business Day of the first full month following a Triggering Event, apply amounts credited to the Gross Revenue Fund in accordance with the following priorities:

(i) first, to pay interest on the Series 2009 Bonds and any other Series of Additional Bonds issued under the Indenture;

(ii) second, to pay principal of, or Sinking Fund Payments on, the Series 2009 Bonds and any other Series of Additional Bonds issued the Indenture;

(iii) third, to pay the Basic Operating Costs of the College as certified to the Trustee and the Issuer by the College, provided, however, such amount may not exceed the amount set forth for such calendar month in the Annual Budget of the College submitted by the College to the Issuer and the Trustee; and

(iv) fourth, any remaining amounts shall remain in the Gross Revenue Fund.

(d) Notwithstanding anything to the contrary in the Indenture, the Trustee shall release the amounts credited to the Gross Revenue Fund in accordance with the written direction of the College at such time as (i) no Triggering Event has occurred during the preceding twenty-four (24) full calendar months and (ii) no Event of Default has occurred and is continuing.

### **Investment of Moneys**

(a) Moneys held in any fund established pursuant to Section 4.01 of the Indenture shall be invested and reinvested by the Trustee in Authorized Investments, pursuant to written direction by an Authorized Representative of the College, or pursuant to oral direction promptly confirmed in writing by such Authorized Representative. Such investments shall mature in such amounts and have maturity dates or be subject to redemption at the option of the owners thereof on or prior to the date on which the amounts invested therein will be needed for the purposes of such fund or accounts. The Trustee may at any time sell or otherwise reduce to cash a sufficient amount of such investments whenever the cash balance in such fund or accounts is insufficient for the purposes thereof. Any such investments shall be held by or under control of the Trustee and shall be deemed at all times a part of the fund or the respective account within a fund or special trust account for which such moneys are invested, and the interest accruing thereon and any profit realized from such investment shall be credited to and held in and any loss shall be charged to the applicable fund.

(b) The Trustee may make any investment permitted by this summarized section through its own bond department. The Trustee shall not be liable for any depreciation in the value of any investment made pursuant to this summarized section or for any loss arising from any such investment.

(c) Any investment authorized under the Indenture is subject to the condition that no use of the proceeds of any Bonds or of any other moneys shall be made which, if such use had been reasonably expected on the date of issue of such Series 2009 Bonds, would cause such Series 2009 Bonds to be "arbitrage bonds" within the meaning of such quoted term in Section 148 of the Code. The Trustee shall not be liable if such use shall cause the Series 2009 Bonds to be "arbitrage bonds", provided only that the Trustee shall have made such investment pursuant to the written direction or confirmation by an Authorized Representative of the College as provided in this summarized section.

(d) [Reserved.]

(e) The Trustee shall, at the written direction of the College, sell at the best price obtainable by the Trustee, or present for redemption, any obligation purchased by it as an investment whenever it shall be necessary in order to provide monies to meet any payment or transfer from the Fund or account for which such investment was made.

#### **Payment to College upon Payment of Bonds**

Except as otherwise specifically provided in the Indenture, after payment in full of the principal or Redemption Price of and interest on all the Bonds or any Series of Bonds (or after provision for the payment thereof has been made in accordance with Article VII of the Indenture) and after payment in full of the fees, charges and expenses of the Trustee and any Paying Agent and all other amounts required to be paid hereunder, and the fees, charges and expenses of the Issuer and all other amounts required to be paid under the Loan Agreement, all amounts remaining in any fund established pursuant to the Indenture with respect to such Series of Bonds (except the Rebate Fund) or otherwise held by the Trustee and by any additional Paying Agent for the account of the Issuer or the College under the Indenture or under the Loan Agreement shall be paid to the College.

#### **Failure to Present Bonds**

Subject to the provisions of the Indenture, in the event any Bond shall not be presented for payment when the principal or Redemption Price thereof becomes due, either at maturity or at the date fixed for prior redemption thereof or otherwise, if moneys sufficient to pay such Bond shall be held by the Trustee for the benefit of the Owner thereof, all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged. Thereupon, the Trustee shall hold such moneys, without liability for interest thereon, for the benefit of the Owner of such Bonds, who shall thereafter be restricted exclusively to such moneys for any claim under the Indenture or on, or with respect to, said Bond. If any Bond shall not be presented for payment within the period of two (2) years following the date when such



Bond becomes due, whether by maturity or call for prior redemption or otherwise, the Trustee shall return to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitations, thereafter be an unsecured obligation of the Issuer. The Trustee shall, at least sixty (60) days prior to the expiration of such two (2) year period, give notice to any Owner who has not presented any Bond for payment that any moneys held for the payment of any such Bond will be returned as provided in the Indenture at the expiration of such two (2) year period. The failure of the Trustee to give any such notice shall not affect the validity of any return of funds pursuant to the Indenture.

### **Cancellation**

All Bonds which have been paid, redeemed, purchased or surrendered shall be canceled and delivered by the Trustee to the Issuer. A copy of the canceled Bond or Bonds or other form of notice of such cancellation shall be delivered to the Issuer and to the College upon its written request.

### **Agreement to Provide Information**

The Trustee agrees, whenever requested in writing by the Issuer or the College, to provide such information that is known to the Trustee relating to any Bonds as the Issuer or the College, from time to time, may reasonably request, including, but not limited to, such information as may be necessary to enable the Issuer or the College to make any reports required by any Federal, state or local law or regulation.

### **Continuing Disclosure Agreement**

Pursuant to the Loan Agreement, the College and the Trustee have undertaken responsibility for compliance with, and the Issuer shall have no liability to the holders of the Series 2009 Bonds or any other person with respect to, any reports, notices or disclosures required by or provided pursuant to the Continuing Disclosure Agreement authorized by the Loan Agreement. The Trustee covenants and agrees with the holders from time to time of the Series 2009 Bonds that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement and of the Loan Agreement. Notwithstanding any other provision of the Indenture, failure of the College or the Trustee to perform in accordance with the Continuing Disclosure Agreement shall not constitute a default or an Event of Default under the Indenture, and the rights and remedies provided by the Indenture upon the occurrence of such a default or an Event of Default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein. The Trustee covenants and agrees to comply with the continuing disclosure requirements as may be applicable to any Additional Series of Bonds issued under the Indenture; provided, however, such requirements are substantially in accordance with the provisions of the Continuing Disclosure Agreement and the Loan Agreement.

## **Discharge of Lien**

(a) If the Issuer shall pay or cause to be paid to the Owners of any series of Bonds or of all Outstanding Bonds the principal thereof, redemption premium, if any, and interest thereon, at the times and in the manner stipulated therein and in the Indenture, and if there shall have been paid all fees, charges and expenses required to be paid under the Indenture, then the Lien on the Trust Estate created under the Indenture for the benefit of the Owners of such Series of Bonds so paid shall be released, discharged and satisfied. In such event, except as otherwise specifically provided in the Indenture, the Trustee and any additional Paying Agent shall pay or deliver to the College all moneys or securities held by it pursuant to the Indenture which are not required for the payment of such Series of Bonds. The Issuer may pay or cause to be paid any Series of Bonds without at the same time paying or causing to be paid all other Series of Outstanding Bonds. If the Issuer does not pay or cause to be paid, at the same time, all Outstanding Bonds, then the Trustee and any additional Paying Agent shall not return those moneys and securities held under the Indenture as security for the benefit of the Owners of Bonds not so paid or caused to be paid.

(b) When all of the Outstanding Bonds shall have been paid in full, or provisions for such full payment of all Outstanding Bonds shall have been made in accordance with the Indenture, the Trustee and the Issuer shall promptly execute and deliver to the College such written certificates, instruments and documents as the College shall provide to cause the Lien of the Indenture upon the Trust Estate to be discharged and canceled.

(c) Notwithstanding the fact that the Lien of the Indenture upon the Trust Estate may have been discharged and canceled in accordance with this summarized section, the Indenture and the rights granted and duties imposed by the Indenture, to the extent not inconsistent with the fact that the Lien upon the Trust Estate may have been discharged and canceled, shall nevertheless continue and subsist until the principal or Redemption Price of and interest on all of the Bonds shall have been fully paid or the Trustee shall have returned to the Issuer pursuant to the Indenture all funds theretofore held by the Trustee for payment of any Bonds not theretofore presented for payment.

## **Discharge of the Indenture**

(a) Any Outstanding Bond or installments of interest with respect thereto shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning of, and with the effect expressed in, the Indenture if: (i) there shall have been deposited with the Trustee sufficient cash and/or Government Obligations, in accordance with the Indenture which will, without further investment, be sufficient, together with the other amounts held for such payment, to pay the principal of the Series of Bonds when due or to redeem the Series of Bond on the earliest possible redemption date thereof at the Redemption Price specified in the Indenture or in a Supplemental Indenture with respect to such Series of Bonds, (ii) in the event such Series of Bonds are to be redeemed prior to maturity in accordance with the Indenture or in a Supplemental Indenture with respect to such Series of Bonds, all action required by the provisions of

the Indenture to redeem the Series of Bonds shall have been taken or provided for to the satisfaction of the Trustee and notice thereof in accordance with the Indenture or in a Supplemental Indenture with respect to such Series of Bonds shall have been duly given or provision satisfactory to the Trustee shall have been made for the giving of such notice, (iii) provision shall have been made for the payment of all fees and expenses of the Trustee and of any additional Paying Agent with respect to the Series of Bonds of which the Bond is a part, (iv) the Issuer shall have been reimbursed for all of its expenses under the Loan Agreement with respect to the Series of Bonds of which the Bond is a part, and (v) all other payments required to be made under the Loan Agreement and the Indenture or any Supplemental Indenture with respect to the Series of Bonds of which the Bond is a part shall have been made or provided for.

(b) For the purpose of this summarized section, the Trustee shall be deemed to hold sufficient moneys to pay the principal of an Outstanding Bond not then due or to redeem an Outstanding Bond prior to the maturity thereof only if there shall be on deposit with the Trustee and available for such purpose an amount of cash and/or a principal amount of Government Obligations, maturing or redeemable at the option of the owner thereof not later than (i) the maturity date of such Series of Bonds, or (ii) the first date following the date of computation on which such Series of Bonds may be redeemed pursuant to the Indenture (whichever may first occur), which, together with income to be earned on such Government Obligations prior to such maturity date or Redemption Date, equals the principal and redemption premium, if any, due on such Series of Bonds, together with all interest thereon (at the maximum applicable rate) which has accrued and which will accrue to such maturity or Redemption Date.

(c) Upon the defeasance of any series of Series of Bonds or of all Outstanding Bonds in accordance with the Indenture, the Trustee shall hold in trust, for the benefit of the Owners of such Series of Bonds, all such cash and/or Government Obligations, shall make no other or different investment of such cash and/or Government Obligations and shall apply the proceeds thereof and the income therefrom only to the payment of such Bonds.

### **Lien Law Section 73 Covenant**

The College, for itself and as the Agent of the Issuer, covenants to the Issuer and to the Trustee, as a third-party beneficiary hereof, that the College will receive advances of monies under the Bond Documents and will hold the right to receive such advances as trust funds to be first applied to the payment of trust claims as defined in Section 71 of the Lien Law of the State, and that the College will apply the same to such payments only, before using any part of such advances for any other purpose.

### **Events of Default**

The following shall be “Events of Default” under the Indenture with respect to any Bond or any Series of Bonds:

(a) A default in the due and punctual payment of any interest or any principal, Sinking Fund Payments, or Redemption Price of any Bond, whether at the stated maturity thereof, upon proceedings for redemption thereof or upon the maturity thereof by declaration, or any other amounts due under the Indenture or the other Bond Documents or any other bond documents entered into in connection with any series of Additional Bonds; or

(b) A default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in the Indenture or in any Series of Bonds and the continuance thereof for a period of thirty (30) days after written notice given by the Trustee or by the Owners of not less than fifty percent (50%) of the principal amount of the applicable Series of Bonds then Outstanding; or if such default cannot be cured within thirty (30) days, but the Issuer is proceeding diligently to cure such default, then the Issuer shall be permitted an additional ninety (90) days within which to remedy the default; or

(c) The occurrence of an Event of Default under any Loan Agreement.

**Acceleration; Annulment of Acceleration; Default Rate**

(a) Upon the occurrence of an Event of Default under the Series 2009 Loan Agreement or any similar provision in any other Loan Agreement with respect to any Additional Bonds, all Series of Bonds Outstanding shall become immediately due and payable without action or notice of any kind on the part of the Trustee or the Issuer. Upon the occurrence and continuance of an Event of Default, the Trustee shall, by notice in writing delivered to the Issuer and the College, declare all Series of Bonds Outstanding immediately due and payable, and such Series of Bonds shall become and be immediately due and payable, anything in the Series Bonds or in the Indenture to the contrary notwithstanding. In such event, there shall be due and payable on the Series of Bonds an amount equal to the total principal amount of all such Series of Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment. If all of the Series of Bonds Outstanding shall become so immediately due and payable, the Issuer and the Trustee shall as soon as possible declare by written notice to the College all unpaid installments payable by the College under the Loan Agreement or any similar provision in any other Series of 2009 Loan Agreement with respect to any Additional Bonds to be immediately due and payable.

(b) At any time after the principal of the Series 2009 Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Indenture, the Trustee may annul such declaration and its consequences with respect to any Series 2009 Bonds not then due by their terms if (i) moneys shall have been deposited in the Bond Fund sufficient to pay all matured installments of interest and principal, Sinking Fund Payments, or the Redemption Price (other than principal then due only because of such declaration) of such Outstanding Series of Bonds; (ii) sufficient moneys shall be available to pay the amounts described in the Indenture; (iii) all other amounts then payable by the Issuer

shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

(c) Upon the occurrence and continuation of an Event of Default, the Bonds shall bear interest at the Default Rate from the date of the occurrence of such Event of Default until the Bonds have been paid pursuant to the Indenture or such Event of Default has been cured.

### **Enforcement of Remedies**

(a) Upon the occurrence and continuance of any Event of Default, and upon being provided with security or indemnity reasonably satisfactory to the Trustee against any liability or expense which might thereby be incurred, the Trustee shall proceed forthwith to protect and enforce its rights and the rights of the Owners under the Act, the applicable Series of Bonds and the applicable Loan Agreement by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient.

(b) The Trustee acting directly may sue for, enforce payment of and receive any amounts due or becoming due from the Issuer or the College for principal, Redemption Price, interest or otherwise under any of the provisions of the Series of Bonds, the Bond Documents and any bond documents entered into in connection with any Series of Additional Bonds without prejudice to any other right or remedy of the Trustee or of the Owners.

(c) Regardless of the happening of an Event of Default, the Trustee shall have the right to institute and maintain such suits and proceedings as it may be advised by such Owners shall be necessary or expedient (i) to prevent any impairment of the security under the Indenture by any acts which may be unlawful or in violation of the Indenture or of any resolution authorizing any Series of Bonds, or (ii) to preserve or protect the interests of the Owners, provided that such request is in accordance with law and the provisions of the Indenture and is not unduly prejudicial to the interests of the Owners not making such request.

### **Appointment of Receivers**

Upon the occurrence of an Event of Default and upon the filing of a suit or commencement of other judicial proceedings to enforce the rights of the Trustee or the Owners under the Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues and receipts thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

### **Application of Moneys**

(a) The Net Proceeds received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture shall be, after paying the fees and expenses of the Trustee, deposited in the Bond Fund.

(b) All moneys held in a sub-account of the Bond Fund for any particular Series of Bonds during the continuance of an Event of Default shall be applied as follows:

(i) Unless the principal of all the Bonds of a particular series shall have become due or shall have been declared due and payable,

FIRST - To the payment of all installments of the interest then due, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment of interest, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto without any discrimination or preference; and

SECOND - To the payment of the unpaid principal or Redemption Price, if any, of any Series of Bonds or principal installments which shall have become due (other than any Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture), in order of their due dates, with interest on such Bonds, at the rate or rates expressed thereon, from the respective dates upon which such Bonds became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal and interest due on such date, to the Persons entitled thereto without any discrimination or preference; and

THIRD - To the payment of the principal or Redemption Price of and interest on such Bonds as the same become due and payable; and

(ii) If the principal of all such Bonds shall have become due or shall have been declared due and payable, to the payment of the principal and interest (at the rate or rates expressed thereon) then due and unpaid upon all such Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bonds of such series, ratably according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference; and

(iii) If the principal of all such Bonds shall have been declared due and payable and if such declaration shall thereafter have been annulled pursuant to provisions of the Indenture, the moneys shall be applied in accordance with the provisions of paragraph (i) of this summarized section.

(c) Whenever moneys are to be applied by the Trustee pursuant to the provisions of this summarized section, such moneys shall be applied at such time or times as the Trustee in its sole discretion shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. On the date fixed by the Trustee for application of such moneys, interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the application of any such moneys and of the fixing of any such date.

#### **Remedies Vested in Trustee**

Except as otherwise provided in the Indenture, all rights of action (including the right to file proof of claim) under the Indenture or under any of the Series of Bonds may be enforced by the Trustee without possession of any of the Series of Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Owners of any of the Series of Bonds. Subject to the provisions of the Indenture, any recovery of judgment shall be for the equal benefit of the Owners of the Outstanding Bonds.

#### **Remedies Not Exclusive**

No remedy conferred upon or reserved to the Trustee or to the Owners by the Indenture is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners under the Indenture or now or hereafter existing at law or in equity or by statute.

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**SUMMARY OF CERTAIN PROVISIONS OF THE SERIES 2009 LOAN  
AGREEMENT**

**Renovation, Construction, Equipping and Furnishing of Facility**

(a) The College agrees, and covenants and warrants to the Issuer, it has or will renovate, construct, equip and furnish the Project in accordance with the Plans and Specifications.

(b) The College may revise the Plans and Specifications from time to time, provided, however, if such revision shall include a material change to the Project, the College shall first obtain the written approval of the Issuer, which approval may not be unreasonably withheld but may be subject to such conditions as the Issuer may deem appropriate.

(c) An interest in all materials, equipment, machinery and other items of Property incorporated or installed in the Project shall vest in the College immediately upon the College's obtaining an interest in or title to the materials, equipment, machinery and other items of Property. The College shall execute, deliver and record or file all instruments necessary or appropriate so to vest an interest in the Project and shall take all action necessary or appropriate to protect such interest against claims of any third Persons.

(d) The Issuer appoints the College its true and lawful agent, and the College accepts such agency to use the proceeds of the Series 2009 Bonds (i) to renovate, construct, equip and furnish the Project in accordance with the Plans and Specifications, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be requisite or proper, all for constructing the Improvements and acquiring and installing the Equipment with the same powers and with the same validity as the Issuer could do if acting on its own behalf, (iii) to pay interest on the Series 2009B Bonds during the construction period of the Project, and (iv) to pay a portion of the costs of issuance of the Series 2009 Bonds. The College shall pay all fees, costs and expenses incurred in the construction and renovation of the Improvements and the acquisition and installation of the Equipment from funds made available therefor in accordance with the Loan Agreement, and shall ask, demand, sue for, levy, recover and receive all such sums or money, debts, dues and other demands whatsoever which may be due, owing and payable to the College under the terms of any contract, order, receipt, or writing in connection with the construction, renovation and completion of the Improvements and the acquisition and installation of the Equipment, and to enforce the provisions of any contract, agreement, obligation, bond or other performance security.

(e) Reserved.

(f) The College, as agent for the Issuer, shall comply with all provisions of the Labor Law, the Executive Law and the Civil Rights Law of the State applicable to the construction, renovation, equipping and furnishing of the Project and shall include in all



construction contracts all provisions that be required to be inserted therein by such provisions. The College shall comply with the relevant policies of the Issuer with respect to such laws, which are set forth as in the Loan Agreement. Except as provided in the preceding two sentences, the provisions of this summarized subsection do not create any obligations or duties not created by applicable law outside of the terms of the Loan Agreement.

### **Issuance of the Series 2009 Bonds; Disbursement of Series 2009 Bond Proceeds**

In order to provide funds for payment of the Costs of the Project, together with other payments and incidental expenses in connection therewith, the Issuer agrees that it will authorize, issue, sell and cause the Series 2009 Bonds to be delivered on the terms set forth in the Indenture. Series 2009 Bond Proceeds shall be disbursed in accordance with the provisions of the Indenture and the Loan Agreement.

### **Application of Bond Proceeds**

Except as provided in the Loan Agreement, the Series 2009 Bond Proceeds, upon the written direction of an Authorized Representative of the College, and on the conditions provided for in the Indenture, shall be applied to pay only the following costs and items of expense paid on or after August 1, 2005 except as may otherwise be provided under the Tax Compliance Agreement or included in a resolution of the Board of Trustees of the College indicating an intent to reimburse the College for costs of the Project incurred prior to that date:

- (i) the cost of preparing the Plans and Specifications (including any preliminary study or planning of the Project or any aspect thereof),
- (ii) all costs of renovating, constructing, equipping and furnishing the Project (including environmental audits and architectural, engineering and supervisory services with respect to the Project),
- (iii) all fees, taxes, charges and other expenses for recording or filing, as the case may be, any documents that the Issuer or the Trustee may deem desirable in order to protect or perfect any security interest contemplated by the Indenture,
- (iv) interest payable on the Series 2009 Bonds during the Construction Period of the Project and principal and interest payable during the Construction Period on such interim financing as the College may have secured with respect to the Project in contemplation of the issuance of the Series 2009 Bonds,
- (v) all legal, accounting and any other fees, costs and expenses incurred in connection with the preparation, printing, reproduction, authorization, issuance, execution, sale and distribution of the Series 2009 Bonds and the Series 2009 Bond Documents and all other documents in connection herewith or therewith, and with any other transaction contemplated by the Loan Agreement or the Indenture,

- (vi) any administrative fee and fee for services of the Issuer, and
- (vii) reimbursement to the College for any of the above-enumerated costs and expenses.

### **Certificates of Completion**

To establish the Completion Date, the College shall deliver to the Issuer and the Trustee a Completion Certificate signed by an Authorized Representative of the College (i) stating that the renovation, construction, equipping and furnishing of the Project to be paid for with Series 2009 Bond Proceeds has been substantially completed in accordance with the Plans and Specifications therefor; and (ii) stating that except for amounts retained in the Project Fund for the payment of incurred, but unpaid, items of the Costs of the Project or items when the College is then contesting the payment thereof, the payment for all labor, services, materials and supplies used in such renovation, construction, equipping and furnishing has been made or provided for. The College agrees to complete the renovation, construction, equipping and furnishing of the Project on or before November 1, 2012 unless such date has been extended by the Issuer. The Issuer shall not extend such Completion Date unless the College has caused to be delivered to the Issuer and the Trustee an acceptable opinion of Bond Counsel stating that the extension of the Completion Date will not adversely affect the exclusion of interest on the Series 2009 Bonds, from gross income for Federal income tax purposes. Such Completion Certificate shall further certify as to the determination of the Rebate Amount as provided in the Tax Compliance Agreement and the Indenture and shall direct the Trustee to make any transfer to, or make payments of amounts for deposit in, the Rebate Fund.

### **Completion by College**

(a) In the event that the Net Proceeds of the Series 2009 Bonds are not sufficient to pay in full the costs of renovating, constructing, equipping and furnishing the Project in accordance with the Plans and Specifications, the College agrees to pay all such sums as may be in excess of the Net Proceeds of the Series 2009 Bonds. The College shall execute, deliver and record or file such instruments as the Issuer or the Trustee may request in order to perfect or protect the Issuer's security interests contemplated by the Indenture, the Mortgage and the Note.

(b) The College shall not be entitled to any reimbursement for such excess cost or expense from the Issuer or the Trustee or the Owners of any of the Series 2009 Bonds, nor shall it be entitled to any diminution or abatement of any other amounts payable by the College under the Loan Agreement.

### **Loan Payments and Other Amounts Payable**

(a) The College shall pay to the Issuer on the Closing Date the Issuer's administrative fee in the amount of \$250,000 (at the time the College submitted its application, it paid \$1,500 to the Issuer). In addition, the College shall pay to the Issuer an Initial Compliance Fee of \$2,500 on the Closing Date (less a credit from the Issuer of \$500), and thereafter the College shall pay to the Issuer an Annual Compliance Fee of

\$1,000 on or before January 1 of each year commencing on January 1, 2010 and continuing through the term of the Loan Agreement. The College shall pay basic loan payments five (5) Business Days before the first Business Day of each month an amount equal to 1/6 of the next upcoming interest payment on the Series 2009 Bonds due and owing on the next Debt Service Payment Date, and 1/12 of the next upcoming principal payment or sinking fund installment payment of the Series 2009 Bonds due and owing on the next Debt Service Payment Date; provided however, the College shall pay five (5) Business Days before December 1, 2009 and January 1, 2010 an amount equal to 1/2 of the interest payment due and owing on the January 1, 2010 Debt Service Payment Date. The College's obligation to pay such basic loan payments shall be evidenced by the Promissory Note, substantially in the form attached to the Loan Agreement.

(b) In addition to the Loan Payments pursuant to the Loan Agreement, throughout the Loan Term, the College shall pay to the Issuer as additional loan payments, within fifteen (15) days of the receipt of demand therefor, an amount equal to the sum of the expenses of the Issuer and the members thereof incurred (i) by reason of the Issuer's financing of the Project, or (ii) in connection with the carrying out of the Issuer's duties and obligations under the Issuer Documents, the payment of which is not otherwise provided for under the Loan Agreement. Other than the Annual Compliance Fee, the foregoing shall not be deemed to include any annual or continuing administrative or management fee beyond any initial administrative fee or fee for services rendered by the Issuer.

(c) In addition, the College shall pay as additional loan payments within fifteen (15) days after receipt of a written demand therefor the Ordinary Expenses and Extraordinary Expenses payable by the Issuer to the Trustee pursuant to and under the Indenture.

(d) The College, under the provisions of the Loan Agreement, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the College shall fail timely to make any payment required in the Loan Agreement, the College shall pay the same together with all late payment penalties specified in the Series 2009 Bonds. In the event the College shall fail timely to make any payment required in the Loan Agreement, the College shall pay the same together with interest on such payment at the per annum rate of ten percent (10%), but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made.

#### **Obligations of College Under the Loan Agreement Unconditional**

The obligations of the College to make the payments required in the Loan Agreement, and to perform and observe any and all of the other covenants and agreements on its part contained in the Loan Agreement, shall be a general obligation of the College, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Issuer. The College agrees it will not (i) suspend, discontinue or abate any payment required

hereunder, (ii) fail to observe any of its other covenants or agreements in the Loan Agreement, or (iii) terminate the Loan Agreement for any cause whatsoever unless and until the Series 2009 Bonds, including premium, if any, and interest thereon, have been paid or provided for.

Subject to the foregoing provisions, nothing contained in this summarized section shall be construed to release the Issuer from the performance of any of the agreements on its part contained in the Loan Agreement or to affect the right of the College to seek reimbursement from, or institute any action against any party as the College may deem necessary to compel performance or recover damages for non-performance from such party.

#### **Payment of Additional Moneys in Prepayment of Bonds**

In addition to any other moneys required or permitted to be paid pursuant to the Loan Agreement, the College may, subject to the terms of the Indenture, pay moneys to the Trustee (i) to be applied as the prepayment of amounts to become due and payable by the College pursuant to the Loan Agreement and the Promissory Note, or (ii) to be used for the redemption or prepayment of any Series 2009 Bonds at such time or times and on such terms and conditions as is provided in such Series 2009 Bonds and in the Indenture. The College shall notify the Issuer and the Trustee in writing as to the purpose of any such payment.

#### **Rights and Obligations of the College upon Prepayment of Bonds**

In the event the Series 2009 Bonds shall have been paid in full prior to the termination of the Loan Agreement, or provision for such payment shall have been made in accordance with the Indenture, the Issuer, at the sole cost of the College, shall obtain and record or file appropriate discharges or releases of the Mortgage and the Note or the Loan Agreement and any terminations, discharges or releases of any security interest relating to the Project or under the Indenture.

#### **Maintenance and Modifications of Projects by College**

(a) The College shall not abandon the Project or cause or permit any waste to the Improvements. During the Loan Term, the College shall not remove any part of the Project outside of the jurisdiction of the Issuer and shall (i) keep the Project in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Project (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); and (iii) operate the Project in a sound and economic manner.

(b) With the written consent of the Issuer, which shall not be unreasonably withheld, the College, from time to time, may make any material structural additions, modifications or improvements to the Project or any part thereof, provided (i) such actions do not adversely affect the structural integrity of the Project, (ii) such actions do not materially impair the use of the Project or materially decrease their value. All such additions, modifications or improvements made by the College shall become a part of the

Project. The College agrees to deliver to the Agency all documents which may be necessary or appropriate to protect the lien of the Mortgage.

### **Installation of Additional Equipment**

Subject to the provisions of the Loan Agreement and the Mortgage, the College or any permitted sublessee of the College from time to time may install additional machinery, equipment or other personal property in the Project (which may be attached or affixed to the Project), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Project, provided that the acquisition and installation of such property is not financed from either the Project Fund or the Renewal Fund. Subject to the provisions of the Loan Agreement and the Mortgage, the College from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the College from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Project, provided that any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Project or impair the overall operating efficiency of the Project for the purposes for which it is intended, and provided further that, if any damage is occasioned to the Project by such removal, the College agrees promptly to repair such damage at its own expense.

### **Insurance Required**

At all times throughout the Loan Term, including, when indicated in the Loan Agreement, during the Construction Period, the College shall, at its sole cost and expense, maintain or cause to be maintained insurance covering the Project against such risks and for such amounts as are customarily insured against by facilities of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the College, but in no event less than the principal amount of the Series 2009 Bonds. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the College is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the College who are located at or assigned to the Project. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the College first occupy the Project.

(c) Insurance protecting the Issuer, the Trustee and the College against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the College under Section 8.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage) and with a blanket excess liability coverage in an amount not less than \$5,000,000 protecting the Issuer, the Trustee and the College against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the College shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation and employer's liability with limits in accordance with applicable law.

(ii) Comprehensive general liability providing coverage for:

Premises and Operations

Products and Completed Operations

Owners Protective

Contractors Protective

Contractual Liability

Personal Injury Liability

Broad Form Property Damage

(including completed operations)

Explosion Hazard

Collapse Hazard

Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iii) Business auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iv) Excess “umbrella” liability providing liability insurance in excess of the coverage’s in (i), (ii) and (iii) above with a limit of not less than \$5,000,000.

(e) A policy or policies of flood insurance in an amount not less than the principal amount of the Loan or the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Issuer that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

#### **Additional Provisions Respecting Insurance**

(a) All insurance required by the Loan Agreement hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. The company issuing the policies required by subsections (a) and (e) of the immediately preceding summarized section shall be rated “A” or better by A.M. Best Co., Inc. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by subsections (a) and (e) the immediately preceding summarized section shall contain a standard New York non-contributory mortgagee clause showing the interest of the Issuer as first mortgagee and provide for payment to the Trustee of the Net Proceeds of insurance resulting from any claim for loss or damage thereunder, and all policies of insurance required by the Loan Agreement shall provide for at least thirty (30) days’ prior written notice of the restriction, cancellation or modification thereof to the Issuer and the Trustee. The policy evidencing the insurance required by subsection (c) the immediately preceding summarized section shall name the Issuer and the Trustee as additional named insureds. All policies evidencing the insurance required by clauses (ii) and (iv) of subsection (d) of the immediately preceding summarized section shall name the Issuer and the College as additional named insureds. Upon request of the Trustee, the College will assign and deliver to the Trustee the policies of insurance required under subsection (a) of the immediately preceding summarized section, so and in such manner and form that the Trustee shall at all times, upon such request and until the payment in full of the Series 2009 Bonds, have and hold said policies and the Net Proceeds thereof as collateral for the payment of the Series 2009 Bonds. The policies under subsection (a) of the immediately preceding summarized section shall contain appropriate waivers of subrogation.

(b) The policies (or certificates and binders) of insurance required by subsection (a) of the immediately preceding summarized section shall be deposited with the Trustee on or before the Closing Date. A copy of the policy (or certificate or binder)

of insurance required by subsection (c) of the immediately preceding summarized section shall be delivered to the Issuer on or before the Closing Date. A copy of the policies (or certificates and binders) of insurance required by clauses (ii) and (iv) of subsection (d) of the immediately preceding summarized section shall be delivered to the Issuer on or before the Closing Date. The College shall deliver to the Issuer and the Trustee before the first Business Day of each twelve (12) month period thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding twelve (12) month period, insurance of the types and in the amounts required by the immediately preceding summarized section and complying with the additional requirements of subsection (a) the immediately preceding summarized section. Prior to the expiration of each such policy or policies, the College shall furnish to the Issuer and the Trustee a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by the Loan Agreement. The College shall provide such further information with respect to the insurance coverage required by the Loan Agreement as the Issuer and the Trustee may from time to time reasonably require.

#### **Application of Net Proceeds of Insurance**

The Net Proceeds of the insurance carried pursuant to the provisions of the Loan Agreement shall be applied as follows: (i) the Net Proceeds of the insurance required by Section 6.4(a) of the Loan Agreement shall be applied as provided in Section 7.1 of the Loan Agreement, and (ii) the Net Proceeds of the insurance required by Sections 6.4(b), (c) and (d) of the Loan Agreement shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

#### **Damage or Destruction of the Facility**

(a) If any portion of the Project shall be damaged or destroyed (in whole or in part) at any time during the Loan Term:

(i) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate the Project or any project thereof comprising a portion of the Project; and

(ii) there shall be no abatement or reduction in the Loan Payments or other amounts payable by the College under the Loan Agreement (whether or not such project comprising a portion of the Project replaced, repaired, rebuilt, restored or relocated); and

(iii) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in the Loan Agreement, the College shall at its option either (A) replace, repair, rebuild, restore or relocate such project comprising a portion of the Project, or (B) direct the Trustee to apply such Net Proceeds to the payment of the principal of the Series 2009 Bonds or



any Additional Bonds as they become due and payable or the Redemption Price of Bonds subject to Redemption pursuant to the Indenture .

If the College replaces, repairs, rebuilds, restores or relocates the Project, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in the Indenture to pay or reimburse the College for the cost of such replacement, repair, rebuilding, restoration or relocation.

(b) Any such replacements, repairs, rebuilding, restorations or relocations shall be subject to the following conditions:

(i) such project comprising a portion of the Project shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction;

(ii) such project comprising a portion of the Project shall continue to constitute a “project” as such term is defined in the Indenture, and the exclusion of the interest on the Series 2009 Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;

(iii) such project comprising a portion of the Project will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Issuer may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of such project comprising a portion of the Project shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements and be promptly and fully paid for by the College in accordance with the terms of the applicable contracts.

(d) If the College elects to replace, repair, rebuild, restore or relocate the Project pursuant to the Loan Agreement, then in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, restoration or relocation, the College shall nonetheless complete the work and pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. All such replacements, repairs, rebuilding, restoration or relocations made pursuant to this summarized section, whether or not requiring the expenditure of the College’s own money, shall automatically become a part of the Project as if the same were specifically described in the Loan Agreement.

(e) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration or relocation shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Compliance Agreement, be applied in accordance with the provisions of the Indenture.

(f) If the College shall exercise its option to terminate the Loan Agreement pursuant to provisions of the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement. If an Event of Default hereunder shall have occurred and is continuing and the Trustee shall have exercised its remedies the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement.

(g) If the entire amount of the Series 2009 Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the College.

(h) Except upon the occurrence and continuation of an Event of Default, the College with the consent of the Issuer, not to be withheld unreasonably, shall have the right to settle and adjust all claims under any policies of insurance required by Sections 6.4(a) and (d) of the Loan Agreement on behalf of the Issuer and on its own behalf.

#### **Condemnation**

(a) If title to or use of the Project or any portion thereof comprising a portion of the Project shall be taken by Condemnation (in whole or in part) at any time during the Loan Term:

(i) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate such project comprising a portion of the Project or acquire, by construction or otherwise, facilities of substantially the same nature as the Project (“Substitute Project”); and

(ii) there shall be no abatement or reduction in the amounts payable by the College under the Loan Agreement (whether or not such project comprising a portion of the Project is replaced, repaired, rebuilt, restored or relocated or Substitute Facilities acquired); and

(iii) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in the Loan Agreement, the College shall either:

(A) replace, repair, rebuild, restore or relocate such project comprising a portion of the Project or acquire Substitute Project, or

(B) redeem an amount of the Series 2009 Bonds equal to the Net Proceeds in accordance with the Indenture.

If the College replaces, repairs, rebuilds, restores or relocates such project comprising a portion of the Project or acquires a Substitute Project, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in the Indenture

to pay or reimburse the College for the cost of such replacement, repair, rebuilding, restoration, relocation or acquisition of such Substitute Project.

(b) Any such replacements, repairs, rebuilding, restorations, relocations or acquisitions of a Substitute Project shall be subject to the following conditions:

(i) such project comprising a portion of the Project or the Substitute Project shall be in substantially the same condition and value as an operating entity as existed prior to the condemnation;

(ii) such project comprising a portion of the Project or the Substitute Project shall continue to constitute a "project" as such term is defined in the Act, and the exclusion of the interest on the Series 2009 Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;

(iii) such project comprising a portion of the Project or the Substitute Project will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Issuer may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of such project comprising a portion of the Project shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements and shall be promptly and fully paid for by the College in accordance with the terms of the applicable contracts.

(d) If the College elects to replace, repair, rebuild, restore or relocate pursuant to the Loan Agreement, then in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, restoration, relocation or acquisition of a Substitute Project, the College shall nonetheless complete the work or the acquisition and pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. All such replacements, repairs, rebuilding, restoration, relocations and such acquisition of a Substitute Project made pursuant to this summarized section, whether or not requiring the expenditure of the College's own money, shall automatically become a part of the Project as if the same were specifically described in the Loan Agreement.

(e) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Project shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Compliance Agreement, be used to redeem the Series 2009 Bonds as provided in the Indenture.

(f) If the College shall exercise its option to terminate the Loan Agreement pursuant to Section 11.1 of the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement. If any Event of Default under the Loan Agreement shall have occurred and is continuing and the Trustee

shall have exercised its remedies under the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement.

(g) If the entire amount of the Series 2009 Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the College.

(h) Except upon the occurrence and continuation of an Event of Default, the College with the consent of the Issuer, not to be unreasonably withheld, shall have the right to settle and adjust all claims under any Condemnation proceedings on behalf of the Issuer and on its own behalf.

### **Hold Harmless Provisions**

(a) The College agrees that the Issuer, the Trustee and each Paying Agent shall not be liable for and agrees to defend, indemnify, release and hold the Issuer, the Trustee and each Paying Agent harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Project or the Land, or (ii) liability arising from or expense incurred in connection with the Issuer's financing, construction, renovation, and equipping of the Project, including without limiting the generality of the foregoing, all claims arising from the breach by the College of any of its covenants contained in the Loan Agreement, the exercise by the College of the authority conferred upon it pursuant to the Loan Agreement and all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Issuer, the Trustee or any Paying Agent are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Issuer, the Trustee or any Paying Agent or any of their respective members, directors, trustees, officers, agents or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Issuer, the Trustee or any Paying Agent, or any of their respective members, directors, trustees, officers, agents or employees, and irrespective of the breach of a statutory obligation (other than a breach caused by any of their respective gross negligence or intentional or willful wrongdoing) or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(b) Notwithstanding any other provisions of the Loan Agreement, the obligations of the College pursuant to this summarized section shall remain in full force and effect after the termination of the Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters described in the Loan Agreement may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters described in the Loan Agreement and the payment of all expenses and charges incurred by the Issuer, the Trustee or their respective members, directors,

officers, agents and employees, relating to the enforcement of the provisions specified in the Loan Agreement.

(c) In the event of any claim against the Issuer, the Trustee or any Paying Agent or their respective members, directors, officers, agents or employees by any employee or contractor of the College or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the College under the Loan Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

(d) The Trustee and each Paying Agent shall be third party beneficiaries of the College's obligations under this summarized section.

### **Right to Inspect Projects**

The Issuer and the Trustee and the duly authorized agents of either of them shall have the right at all reasonable times upon prior notice to the College to inspect the Project.

### **College to Maintain Its Existence**

The College agrees that during the Loan Term (a) it will maintain its existence as a not-for-profit corporation constituting an Exempt Organization subject to service of process within the State and will not dissolve or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it or acquire all or substantially all of the assets of one or more entities without the prior written consent of the Issuer; (b) it will preserve its status as an organization described in Section 501(c)(3) of the Code; (c) it will operate as an institution of higher learning and will establish tuition and fees for services provided by the College which, together with other available funds, will be sufficient in each fiscal year to provide funds for the following: (1) the payment by the College of all of its expenses for the operation, maintenance and repair of its facilities or Project in such year; (2) the payment of all amounts due under the Loan Agreement in such year; and (3) the payment of all Indebtedness and all other obligations of the College due in such year; and (d) it will not perform any act, enter into any agreement, or use or permit the Project to be used in any manner or for any unrelated trade or business as described in Section 513(a) of the Code, which could adversely affect the exemption of interest on the Series 2009 Bonds from Federal income taxes pursuant to Section 103 and 145 of the Code. Prior to the College performing any act, entering into any agreement or using or permitting the Project to be used in any manner that would constitute an unrelated trade or business within the meaning of Section 513(a) of the Code, the College shall provide written notice to the Issuer and the Trustee and the Issuer and the Trustee shall receive an opinion of counsel satisfactory to each of them to the effect that such contemplated act, agreement or use will not adversely affect the exemption of interest on the Series 2009 Bonds for Federal income tax purposes.

### **Qualification in State**

The College throughout the Loan Term shall continue to be duly authorized to do business in the State as an entity of higher education.

### **Books of Record and Account; Financial Statements**

The College at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the College.

### **Compliance with Orders, Ordinances, Etc.**

(a) The College, throughout the Loan Term, agrees that it will promptly comply, and take all reasonable steps to cause any tenant or occupant of the Project to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Project or any part thereof or to the renovation, construction and equipping thereof, or to any use, manner of use or condition of the Project or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers having jurisdiction of the Project or any part thereof, or to the renovation, construction, equipping and furnishing thereof, or to any use, manner of use or condition of the Project or any part thereof and of all companies or associations insuring the premises.

(b) The College shall keep or cause the Project to be kept free of Hazardous Substances, except in compliance with applicable law. Without limiting the foregoing, the College shall not cause or permit the Project to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws, regulations and permits, nor shall the College cause or permit, as a result of any intentional or unintentional act or omission on the part of the College or any contractor, subcontractor, tenant or subtenant, a release of Hazardous Substances onto the Project or onto any other property. The College shall comply with and shall take all reasonable steps to ensure compliance by all contractors, subcontractors, tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and shall take all reasonable steps to ensure that all contractors, subcontractors, tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The College shall (a) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Substances, on, from, or affecting the Project (i) in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations, and policies, (ii) to the reasonable satisfaction of the Trustee and the Issuer, and (iii) in accordance with the orders and directives of all federal, state, and local governmental

authorities; and (b) defend, indemnify, and hold harmless the Trustee and the Issuer, their employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release, or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise, (ii) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Trustee and the Issuer, which are based upon or in any way related to such Hazardous Substances, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses. The provisions of this summarized section shall be in addition to any and all other obligations and liabilities the College may have to the Trustee at common law, and shall survive the transactions contemplated in the Loan Agreement.

(c) Notwithstanding the provisions of subsections (a) and (b) above, the College may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) above by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the College may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the College that by failure to comply with such requirement or requirements, the Project or any part thereof may be subject to loss, penalty or forfeiture, in which event the College shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the Trustee and to the Issuer. If at any time the then existing use or occupancy of the Project shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the College shall use all reasonable efforts to not cause or permit such use or occupancy to be discontinued without the prior written consent of the Issuer and the Trustee.

(d) Notwithstanding the provisions of this summarized section, if, because of a breach or violation of the provisions of subsections (a) or (b) above (without giving effect to subsection (c) above), either the Issuer, the Trustee, or any of their respective members, directors, officers, agents, or employees, shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Issuer or the Trustee, the College shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Issuer or the Trustee, as the case may be, and their respective members, directors, officers, agents and employees deem sufficient, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(e) Notwithstanding any provisions of this summarized section, the Trustee and the Issuer retain the right to defend themselves in any action or actions which are based upon or in any way related to such Hazardous Substances. In any such defense of themselves, the Trustee and the Issuer shall each select their own counsel, and any and all

reasonable costs of such defense, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses, shall be paid by the College.

#### **Discharge of Liens and Encumbrances**

(a) The College, throughout the Loan Term, shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Project, the Mortgaged Property and the Gross Revenues or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Project or any part thereof.

(b) Notwithstanding the provisions of subsection (a) above, the College may in good faith contest any such Lien. In such event, the College may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the College that by nonpayment of any such item or items, the lien of the Mortgage may be materially endangered or the Project or any part thereof may be subject to loss or forfeiture, in which event the College shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Issuer, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the Issuer to protect its interests. *Mechanics' Liens shall be discharged or bonded within ninety (90) days following the College's receipt of notice of the filing or perfection thereof.*

#### **Additional Indebtedness**

(a) The College may issue additional Long-Term Indebtedness provided that the Maximum Annual Debt Service on all outstanding Long-Term Indebtedness (including the Series 2009 Bonds and any Additional Bonds issued pursuant to the Indenture and including such additional Long-Term Indebtedness) shall not exceed 10% of the College's unrestricted revenues, gains and other support determined in accordance with generally accepted accounting principles in the last completed fiscal year of the College for which audited financial statements are available.

(b) Notwithstanding the above summarized covenant, the College may incur up to \$5 million of Short-Term Indebtedness provided that such Short-Term Indebtedness is fully retired for at least 30 days in each fiscal year.

#### **Certain Additional Covenants**

(a) The College agrees to furnish to the Issuer and the Trustee, and, upon written request to the College, to any registered Bondholder of \$1,000,000 in aggregate principal amount of the Series 2009 Bonds, as soon as available and in any event within one hundred fifty days after the close of each fiscal year of the College, a copy of the annual audited financial statements of the College, including statements of financial position as of the end of such year, and the related statement of activities for such fiscal year, prepared in accordance with generally accepted accounting principles, audited by a firm of independent certified public accountants.



(b) The College shall deliver to the Issuer and the Trustee with each delivery of annual financial statements required by the Loan Agreement, a certificate of an Authorized Representative of the College as to whether or not, as of the close of such preceding fiscal year of the College, and at all times during such fiscal year, the College was in compliance with all the provisions which related to the College in the Bond Documents, and if such Authorized Representative of the College shall have obtained knowledge of any default in such compliance or notice of such default, such Authorized Representation of the College shall disclose in such certificate, such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the College with respect thereto.

(c) The College shall immediately notify the Issuer and the Trustee of the occurrence of any default or any event which with notice and/or lapse of time would constitute a default under the Loan Agreement or any of the other Bond Documents. Any notice required to be given pursuant to this summarized subsection shall be signed by an Authorized Representative of the College and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the College shall state this fact on the notice.

(d) The College will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the College, as the Issuer or the Trustee deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of the Loan Agreement and any rights of the Issuer or the Trustee hereunder or under the Indenture.

#### **Continuing Disclosure Agreement**

The College has executed and delivered to the Trustee a Continuing Disclosure Agreement, dated the date of initial delivery of the Series 2009 Bonds. The College covenants and agrees with the holders from time to time of the Series 2009 Bonds that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement, as amended from time to time, applicable to it. Notwithstanding any other provision of the Loan Agreement, failure of the College to comply with the Continuing Disclosure Agreement shall not be considered a default or an event of default under the Loan Agreement and the rights and remedies provided by the Loan Agreement upon the occurrence of such a default or an event of default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein.

#### **Securities Law Status**

The College affirmatively represents, warrants and covenants that, as of the date of the Loan Agreement, it is an organization organized and operated: (i) exclusively for civic or charitable purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inure to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and of the

Securities Exchange Act of 1934, as amended. The College agrees that it shall not perform any act nor enter into any agreement which shall change such status as set forth in this summarized section.

### **Rebate Covenant**

The College covenants to make, or cause to be made, any and all payments required to be made to the United States Department of the Treasury in connection with the Series 2009 Bonds pursuant to Section 148(f) of the Code and to comply with instructions received from Bond Counsel pursuant to the certification with respect to the making of any such payments.

### **Assignment, Leasing and Subleasing**

(a) In addition to the limitation contained in the Loan Agreement, the Loan Agreement may not be assigned by the College, in whole or in part, and except in the ordinary course of the operations of the College, including without limitations, leases of dorm rooms to students, the Project may not be leased, in whole or in part, without the prior written consent of the Issuer in each instance. Any assignment or lease shall be on the following conditions:

(i) no assignment or lease shall relieve the College from primary liability for any of its obligations hereunder or under any other of the College Documents;

(ii) the assignee or lessee shall assume the obligations of the College hereunder to the extent of the interest assigned or leased, shall be jointly and severally liable with the College for the performance thereof and shall be subject to service of process in the State of New York;

(iii) the College shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Issuer and to the Trustee a true and complete copy of such assignment or lease and the instrument of assumption;

(iv) neither the validity nor the enforceability of the Series 2009 Bonds or any Bond Document shall be adversely affected thereby;

(v) the exclusion of the interest on the Series 2009 Bonds from gross income for Federal income tax purposes will not be adversely affected;

(vi) the assignee or lessee shall be an Exempt Organization and shall utilize the Project substantially in the same manner as the College as facilities of higher education.

(b) If the Trustee or the Issuer shall so request, as of the purported effective date of any assignment or lease pursuant to subsection (a) of this summarized section, the College, at its sole cost, shall furnish the Trustee or the Issuer, as appropriate, with an opinion, in form and substance satisfactory to the Trustee or the Issuer, as appropriate,

(i) of Bond Counsel as to items (v) and (vi) above, and (ii) of Independent Counsel as to items (i), (ii) and (iv) above.

### **Merger of Issuer**

(a) Nothing contained in the Loan Agreement shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of its interest in the entire Project to any other public benefit corporation or political subdivision which has the legal authority to enter into the Loan Agreement, provided that:

(i) upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of the Loan Agreement to be kept and performed by the Issuer shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Issuer's interest in the Project shall be transferred; and

(ii) the exclusion of the interest on the Series 2009 Bonds from gross income for Federal income tax purposes shall not be adversely affected thereby.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of interest, the Issuer shall give notice thereof in reasonable detail to the College and the Trustee and shall furnish to the College and the Trustee (i) a favorable opinion of Independent Counsel as to compliance with the provisions of the Loan Agreement, and (ii) a favorable opinion of Bond Counsel opining as to compliance with the provisions of the Loan Agreement. The Issuer promptly shall furnish such additional information with respect to any such transaction as the College or the Trustee may reasonably request.

### **Events of Default Defined**

(a) The following shall be "Events of Default" under the Loan Agreement:

(i) the failure by the College to pay or cause to be paid on the date due, the amounts specified to be paid pursuant to Sections 5.3(a), (b) and (d) of the Loan Agreement;

(ii) the failure by the College to observe and perform any covenant contained in Sections 6.3, 6.4, 6.5, 8.2, 8.4, 8.5, 8.6, 8.8, 8.12, 8.13, 8.14, 8.15, 8.19, 8.20, 8.21 and 9.3 of the Loan Agreement;

(iii) any representation or warranty of the College in the Loan Agreement or in the Bond Purchase Agreement shall prove to have been false or misleading in any material respect and the same shall have a materially adverse affect upon the College, the Project, the qualification of the Project as a "project" under the Act or the exclusion of interest on the Series 2009 Bonds from gross income for federal income tax purposes;

(iv) the failure by the College to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in clauses (i) or (ii) of this summarized subsection) for a period of thirty (30) days after receiving written notice, specifying such failure and requesting that it be remedied, given to the College by the Issuer or the Trustee; provided, however, that if such default cannot be cured within thirty (30) days but the College is proceeding diligently and in good faith to cure such default, then the College shall be permitted an additional ninety (90) days within which to remedy the default;

(v) the dissolution or liquidation of the College; or the failure by the College to release, stay, discharge, lift or bond within sixty (60) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the College generally to pay its debts as they become due; or an assignment by the College for the benefit of creditors; the commencement by the College (as the debtor) of a case in Bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the College (as the debtor) and a court having jurisdiction in the premises enters a decree or order for relief against the College as the debtor in such case or proceeding, or such case or proceeding is consented to by the College or remains undismissed for sixty (60) days, or the College consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the College for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors (the term "dissolution or liquidation of the College or the Guarantors" as used in this summarized subsection shall not be construed to include any transaction permitted by Section 8.4 of the Loan Agreement);

(vi) an Event of Default under or a default on the part of the College of its obligations under the Indenture shall have occurred and be continuing;

(vii) the invalidity, illegality or unenforceability of any of the Bond Documents, provided the same does not permit the Issuer or the Trustee, as the case may be, to recognize the material benefits of the respective documents;

(viii) a breach of any covenant or representation contained in Section 8.8 of the Loan Agreement with respect to environmental matters;

(ix) an Event of Default under the Mortgage shall have occurred and be continuing; or

(x) an event of default by the College under any other Indebtedness of the College beyond any applicable cure periods.

(b) Notwithstanding the provisions of summarized subsection (a) above, if by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under the Loan Agreement (other than its obligations under Section 5.3(a), (b) or (d) of the Loan Agreement) and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Trustee, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under the Loan Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used in the Loan Agreement shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

### **Remedies on Default**

(a) Whenever any Event of Default shall have occurred, the Issuer or the Trustee may take, to the extent permitted by law, any one or more of the following remedial steps:

(i) declare, by written notice to the College, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid Loan Payments payable pursuant to Section 5.3(c) of the Loan Agreement and pursuant to the Promissory Note in amount equal to the aggregate unpaid principal balance of all Series 2009 Bonds together with all interest which has accrued and will accrue thereon to the date of payment and all premium, if any, and (B) all other payments due under the Loan Agreement; provided, however, that if an Event of Default specified in Section 10.1(a)(v) of the Loan Agreement shall have occurred, such Loan Payments and other payments due under the Loan Agreement shall become immediately due and payable without notice to the College or the taking of any other action by the Trustee;

(ii) (a) apply any undisbursed money in the Project Fund and Renewal Fund to the payment of the costs and expenses incurred in connection with the enforcement of the rights and remedies of the Trustee and the Issuer, and (b)

apply any undisbursed monies in the Project Fund, the Renewal Fund, and any other Fund or Account under the Indenture (other than those sums attributable to Unassigned Rights and except for the monies and investments from time to time in the Rebate Fund) to the payment of the outstanding principal amount of the Series 2009 Bonds and premium, if any, and accrued and unpaid interest on the Series 2009 Bonds;

(iii) direct the Trustee to foreclose on the Mortgage or otherwise realize upon or seize any portion of the Trust Estate;

(iv) take any other action at law or in equity that may appear necessary or desirable to collect the payments then due or thereafter to become due under the Loan Agreement and to enforce the obligations, agreements or covenants of the College under the Loan Agreement; or

(v) exercise any other rights or remedies under any control agreement with respect to the Gross Revenues or any Intercreditor Agreement.

(b) [Reserved].

(c) Any sums payable to the Issuer as a consequence of any action taken pursuant to this summarized section (other than those sums attributable to Unassigned Rights and except for the moneys and investments from time to time in the Rebate Fund) shall be paid to the Trustee and applied to the payment of the Series 2009 Bonds.

(d) No action taken pursuant to this summarized section shall relieve the College from its obligation to make all payments required by Section 5.3 of the Loan Agreement and pursuant to the Promissory Note.

(e) [Reserved].

(f) The Issuer shall have all of the rights, powers and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation, the right to seize or otherwise dispose of any or all of the Collateral described in Section 5.7 of the Loan Agreement, and to receive the payment of or take possession of the Collateral or the proceeds thereof. Upon the occurrence of an Event of Default by the College under the Loan Agreement, the College agrees that it will not commingle any moneys or other proceeds received by it in connection with any Collateral with any other moneys, funds or accounts of the College.

### **Remedies Cumulative**

No remedy conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under the Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from

time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee, as appropriate, to exercise any remedy reserved to it in the Loan Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in the Loan Agreement.

#### **Agreement to Pay Attorneys' Fees and Expenses**

(a) In the event the College should default under any of the provisions of the Loan Agreement and the Issuer should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the College contained in the Loan Agreement, the College shall, on demand therefor, pay to the Issuer the reasonable fees of such attorneys and such other reasonable expenses so incurred.

(b) In the event the College should default under any of the provisions of the Loan Agreement and the Trustee should employ attorneys or incur other expenses for the collection of amounts payable under the Loan Agreement or the enforcement of performance or observance of any obligations or agreements on the part of the College contained in the Loan Agreement, the College shall, on demand therefor, pay to the Trustee the reasonable fees of such attorneys and such other reasonable expenses so incurred.

#### **No Additional Waiver Implied by One Waiver**

In the event any agreement contained in the Loan Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Loan Agreement.

#### **Early Termination of Loan Agreement**

The College shall have the option to terminate the Loan Agreement at any time that the Series 2009 Bonds are subject to redemption in whole under the Indenture and upon filing with the Issuer and the Trustee a certificate signed by an Authorized Representative of the College stating the College's intention to do so pursuant to this summarized section and the date upon which such payment shall be made (which date shall not be less than forty-five (45) nor more than ninety (90) days from the date such certificate is filed) and upon compliance with the requirements set forth in the Loan Agreement.

#### **Conditions to Early Termination of Loan Agreement**

In the event the College exercises its option to terminate the Loan Agreement in accordance with the provisions of regarding early termination summarized above, the College shall make the following payments:

(a) To the Trustee for the account of the Issuer: an amount certified by the Trustee which, when added to the total amount on deposit with the Trustee for the

account of the Issuer and the College and available for such purpose, will be sufficient to pay the principal of, Redemption Price of, and interest to maturity or the earliest practicable redemption date, as the case may be, on the Series 2009 Bonds, all expenses of redemption and the Trustee's fees and expenses.

(b) To the Issuer: an amount certified by the Issuer sufficient to pay all unpaid fees and expenses of the Issuer incurred under the Bond Documents.

(c) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under the Bond Documents.

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## **SUMMARY OF CERTAIN PROVISIONS OF THE MORTGAGE AND THE ASSIGNMENT**

The following summarizes certain provisions of the Building Loan Mortgage and Security Agreement and the Project Loan Mortgage and Security Agreement and the Assignment of Building Loan Mortgage and Security Agreement and the Assignment of Project Loan Mortgage and Security Agreement.

### **The Mortgage**

#### **Grant of Mortgage Lien**

Pursuant to the Building Loan Mortgage and Security Agreement and the Project Loan Mortgage and Security Agreement (collectively, the “Mortgage”) the College has granted to the Issuer a mortgage Lien on and security interest in the College’s Campus located in the Village of Rockville Centre, New York including without limitation the Land and Improvements consisting of all buildings, structures and other improvements now or hereinafter erected on the Land and all appurtenances located on the Land and all building materials and fixtures incorporated into any Improvements or appurtenances located on the Land and all other machinery, apparatus, equipment, fittings, fixtures and articles of personal property, now owned or hereafter owned by the College constituting the Equipment, all condemnation awards and casualty insurance proceeds with respect to the foregoing (collectively, the “Mortgaged Property”), and the College also has granted to the Issuer a security interest in and pledge of the Gross Revenues of the College in order to secure the payment of the principal of, premium, if any, sinking fund installments of and interest on the Series 2009 Bonds and the payment and performance of all obligations of the College under the Loan Agreement and the Promissory Note.

#### **Events of Default**

The occurrence of one or more of the following events shall constitute an Event of Default under the Mortgage:

- (a) the College shall fail to pay on behalf of the Issuer (or cause to be paid) the principal of, redemption premium, if any, interest on or any other debt charges in respect of the Series 2009 Bonds when the same shall become due, whether on a Debt Service Payment Date, upon redemption, at maturity, upon acceleration, or otherwise; or
- (b) the College shall fail to pay any amounts due and owing under the Loan Agreement, including, without limitation, loan payments equal to the Debt Service Payments on the Series 2009 Bonds or under the Promissory Note; or
- (c) the College shall fail to observe or perform any covenant, condition or agreement on its part to be performed under the Mortgage; or
- (d) the occurrence and continuation of an Event of Default under the Loan Agreement or the Indenture; or

(e) any “Event of Default” occurs under any of the other Bond Documents; or

(f) a breach by the College of its obligations with respect to restrictions on the sale of any portion of the Project or the release of certain portions of the Mortgaged Property contained in the Loan Agreement without the Mortgagee’s prior written consent under the Loan Agreement, which consent may be given or withheld for no reason or given conditionally in Mortgagee’s sole discretion.

### **Rights and Remedies Upon Default**

Upon the occurrence of any Event of Default under the Mortgage the Mortgagee may exercise any one or more of the following rights and remedies:

(a) Right to Cure Default. The Mortgagee shall have the right, but not the obligation, to comply with, perform or observe any covenant or obligation which Mortgagor has failed to comply with, perform or observe under any of the Bond Documents and shall have the right to enter the Mortgaged Property at any time and from time to time for the purpose of curing such default, and any amounts so paid by the Mortgagee or the costs of such performance, together with all costs and expenses incurred by the Mortgagee in connection with such payment or performance, including, but not limited to, reasonable attorneys’ fees and disbursements and interest on all such amounts, costs and expenses at the per annum rate of ten percent (10%), but in no event in excess of the maximum interest rate permitted by law, shall be paid by the Mortgagor to the Mortgagee on demand. Until so paid, all such amounts, costs and expenses, together with interest thereon, shall be secured by the Mortgage and, if not paid, may be added to the judgment in any foreclosure action.

(b) Right to Accelerate Bonds. The Mortgagee may declare the entire unpaid principal amount, accrued interest and any other fees and expenses evidenced by the Loan Agreement, the Promissory Note, the Building Loan Agreement and the Bonds and secured by the Mortgage to be due and payable, in which event said amount shall immediately become due and payable. Upon the occurrence and continuation of an Event of Default described in clause (f) above, at the sole option of Mortgagee, Mortgagee may accelerate the indebtedness evidenced by the Loan Agreement and the Note and declare the entire unpaid principal amount, accrued interest and any other fees and expenses evidenced by the Series 2009 Bonds and the Bond Documents immediately due and payable.

(c) Right to Foreclose Mortgage. The Mortgagee may foreclose the Mortgage and sell, if permitted by law, or petition to be sold, the Mortgaged Property in one or more parcels or in several interests or portions in such manner as a court of competent jurisdiction may direct. If permitted by law, the Mortgagee or the Trustee may foreclose the Mortgage for any portion of the indebtedness or any other sums secured hereby which are then due and payable, subject to the continuing Lien of the Mortgage for the balance of the indebtedness not then due. If any real property transfer tax shall be due and payable upon the conveyance of the Mortgaged Property or any portion thereof pursuant to a judicial sale in any foreclosure action or by deed in lieu of foreclosure, the

Mortgagor shall pay the same. In the event that the Mortgagor fails to pay any such tax within ten (10) days after notice and demand for payment is given by the Mortgagee, the Mortgagee may pay the same, and any amount thereof so paid by the Mortgagee, together with all costs and expenses incurred by the Mortgagee in connection with such payment, including, but not limited to, reasonable legal fees and disbursements, and interest on all such amounts, costs and expenses at the per annum rate of ten percent (10%), but in no event in excess of the maximum interest rate permitted by law, shall be paid by the Mortgagor to the Mortgagee on demand. The Mortgagee shall apply all proceeds of a foreclosure first, to all reasonable costs and expenses, including legal fees and expenses and costs incurred in connection with the foreclosure of the Mortgage, second, to the payment of all outstanding taxes and special assessments, and third, to the payment of the indebtedness secured hereunder. Until so paid, all such amounts, costs and expenses, together with interest thereon, shall be secured by the Mortgage and, if not paid, may be added to the judgment in any foreclosure action.

(d) Right to Appointment of Receiver. The Mortgagee shall be entitled, without notice, without regard to the adequacy of any security for the indebtedness secured hereby and without regard to the solvency of the Mortgagor, to have a receiver, trustee, liquidator or conservator appointed with all the rights and powers permitted under the laws of the State. Such receiver shall have and may enforce all of the rights and remedies of the Mortgagee under clause (c) above to the maximum extent permitted by law.

(e) Right to Sell Mortgaged Property. The Mortgagee shall have the right to sell for cash or upon credit the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law.

(f) Right to Institute an Action, Suit or Proceeding. The Mortgagee shall have the right to institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained in the Mortgage, in the Note, the Loan Agreement, the Building Loan Agreement or in the other Bond Documents.

(g) Right to Recover on Note. The Mortgagee shall have the right to recover judgment on the Note either before, during or after any proceedings for the enforcement of the Mortgage or the other Bond Documents.

(h) Rights under the Uniform Commercial Code. The Mortgagee shall have the right to exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Building Materials and the Equipment, or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Building Materials and Equipment, and (ii) request Mortgagor at its expense to assemble the Building Materials

and Equipment and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Building Materials and Equipment sent to Mortgagor in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Mortgagor.

(i) Right to Apply Sums in Accordance with Bond Documents. The Mortgagee shall have the right to apply any sums then deposited or held in escrow or otherwise by or on behalf of Mortgagee in accordance with the terms of the Loan Agreement, the Note, the Building Loan Agreement, the Mortgage or any other Bond Document to the payment of the following items in any order in its uncontrolled discretion: real estate taxes; insurance premiums; interest on the unpaid principal balance of the Note; unpaid principal balance of the Note; and all other sums payable pursuant to the Note, the Loan Agreement, the Building Loan Agreement, the Mortgage and the other Bond Documents, including without limitation advances made by Mortgagee pursuant to the terms of the Mortgage.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Mortgaged Property, the Mortgage shall continue as a lien and security interest on the remaining portion of the Mortgaged Property unimpaired and without loss of priority.

#### **Rights and Remedies Under Mortgage not Exclusive**

The rights and remedies of the Mortgagee under the Mortgage shall be in addition to its rights and remedies under the laws of the State, including, but not limited to, its rights and remedies under Section 254 of the Real Property Law of the State. Nothing contained in the Mortgage shall be construed as requiring the Mortgagee to pursue any particular right or remedy for the purpose of procuring the satisfaction of the obligations and indebtedness secured by the Mortgage, and the Mortgagee may exercise any or all of its rights and remedies under the Bond Documents or otherwise provided by law in its sole discretion. No failure of the Mortgagee to insist upon the strict performance by the Mortgagor of any of its covenants or obligations under the Bond Documents, and no delay by the Mortgagee in exercising any of its rights or remedies thereunder or otherwise provided by law, shall be deemed to be a waiver of such covenants or obligations or to preclude the exercise of such rights or remedies, and the Mortgagee, notwithstanding any such failure or delay, shall have the right thereafter to insist upon the strict performance by the Mortgagor of any and all of its covenants and obligations under the Bond Documents and to exercise any and all of its rights and remedies thereunder or otherwise provided by law.

#### **The Assignment**

##### **Assignment of Mortgages**

Pursuant to the Assignment of Building Loan Mortgage and Security Agreement and the Assignment of Project Loan Mortgage and Security Agreement (collectively, the "Assignment"), the Issuer has assigned to the Trustee, all of the Issuer's rights, title and

interests under the Mortgage to the Trustee to secure the payment of the principal of premium, if any, sinking fund installments of and interest on the Series 2009 Bonds.

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**APPENDIX D**

Form of Opinion of Bond Counsel

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(OPINION OF BOND COUNSEL)

50 Jericho Quadrangle  
Jericho, New York 11753-2728  
(516) 832-7500  
Fax: (516) 832-7555

November 13, 2009

Town of Hempstead Local Development Corporation  
Hempstead, New York

Barclays Capital Inc.  
New York, New York

U.S. Bank National Association, as Trustee  
New York, New York

Re: Town of Hempstead Local Development Corporation  
\$50,000,000 Revenue Bonds, Series 2009  
(Molloy College Project)

Ladies and Gentlemen:

We have acted as bond counsel to the Town of Hempstead Local Development Corporation (Town of Hempstead, New York) (the “**Issuer**”), in connection with the issuance on the date hereof by the Issuer of its Revenue Bonds, Series 2009 (Molloy College Project) in the aggregate principal amount of \$50,000,000 (the “**Series 2009 Bonds**”). The Series 2009 Bonds are authorized to be issued pursuant to (i) the New York Membership Corporation Law as in effect in 1966, as superseded by Section 1411 of the New York Not-for-Profit Corporation Law (collectively called the “**Act**”), (ii) a Bond Resolution duly adopted by the Issuer on October 28, 2009 (the “**Resolution**”), and (iii) an Indenture of Trust, dated as of November 1, 2009 (the “**Indenture**”), by and between the Issuer and U.S. Bank National Association, as trustee for the benefit of the Owners of the Bonds (the “**Trustee**”). The Series 2009 Bonds were issued for the purpose of (A) providing funds to finance the costs of renovating, constructing, equipping and furnishing certain facilities for use by Molloy College (the “**College**”) to be located in the Town of Hempstead, New York (the “**Project**”), (B) to pay capitalized interest on the Series 2009 Bonds during the construction period of the Project, and (C) paying a portion of the costs of issuance of the Series 2009 Bonds.

The Issuer will loan the proceeds of the Series 2009 Bonds to the College pursuant to the terms of a Loan Agreement, dated as of November 1, 2009 (the “**Loan Agreement**”), between the Issuer and the College. The College has evidenced its obligations to make loan payments to the Issuer by the issuance and delivery of a certain Promissory Note, dated November 13, 2009



Town of Hempstead Local Development Corporation  
Barclays Capital Inc.  
U.S. Bank National Association, as Trustee  
November 13, 2009  
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(the “Note”), from the College to the Issuer. The College has granted mortgage and security agreements for the Project to the Issuer pursuant to a Project Loan Mortgage and Security Agreement, dated as of November 1, 2009 (the “**Project Loan Mortgage**”), from the College to the Issuer; and a Building Loan Mortgage and Security Agreement, dated as of November 1, 2009 (the “**Building Loan Mortgage**”; and, together with the Project Loan Mortgage, the “**Mortgage**”), from the College to the Issuer. The College, the Issuer and the Trustee have entered into a Building Loan Agreement, dated as of November 1, 2009 (the “**Building Loan Agreement**”), by and among the Issuer, the College and the Trustee. The Issuer has assigned to the Trustee as security for the Series 2009 Bonds, for the benefit of the Owners of the Bonds, substantially all of its rights under (i) the Loan Agreement pursuant to the Indenture, (ii) the Mortgage pursuant to an Assignment of Project Loan Mortgage and Security Agreement, dated November 13, 2009 (the “**Assignment of Project Loan Mortgage**”), and an Assignment of Building Loan Mortgage and Security Agreement, dated November 13, 2009 (the “**Assignment of Building Loan Mortgage**”), each from the Issuer to the Trustee. The College, the Issuer and the Trustee have entered into an Environmental Compliance and Indemnification Agreement, dated as of November 1, 2009 (the “**Environmental Compliance and Indemnification Agreement**”), whereby the College agrees to comply with all Environmental Laws (as defined therein) applicable to the Project and will indemnify and hold harmless the Issuer for all liability under all such Environmental Laws. The Issuer and the College have entered into a Tax Compliance Agreement, dated the date hereof (the “**Tax Compliance Agreement**”), in which the Issuer and the College have made certain representations and covenants, established certain conditions and limitations and created certain expectations, relating to compliance with the requirements imposed by the Internal Revenue Code of 1986, as amended (the “Code”). Barclays Capital Inc. (the “**Underwriter**”) has agreed to purchase and resell the Series 2009 Bonds to one or more purchasers pursuant to the terms of a Bond Purchase Agreement, dated November 5, 2009 (the “**Bond Purchase Agreement**”), among the Issuer, the Underwriter and the College.

The Series 2009 Bonds are dated November 13, 2009, and bear interest from the date thereof at the rate and pursuant to the respective terms of the Series 2009 Bonds. The Series 2009 Bonds are subject to prepayment or redemption prior to maturity, as a whole or in part, at such time or times, under such circumstances and in such manner as is set forth in the Series 2009 Bonds and the Indenture.

As bond counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents (including all documents constituting the Transcript of Proceedings with respect to the issuance of the Series 2009 Bonds) as we have deemed necessary or appropriate for the purposes of the opinions rendered below. In such examination, we have assumed the genuineness of all signatures, the authenticity and due execution of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to any facts material to our opinion,

Town of Hempstead Local Development Corporation  
Barclays Capital Inc.  
U.S. Bank National Association, as Trustee  
November 13, 2009  
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without having conducted any independent investigation, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned in the Schedule of Definitions attached as Schedule A to the Indenture.

In rendering the opinions set forth below, we have relied upon, among other things, certain representations and covenants made by the parties in this transaction including: (i) the College in (a) the Bond Purchase Agreement, (b) the Tax Compliance Agreement, (c) the Loan Agreement, (d) the Mortgage and (e) the Closing Certificate of the College, dated the date hereof, (ii) the Bond Counsel Questionnaire submitted to us by the College, and (iii) the Issuer in (a) the Bond Purchase Agreement, (b) the Indenture, (c) the Tax Compliance Agreement, (d) the Loan Agreement, and (e) the Closing Certificate of the Issuer, dated the date hereof. We call your attention to the fact that there are certain requirements with which the Issuer and the College must comply after the date of issuance of the Series 2009 Bonds in order for the interest on the Series 2009 Bonds to remain excluded from gross income for federal income tax purposes. Copies of the aforementioned documents are included in the Transcript of Proceedings.

In addition, in rendering the opinions set forth below, we have relied upon the opinions of counsel to the Issuer, Ryan, Brennan & Donnelly, LLP, Floral Park, New York; special counsel to the College, Farrell Fritz, P.C., Melville, New York; and counsel to the Trustee, Akerman Senterfitt LLP, New York, New York, all of even date herewith. Copies of the aforementioned opinions are contained in the Transcript of Proceedings.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Issuer is a duly organized and existing corporate governmental agency constituting a local development corporation of the State of New York.
2. The Issuer is duly authorized to issue, execute, sell and deliver the Series 2009 Bonds, for the purpose of paying the costs described above.
3. The Resolution has been duly adopted by the Issuer and is in full force and effect.
4. The Bond Purchase Agreement, the Indenture, the Tax Compliance Agreement, the Loan Agreement, the Assignment of Project Loan Mortgage, the Assignment of Building Loan Mortgage and the Building Loan Agreement, have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms.
5. The Series 2009 Bonds have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding special obligations of the Issuer payable solely from the

Town of Hempstead Local Development Corporation  
Barclays Capital Inc.  
U.S. Bank National Association, as Trustee  
November 13, 2009  
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revenues derived from the Loan Agreement, enforceable against the Issuer in accordance with their respective terms.

6. The Series 2009 Bonds do not constitute a debt of the State of New York or of the Town of Hempstead, New York, and neither the State of New York nor the Town of Hempstead, New York, will be liable thereon.

7. The Code sets forth certain requirements which must be met subsequent to the issuance and delivery of the Series 2009 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 Bonds to be included in gross income for Federal income tax purposes retroactive to the date of issue of the Series 2009 Bonds. Pursuant to the Indenture, the Loan Agreement and the Tax Compliance Agreement, the Issuer and the College have covenanted to maintain the exclusion from gross income of the interest on the Series 2009 Bonds pursuant to Section 103 of the Code. In addition, the Issuer and the College have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Compliance Agreement. We are also relying on the opinion of Counsel to the College, as to all matters concerning the status of the College 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 herein and the accuracy of the aforementioned representations and certifications, interest on the Series 2009 Bonds is excluded from gross income for Federal income tax purposes under Section 103 of the Code. We are also of the opinion that 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 2009 Bonds is excluded from the adjusted current earnings of corporations for purposes of computing the alternative minimum tax imposed on corporations.

We are further of the opinion that the difference between the principal amount of the Series 2009 Bonds maturing on July 1, 2023 bearing interest at 5.25% and July 1, 2039 (the "Discount Bonds") and the initial offering price to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of such Discount Bonds of the same maturity was sold constitutes original issue discount which is excluded from gross income for Federal income tax purposes to the same extent as interest on the Series 2009 Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such initial offering price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment.

Town of Hempstead Local Development Corporation  
Barclays Capital Inc.  
U.S. Bank National Association, as Trustee  
November 13, 2009  
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8. Interest on the Series 2009 Bonds is exempt from income taxes imposed by the State of New York or any political subdivision of the State of New York.

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

The foregoing opinions are qualified to the extent that the enforceability of the Series 2009 Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement and the Tax Compliance Agreement may be limited by bankruptcy, insolvency or other laws or enactments now or hereafter enacted by the State of New York or the United States affecting the enforcement of creditors' rights and by restrictions on the availability of equitable remedies and to the extent, if any, that enforceability of the indemnification provisions of such documents may be limited under law. We express no opinion with respect to the availability of any specific remedy provided for in any of the bond documents.

In rendering the foregoing opinions, we are not passing upon and do not assume any responsibility for the accuracy, completeness, sufficiency or fairness of any documents, information or financial data supplied by the Issuer, the College or the Trustee in connection with the Series 2009 Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Tax Compliance Agreement, the Mortgage, the Assignment of Project Loan Mortgage, the Assignment of Building Loan Mortgage, the Building Loan Agreement, the Environmental Compliance and Indemnification Agreement, the Official Statement, the Continuing Disclosure Agreement or the Project and make no representation that we have independently verified the accuracy, completeness, sufficiency or fairness of any such documents, information or financial data. In addition, we express no opinion herein with respect to the accuracy, completeness, sufficiency or fairness of the Preliminary Official Statement, dated October 29, 2009, or the Official Statement, dated November 5, 2009, with respect to the Series 2009 Bonds.

We express no opinion herein with respect to the registration requirements under the Securities Act of 1933, as amended, the registration or qualification requirements under the Trust Indenture Act of 1939, as amended, the registration, qualification or other requirements of State Securities laws, or the availability of exemptions therefrom.

We express no opinion as to the sufficiency of the description of the Equipment contained in the Loan Agreement or as to the adequacy, perfection or priority of any security interest in any collateral securing the Bonds.

Furthermore, we express no opinion as to the Continuing Disclosure Agreement. We express no opinion with respect to whether the Issuer and the College (i) have complied with the

Town of Hempstead Local Development Corporation  
Barclays Capital Inc.  
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November 13, 2009  
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State Environmental Quality Review Act, (ii) have obtained any or all necessary governmental approvals, consents or permits, or (iii) have complied with the New York Labor Law or other applicable laws, rules, regulations, orders and zoning and building codes, all in connection with the renovation, construction, equipping, furnishing and operation of the Project.

Very truly yours,

## APPENDIX E

### Form of Continuing Disclosure Agreement

November 13, 2009

U.S. Bank National Association, as Trustee  
100 Wall Street, Suite 1600  
New York, New York 10005

Re: Town of Hempstead Local Development Corporation \$50,000,000 Revenue Bonds, Series 2009 (Molloy College Project) (the "Series 2009 Bonds"), issued under an Indenture of Trust dated as of November 1, 2009 (the "Indenture") between the Town of Hempstead Local Development Corporation (the "Issuer") and U.S. Bank National Association, as trustee (the "Trustee")

Ladies and Gentlemen:

In connection with the issuance of the Series 2009 Bonds and with reference to the continuing disclosure requirements of Rule 15c2-12 (the "Rule") under the Securities and Exchange Act of 1934, as amended (the "1934 Act"), Molloy College (the "College") shall engage in the undertaking described in Paragraphs 1, 2 and 3 herein for the benefit of the registered owners of the Series 2009 Bonds (the "Bondowners") and the beneficial owners of the Series 2009 Bonds, subject to the conditions and limitations specified herein.

1. Within the expiration of one hundred twenty (120) calendar days after the close of the most recent fiscal year of the College (the "Filing Deadline") commencing with the fiscal year ending June 30, 2010, the College will provide to the (i) Electronic Municipal Market Access ("EMMA") system of the Municipal Securities Rulemaking Board ("MSRB") at <http://emma.msrb.org/submission> and (ii) appropriate state information depository ("SID"), if any:
  - (a) Financial information and operating data for the Fiscal Year then ended relating to the College, updating the financial information and operating data presented in the Official Statement dated November 5, 2009, relating to the issuance of the Series 2009 Bonds under the subheadings "College Faculty", "Freshman Applications, Acceptances & Enrollments", "Enrollment (Full-Time Equivalent)", "Summary of SAT Scores", "Annual Tuition", "Annual Tuition and Fee Rates, 2008-2009 Academic Year", "Summary of Student Financial Aid", "Annual Degrees Conferred", "Statement of Financial Position", "Net Assets", "Consolidated Statement of Activities", "Long Term Investments", "Summary of State Aid", "Summary of Private Gifts", "Land, Buildings, and Equipment" and "Cashflow Projection" in "Appendix A – Information Pertaining to Molloy College", to the extent not otherwise set forth in the audited financial statements provided pursuant to (b) below; and

- (b) Audited financial statements of the College for the most recently ended fiscal year, prepared in accordance with generally accepted accounting principles; provided if such audited financial statements are unavailable at such time, the College will provide unaudited financial statements of the College for such period and thereafter will provide the audited financial statements if and when they become available.

Items (a) and (b) are sometimes referred to herein respectively as the “Annual Report”.

The College shall file a certificate with the Issuer and the Trustee certifying that the Annual Report has been provided pursuant to this Continuing Disclosure Agreement, stating the date it was provided and listing all the repositories to which it was provided (the “Compliance Certificate”); such report shall include a certification from the College that the Annual Report complies with the requirements of this Continuing Disclosure Agreement.

If the Trustee has not received a Compliance Certificate by the Filing Deadline, the Trustee shall send, and the College hereby authorizes and directs the Trustee to submit on its behalf, a notice to EMMA, the MSRB and the SID, if any, in substantially the form attached hereto as Exhibit A.

The College reserves the right to modify from time to time the specific types of information provided under subparagraph (a) above or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the College; provided that any such modification will be done in a manner consistent with the Rule. At its option, the Trustee may request that the College provide an opinion of a nationally recognized bond counsel which states that said amendment will not have any adverse affect upon the taxability of the Series 2009 Bonds.

- 2. The College promptly will provide to EMMA and the SID, if any, written notice of the occurrence of any of the following events with respect to the Series 2009 Bonds, if such event is material:
  - (a) Principal or interest payment delinquencies;
  - (b) Non-payment related defaults;
  - (c) Unscheduled draws on debt service reserves;
  - (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
  - (e) Substitution of credit or liquidity providers, or their failure to perform;
  - (f) Adverse tax opinions or events affecting the tax-exempt status of the Series 2009 Bonds;
  - (g) Modifications to rights of Bondowners;
  - (h) Bond calls (provided, however, that the giving of notice of regularly scheduled mandatory sinking fund redemptions shall not be deemed material for the purpose of this Continuing Disclosure Agreement);
  - (i) Defeasances;

- (j) Release, substitution, or sale of property securing the repayment of the Series 2009 Bonds; or
  - (k) Ratings changes.
3. The Trustee shall, promptly, upon obtaining actual knowledge of the alleged or actual occurrence of any of the events listed in Paragraph 2 hereof contact the person specified pursuant to Paragraph 5 hereof, inform such person of the event, and request that the College promptly notify the Trustee in writing whether or not the College will report the event pursuant to Paragraph 2 hereof. Whenever the College obtains knowledge of the occurrence of any event listed in Paragraph 2 hereof, because of a notice from the Trustee pursuant to the preceding sentence above, or otherwise, the College shall as soon as possible determine if such event would constitute material information for the Bondowners and provide appropriate notice to the Trustee, provided, that any event under Paragraph 2(k) hereof will always be deemed to be material, and shall require notice pursuant to Paragraph 2 hereof.
  4. Notwithstanding any other provision of this Continuing Disclosure Agreement, the College and the Trustee may amend this Continuing Disclosure Agreement (and the Trustee shall agree to any amendment so requested by the College, provided, however, the Trustee shall not be required to accept or acknowledge any amendment of this Continuing Disclosure Agreement if the amendment adversely affects its rights or immunities or increases its duties hereunder) and any provision of this Continuing Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the College and the Trustee to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.
  5. The College, or the College's designee from time to time, shall be the contact persons on behalf of the College from whom the foregoing information, data and notices may be obtained. The name, address and telephone number of the initial contact person for the College is Michael McGovern, Vice President for Finance and Treasurer, 1000 Hempstead Avenue, P.O. Box 5002, Rockville Centre, New York 11571-5002, Telephone: (516) 678-5000, Extension 6214.
  6. The College's obligations under this Continuing Disclosure Agreement shall terminate upon the defeasance, prior redemption or payment in full of all of the Series 2009 Bonds. if the College's obligations under the Series 2009 Loan Agreement (as defined in the Indenture) are assumed in full by some other entity, such person shall be responsible for compliance with this Continuing Disclosure Agreement in the same manner as if it were the College and the College shall have no further responsibility hereunder.
  7. In the event of a failure by the College or the Trustee to comply with any provision of this Continuing Disclosure Agreement, the Trustee may (and at the request of any Bondowner holding at least 25% aggregate principal amount of outstanding Series 2009 Bonds, shall), or any Bondowner may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the College or the Trustee, as the case may be, to comply with their obligations



under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement shall not be deemed an Event of Default under the Series 2009 Loan Agreement or the Indenture, and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the College, or the Trustee to comply with this Continuing Disclosure Agreement shall be an action to compel performance.

8. The Trustee is authorized to make such securities disclosures to the Bondowners as may be required hereunder including providing notices from the College pursuant to Paragraph 2 hereof to the Bondowners. The Trustee is entitled to rely on any notices received by it from the College in making or not making any securities disclosure. The Trustee shall have no liability to the College or any Bondowners or anyone else for any disclosure or nondisclosure which is undertaken in reliance on notices from the College.
9. The Trustee shall have any such duties as are specifically set forth herein. The Trustee (i) shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except for its own gross negligence or willful misconduct, (ii) shall not be obligated to take any legal action or other action hereunder which might in its judgment involve any expense or liability unless it has been furnished with indemnification satisfactory to it, and (iii) shall be entitled to consult with counsel satisfactory to it, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the opinion of such counsel. The College covenants and agrees to indemnify the Trustee and hold it harmless without limitation from and against any loss, liability or expense of any nature incurred by the Trustee arising out of or in connection with this Continuing Disclosure Agreement except due to its own gross negligence or willful misconduct. In no event shall the Trustee be liable for indirect, special or consequential damages. This Paragraph 9 shall survive termination of this Continuing Disclosure Agreement.

Very truly yours,

MOLLOY COLLEGE

By: \_\_\_\_\_

Name:

Title:

The foregoing is agreed to:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT A**

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Town of Hempstead Local Development Corporation

Name of Bond Issue: Revenue Bonds, Series 2009 (Molloy College Project)

Date of Issuance: \_\_\_\_\_, 2009

NOTICE IS HEREBY GIVEN that Molloy College (the "Obligated Person") has not provided an Annual Report with respect to the above-named Series 2009 Bonds as required by the Continuing Disclosure Agreement dated November 13, 2009 between the Obligated Person and U.S. Bank National Association, as Trustee.

Dated:

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee,  
on behalf of Molloy College

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

cc: Molloy College

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# Molloy College



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**SUPPLEMENT  
TO  
OFFICIAL STATEMENT DATED NOVEMBER 5, 2009**

Relating to

\$50,000,000  
TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION  
Revenue Bonds, Series 2009 (Molloy College Project)

The CUSIP numbers for the Series 2009 Bonds maturing on July 1, 2023 and bearing interest at 5.75% and July 1, 2023 and bearing interest at 5.25% listed in the inside cover page of the Official Statement are incorrect. The following are the correct CUSIP numbers:

\$3,500,000 5.75% Term Bonds due July 1, 2023, Yield 5.25%<sup>†</sup>, CUSIP Number 424682BJ0

\$1,740,000 5.25% Term Bonds due July 1, 2023, Yield 5.35%<sup>†</sup>, CUSIP Number 424682BH4

Also, the Series 2009 Bonds maturing on July 1, 2023 and bearing interest at 5.25%, July 1, 2029 and July 1, 2039 are not priced to the first par call on July 1, 2019, as indicated in the inside cover page of the Official Statement.

*Please insert this notice into all Official Statements that you have received.*

Dated: November 13, 2009