

MARSHALL UNIVERSITY
BOARD OF GOVERNORS
September 29, 2011
Memorial Student Center
Huntington, WV

Members present, by phone: Verna Gibson, Chair; Letitia Chafin; Ed Howard; Michael G. Sellards

Members present in person: John G. Hess, Phyllis Arnold; Oshel B. Craigo; Michael J. Farrell; David E. Haden; Dale Lowther; Joseph K. McDonie; Joseph Touma; Marty Amerikaner; Mike Dunn; Ray Harrell

Members Absent: General Hal Mooney

Guests Present: Jessica Donnelly, Paul Creedon from Citi.

I. Call to Order

Upon determining that a quorum was present, Chairman Gibson turned the meeting over to John Hess as Chair Pro tempore and the meeting was called to order. John discussed as this was a special meeting, there is a limited agenda, which needs to be followed. The three items are to approve the Marshall University Campus Master Plan Update/Revisions as a part of the Bond Resolution; Bond Resolution; and Marshall University HEPC Campus Compact Update October 1, 2011.

II. Master Plan Update/Revision - Karen Kirtley

In reference to the item "Marshall University Campus Master Plan Update/Revisions as a part of the Bond Resolution" Karen gave an update and synopsis of these updates. She asked for approval to add two revisions to the Capital Project List for inclusion in the New Bond Issue. They are: The Multi-Floor Parking Structure and the Soccer Stadium Complex. There was also some location changes requested to complete the revised plan. They were the relocation of the Fine Arts Incubator/Visual Arts from its Fifth Avenue location to the downtown Stone & Thomas location across from Pullman Square. The proposed location for the Modern Academic (High Technology) Instructional Facility is located on the southwest corner of Third Avenue and 18th Street. In addition, the expanded concept of the Indoor Athletic complex will include the Academic Support Center and the Sports Medicine Translational Research Center.

It was discussed that Laidley Hall's current location would be where the High Technology Instructional Facility would be located.

Upon a motion by Joseph Touma, seconded by Joe McDonie, the following resolution was unanimously approved.

Resolved, that the Board approve the Update/Revisions to the Marshall University's Ten year Facility/Land Use Master Plan as required by MUBOG Policy FA-111 (3.1.5) and Series 12 Capital Project Management.

III. Series 2011 Bond Resolution – Stephen J. Kopp, Ph.D.

Dr. Kopp discussed the Bond Resolution, noting that at the April 28, 2011 the Marshall University Board of Governors approved the exploration of financing all or a portion of certain capital improvement by issuing revenue bonds in an amount not to exceed \$50 million.

However, since this resolution was approved, the municipal bond market has improved allowing the opportunity for Marshall University to issue additional bonds while keeping the debt service level comparable to that which was projected in the feasibility analysis for a principal level of \$50 million. Therefore, management recommends the parameter for the bonds to be set at a not to exceed amount of \$54 million.

Paul and Jessica gave a detailed discussion of scenarios for the Board. Also discussed was that one rating agency had been on campus, and another was to be on campus next week.

After discussion regarding the timeline, and IRS rules, and clarifications, upon a motion by Joe McDonie, seconded by Joseph Touma, and unanimously approved, the following resolution was read:

Resolved, that the Marshall University Board of Governors approve the parameters of the Bond Resolution authorizing the financing of certain capital improvements through the issuance of University Revenue Bonds in the aggregate principal amount of not more than \$54,000,000 and authorizing the execution of an amended and restated trust indenture and other related bond documents.

Attached to these minutes as "Exhibit A" is the Bond Resolution and Indenture.

IV. Marshall University HEPC Compact Update – Gayle Ormiston, Ph.D.

Dr. Ormiston gave the history of the HEPC Compact, noting that according to the WV Higher Education Policy Commission, each public institution of higher education in the State of West Virginia shall submit five year goals with rationales and strategies for achievement of those goals. Each year, there is to be an update report submitted by October 1 to indicate progress toward the established goals. For the academic year 2009-2010, indicator data along with the entire report were submitted to the HEPC. Subsequent reports will be required by this same date in forthcoming years. We are working with HEPC to better time the dates of the Audit and the Campus Compact with regard to scheduling Board approvals and meetings. Following were some questions regarding enrollment and comparisons of the report from last year to this year. Upon a motion by David Haden, seconded by Joseph McDonie, and unanimously approved, the following resolution was read:

Resolved, that the Marshall University Board of Governors approve the Marshall University Higher Education Policy Commission Compact Update, October 1, 2011.

VII. Executive Session under the authority of WV Code § 6-9 A-4

Counsel advised there was no need for a formal Executive Session for this meeting.

VIII. Announcements and Adjournment

The next Board Meeting is October 18, 2011. All dates were sent via email to members.

As there were no other matters to bring before the Board, upon a motion by David Haden, seconded by Joseph McDonie, and unanimously approved, the meeting was adjourned.

Joseph Touma, Secretary

**RESOLUTION OF THE MARSHALL UNIVERSITY
BOARD OF GOVERNORS**

RESOLUTION AUTHORIZING THE FINANCING OF CERTAIN CAPITAL IMPROVEMENTS; AUTHORIZING THE FINANCING OF THE COSTS OF SUCH CAPITAL IMPROVEMENTS AND RELATED EXPENSES THROUGH THE ISSUANCE BY THE MARSHALL UNIVERSITY BOARD OF GOVERNORS OF ITS UNIVERSITY REVENUE BONDS (THE “SERIES 2011 BONDS”) IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$54,000,000; AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED TRUST INDENTURE WITH RESPECT TO THE SERIES 2011 BONDS; AUTHORIZING THE SALE OF THE SERIES 2011 BONDS TO CITIGROUP GLOBAL MARKETS INC. (AS LEAD UNDERWRITER), BANK OF AMERICA MERRILL LYNCH AND RAYMOND JAMES & ASSOCIATES, INC. PURSUANT TO A BOND PURCHASE AGREEMENT WITH RESPECT TO THE SERIES 2011 BONDS AND THE EXECUTION AND DELIVERY OF SUCH BOND PURCHASE AGREEMENT; AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AN OFFICIAL STATEMENT FOR THE SERIES 2011 BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION WITH THE SERIES 2011 BONDS, INCLUDING BUT NOT LIMITED TO A CONTINUING DISCLOSURE AGREEMENT, PRELIMINARY OFFICIAL STATEMENT, OFFICIAL STATEMENT AND A TAX CERTIFICATE; DELEGATING TO THE PRESIDENT AND THE INTERIM SENIOR VICE PRESIDENT FOR FINANCE AND ADMINISTRATION OF MARSHALL UNIVERSITY AND THE CHAIRMAN AND VICE-CHAIRMAN OF THE MARSHALL UNIVERSITY BOARD OF GOVERNORS CERTAIN RESPONSIBILITIES IN CONNECTION WITH THE SALE AND ISSUANCE OF THE SERIES 2011 BONDS, INCLUDING THE SELECTION OF A TRUSTEE THEREFORE, AND THE INVESTMENT OF BOND PROCEEDS; AND TAKING OTHER ACTIONS IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS

WHEREAS, on November 1, 2010 the Board of Governors of Marshall University (the “Board”) and United Bank, Inc., as Trustee entered into a Trust Indenture (the “Original Indenture”) pursuant to which the Board issued its \$37,140,000 aggregate principal amount Marshall University Refunding Revenue Bonds, Series 2010 (the “Series 2010 Bonds”) for the purpose of refunding certain prior bonds which had been issued by the Higher Education Interim Governing Board, the predecessor to the Board, as its University Facilities Revenue Bonds, Series 2001 A (Marshall University Projects); and

WHEREAS, the Series 2010 Bonds were secured by a pledge of certain auxiliary revenues received from the operation of certain of the Marshall University's (the "University") auxiliary facilities; and

WHEREAS, the Original Indenture provided that the Board could in the future issue additional revenue bonds on parity with the Series 2010 Bonds for the purpose, among other things, of financing the costs of new Facilities (as defined in the Original Indenture), or improvements to existing Facilities, or to finance any other capital improvements or acquisition of equipment which the Board is permitted by law to finance, add additional sources of revenue to support and be pledged for the payment of the Series 2010 Bonds and additional bonds issued under the Original Indenture, and that the Original Indenture could be amended without the consent of holders of any outstanding bonds issued thereunder to provide for such expansion of revenues and facilities and any other amendments necessarily related to such expansion of pledged revenues and Facilities;

WHEREAS, the Board has determined that it is necessary and desirable to issue one or more series of revenue bonds (the "Series 2011 Bonds") for the purpose of financing certain capital improvement projects (the "Projects") as may be determined by an Authorized Representative (as defined herein) and listed in Exhibit B hereto and to establish reserve funds, if any, and pay capitalized interest, costs of issuance of the Series 2011 Bonds and related costs; and

WHEREAS, the Projects are contained in the University's approved campus development plan; and

WHEREAS, this Board has determined to issue the Series 2011 Bonds as tax-exempt or taxable obligations in an aggregate principal amount not to exceed \$54,000,000 as additional bonds under the Original Indenture and desires to amend and restate the Original Indenture to expand the definition of Facilities and Revenue in the Original Indenture and to make certain other amendments necessarily related to the foregoing; and

WHEREAS, pursuant to Chapter 18B, Article 2A of the West Virginia Code of 1931, as amended (the "Issuer Enabling Act"), the Legislature of the State of West Virginia created the Board to serve as the governing board for the University commencing July 1, 2001 and to assume control, supervision and management of the financial, business and education policies and affairs of the state institutions of higher education under its jurisdiction; and

WHEREAS, pursuant to Chapter 18, Article 23, Sections 16, 17, and 19 through 21 inclusive, and Chapter 18B, Article 10, Sections 8 and 13 of the West Virginia Code of 1931, as amended (collectively, the "Enabling Act", the Issuer Enabling Act and

Enabling Act being hereinafter collectively referred to as the “Act”), the Board is authorized to issue revenue bonds of the State for financing (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities and athletic facilities; and

WHEREAS, the Series 2011 Bonds will be “Additional Bonds” as contemplated by the Original Indenture which are to be issued pursuant to the terms of an Amended and Restated Trust Indenture (the “Restated Indenture”); and

WHEREAS, pursuant to West Virginia Code Section 18B-10-8 the approval of the West Virginia Higher Education Policy Commission (the “Commission”) is required prior to the issuance of any revenue bonds by the Board; and

WHEREAS, the Board may in the future issue additional revenue bonds (the "Additional Bonds", and together with the Series 2010 Bonds and the Series 2011 Bonds, the "Bonds"), pursuant to the terms of the Restated Indenture for the purpose, among other things, of financing the costs of new facilities, or improvements to existing facilities, or to finance any other capital improvements or acquisition of equipment which the Board is permitted by law to finance or refunding bonds issued pursuant to the Restated Indenture; and

WHEREAS, the principal of and interest on the Bonds will be payable and secured by rents, fees, charges or other income received by or accrued to the University from the operation and use of all dormitories, student housing facilities, food service facilities and motor vehicle parking facilities now or hereafter situate on the Huntington, West Virginia campus of the University and owned by the University and other sources of revenue specified in the Restated Indenture (collectively, the “Revenues”) and otherwise in the manner and to the extent provided for in the Restated Indenture for each series of Bonds and shall be special obligations of the State of West Virginia (the “State”) and shall not constitute debts of the State; and

WHEREAS, it is in the best interest of this Board to grant to the President and (Interim) Senior Vice President for Finance and Administration of the University and the Chairman and Vice-Chairman of the Board, acting together or individually (each, an “Authorized Officer”), the power and authority to establish the final terms and provisions of and execute the Series 2011 Bonds, the Restated Indenture and the Bond Purchase

Agreement, to select a Trustee, bond insurer, if any, and other participants, each as hereinafter defined, to determine the Projects, if any, to be financed with the proceeds of the Bonds; and

WHEREAS, this Board finds and represents that it has full power and authority to issue the Series 2011 Bonds and to make the respective pledges for the payment thereof as will be set forth in the Restated Indenture and the Series 2011 Bonds, and to execute and deliver the Restated Indenture and such other documents hereinafter described and, on behalf of the owners of the Series 2011 Bonds, to grant a lien on and security interest in the Revenues, other sources of revenue and funds described in each Restated Indenture, as permitted under the Act, and to execute and deliver such other documents and to take the actions contemplated thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE MARSHALL UNIVERSITY BOARD OF GOVERNORS, AS FOLLOWS:

Section 1. Findings and Determinations. This Board specifically finds and determines as follows:

(a) It has full power and authority to issue the Series 2011 Bonds and to make the respective pledges for the payment thereof as are described in the recitals hereto and more particularly set forth in the Restated Indenture, and to enter into the Restated Indenture and the other agreements relating to the Series 2011 Bonds and the Projects and this Board has taken or will take by the adoption of this Resolution all actions necessary to authorize its proper officers to sign, seal and deliver the Restated Indenture, the Bond Purchase Agreement, the Series 2011 Bonds, the Continuing Disclosure Agreement and the other agreements relating thereto and to authorize the distribution of one or more Preliminary Official Statements and authorize the distribution of one or more Official Statements.

(b) This Resolution is adopted pursuant to and in accordance with the provisions of the Act, and the Series 2011 Bonds shall be issued pursuant to and in accordance with the Act.

(c) Citigroup Global Markets Inc. (as lead underwriter), Bank of America Merrill Lynch and Raymond James & Associates, Inc. (collectively the “Underwriters”) are hereby appointed as the underwriters for the Series 2011 Bonds. The Authorized Officers are hereby authorized and directed, upon advice of counsel, to enter into a Bond Purchase Agreement with the Underwriters for the Series 2011 Bonds (whether one or more, the “Bond Purchase Agreement”). It is understood by this Board that the Underwriters will be compensated only from the proceeds of the Series 2011 Bonds.

(d) Huddleston Bolen LLP (“Bond Counsel”) is hereby appointed as bond counsel for the Series 2011 Bonds. It is understood by the Board that Bond Counsel will be compensated only from the proceeds of the Series 2011 Bonds.

(e) It is in the best interests of this Board and the University that an Authorized Officer have the power and authority to execute and deliver one or more certificates of this Board (whether one or more, the "Certificate of Determination") setting forth the final terms and provisions of the Series 2011 Bonds and the Bond Purchase Agreement.

(f) The form of the Restated Indenture as attached hereto as Exhibit C is hereby approved with such insertions and deletions as may be approved by an Authorized Officer.

Section 2. The Bonds. There is hereby authorized to be issued and the Board hereby determines to issue, pursuant to the Act, its Series 2011 Bonds in an aggregate principal amount not to exceed \$54,000,000, and to expend all of the proceeds to finance the costs of the Projects and of related expenses, including but not limited to establishing reserve funds, if any, and paying capitalized interest and all costs incurred in connection with the issuance of the Series 2011 Bonds, such Series 2011 Bonds to be secured by and payable exclusively from the respective Revenues, other sources of revenue and funds pledged under the Restated Indenture. The exact aggregate principal amount of the Series 2011 Bonds, not to exceed \$54,000,000, shall be approved by an Authorized Officer, such approval to be evidenced by the execution by an Authorized Officer of the Certificate of Determination, substantially in the form attached hereto as Exhibit A and incorporated herein by reference. The Series 2011 Bonds shall contain a recital that they are issued pursuant to the Act or other applicable provisions of state law, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 3. Restated Indenture, Bond Purchase Agreement, Continuing Disclosure Agreement, Preliminary Official Statement, Official Statement and Tax Certificate. It is anticipated that the Restated Indenture, Bond Purchase Agreement, Continuing Disclosure Agreement, Preliminary Official Statement, Official Statement and a Tax Certificate shall be prepared, delivered and executed in connection with the issuance of the Series 2011 Bonds (all of the foregoing documents, except the Series 2011 Bonds, are hereinafter collectively referred to as the “Bond Documents”). The Authorized Officers, with the assistance of counsel, are authorized to negotiate and approve the form and content of the Bond Documents under such terms and conditions as are, in the opinion of such Officers, in the best interests of the Board and the State. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Bond Documents prior to or simultaneously with the issuance of the Series 2011 Bonds for and on behalf of the Board, in the form and upon those terms and conditions as approved by the Authorized Officers, with assistance of counsel, and such

approval shall be conclusively evidenced by the execution of the Bond Documents by an Authorized Officer.

Section 4. Terms of Bonds. The Series 2011 Bonds shall be designated and dated such date or dates, shall be issued in one or more series, not to exceed \$54,000,000 in aggregate principal amount, shall mature on such date or dates not later than 30 years from their respective issuance dates, shall bear interest at such rate or rates of interest not to exceed six percent (6%) per annum and shall have such redemption provisions and other terms all as set forth in the Certificate of Determination. The Series 2011 Bonds shall be in the denominations and in registered form, be payable in the medium of payment and at such places, be subject to mandatory and optional redemption prior to maturity and be entitled to the priorities and Revenues, other sources of revenues and funds, all as provided in the Restated Indenture.

Section 5. Bond Insurance. The Authorized Officers, with the assistance of counsel, are, at their discretion, authorized to negotiate and approve bond insurance to insure the payment of principal of and interest on the Series 2011 Bonds (“Bond Insurance”), under such terms and conditions as are in the best interests of the Board and the University. Bond insurance shall not be obtained unless in the opinion of the Authorized Officers it is in the best interests of the University to do so. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the documents relating to the Bond Insurance prior to or simultaneously with the issuance of the Series 2011 Bonds for and on behalf of the Board, in the form and upon those terms and conditions as approved by the Authorized Officers, and such approval shall be conclusively evidenced by the execution of the documents relating to the Bond Insurance by an Authorized Officer.

Section 6. Sale of the Series 2011 Bonds. The Series 2011 Bonds shall be sold to the Underwriters pursuant to the Bond Purchase Agreement, for the price or prices and upon the terms set forth in the Certificate of Determination and the Bond Purchase Agreement. The execution and delivery of the Bond Purchase Agreement is hereby authorized. Following the execution of the Certificate of Determination, the Authorized Officers are hereby authorized and directed to execute the Bond Purchase Agreement with such changes, insertions and omissions as may be approved by the Authorized Officer, his or her execution thereof to be conclusive evidence of such approval.

Section 7. Certificate of Determination. An Authorized Officer is hereby authorized and directed to set forth the final principal amount or amounts, the maturities, the interest rates, the redemption provisions, the price or prices, the Projects to be financed with the proceeds of the Series 2011 Bonds and other terms and details of the Series 2011 Bonds, subject to the parameters set forth herein, including but not limited to Section 4, in the Certificate of Determination to be executed and delivered in connection with the sale of the Series 2011 Bonds. Assuming such parameters are met, the

Certificate of Determination shall have full force and effect as if adopted as a part of this Resolution.

Section 8. Official Statements. (a) The preparation and distribution of a preliminary official statement with respect to the Series 2011 Bonds (whether one or more, the "Preliminary Official Statement"), is hereby authorized in such form as may be approved by an Authorized Officer; and (b) The preparation and distribution of a final Official Statement with respect to the Series 2011 Bonds (whether one or more, the "Official Statement") is hereby authorized in such form as may be approved by an Authorized Officer, such approval to be evidenced by the execution by an Authorized Officer of such Official Statement; and the delivery by the Underwriters to prospective purchasers of the Series 2011 Bonds of the Official Statement is hereby authorized and approved with respect to each series of Series 2011 Bonds.

Section 9. Continuing Disclosure Agreement. So long as any of the Series 2011 Bonds remain outstanding, the Board and the University shall provide certain annual financial information and material event notices regarding the University as described in paragraph (b)(5)(i) of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission and/or as otherwise required by law.

Section 10. Bonds Are Special Obligations. The Series 2011 Bonds are special obligations of the Board payable solely from and secured by the Revenues (as defined in the Restated Indenture) and funds pledged under the Restated Indenture. The Series 2011 Bonds, together with the interest thereon, is a special obligation of the State and shall not constitute a debt or general obligation of the State, and the credit or taxing power of the State shall not be pledged therefor, but the Series 2011 Bonds shall be payable only from the respective Revenues (as defined in the Restated Indenture) and funds pledged for their payment as provided in the Restated Indenture. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Series 2011 Bonds or for any claim based thereon, on this Resolution or on any of the documents executed in connection therewith, including but not limited to the Series 2011 Bonds and the Bond Documents, against any official, member, officer or employee of this Board, the University or the State or any person executing the Series 2011 Bonds, and neither members of this Board nor any person executing the Series 2011 Bonds shall be liable personally on the Series 2011 Bonds by reason of the issuance thereof.

Section 11. Personal Liability. None of the present or future employees, officers or board members of the Board or the University, or any person executing the Bonds or the Bond Documents relating thereto shall be personally liable for the Bonds or any other obligation relating to the issuance of such Bonds, or be subject to any personal liability by reason of the issuance of the Bonds.

Section 12. Appointment of Trustee. The Authorized Officer shall appoint a fiduciary to serve in the capacities of Trustee, Registrar and Paying Agent under the Indenture, as set forth in the Certificate of Determination.

Section 13. Formal Actions. The Board hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board, and that all deliberations of the Board which resulted in formal action, were meetings open to the public, in full compliance with all applicable legal requirements.

Section 14. Additional/Incidental Actions. The Authorized Officers are hereby authorized and directed to seek the required approval of the Commission for the issuance of the Series 2011 Bonds and to execute and deliver such other documents, agreements, instruments and certificates, including but not limited to guaranteed investment contracts with respect to the Series 2011 Bond proceeds, and to take such other action as may be necessary or appropriate in order to effectuate the execution, delivery and/or receipt of the Indenture, the Bond Purchase Agreement, the Preliminary Official Statement, the Official Statement, the Continuing Disclosure Agreement, the issuance and sale of the Series 2011 Bonds and the investment of the Series 2011 Bond proceeds, and for carrying out the transactions contemplated therein, all in accordance with the Act and other applicable provisions of the Code of West Virginia of 1931, as amended, including any action necessary with respect to The Depository Trust Company. The execution, delivery and due performance of the Bond Documents and all documents and instruments required in connection therewith are hereby in all respects approved, authorized, ratified and confirmed, including any and all acts heretofore taken in connection with the issuance of the Series 2011 Bonds.

Section 15. Effective Date. This Resolution shall take effect immediately upon its adoption, and all prior resolutions or parts thereof inconsistent herewith are hereby repealed.

Adopted this 29th day of September, 2011.

CERTIFICATION

The undersigned, being the duly qualified, elected and acting Secretary of the Board of Governors of Marshall University does hereby certify that the foregoing Resolution was duly adopted by the members of the Board at a regular meeting duly held, pursuant to proper notice thereof, on September 29, 2011, at Huntington, West Virginia, a quorum being present and acting throughout, and which Resolution is a true, correct and complete copy thereof as witness my hand this ___ day of _____, 2011.

Secretary, Board of Governors of Marshall University

EXHIBIT A

CERTIFICATE OF DETERMINATIONS

The undersigned, [Chair or Vice-Chair of the Marshall University Board of Governors (the “Board”)] [President or (Interim) Senior Vice President of Finance Administration of Marshall University], in accordance with a Bond Resolution adopted by the Board on September 29, 2011 (the “Resolution”), with respect to the \$_____ Board of Governors of Marshall University, University Revenue Bonds, Series 2011 (the “Bonds”), hereby finds and determines as follows:

1. [She][He] is an Authorized Officer within the meaning of the Resolution.
2. The Bonds shall be dated _____, 2011.
3. The Bonds shall be issued in the aggregate principal amount of \$_____ .
4. Such principal amount does not exceed \$54,000,000, being the maximum principal amount authorized by the Resolution.
5. The Bonds shall mature in the amounts and on the dates and shall be subject to mandatory sinking fund redemption in the amounts and on the dates set forth on Schedule 1 attached hereto and incorporated herein.
6. The Bonds shall bear interest at the rates and produce the yields set forth on Schedule 1 attached hereto and incorporated herein, which rates do not exceed six percent (6%) per annum.
7. The Bonds shall be subject to optional redemption as set forth on Schedule 2 attached hereto and incorporated herein.
8. The Bonds shall be sold to Citigroup Global Markets Inc. (as lead underwriter), Bank of America Merrill Lynch and Raymond James & Associates, Inc. (the “Underwriters”), pursuant to the terms of the Bond Purchase Agreement by and between the Underwriters and the Board, at an aggregate purchase price of \$_____ (representing par value, less an underwriting discount of \$_____ plus a net original issue [premium/discount] of \$_____ (original issue premium of \$ minus original issue discount of \$_____)) (the “Closing Date”).

9. The proceeds of the Bonds shall be applied as set forth on Schedule 3 attached hereto and incorporated herein, including any additional determinations deemed necessary by the [Authorized Officer].

10. United Bank, Inc. is hereby designated by the [Authorized Officer] to serve in the capacities of Trustee, Registrar and Paying Agent under the Indenture.

11. The Preliminary Official Statement of the Board dated October ____, 2011, is hereby ratified and deemed final within the meaning of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, with such changes, omissions, insertions and revisions as the Authorized Officer (as defined in the Resolution) shall deem advisable. Such signature to evidence approval thereof.

12. The final Official Statement of the Board attached hereto is hereby authorized and deemed final within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, with such changes, omissions, insertions and revisions as the Authorized Officer (as defined in the Resolution) shall deem advisable, such signature to evidence approval thereof.

[13. (“Bond Insurer”) has offered Bond Insurance for the Bonds pursuant to the terms of a commitment letter dated _____, 2011 (the “Commitment”). The Bond Insurer is approved and the Commitment for the Bond Insurance is accepted.]

The undersigned hereby certifies that the foregoing terms and conditions of the Bonds are within the limitations prescribed by the Resolution, and the Bonds may be issued with such terms and conditions as authorized by the Resolution.

WITNESS my signature this day of _____, 2011.

MARSHALL UNIVERSITY
BOARD OF GOVERNORS

By: _____
Its: _____

Schedule 1

Maturities

Mandatory Redemption.

Schedule 2

Optional Redemption

Extraordinary Optional Redemption of the Bonds

Schedule 3

Application of Proceeds and Other Funds.

[EXHIBIT WILL SHOW APPLICATION OF BOND PROCEEDS TO PROJECTS]

EXHIBIT B**PROJECT LIST**

Project	Total Estimated Cost
Biotechnology Incubator and Applied Engineering Complex	50,000,000
Multi-floor Parking Structure	7,000,000
Soccer Stadium Complex	5,400,000
Fine Arts Incubator-Visual Arts	11,000,000
Indoor Athletic Complex	14,000,000
Sports Medicine Translational Research Center	7,500,000
Academic Support Center	3,500,000
Modern Academic Instructional (High Technology) Facility	14,000,000
Land Acquisition and Building Demolition	<u>2,000,000</u>
Totals	114,400,000

EXHIBIT C
Form of Restated Indenture

Trust Indenture

AMENDED AND RESTATED TRUST INDENTURE

By and between

BOARD OF GOVERNORS OF MARSHALL UNIVERSITY

and

UNITED BANK, INC.
As Trustee

Original Indenture Dated as of November 1, 2010
Amended and Restated Indenture Dated as of November 1, 2011

\$37,140,000
Board of Governors of Marshall University
University Refunding Revenue Bonds, Series 2010
and
\$54,000,000
Board of Governors of Marshall University
University Revenue Bonds, Series 2011

AMENDED AND RESTATED TRUST INDENTURE

THIS AMENDED AND RESTATED TRUST INDENTURE (the "Indenture") dated as of November 1, 2011, by and between the BOARD OF GOVERNORS OF MARSHALL UNIVERSITY (the "Issuer"), a body corporate created under the laws of the State of West Virginia, acting for and on behalf of Marshall University (the "University"), and UNITED BANK, INC., a state banking corporation with trust powers and with its principal office in the City of Charleston, Kanawha County, West Virginia, as trustee (the "Trustee").

WHEREAS, on November 1, 2010 the Issuer and the Trustee entered into a Trust Indenture (the "Original Indenture") pursuant to which the Issuer issued its \$37,140,000 aggregate principal amount University Refunding Revenue Bonds, Series 2010 (the "Series 2010 Bonds") for the purpose of refunding certain prior bonds which had been issued by the Higher Education Interim Governing Board, the predecessor to the Issuer, as its University Facilities Revenue Bonds, Series 2001 A (Marshall University Projects) (the "Prior Bonds");

WHEREAS, the Series 2010 Bonds were secured by a pledge of certain auxiliary revenues received from the operation of certain of the University's auxiliary facilities;

WHEREAS, the Original Indenture provided that the Issuer could in the future issue additional revenue bonds on parity with the Series 2010 Bonds for the purpose, among other things, of financing the costs of new Facilities, or improvements to existing Facilities, or to finance any other capital improvements or acquisition of equipment which the Issuer is permitted by law to finance, add additional sources of revenue to support and be pledged for the payment of bonds issued under the Original Indenture, as amended, and that the Original Indenture could be amended without the consent of holders of any outstanding bonds issued thereunder to provide for such expansion of revenues and facilities and any other amendments necessarily related to such expansion of Revenues and Facilities;

WHEREAS, the Issuer through the adoption of a resolution on September 29, 2011 has amended and restated this Indenture to expand the definition of Facilities and Revenue and to make certain other amendments necessarily related to the foregoing;

WHEREAS, pursuant to Chapter 18B, Article 2A of the West Virginia Code of 1931, as amended (the "Issuer Enabling Act"), the

Legislature of the State of West Virginia created the Issuer to serve as the governing board for the University commencing July 1, 2001 and to assume control, supervision and management of the financial, business and education policies and affairs of the state institutions of higher education under its jurisdiction;

WHEREAS, pursuant to Chapter 18, Article 23, Sections 16, 17, and 19 through 21 inclusive, and Chapter 18B, Article 10, Sections 8 and 13 of the West Virginia Code of 1931, as amended (collectively, the "Enabling Act"), the Issuer is authorized to issue revenue bonds of the State for financing (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities and athletic facilities;

WHEREAS, pursuant to Chapter 13, Article 2G of the West Virginia Code of 1931, as amended, (the "Refunding Bond Act") the Issuer is authorized to issue refunding bonds to refund bonds such as the bonds refunded by the Series 2010 Bonds;

WHEREAS, the Issuer has determined that it is necessary and desirable to issue a series of revenue bonds (the "Series 2011 Bonds") for the purpose of financing the Series 2011 Projects as defined herein and to pay Costs of Issuance of the Series 2011 Bonds and related costs; and has further determined that the Series 2011 Bonds be payable from and secured by a first lien on and pledge of the funds described herein (which lien and pledge shall be on a parity with the lien and pledge securing the Series 2010 Bonds and any Additional Bonds issued hereunder), subject to the terms, conditions, limitations and restrictions herein contained;

WHEREAS, the Series 2011 Bonds will be "Additional Bonds" issued pursuant to the terms of the Indenture;

WHEREAS, the Issuer has authorized and approved the issuance of the Series 2011 Bonds to finance the Series 2011 Projects pursuant to a resolution of the Issuer, duly adopted on September 29, 2011 (the "Issuer Resolution");

WHEREAS, pursuant to West Virginia Code Section 18B-10-8 the approval of the West Virginia Higher Education Policy Commission (the "Commission") is required prior to the issuance of any revenue bonds by the Issuer;

WHEREAS, the Commission has authorized and approved the issuance of the Series 2011 Bonds pursuant to a resolution of the Commission, duly adopted on October __, 2011;

WHEREAS, the Issuer may in the future issue additional revenue bonds (the "Additional Bonds", and together with the Series 2010 Bonds and the Series 2011 Bonds, the "Bonds"), pursuant to the terms hereof for the purpose, among other things, of financing the costs of new Facilities, or improvements to existing Facilities, or to finance any other capital improvements or acquisition of equipment which the Issuer is permitted by law to finance or refunding Bonds issued pursuant to this Indenture;

WHEREAS, all things necessary to make the Series 2011 Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the amounts pledged to the payment of principal of and interest on the Series 2011 Bonds, and a valid grant of a security interest in the funds and accounts described herein and in the proceeds thereof, and the creation, execution and delivery of this Indenture, which shall also be deemed to be a security agreement, and the creation, execution and issuance of the Series 2011 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

The Issuer in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby irrevocably grant, bargain, sell, convey, transfer, assign and pledge unto the Trustee, and its successors in trust and assigns forever, and does hereby grant to it and them a security interest in:

GRANTING CLAUSE FIRST

All right, title and interest of the Issuer in and to the Revenues, as defined herein, and the present and continuing right to make claim for, collect, receive and receipt for such Revenues. The pledge of Revenues by the Issuer hereunder is a pledge of "capital fees" and "auxiliary fees," as defined in West Virginia Code Section 18B-10-1c and certain other revenues of the Issuer pursuant to West Virginia Code Section 18B-10-8. Provided, however, that no pledge is made hereunder of any portion of the University's auxiliary fees except to the extent that such auxiliary fees are related to the Auxiliary Facilities.

GRANTING CLAUSE SECOND

All moneys and securities held by the Trustee in any fund or account under this Indenture and earnings thereon, excepting only the Rebate Fund.

TO HAVE AND TO HOLD all and singular the foregoing (the "Trust Estate"), whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit and security of all present and future holders of the Bonds, except as otherwise provided herein, without preference of any Bond over any other, and for enforcement of the payment of the Bonds in accordance with their terms, and all other sums payable hereunder or on the Bonds and for the performance of and compliance with the obligations, covenants and conditions of this Indenture, as if all the Bonds at any time Outstanding had been

authenticated, executed and delivered simultaneously with the execution and delivery of this Indenture, all as herein set forth;

PROVIDED, HOWEVER, that if the Issuer shall well and truly pay, or cause to be paid, the principal of and interest on, the Bonds, together with any redemption premium due or to become due thereon, at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, and shall cause the payments to be made as required herein, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee and any Paying Agent all sums of money due or to become due in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect.

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to the words and phrases defined elsewhere herein, the following words and phrases shall have the following meanings:

"Act" means, collectively, the Issuer Enabling Act, the Enabling Act and the Refunding Act.

"Additional Bonds" means all Bonds issued on a parity as to lien and source of payment with the Series 2010 Bonds and Series 2011 Bonds pursuant to the provisions of Section 2.11 hereof.

"Administrative Expenses" means those expenses of the Issuer, approved in writing by an Authorized Representative, which are properly chargeable as administrative expenses under generally accepted accounting principles and shall include, without limiting the generality of the foregoing, the following: (a) fees and expenses of the Trustee, including legal and accounting fees and annual fees, including audit fees; and (b) fees and expenses of the Issuer's professional advisors, reasonably necessary, including, without limiting the generality of the foregoing, fees and expenses of the Issuer's consultants, counsel (including Bond Counsel), financial advisors, accountants and auditors.

“Athletic Facility Enhancement Fee” means a fee which is currently imposed by the University at the rate of \$3.00 per ticket for all tickets for admission to the University’s football games and at the rate of \$4.00 per ticket for all tickets for admission to the University’s men’s basketball games

“Athletic Facility Enhancement Fee Revenues” means the portion of the receipts from the Athletic Facility Enhancement Fee which is pledged to the payment of the Bonds and which shall be the first \$250,000 received from the University’s Athletic Facility Enhancement Fee in Fiscal Year 2012 and the first \$500,000 received from the University’s Athletic Facility Enhancement Fee in Fiscal Year 2013 and each Fiscal Year thereafter.

"Authorized Representative" means the individual or individuals designated by the Issuer, from time to time, as the person or persons to act on behalf of the Issuer. The specimen signature of the Authorized Representative shall be filed with the Trustee. Unless otherwise expressly provided herein whenever notice or direction by the Issuer to the Trustee is required or provided for herein, said notice or direction shall only be effective if given by the Authorized Representative.

“Auxiliary Enterprise” means an entity that exists to furnish goods or services to students, faculty, staff or others; charges a fee directly related to, although not necessarily equal to, the cost of the goods or services and is managed as essentially self-supporting.

“Auxiliary Facilities” means collectively, all dormitories, student housing facilities, food service facilities and motor vehicle parking facilities now or hereafter situate on the Huntington, West Virginia campus of Marshall University and owned by the Issuer. Notwithstanding the foregoing, the Issuer may in the future, through a Supplemental Indenture, expand the definition of Auxiliary Facilities to include any other structures or other improvements relating to Auxiliary Enterprises which the Issuer now owns or hereafter constructs or acquires.

"Bond Counsel" means a nationally recognized firm of lawyers experienced in matters involving the issuance of tax-exempt debt by states and their political subdivisions.

"Bond Fund" means the trust fund of that name established by Section 5.01 hereof.

"Bondholder," "Holder of Bonds," "Owner of Bonds" or any similar term means the registered owner of any Bond.

"Bonds" means the Series 2010 Bonds, the Series 2011 Bonds and any Additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Indenture.

"Bond Year" means the period of twelve consecutive months ending on June 30, or the next Business Day if the 30th is not a Business Day, in any year in which Bonds are or will be outstanding, provided that the first Bond Year shall commence on the date of delivery of the Bonds upon original issuance to the purchasers thereof and shall end on the next June 30th.

"Business Day" means a day on which the principal office of the Trustee is not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Bonds, substantially in the form set forth herein.

"Certified Public Accountant" means an Independent certified public accounting firm which is appointed by the Issuer for the purpose of examining and reporting on or passing on questions relating to the financial statements of the Issuer, has all certifications necessary for the performance of such services and has a favorable reputation for skill and experience in performing similar services in respect of businesses of a comparable size and nature.

"Certified Resolution" means, as the context requires, one or more resolutions of the Issuer or the Commission, as applicable, certified by the respective Secretary thereof to have been duly enacted or adopted and to be in full force and effect as of the date of certification.

"Closing Date" means the date or dates upon which there is an exchange of a series of Bonds for the proceeds representing the original purchase price thereof. The Closing Date for the Series 2010 Bonds was November 17, 2010. The Closing Date for the Series 2011 Bonds is November __, 2011.

"Code" means the Internal Revenue Code of 1986, as amended, and any applicable regulations, rulings or revenue procedures promulgated thereunder or under any predecessor thereto.

“Commission” means the West Virginia Higher Education Policy Commission.

"Consultant" means a professional consulting or banking firm selected by the Issuer and acceptable to the Trustee, having the skill and experience necessary to render the particular report required and having a favorable and nationally recognized reputation for such skill and experience.

"Continuing Disclosure Agreement" means with respect to a series of Bonds the Continuing Disclosure Agreement dated as of the date of delivery of such Bonds between the Issuer and the Trustee.

"Costs of Issuance" shall mean those costs of issuing Bonds, including, but not limited to, legal, accounting, fiscal agent fees and expenses and premiums for municipal bond insurance, rating agency charges and expenses, letter of credit fees and expenses and other fees and expenses.

"Costs of Issuance Fund" means the trust fund of that name created pursuant to Section 5.01 hereof.

"Dated Date" means, with respect to the Series 2010 Bonds, November 17, 2010 and with respect to the Series 2011 Bonds November __, 2011.

"Debt Service Charges" means the Principal Installment or Redemption Price and interest on each series of Bonds for any period or payable at any time, whether due on an Interest Payment Date, at maturity or upon acceleration or redemption.

"Default" and "Event of Default" means any occurrence or event specified in Section 9.01 hereof.

"Defaulted Interest" means any interest on any Bond which is due and payable on any Interest Payment Date, but which is not punctually paid or provided for on such Interest Payment Date.

"Defeasance Obligations" means cash, direct non-callable obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS, or

defeased municipal bonds rated AAA by S&P or Aaa by Moody's (or any combination of the foregoing).

“Depository Trust Agreement” means the Depository Trust Agreement, dated as of November 17, 2010, between the Trustee, as trustee under this Indenture, and The Bank of New York Mellon, as depository trustee.

“Depository Trustee” means The Bank of New York Mellon, and its successors in interest.

“Disclosure Agent” means United Bank, Inc., Charleston, West Virginia or such other person as the Issuer may from time to time designate in writing to the Trustee, a national banking association, or its successor.

“DTC” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Series 2010 Bonds, or any successor thereto.

“DTC Eligible” means Bonds meeting the qualifications prescribed by The Depository Trust Company, New York, New York.

“Educational and General Capital Fees” or “E&G Capital Fees” means (i) that portion of the University’s required educational and general capital fees imposed on March 21, 2004 pursuant to the provisions of Chapter 18B, Article 10 of the West Virginia Code which remains after the payment of debt service on any revenue bonds issued pursuant to any general bond resolutions of the Commission, any of its predecessors or any institution, adopted prior March 21, 2004 and (ii) all of any required educational and general capital fees imposed by the University after March 21, 2004 pursuant to the provisions of Chapter 18B, Article 10 of the West Virginia Code.

“Enabling Act” means Chapter 18, Article 23, Sections 16, 17, and 19 through 21, inclusive, and Chapter 18B, Article 10, Sections 8 and 13 of the West Virginia Code of 1931, as amended.

“Facilities” means collectively, (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University,

including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities and athletic facilities. Notwithstanding the foregoing, the Issuer may in the future, through a Supplemental Indenture, expand the definition of Facilities to include any other structures or other improvements which the Issuer now owns or hereafter constructs or acquires.

“Fiscal Year” means the period commencing July 1 and ending on June 30 of each year.

“Fitch” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, if such successors and assigns shall continue to perform the functions of a securities rating agency.

“GAAP” means generally accepted accounting principles consistently applied.

“Indenture” means this Trust Indenture, as amended or supplemented from time to time.

“Independent” means a Person who is not a member or employee of the Issuer, or partner, officer or employee of the University.

“Interest Account” means the account of that name established within the Bond Fund, pursuant to Section 5.01 hereof.

“Interest Payment Date” means May 1 and November 1 of each year, commencing May 1, 2011 with respect to the Series 2010 Bonds and commencing May 1, 2012 with respect to the Series 2011 Bonds, and any other date on which Debt Service Charges are otherwise due on the Bonds.

“Issuer” means the Board of Governors of Marshall University and its successors.

“Issuer Certificate” means a certificate or report, in form and substance satisfactory to the Trustee, executed by the Authorized Representative.

“Issuer Enabling Act” means Chapter 18B, Article 2A of the West Virginia Code of 1931, as amended.

“Issuer Resolution” means (a) with respect to the Series 2010 Bonds the resolution of the Issuer adopted August 26, 2010, authorizing the refunding of the Prior Bonds and the issuance of the Series 2010 Bonds and (b) with respect to the Series 2011 Bonds the resolution of the Issuer adopted September 29, 2011, authorizing the issuance of the Series 2011 Bonds.

“Letter of Representations” means the letter of representations relating to a series of Bonds among the Issuer, the Trustee and the then acting securities depository for such series of Bonds.

“Mandatory Redemption Date” means the dates established for the mandatory redemption of a Series of Bonds pursuant to Section 3.02 hereof.

“Mandatory Redemption Requirements” means the respective amounts designated as such with respect to a Series of Bonds pursuant to Section 3.02 hereof or pursuant to a Supplemental Indenture with respect to any Series of Additional Bonds.

“Maximum Annual Debt Service” means the maximum amount of Debt Service Charges which will come due at the date of calculation in the then current or any succeeding Bond Year.

“Medical Center Rental Income” means the rental income received by the University for the rental of a portion of a University owned facility commonly known as Marshall University Medical Center to University Physicians & Surgeons, Inc. pursuant to a lease dated June 15, 2000 and with a term ending on June 30, 2025 and all amendments, renewals and extensions thereof.

“Moody's” means Moody's Investor Services, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, if such successors and assigns shall continue to perform the functions of a Securities rating agency.

“Net Revenues” means Revenues less Operating Expenses.

“Operating Expenses,” unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance of the Auxiliary Facilities (excluding depreciation or other non-cash charges) and includes, without limiting the generality of the foregoing, insurance premiums, supplies, labor, wages, utilities, employee benefits, the cost of food, materials and supplies used for current

operations, and such other reasonable operating costs and expenses as should normally and regularly be included under GAAP, excluding, however, administrative overhead expenses of the University chargeable or allocated to the Auxiliary Facilities and capital improvements charges properly allocated to a capital account in accordance with GAAP.

"Original Purchasers" means those investment banking firms or other entities so designated as such in a resolution of the Issuer with respect to a series of Bonds.

"Outstanding" means, with respect to the Bonds, all Bonds issued, authenticated and delivered hereunder, other than:

(a) All Bonds theretofore canceled or required to be canceled pursuant to Section 2.09 hereof;

(b) Bonds for which provision for payment or redemption has been made in accordance with Article VIII; provided that, if such Bonds are being redeemed, the required notice of redemption shall have been given or provision satisfactory to the Trustee shall have been made therefor; and

(c) Bonds in substitution for which other Bonds have been authenticated and delivered pursuant to Article II.

Notwithstanding the foregoing, in determining whether the Owners of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Issuer, the University or any foundation on behalf of the University, shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer. Any Bonds of the type described in Section 8.01(f) hereof shall be deemed Outstanding for all purposes hereof.

"Paying Agent" means initially the Trustee or such other bank or trust company organized under the laws of any state of the United States of America or any national banking association designated as paying agent for the Bonds and any successor appointed in the manner provided in this Indenture.

"Permitted Investments" means the following, to the extent permitted by the laws of the State:

1. Direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America ("U.S. Government Securities").

2. Direct obligations¹ of the following federal agencies which are fully guaranteed by the full faith and credit of the United States of America:

- (a) Export-Import Bank of the United States Direct obligations and fully guaranteed certificates of beneficial interest;
- (b) Federal Housing Administration debentures;
- (c) General Services Administration participation certificates;
- (d) Government National Mortgage Association ("GNMAs") guaranteed mortgage-backed securities and guaranteed participation certificates;
- (e) Small Business Administration guaranteed participation certificates and guaranteed pool certificates;
- (f) U.S. Department of Housing & Urban Development local authority bonds;
- (g) U.S. Maritime Administration guaranteed Title XI financings; and
- (h) Washington Metropolitan Area Transit Authority guaranteed transit bonds.

¹ The following are explicitly excluded from the securities enumerated in 2 and 3: (i) All derivative obligations, including without limitation inverse floaters, residuals, interest-only, principal-only and range notes; (ii) Obligations that have a possibility of returning a zero or negative yield if held to maturity; (iii) Obligations that do not have a fixed par value or those whose terms do not promise a fixed dollar amount at maturity or call date; and (iv) Collateralized Mortgage-Backed Obligations ("CMOs").

3. Direct obligations¹ of the following federal agencies which are not fully guaranteed by the faith and credit of the United States of America:

- (a) Federal National Mortgage Association (“FNMAs”) senior debt obligations rated Aaa by Moody’s Investors Service (“Moody’s”) and AAA by Standard & Poor’s Corporation (“S&P”)
- (b) Federal Home Loan Mortgage Corporation (“FHLMCs”) participation certificates and senior debt obligations rated Aaa by Moody’s and AAA by S&P
- (c) Federal Home Loan Banks consolidated debt obligations
- (d) Student Loan Marketing Association debt obligations
- (e) Resolution Funding Corporation debt obligations

4. Direct, general obligations of any state of the United States of America or any subdivision or agency thereof whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P.

5. Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, P-1 by Moody’s and A-1 or better by S&P.

6. Certificates of deposit, savings accounts, deposit accounts or money market deposits in amounts that are continuously and fully insured by the Federal Deposit Insurance Corporation (“FDIC”), including the Bank Insurance Fund and the Savings Association Insurance Fund.

7. Certificates of deposit, deposit accounts, federal funds or bankers’ acceptances (in each case having maturities of not more than 365 days following the date of purchase) of any domestic commercial bank or United States branch office of a foreign bank, provided that such bank’s short-term certificates of deposit are rated P-1 by Moody’s and A-1 or better by S&P (not considering holding company ratings).

8. Investments in money-market funds rated AAAM or AAAM-G by S&P.

- S&P.
9. State-sponsored investment pools rated A- or better by
 10. Repurchase agreements that meet the following criteria:
 - (a) A master repurchase agreement or specific written repurchase agreement, substantially similar in form and substance to the Public Securities Association or Bond Market Association master repurchase agreement, governs the transaction.
 - (b) Acceptable providers shall consist of (i) registered broker/dealers subject to Securities Investors' Protection Corporation ("SIPC") jurisdiction or commercial banks insured by the FDIC, if such broker/dealer or bank has an unsecured, unsecured and unguaranteed rating of A3/P-1 or better by Moody's and A-/A-1 or better by S&P, or (ii) domestic structured investment companies approved by Financial Guaranty and rated Aaa by Moody's and AAA by S&P.
 - (c) The repurchase agreement shall require termination thereof if the counterparty's ratings are suspended, withdrawn or fall below A3 or P-1 from Moody's, or A- or A-1 from S&P. Within ten (10) days, the counterparty shall repay the principal amount plus any accrued and unpaid interest on the investments.
 - (d) The repurchase agreement shall limit acceptable securities to U.S. Government Securities and to the obligations of GNMA, FNMA or FHLMC described in 2(d), 3(a) and 3(b) above. The fair market value of the securities in relation to the amount of the repurchase obligation, including principal and accrued interest, is equal to a collateral level of at least 104% for U.S. Government Securities and 105% for GNMA, FNMA or FHLMCs. The repurchase agreement shall require (i) the Trustee or the Agent to value the collateral securities no less frequently than weekly, (ii) the delivery of additional securities if the fair market value of the securities is below the required level on any valuation date, and (iii) liquidation of the repurchase securities if any deficiency in the required

percentage is not restored within two (2) business days of such valuation.

- (e) The repurchase securities shall be delivered free and clear of any lien to the bond trustee (herein, the “Trustee”) or to an independent third party acting solely as agent (“Agent”) for the Trustee, and such Agent is (i) a Federal Reserve Bank, or (ii) a bank which is a member of the FDIC and which has combined capital, surplus and undivided profits or, if appropriate, a net worth, of not less than \$50 million, and the Trustee shall have received written confirmation from such third party that such third party holds such securities, free and clear of any lien, as agent for the Trustee.
- (f) A perfected first security interest in the repurchase securities shall be created for the benefit of the Trustee, and the issuer and the Trustee shall receive an opinion of counsel as to the perfection of the security interest in such repurchase securities and any proceeds thereof.
- (g) The repurchase agreement shall have a term of one year or less, or shall be due on demand.
- (h) The repurchase agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the repurchase securities, unless Financial Guaranty directs otherwise:
 - (i) insolvency of the broker/dealer or commercial bank serving as the counterparty under the repurchase agreement;
 - (ii) failure by the counterparty to remedy any deficiency in the required collateral level or to satisfy the margin maintenance call under item 10(d) above; or
 - (iii) failure by the counterparty to repurchase the repurchase securities on the specified date for repurchase.

11. Investment agreements (also referred to as guaranteed investment contracts) that meet the following criteria:

- (a) A master agreement or specific written investment agreement governs the transaction.
- (b) Acceptable providers of uncollateralized investment agreements shall consist of (i) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least Aa2 by Moody's and AA by S&P; (ii) domestic insurance companies rated Aaa by Moody's and AAA by S&P; and (iii) domestic structured investment companies approved by Financial Guaranty and rated Aaa by Moody's and AAA by S&P.
- (c) Acceptable providers of collateralized investment agreements shall consist of (i) registered broker/dealers subject to SIPC jurisdiction, if such broker/dealer has an uninsured, unsecured and unguaranteed rating of A1 or better by Moody's and A+ or better by S&P; (ii) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least A1 by Moody's and A+ by S&P; (iii) domestic insurance companies rated at least A1 by Moody's and A+ by S&P; and (iv) domestic structured investment companies approved by Financial Guaranty and rated Aaa by Moody's and AAA by S&P. Required collateral levels shall be as set forth in 11(f) below.
- (d) The investment agreement shall provide that if the provider's ratings fall below Aa3 by Moody's or AA - by S&P, the provider shall within ten (10) days either (i) repay the principal amount plus any accrued and interest on the investment; or (ii) deliver Permitted Collateral as provided below.
- (e) The investment agreement must provide for termination thereof if the provider's ratings are suspended, withdrawn or fall below A3 from Moody's or A- from S&P. Within ten (10) days, the provider shall repay the principal amount plus any accrued interest on the agreement, without penalty.
- (f) The investment agreement shall provide for the delivery of collateral described in (i) or (ii) below ("Permitted

Collateral”) which shall be maintained at the following collateralization levels at each valuation date:

- (i) U.S. Government Securities at 104% of principal plus accrued interest; or
 - (ii) Obligations of GNMA, FNMA or FHLMC (described in 2(d), 3(a) and 3(b) above) at 105% of principal and accrued interest.
- (g) The investment agreement shall require the Trustee or Agent to determine the market value of the Permitted Collateral not less than weekly and notify the investment agreement provider on the valuation day of any deficiency. Permitted Collateral may be released by the Trustee to the provider only to the extent that there are excess amounts over the required levels. Market value, with respect to collateral, may be determined by any of the following methods:
- (i) the last quoted “bid” price as shown in Bloomberg, Interactive Data Systems, Inc., The Wall Street Journal or Reuters;
 - (ii) valuation as performed by a nationally recognized pricing service, whereby the valuation method is based on a composite average of various bid prices; or
 - (iii) the lower of two bid prices by nationally recognized dealers. Such dealers or their parent holding companies shall be rated investment grade and shall be market makers in the securities being valued.
- (h) Securities held as Permitted Collateral shall be free and clear of all liens and claims of third parties, held in a separate custodial account and registered in the name of the Trustee or the Agent.
- (i) The provider shall grant the Trustee or the Agent a perfected first security interest in any collateral delivered under an investment agreement. For investment agreements collateralized initially and in connection with the delivery of Permitted Collateral under 11(f) above, the Trustee and Financial Guaranty shall receive an opinion of counsel as to the perfection of the security interest in the collateral.

- (j) The investment agreement shall provide that moneys invested under the agreement must be payable and putable at par to the Trustee without condition, breakage fee or other penalty, upon not more than two (2) business days' notice, or immediately on demand for any reason for which the funds invested may be withdrawn from the applicable fund or account established under the authorizing document, as well as the following:
- (i) In the event of a deficiency in the debt service account;
 - (ii) Upon acceleration after an event of default;
 - (iii) Upon refunding of the Bonds in whole or in part; or
 - (iv) If a determination is later made by a nationally recognized bond counsel that investments must be yield-restricted.

Notwithstanding the foregoing, the agreement may provide for a breakage fee or other penalty that is payable in arrears and not as a condition of a draw by the Trustee if the issuer's obligation to pay such fee or penalty is subordinate to its obligation to pay debt service on the bonds and to make deposits to the debt service reserve fund, if any.

- (k) The investment agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the investment securities, unless:
- (i) Failure of the provider or the guarantor (if any) to make a payment when due or to deliver Permitted Collateral of the character, at the times or in the amounts described above;
 - (ii) Insolvency of the provider or the guarantor (if any) under the investment agreement;
 - (iii) Failure by the provider to remedy any deficiency with respect to required Permitted Collateral;
 - (iv) Failure by the provider to make a payment or observe any covenant under the agreement;
 - (v) The guaranty (if any) is terminated, repudiated or challenged; or

- (vi) Any representation of warranty furnished to the Trustee or the issuer in connection with the agreement is false or misleading.
- (l) The investment agreement must incorporate the following general criteria:
- (i) “Cure periods” for payment default shall not exceed two (2) business days;
 - (ii) The agreement shall provide that the provider shall remain liable for any deficiency after application of the proceeds of the sale of any collateral, including costs and expenses incurred by the Trustee or Financial Guaranty;
 - (iii) Neither the agreement or guaranty agreement, if applicable, may be assigned (except to a provider that would otherwise be acceptable under these guidelines) or amended without the prior consent of Financial Guaranty;
 - (iv) If the investment agreement is for a debt service reserve fund, reinvestments of funds shall be required to bear interest at a rate at least equal to the original contract rate.
 - (v) The provider shall be required to immediately notify Financial Guaranty and the Trustee of any event of default or any suspension, withdrawal or downgrade of the provider’s ratings;
 - (vi) The agreement shall be unconditional and shall expressly disclaim any right of set-off or counterclaim;
 - (vii) The agreement shall require the provider to submit information reasonably requested by Financial Guaranty, including balance invested with the provider, type and market value of collateral and other pertinent information.

12. Forward delivery agreements in which the securities delivered mature on or before each interest payment date (for debt service or debt service reserve funds) or draw down date (construction funds) that meet the following criteria:

- (a) A specific written investment agreement governs the transaction.
- (b) Acceptable providers shall be limited to (i) any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction, if such broker/dealer or bank has an unsecured, unsecured and unguaranteed obligation rated A3/P-1 or better by Moody's and A-/A-1 or better by S&P; (ii) any commercial bank insured by the FDIC, if such bank has an unsecured, unsecured and unguaranteed obligation rated A3/P-1 or better by Moody's and A-/A-1 or better by S&P; and (iii) domestic structured investment companies approved by Financial Guaranty and rated Aaa by Moody's and AAA by S&P.
- (c) The forward delivery agreement shall provide for termination or assignment (to a qualified provider hereunder) of the agreement if the provider's ratings are suspended, withdrawn or fall below A3 or P-1 from Moody's or A- or A-1 from S&P. Within ten (10) days, the provider shall fulfill any obligations it may have with respect to shortfalls in market value. There shall be no breakage fee payable to the provider in such event.
- (d) Permitted securities shall include the investments listed in 1, 2 and 3 above.
- (e) The forward delivery agreement shall include the following provisions:
 - (i) The permitted securities must mature at least one (1) business day before a debt service payment date or scheduled draw. The maturity amount of the permitted securities must equal or exceed the amount required to be in the applicable fund on the applicable valuation date.
 - (ii) The agreement shall include market standard termination provisions, including the right to terminate for the provider's failure to deliver qualifying securities or otherwise to perform under the

agreement. There shall be no breakage fee or penalty payable to the provider in such event.

- (iii) Any breakage fees shall be payable only on debt service payment dates and shall be subordinated to the payment of debt service and debt service reserve fund replenishments.
- (iv) The provider must submit at closing a bankruptcy opinion to the effect that upon any bankruptcy, insolvency or receivership of the provider, the securities will not be considered to be a part of the provider's estate, and otherwise acceptable to Financial Guaranty.

13. Forward delivery agreements in which the securities delivered mature after the funds may be required but provide for the right of the issuer or the Trustee to put the securities back to the provider under a put, guaranty or other hedging arrangement, only with the prior written consent of Financial Guaranty.

14. Maturity of investments shall be governed by the following:

- (a) Investments of monies (other than reserve funds) shall be in securities and obligations maturing not later than the dates on which such monies will be needed to make payments.
- (b) Investments shall be considered as maturing on the first date on which they are redeemable without penalty at the option of the holder or the date on which the Trustee may require their repurchase pursuant to repurchase agreements.
- (c) Investments of monies in reserve funds not payable upon demand shall be restricted to maturities of five years or less.

Such investments shall be valued by the trustee or other fiduciary not less often than annually, at the market value thereof, exclusive of accrued interest. Deficiencies in the amount on deposit in any fund or account resulting from a decline in market value shall be restored no later than the succeeding valuation date.

"Person" means an individual, a corporation or any division thereof, a partnership, a limited liability company, an association, a joint stock company, a joint venture, a trust, an unincorporated organization or a government or any agency or political subdivision.

“Principal Account” means the account by that name established within the Bond Fund, pursuant to Section 5.01 hereof.

“Principal Installment” means, as of any date of calculation, so long as any Bonds are Outstanding, (i) the principal amount of Bonds due on a certain future date for which no Mandatory Redemption Requirements have been established or (ii) the unsatisfied balance of any such Mandatory Redemption Requirements due on a certain future date for Bonds, in a principal amount equal to said unsatisfied balance of such Mandatory Redemption Requirements.

“Principal Payment Date” means May 1 of each year, commencing May 1, 2011 with respect to the Series 2010 Bonds and May 1, 2012 with respect to the Series 2011 Bonds.

“Project Fund” means the trust fund so designated which is described in Section 5.07.

“Rating Service” means any nationally recognized securities rating service that shall have assigned a rating that is then in effect with respect to the Bonds upon application of the Issuer.

“Rebate Analyst” means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations and give the directions required pursuant to the Tax Regulatory Agreement or to provide refunding verification services.

“Record Date” means each April 15 and October 15.

“Rebate Fund” means the Rebate Fund established pursuant to Section 5.01 hereof.

“Redemption Price” means the price at which Bonds are redeemed prior to the stated maturity thereof and shall include the principal thereof, and the premium thereon, if any.

“Refunding Act” means Chapter 13, Article 2G of the West Virginia Code of 1931, as amended.

“Registrar” means United Bank, Inc.

"Regular Record Date" means, with respect to an Interest Payment Date, the close of business on the 15th day of the month next preceding such Interest Payment Date, whether or not such 15th day of the month is a Business Day.

"Revenues" means (i) all revenues received from E&G Capital Fees, (ii) Medical Center Rental Income, (iii) Athletic Facility Enhancement Fee Revenues, and (iv) all auxiliary fees of the University related to the Auxiliary Facilities and all other rents, fees, charges or other income received by or accrued to the Issuer from the operation and use of the Auxiliary Facilities, including but not limited to, operating revenues, earnings on accounts, charges for room and board, charges for food service, fees for providing space for meetings, conferences and conventions, revenues from the operation of vending machines, snack bars and catering services, fees, charges and penalties for parking and parking permits and any and all other revenues derived from the Auxiliary Facilities as calculated in accordance with GAAP. However, "Revenues" hereunder does not include any portion of the University's auxiliary fees other than those related to the Auxiliary Facilities and no pledge is made hereunder of any portion of the University's auxiliary fees except to the extent such fees fall within the foregoing definition of Revenues. Notwithstanding the foregoing, the Issuer may in the future, through a Supplemental Indenture, expand the definition of Revenues to include any auxiliary fees, auxiliary capital fees, general capital fees or any other source of revenues which the Issuer may collect.

"S&P" means Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies, Inc., and its successors and assigns, if such successors and assigns shall continue to perform the functions of a securities rating agency.

"Series" means the Series 2010 Bonds, the Series 2011 Bonds and any series of Additional Bonds so designated pursuant to Section 2.11.

"Series 2011 Projects" mean, collectively, the construction and equipping of a Biotechnology Incubator and Applied Engineering Complex; renovation, construction and equipping of a Fine Arts Incubator in a University owned building in downtown Huntington, West Virginia commonly known as the "Stone & Thomas Building"; construction and equipping of an Indoor Athletic Complex consisting of an indoor practice facility, an academic support center and a sports medicine translational research center; construction and equipping of a Soccer Stadium Complex; construction and equipping of a Multi-Floor Parking Structure; land acquisition and building demolition; construction and equipping of a Modern

Academic Instructional Facility and such other capital projects as may be approved by the Board from time to time.

"Special Record Date" for the payment of Defaulted Interest means the date fixed by the Trustee pursuant to Section 2.08.

"State" means the State of West Virginia.

"Supplemental Indenture" means any indenture entered into between the Issuer and the Trustee pursuant to Article XI hereof which is supplemental hereto or amendatory hereof.

"Tax Regulatory Agreement" means the Tax Regulatory Agreement, dated as of the date of this Indenture, between the Issuer and the Trustee, as amended or supplemented from time to time and any Tax Regulatory Agreements relating to Additional Bonds.

"Trust Estate" means the property, rights, moneys, securities and other amounts pledged and assigned to the Trustee pursuant to the Granting Clauses hereof.

"Trustee" means the person named as Trustee in the first paragraph of this Indenture until any successor trustee shall have become such pursuant to the applicable provisions of this Indenture and thereafter "Trustee" shall mean such successor Trustee hereunder.

"University" means Marshall University, a West Virginia institution of higher education, located in the City of Huntington, Cabell County, West Virginia.

"Value," which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

(a) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(b) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two

nationally recognized government securities dealers (selected by the University in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

(c) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(d) as to any investment not specified above: the value thereof established by prior agreement between the Issuer and the Trustee.

Section 1.02. Interpretation. Any reference herein to the Issuer or to any member, officer, employee or official thereof includes entities, officers, employees or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the West Virginia Code of 1931, as amended, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of rights or obligations of the Issuer, the Holders, the Trustee, the Registrar or any Paying Agent under this Indenture, the Issuer Resolution, the Bonds or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Debt Service Charges in the amount and manner, at the times, and from the sources provided in the Issuer Resolution and this Indenture, except as provided herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms "hereof," "hereby," "herein," "hereto," "hereunder," "hereinafter" and similar terms refer to this Indenture as a whole and not to any particular Article, Section or subdivision of this Indenture; and the term "hereafter" means after, and the term "heretofore" means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

All accounting terms not otherwise defined herein will have the meanings assigned to them in accordance with GAAP, and all computations provided for herein will be made in accordance with GAAP.

Section 1.03. Captions and Headings. The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,
FORM AND REGISTRATION OF BONDS

Section 2.01A. Issuance of Series 2010 Bonds. There shall be issued and secured by this Indenture a series of Bonds to be known and designated as "Board of Governors of Marshall University, University Refunding Revenue Bonds, Series 2010." The aggregate principal amount of Series 2010 Bonds which may be authenticated and delivered under this Indenture is limited to \$37,140,000, except for Series 2010 Bonds authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of other Series 2010 Bonds of the same series, as provided herein. The Series 2010 Bonds shall be issued as fully registered Bonds without coupons, in denominations of \$5,000 principal amount, or any integral multiple thereof, numbered from R-1 upward.

The Series 2010 Bonds shall mature on May 1 in the years and in the principal amounts and shall bear interest on each Interest Payment Date at the rates per annum, all as set forth below:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2012	\$915,000	2.000%
2013	\$1,390,000	3.000%
2014	\$1,430,000	3.000%
2015	\$1,475,000	3.000%
2016	\$1,520,000	4.000%
2017	\$1,585,000	4.000%
2018	\$1,645,000	5.000%
2019	\$1,725,000	5.000%
2020	\$1,815,000	5.000%
2021	\$1,905,000	5.000%
2022	\$2,000,000	4.000%
2023	\$2,080,000	5.000%
2024	\$2,180,000	5.000%
2030 (TERM BOND A)	\$6,075,000	5.000%
2030 (TERM BOND B)	\$9,400,000	4.500%

Each Series 2010 Bond shall be dated as of November 17, 2010, and, except as otherwise provided in this Section, shall bear interest (calculated on the basis of a 360 day year of twelve 30-day months) from such date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be. However, when there is no existing default in the payment of interest on the Series 2010 Bonds, each Series 2010 authenticated after the Regular Record Date for any Interest Payment Date but prior to such Interest Payment Date shall bear interest from such Interest Payment Date; provided, however, that if and to the extent that the Issuer shall default in the payment of the interest due on any Interest Payment Date, then all such Series 2010 Bonds of the series as to which default occurred shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, unless no interest has been paid on such series of Series 2010 Bonds, in which case from November 17, 2010.

The person in whose name any Series 2010 is registered at the Regular Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Series 2010 Bond on such Interest Payment Date notwithstanding the cancellation of such Series 2010 Bond upon any registration of transfer or exchange thereof subsequent to such Regular Record Date and prior to such Interest Payment Date; provided, however, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such Defaulted Interest shall be paid as provided in Section 2.08.

The principal of and interest on the Bonds shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts at the corporate trust office of the Trustee in Charleston, West Virginia; provided, however, that interest on the Bonds shall be paid by check mailed to the person entitled thereto at his address appearing on the Bond Register, and in the case of an owner of \$1,000,000 or more of the Bonds, by wire transfer to a domestic bank account specified in writing to the Trustee at least five Business Days preceding such Interest Payment Date by such owner.

Section 2.01B. Issuance of Series 2011 Bonds. There shall be issued and secured by this Indenture a series of Bonds to be known and designated as "Board of Governors of Marshall University, University Revenue Bonds, Series 2011." The aggregate principal amount of Series 2011 Bonds which may be authenticated and delivered under this Indenture is limited to \$54,000,000, except for Series 2011 Bonds authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of other Series 2011 Bonds of the same series, as provided herein. The Series 2011 Bonds shall be issued as fully registered Bonds without

coupons, in denominations of \$5,000 principal amount, or any integral multiple thereof, numbered from R-1 upward.

The Series 2011 Bonds shall mature on May 1 in the years and in the principal amounts and shall bear interest on each Interest Payment Date at the rates per annum, all as set forth below:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2030 (TERM BOND A)		
2030 (TERM BOND B)		

Each Series 2011 Bond shall be dated as of November __, 2011, and, except as otherwise provided in this Section, shall bear interest (calculated on the basis of a 360 day year of twelve 30-day months) from such date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be. However, when there is no existing default in the payment of interest on the Series 2011 Bonds, each Series 2011 authenticated after the Regular Record Date for any Interest Payment Date but prior to such Interest Payment Date shall bear interest from such Interest Payment Date; provided, however, that if and to the extent that the Issuer shall default in the payment of the interest due on any Interest Payment Date, then all such Series 2011 Bonds of the series as to which default occurred shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, unless no interest has been paid on such series of Series 2011 Bonds, in which case from November __, 2011.

The person in whose name any Series 2011 is registered at the Regular Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Series 2011 Bond on such Interest Payment Date notwithstanding the cancellation of such Series 2011 Bond upon any registration of transfer or exchange thereof subsequent to such Regular Record Date and prior to such Interest Payment Date; provided, however, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such Defaulted Interest shall be paid as provided in Section 2.08.

The principal of and interest on the Bonds shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts at the corporate trust office of the Trustee in Charleston, West Virginia; provided, however, that interest on the Bonds shall be paid by check mailed to the person entitled thereto at his address appearing on the Bond Register, and in the case of an owner of \$1,000,000 or more of the Bonds, by wire transfer to a domestic bank account specified in writing to the Trustee at least five Business Days preceding such Interest Payment Date by such owner.

Section 2.02. Execution; Special Obligations. The Bonds shall be executed by the Governor on behalf of the State and the Chairman of the Issuer with their manual or facsimile signatures, and attested by the manual or facsimile signature of the Secretary of State and shall have impressed or imprinted thereon, by facsimile or otherwise, the Great Seal of the State. The Bonds are payable out of the Revenues and amounts held under this Indenture together with earnings thereon. The Bonds are special obligations of the Issuer and are not and shall not be deemed to be general obligations or debts of the State within the meaning of the Constitution of the State and the credit or taxing power of the State shall not be pledged therefor, but the Bonds shall only be payable from the Trust Estate. No Owner of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the State to pay the Bonds or the interest thereon. In case any officer whose signature, or whose facsimile signature, shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature, or the facsimile signature thereof, shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery.

Section 2.03. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form set forth in Exhibits A-1, A-2 or in any Supplemental Indenture relating to any Series of

Bonds shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been executed, authenticated and delivered under this Indenture. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Trustee if manually signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 2.04. Form of Bonds. The Bonds issued under this Indenture shall be substantially in the form set forth on Exhibits A-1, A-2 hereto or in any Supplemental Indenture relating to any Series of Bonds with such variations, omissions and insertions as are permitted or required by this Indenture and which variations, omissions or insertions do not adversely affect the rights of any Bondholder as set forth herein.

Section 2.05A. Delivery of Series 2010 Bonds. Upon the execution and delivery of the Original Indenture, the Issuer executed and delivered to the Trustee and the Trustee authenticated the Series 2010 Bonds as originally issued, and delivered them to the Original Purchasers thereof as directed by the Issuer.

Prior to the delivery of any of the Series 2010 Bonds, the following were filed with the Trustee:

- (1) A Certified Resolution of the Issuer authorizing the issuance of the Series 2010 Bonds and the execution and delivery of the Original Indenture;
- (2) A Certified Resolution of the Commission approving the issuance of the Series 2010 Bonds;
- (3) An original executed counterpart of the Original Indenture;
- (4) A request and authorization to the Trustee signed by an officer of the Issuer or an Authorized Representative to authenticate the Series 2010 Bonds to be originally issued, and to deliver them to the Original Purchasers therein identified upon payment of the sums specified for deposit in the funds and accounts as set forth in Section 5.01 thereof; and

(5) An opinion of Bond Counsel substantially to the effect that the Series 2010 Bonds constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their terms and that the interest on the Series 2010 Bonds is excludable from the gross income of the holders thereof for purposes of Federal income taxation.

Section 2.05B. Delivery of Series 2011 Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee and the Trustee shall authenticate the Series 2011 Bonds to be originally issued, and deliver them to the Original Purchasers thereof as directed by the Issuer.

Prior to the delivery of any of the Series 2011 Bonds, there shall be filed with the Trustee:

(1) A Certified Resolution of the Issuer authorizing the issuance of the Series 2011 Bonds and the execution and delivery of this Indenture;

(2) A Certified Resolution of the Commission approving the issuance of the Series 2011 Bonds;

(3) An original executed counterpart of this Indenture;

(4) A request and authorization to the Trustee signed by an officer of the Issuer or an Authorized Representative to authenticate the Series 2011 Bonds to be originally issued, and to deliver them to the Original Purchasers therein identified upon payment of the sums specified for deposit in the funds and accounts as set forth in Section 5.01 hereof; and

(5) An opinion of Bond Counsel substantially to the effect that the Series 2011 Bonds constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their terms and that the interest on the Series 2011 Bonds is excludable from the gross income of the holders thereof for purposes of Federal income taxation.

Section 2.06. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Bond of like series, date, maturity and

denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee for cancellation and, in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to them, together with any indemnity satisfactory to them. In the case of a past-due or a matured, lost, stolen or destroyed Bond, the face amount of such past-due or matured Bond may be paid upon delivery to the Issuer and the Trustee of evidence of such loss, theft or destruction satisfactory to them, together with any indemnity satisfactory to them. The Issuer and the Trustee may charge the Owner of such Bond their reasonable fees and expenses in this connection.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the State, whether or not the lost, stolen or destroyed Bonds be at any time found by any one, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 2.07. Exchange of Bonds; Persons Treated as Owners; Transfer and Registration. The Issuer shall cause books for the registration and for the registration of transfer of the Bonds as provided in this Indenture to be kept by the Trustee at its designated corporate trust operations office. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the Issuer or by a representative of the owners of not less than 50% of the aggregate principal amount of Bonds then outstanding.

Upon surrender for registration of transfer of any Bond at such office, the Trustee shall authenticate and deliver in the name of the transferee or transferees one or more new fully registered Bonds, if any, of authorized denomination of the same maturity and like aggregate principal amount. At the option of the Bondholder, Bonds may be exchanged for other Bonds of authorized denominations of the same series and maturity and like aggregate principal amount upon surrender at any such office. Whenever any Bonds are so surrendered for exchange, the Trustee shall authenticate and deliver in exchange therefor the Bond or Bonds which the Bondholder making the exchange shall be entitled to receive.

All Bonds presented for registration of transfer or exchange shall (if so required by the Issuer or the Trustee), be accompanied by a written instrument or instruments of transfer in form and with a guaranty of signature satisfactory to the

Trustee, duly executed by the registered owner or by such owner's duly authorized attorney.

The Trustee may require payment by the person requesting an exchange or registration of transfer of Bonds of a sum sufficient to cover any transfer fee, tax or other governmental charge that may be imposed in relation thereto.

The Issuer and the Trustee shall not be required to issue, register the transfer of or exchange any Bonds during a period beginning at the Regular Record Date preceding an Interest Payment Date and ending at the close of business on the Interest Payment Date.

All Bonds delivered upon any registration of transfer or exchange of Bonds shall be valid obligations of the Issuer, evidencing the same debt and entitled to the same benefits under this Indenture as the Bonds surrendered.

Prior to due presentment for registration of transfer of any Bond, the Issuer and the Trustee, and any agent of the Issuer or the Trustee may treat the person in whose name any Bond is registered as the absolute owner thereof for all purposes (subject to Section 2.08), whether or not such Bond shall be overdue, and shall not be bound by any notice to the contrary.

Section 2.08. Payment of Interest; Interest Rights Preserved. Interest on any Bond which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the person in whose name that Bond (or one or more predecessor Bonds) is registered on the Regular Record Date for such Interest Payment Date.

Any Defaulted Interest shall forthwith cease to be payable to the registered holder on the relevant Regular Record Date by virtue of having been such holder; and such Defaulted Interest shall be paid by the Trustee to the persons in whose names the Bonds (or their respective predecessor Bonds) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled

to such Defaulted Interest. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class, postage prepaid, to each Bondholder at his address as it appears in the Bond Register not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Bonds (or their respective predecessor Bonds) are registered on such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 2.09. Cancellation and Destruction of Bonds. Whenever any outstanding Bond shall be delivered to the Trustee for payment of the principal amount represented thereby or for replacement pursuant to Section 2.06 or registration of transfer or exchange pursuant to Section 2.07, such Bond shall, upon receipt of a written request of the Issuer, be canceled and destroyed by the Trustee and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

Section 2.10. Book-Entry Format.

(a) Except as provided in subsection (c) of this Section, the registered owner of all of a Series of Bonds shall be DTC and the Series of Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Payment of semiannual interest for any Series of Bonds registered as of each Regular Record Date in the name of Cede & Co. shall be made by wire transfer to the account of Cede & Co. on the Interest Payment Date for the Series of Bonds at the address indicated on the Regular Record Date for Cede & Co. in the registry book of the Issuer kept by the Trustee.

(b) The Bonds of a Series shall initially be issued in the form of separate single authenticated fully registered Bond in the principal amount of each stated maturity of each Series of Bonds. Upon initial issuance, the ownership of each such Series of Bonds shall be registered in the registry book of the Issuer kept

by the Trustee in the name of Cede & Co., as nominee of DTC. The Trustee and the Issuer may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, giving any notice permitted or required to be given to Bondholders under this Indenture, registering the transfer of Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Trustee nor the Issuer shall be affected by any notice to the contrary. Neither the Trustee nor the Issuer shall have any responsibility or obligation to any DTC participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any DTC participant, or any other person which is not shown on the registration books of the Issuer kept by the Trustee as being a Bondholder with respect to the accuracy of any records maintained by DTC, Cede & Co. or any DTC participant; the payment by DTC or any DTC participant to any beneficial owner of any amount in respect of the principal of or interest on the Bonds; the delivery to any DTC participant or any interest on the Bonds; the delivery to any DTC participant or any beneficial owner of any notice which is permitted or required to be given to Bondholders under this Indenture; the selection by DTC or any DTC participant of any person to receive payment in the event of a partial payment of the Bonds; or any consent given or other action taken by DTC as Bondholder. The Paying Agent shall pay all principal of and interest on the Bonds only to or "upon the order of" (as that term is used in the Uniform Commercial Code as adopted in the State) Cede & Co., as nominee of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by DTC to the Trustee of written notice to the effect that DTC had determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to record dates, the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

(c) In the event that (i) DTC determines not to act as securities depository for a Series of Bonds; or (ii) the Issuer advises DTC of its determination that DTC is incapable of discharging its duties; or (iii) the Issuer determines that it is in the best interest of the beneficial owners of such Series of Bonds that they be able to obtain certificates, the Issuer shall, if the event is triggered by either (i) or (ii) above, attempt to locate another qualified securities depository. If the Issuer fails to locate such a replacement, then it shall notify DTC and the Trustee, requesting DTC to notify its participants, of the availability through DTC of certificates. In such event, the Trustee shall issue, transfer and exchange certificates as requested by DTC and any other Bondholders in appropriate amounts. The Issuer and Trustee shall be obligated to deliver certificates as described in this Indenture. In the event certificates are issued to Bondholders other than DTC, the provisions of this

Indenture shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of an interest on such certificates. Whenever DTC requests the Issuer and the Trustee to do so, the Trustee and the Issuer will cooperate with DTC in taking appropriate action after reasonable notice (a) to make available one or more separate certificates evidencing the Bonds to any DTC participant having Bonds credited to its DTC account or (b) to arrange for another securities depository to maintain custody of certificates evidencing the Series 2010 Bonds.

(d) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of and interest on such Bond and all notices with respect to such Bond shall be made and given to DTC as provided in the Letter of Representation.

(e) In connection with any notice or other communication to be provided to Bondholders pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by Bondholders, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Issuer or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than 15 calendar days in advance of such record date to the extent possible.

(f) As long as a Series of Bonds are registered in the name of a securities depository, or its nominee, the Trustee agrees to comply with the terms and provisions of the Letter of Representations, including the provisions of the Letter of Representations with respect to any delivery of such Bonds to the Trustee, which provisions shall supersede the provisions of this Indenture with respect thereto.

Section 2.11. Additional Bonds. Additional Bonds may be issued pursuant to this Indenture under the conditions and in the manner provided in this Section 2.11.

Additional Bonds may be issued from time to time for any one or more of the following purposes: (a) financing the costs of the acquisition or construction of new Facilities or improvements to the Facilities, or (b) refunding of all or a portion of one or more series of Bonds issued pursuant hereto. In the event Additional Bonds are issued, the Issuer and Trustee shall enter into a Supplemental Indenture, the purpose of which shall be to impose the lien of this Indenture upon the Revenues.

No Additional Bonds shall be authenticated and delivered by the Trustee unless there has been filed with the Trustee:

(a) The resolutions, documents and opinions required for delivery of the Series 2010 Bonds and Series 2011 Bonds pursuant to Section 2.05A and 2.05B hereof, appropriately modified;

(b) An Issuer's Certificate to the effect that the Issuer is not in default hereunder;

(c) (1) A certificate from an Independent Certified Public Accountant to the effect that the Net Revenues (i) have equaled or exceeded 1.10 times Debt Service Charges for each of the preceding three (3) Fiscal Years, respectively, and (ii) are projected to equal or exceed 1.25 times Debt Service Charges for the Fiscal Year immediately following the date of issuance of such Additional Bonds, taking into effect the additional Debt Service Charges to be incurred following issuance thereof or (2) a certificate from an Independent Certified Public Accountant or a written Consultant's report to the effect that the projected Net Revenues for each of the next two succeeding fiscal years or, if such indebtedness is being incurred in connection with the financing of Auxiliary Facilities, the two Fiscal Years succeeding the projected completion date of such Auxiliary Facilities, is not less than 1.10 times Debt Service Charges for next two succeeding Fiscal Years or, if such indebtedness is being incurred in connection with the financing of Auxiliary Facilities, the two Fiscal Years succeeding the projected completion date of such Auxiliary Facilities. For purposes of performing the calculations required by this subsection (c) of Section 2.11, Debt Service Charges shall mean the Principal Installment or Redemption Price and interest coming due on the Bonds in a particular Fiscal Year of the University and the projected Net Revenues may take into account any expansion of the definitions of Revenues and Auxiliary Facilities relating to the proposed financing.

Additional Bonds issued under the provisions and within the limitations of this Section shall be payable from the Revenues on a parity with the Bonds previously issued and outstanding under this Indenture (except with respect to a debt service reserve fund for a particular series of Bonds), and all the covenants and other provisions of this Indenture (except as to details of such Additional Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Owners of the Bonds previously issued and outstanding and the Owners of any Additional Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All Bonds, regardless of the time or times of

their issuance, shall rank equally with respect to their lien on the Revenues, and their source of and security for payment from said Revenues, without preference of any Bond over any other.

Upon issuance of such Additional Bonds, there shall be deposited with the Trustee in a separately established reserve fund for such Additional Bonds, the amount, if any, required by the Original Purchasers of the Additional Bonds to establish a reserve fund therefor.

No Additional Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Indenture on account of the Bonds then Outstanding, and any other payments provided for in this Indenture, shall have been made in full as required to the date of delivery of the Additional Bonds.

For purposes of calculating any debt service reserve requirement and the Additional Bonds test, variable rate indebtedness shall be assumed to bear interest at (i) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Code, the most recently published Bond Buyer "Revenue Bond Index" (or comparable index if no longer published) plus 50 basis points, or (ii) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus 50 basis points; provided, however, that for purposes of any rate covenant measuring actual debt service coverage during a test period, variable rate indebtedness shall be deemed to bear interest at the actual rate per annum applicable during the test period.

In the case of variable rate Additional Bonds in which financial covenants are based on the synthetic fixed rate under a swap, utilization of the synthetic fixed rate under a swap for purposes of performing any required calculations under this Indenture shall be permitted.

ARTICLE III

REDEMPTION OF BONDS

Section 3.01. Limitation on Redemption. Except as provided in this Article III, the Series 2010 Bonds and Series 2011 Bonds shall not be subject to redemption in whole or in part. Additional Bonds shall be subject to redemption prior to maturity at such times, to the extent and in the manner provided in the Supplemental Indenture authorizing such Additional Bonds.

Section 3.02. Mandatory Sinking Fund Redemption of the Bonds.

A. The Series 2010 Bonds maturing on May 1, 2030, (collectively, the "Series 2010 Term Bonds"), are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the Mandatory Redemption Date, in the years and in the annual principal amounts as follows:

2030 Term Bond A maturing May 1, 2030:

<u>Year</u> <u>(May 1)</u>	<u>Amount</u>
2025	\$895,000
2026	\$935,000
2027	\$985,000
2028	\$1,035,000
2029	\$1,085,000
(Maturity) 2030	\$1,140,000

2030 Term Bond B maturing May 1, 2030:

<u>Year</u> <u>(May 1)</u>	<u>Amount</u>
2025	\$1,395,000
2026	\$1,465,000
2027	\$1,530,000
2028	\$1,595,000
2029	\$1,670,000
(Maturity) 2030	\$1,745,000

The principal amount of the Series 2010 Term Bonds delivered to or purchased by the Trustee shall reduce by such amount the principal amount of such series of Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

B. The Series 2011 Bonds maturing on May 1, 20___, (collectively, the "Series 2011 Term Bonds"), are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund at a Redemption Price equal to 100% of

the principal amount thereof, plus accrued interest to the Mandatory Redemption Date, in the years and in the annual principal amounts as follows:

20__ Term Bond A maturing May 1, 20__:

Year (<u>May 1</u>)	<u>Amount</u>
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(Maturity) 20__

2030 Term Bond B maturing May 1, 20__:

Year (<u>May 1</u>)	<u>Amount</u>
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(Maturity) 20__

The principal amount of the Series 2011 Term Bonds delivered to or purchased by the Trustee shall reduce by such amount the principal amount of such series of Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

Section 3.03. Optional Redemption of Bonds.

A. The Series 2010 Bonds maturing on and after May 1, 2021, are subject to redemption prior to maturity, on or after May 1, 2020, at the option of the Issuer, in whole or in part, on any Business Day, in order of maturity selected by the Board and by lot within a maturity in multiples of \$5,000, from any moneys available for such purpose, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption.

B. The Series 2011 Bonds maturing on and after May 1, 202_, are subject to redemption prior to maturity, on or after May 1, 202_, at the option of the Issuer, in whole or in part, on any Business Day, in order of maturity selected by the Board and by lot within a maturity in multiples of \$5,000, from any moneys available for such purpose, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption.

Section 3.04. Reserved.

Section 3.05A. Redemption Requests Relating to the Series 2010 Bonds. Redemptions of Series 2010 Bonds permitted or required by this Article III shall be made as follows, and the Trustee shall give the notice of redemption referred to in Section 3.07 hereof in respect of each such redemption:

(i) Redemption shall be made pursuant to Section 3.02.A hereof as and when required by such Section, without any further request, instruction or notice to the Trustee.

(ii) Redemption shall be made pursuant to Section 3.03.A hereof at such times as the Issuer shall, not later than 60 days prior to the date on which any Series 2010 Bonds may be redeemed pursuant to Section 3.03.A, designate in an Issuer's Certificate delivered to the Trustee.

Section 3.05B. Redemption Requests Relating to the Series 2011 Bonds. Redemptions of Series 2011 Bonds permitted or required by this Article III shall be made as follows, and the Trustee shall give the notice of redemption referred to in Section 3.07 hereof in respect of each such redemption:

(i) Redemption shall be made pursuant to Section 3.02.B hereof as and when required by such Section, without any further request, instruction or notice to the Trustee.

(ii) Redemption shall be made pursuant to Section 3.03.B hereof at such times as the Issuer shall, not later than 60 days prior to the date on which any Series 2011 Bonds may be redeemed pursuant to

Section 3.03.B, designate in an Issuer's Certificate delivered to the Trustee.

Section 3.06. Selection of Bonds To Be Redeemed. In the event of redemption of less than all of the Outstanding Bonds of like series and maturity, the Trustee, or DTC (or other securities depository) and its Participants with respect to Book-Entry Bonds, shall select the Bonds to be redeemed by lot, using such method of selection as it shall deem proper in its discretion. In making such selection the Trustee or DTC shall treat each Series of Bonds as representing that number of Bonds of such Series of the lowest authorized denomination as is obtained by dividing the principal amount of such Bonds by such denomination.

Section 3.07. Notice of Redemption. When the Trustee shall receive notice from the Issuer of its election or direction to redeem Bonds pursuant to Section 3.03, when redemption of Bonds is required by this Indenture pursuant to Section 3.02 or when redemption of any Additional Bonds is required pursuant to any Supplemental Indenture, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Bonds. Notice of any such redemption shall be given by the Trustee by mailing a copy of the redemption notice by registered or certified mail (postage prepaid) not less than 30 nor more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed in whole or in part at the address shown on the Bond Register. Failure to give such notice by mailing to any Owner, or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds with respect to Bonds or portions thereof for which no failure has occurred.

All notices of redemption shall be dated and shall state (i) the redemption date; (ii) the redemption price; (iii) the identifying number and CUSIP number (and in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed; (iv) the date of issuance of the Bonds; (v) the interest rate or rates and maturity date or dates of the Bonds to be redeemed; (vi) that on the redemption date the Redemption Price will become due and payable on each such Bond and interest thereon will cease to accrue thereon from and after said date; (vii) the agent name, contact person and address where such Bonds are to be surrendered for payment; and (viii) any other descriptive information that, in the opinion of the Trustee, is needed to identify accurately the Bonds being redeemed. A second notice shall be sent if after 60 days from the redemption date such Bonds have not been surrendered for payment.

Notice of any redemption of Bonds shall either (i) explicitly state that the proposed redemption is conditioned on there being on deposit in the applicable fund or account on the redemption date sufficient money to pay the full redemption price of the

Bonds to be redeemed, or (ii) be sent only if sufficient money to pay the full redemption price of the Bonds to be redeemed is on deposit in the applicable fund or account.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner of such Bonds receives the notice.

In addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption.

(b) Upon the payment of the Redemption Price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Section 3.08. Partial Redemption of Bonds. Upon surrender of any Bond for redemption in part only, the Issuer shall execute, and the Trustee shall register, authenticate and deliver to the Owner thereof, a new Bond or Bonds of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered.

The Issuer and the Trustee may agree with DTC that DTC may, in lieu of surrendering a partially redeemed Bond for a new Bond, endorse on such Bond a notice of such partial redemption, which notice shall set forth, over the signature on behalf of DTC, the payment date, the principal amount redeemed and the principal amount remaining unpaid. Such partial redemption shall be valid upon payment of the amount thereof to the Owner of any such Bond and the Issuer and the Trustee shall be fully released and discharged from all liability to the extent of such payment irrespective of whether such endorsement shall or shall not have been made upon the reverse of such Bond by DTC and irrespective of any error or omission in such endorsement.

Section 3.09. Effect of Call for Redemption. On the date designated for redemption by notice given as herein provided, the Bonds so called for redemption shall become and be due and payable at the Redemption Price provided for on such date. If on the date fixed for redemption moneys for payment of the Redemption Price and accrued interest are held by the Trustee or Paying Agent as provided herein, interest on such

Bonds so called for redemption shall cease to accrue, such Bonds shall cease to be entitled to any benefit or security hereunder except the right to receive payment from the moneys held by the Trustee or the Paying Agent and the amount of such Bonds so called for redemption shall be deemed paid and no longer Outstanding.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. Payment of Principal and Interest. The Issuer covenants to promptly pay the principal or Redemption Price of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof, provided that the such principal or Redemption Price and interest shall be payable solely from the Revenues which are hereby pledged to the payment thereof.

Section 4.02. Performance of Covenants by Issuer. The Issuer covenants to faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining hereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State, including particularly the Act, to issue the Bonds authorized hereby and to execute this Indenture, and to pledge the amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and for the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Issuer according to the terms thereof and hereof.

Section 4.03. Instruments of Further Assurance. The Issuer agrees that the Trustee may defend the Issuer's rights to the rents, charges, fees and other amounts due with respect to the use and occupancy of the Facilities for the benefit of the holders of the Bonds, against the claims and demands of all persons whomsoever. The Issuer covenants to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of and interest on the Bonds. The Issuer covenants and agrees that, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Revenues except as herein provided.

Section 4.04. Rate Covenant; Rents, Charges and Fees. The Issuer has previously caused the University to fix and establish just and equitable rules, regulations, rents, charges and fees for the use and occupancy of the Auxiliary Facilities. The Issuer further covenants that the schedule or schedules of rents, charges and fees shall at all times be adequate to produce Revenues from the Auxiliary Facilities sufficient to pay

Operating Expenses and, when combined with Revenues from the E&G Capital Fees, Medical Center Rental Income and Athletic Facility Enhancement Fee Revenues, to make the prescribed payments into the funds and accounts created hereunder, and that such schedule or schedules of rents, charges and fees and the E&G Capital Fees, Medical Center Rental Income and Athletic Facility Enhancement Fee Revenues shall be revised from time to time to provide for all reasonable Operating Expenses and will leave Net Revenues and other monies legally available to be used for such purposes, each year equal at least One Hundred Ten percent (110%) of Maximum Annual Debt Service.

Section 4.05. Operation and Maintenance of Auxiliary Facilities. The Issuer will cause the University to maintain the Auxiliary Facilities in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be necessary to maintain compliance with the provisions of Section 4.04 hereof.

Section 4.06. Tax Covenants. The Issuer and the Trustee shall at all times do and perform all acts and things permitted by law and this Indenture which are necessary or desirable in order to assure that the interest paid on the Bonds (or any of them), if issued as tax-exempt bonds, shall not be includable in the gross income of the holders thereof for federal income tax purposes will not permit at any time or times any of the proceeds of the Bonds or other funds of the Issuer to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

The Issuer and the Trustee jointly and severally covenant with the Owners of the Series 2010 Bonds and the Series 2011 Bonds from time to time Outstanding, that so long as any of the Series 2010 Bonds or Series 2011 Bonds remain Outstanding, moneys held under this Indenture, whether or not such moneys were derived from the proceeds of the sale of the Series 2010 Bonds or the Series 2011 Bonds or from any other sources, will not be used in any manner which to their knowledge will cause the interest on the Series 2010 Bonds or the Series 2011 Bonds to become subject to federal income taxation. The Issuer and the Trustee reserve the right, however, to make any investment of such moneys permitted by the terms of this Indenture if, when and to the extent that the Code shall be repealed or interpreted to permit such investment or shall be held void by final judgment of a court of competent jurisdiction, but only if such investment made by virtue of such repeal, interpretation or decision would not, in the opinion of Bond Counsel, result in making the interest on the Series 2010 Bonds or the Series 2011 Bonds subject to inclusion in the gross income of the holders thereof for federal income tax purposes.

Section 4.07. Sale of the Auxiliary Facilities. Except for leasing as required in the ordinary course of business (e.g. faculty and student parking and housing contracts), the Auxiliary Facilities may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized from such disposition shall be sufficient to fully pay or redeem at or prior to maturity all the Bonds Outstanding, provided, however, the Issuer may authorize the University to sell, lease or dispose of any part of the Auxiliary Facilities if after such disposition the Issuer remains in compliance with the provision of Section 4.04 hereof. In the event of the disposition of the Auxiliary Facilities as a whole or substantially as a whole, the net proceeds from such sale, mortgage, lease or other disposition of the Auxiliary Facilities shall immediately be remitted to the Trustee for deposit in the Bond Fund, and the Issuer shall direct the Trustee to apply such proceeds to the payment of principal and interest at the maturity of Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the Redemption Price, of all other outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Trustee.

Section 4.08. Books and Records; Audited Statements. The Issuer and the Trustee covenant that all books and documents in their possession relating to all receipts and disbursements shall at all times be open to inspection by such accountants or other agencies as the other party may designate.

The Issuer will cause the financial statements with respect to the Facilities to be audited by a Certified Public Accountant whose audited report shall be submitted to the Trustee and the Original Purchasers within 180 days after the end of each fiscal year of the Issuer during which Bonds are Outstanding, accompanied by the Issuer's Certificate to the effect that as of the end of such period, the Issuer was not in Default under the terms hereof and specifically demonstrating compliance with the requirements of Section 4.04 hereof. The Trustee shall have no obligation to analyze or make any credit decisions with respect to any financial statements or reports received by it hereunder, but shall hold, and provide to Bondholders upon request, such financial statements or reports solely as a repository for the benefit of such Bondholders.

Section 4.09. Insurance. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to properties similar to the Facilities, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the Facilities. The Trustee shall be a named insured under all such policies.

Notwithstanding any of the foregoing, the Issuer may provide for the insurance required by this Section 4.09 through the State Board of Risk & Insurance Management by any program of self-insurance which the State provides for itself and its agencies.

Section 4.10. Reserved.

Section 4.11. Trustee May Act For Issuer. In the event the Issuer fails (i) to make any payment required or fails to comply with, perform or carry out any of the provisions hereof, or (ii) to perform any of the terms, covenants or agreements by the Issuer to be performed under this Indenture, including, but not limited to failure to pay any advances made by the Trustee to protect the lien and security hereof as provided herein and interest on any future advances and all other items of the Bonds when due, then, and in any such event, the Trustee shall have the right, without notice to or demand upon the Issuer or any other Person, to make any such payment, take any such action or do any such thing as, in the exercise of the Trustee's discretion, may be determined to be reasonably necessary to protect the lien and security hereof as fully and completely as if the Issuer made each and every such payment when due, and kept, complied with, performed and carried out the provisions of this Indenture in every respect. Without limiting the generality of the foregoing, the Trustee may, in any such event, (a) obtain the required insurance covering the Facilities and pay the premiums thereon or pay any unpaid premiums on any insurance procured by the Issuer; (b) make and/or pay for any and all repairs which the Trustee deems necessary to place or keep the Dormitories in good condition and repair; (c) stop or mitigate waste on or in the Dormitories or any part thereof; (d) stop or prevent the removal, destruction, demolition or structural alteration of any building or improvement on the Dormitories; (e) stop or prevent the violation of any law, ordinance, rule or regulation relating to the use or maintenance of the Dormitories or of any requirement, direction or order or notice of violation thereof issued by any governmental agency, body or officer; and (f) pay all or any part of any sum or sums of money that may be due or payable under the provisions hereof; and the Issuer hereby promises to pay to the Trustee, upon demand, any and all sums of money paid out or expended by the Trustee, for any of the purposes set out in this Section, all without waiver of any right arising from the breach of or default in the performance of any warranty, covenant, condition, provision or agreement herein contained; but nothing herein contained shall be construed as imposing any duty or obligation upon the Trustee to pay any such sum or sums of money herein authorized to be paid, or to take any other action authorized hereunder.

Section 4.12. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except Additional Bonds provided for in Section 2.11 hereof,

payable from the Revenues which rank prior to, or equally, as to lien on and source of and security for payment from such Revenues with the Bonds; and all obligations hereafter issued by the Issuer payable from the Revenues, except such Additional Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such Revenues and in all other respects to the Bonds.

The Issuer shall not create, or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said Additional Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the Revenues pledged for payment of the Bonds and the interest thereon in this Indenture or upon the Auxiliary Facilities or any part thereof.

Section 4.13. Competing Auxiliary Facilities. The Issuer shall not own or operate any dormitories, student housing facilities, food service facilities or motor vehicle parking facilities at or near its Huntington, West Virginia campus, the income from the operation of which does not constitute a part of the Trust Estate if the effect of such ownership or operation would cause the Issuer to be in violation of its covenant set forth in Section 4.04 hereof.

Section 4.14. Issuance of Additional Commission Debt. The Issuer shall not request or consent to the issuance of any additional debt by the Commission on the Issuer's behalf or for projects for the University unless the Issuer provides the Trustee with a certificate of its chief financial officer certifying that one of the Additional Bonds debt service coverage tests set forth in Section 2.11(c) hereof will be satisfied taking into account all Bonds issued under this Indenture and the Issuer's allocable share of debt service on any of the Commission's outstanding debt and the debt service on the debt proposed to be issued by the Commission. In addition, the Issuer shall not request or consent to the issuance of any additional debt by the Commission on the Issuer's behalf or for projects for the University if the issuance of such debt will result in the then rating on the Bonds being downgraded by any Rating Service then rating the Bonds.

ARTICLE V

DEPOSIT OF BOND PROCEEDS; FUNDS AND ACCOUNTS; REVENUES

Section 5.01. Creation of Funds and Accounts. There are hereby created by the Issuer and ordered established, the following trust funds and trust accounts to be held by the Trustee:

- (a) The Costs of Issuance Fund which shall consist of separate accounts for each Series of Bonds;
- (b) The Bond Fund, which shall contain the following accounts:
 - (i) the Interest Account; and
 - (ii) the Principal Account;
- (c) The Series 2011 Projects Fund; and
- (d) The Rebate Fund.

Notwithstanding the foregoing, the Trustee shall not be required to open any Fund or account until such Fund or account is required to be funded.

Section 5.02. Deposit of Bond Proceeds.

A. Proceeds from the sale of the Series 2010 Bonds, less underwriters' discount and any amounts payable for premiums for the Bond Insurance Policy, were deposited on the Closing Date for the Series 2010 Bonds by the Trustee as follows:

- (i) Into the Costs of Issuance Fund, the sum of \$195,835.34;
- (ii) The sum of \$0.00 was deposited into the Interest Account of the Bond Fund; and
- (ii) The sum of \$38,499,487.59 was deposited with the Depository Trustee and invested and applied as set forth in the Depository Trust Agreement to redeem the Prior Bonds.

B. Proceeds from the sale of the Series 2011 Bonds, less underwriter's discount [and any amounts payable for premiums for the Bond Insurance Policy,] shall be deposited on the Closing Date by the Trustee as follows:

- (iii) Into the Series 2011 Account of the Costs of Issuance Fund, the sum of \$_____;
- (iv) The sum of \$0.00 shall be deposited into the Interest Account of the Bond Fund; and
- (ii) The sum of \$_____ shall be deposited into the Series 2011 Projects Fund.

Proceeds of any series of Additional Bonds will be applied as provided in the Supplemental Indenture for such series of Bonds.

Section 5.03. Costs of Issuance Fund.

(a) The proceeds of the Bonds deposited in the Costs of Issuance Fund shall be used and withdrawn by the Trustee only as provided in this Section 5.03. No amount in any other fund or account created by this Indenture shall be expended for Costs of Issuance.

(b) The Trustee is authorized and directed to make disbursements from the Costs of Issuance Fund upon the written direction of an Authorized Representative for the payment of Costs of Issuance, in the amounts stated to be due and payable in such written direction, which shall be filed with the Trustee from time to time, together with such other documentation as may be required hereunder, certifying that such amounts may be properly paid. The Trustee shall make such disbursements not later than five (5) days after receipt of all the documentation required by this Section 5.03(b).

(c) Notwithstanding any provision to the contrary, any amounts relating to the Series 2010 Bonds remaining in the Costs of Issuance Fund on February 1, 2011 were transferred to the Bond Fund and any amounts remaining in the Series 2011 Account of the Costs of Issuance Fund on February 1, 2012 shall be transferred to the Series 2011 Projects Fund.

Section 5.04. Required Deposits of Revenues.

(a) The Issuer is solely responsible for collection of Revenues and agrees to deposit or cause to be deposited with the Trustee such Revenues as are sufficient to enable the Trustee to make the deposits described below in Section 5.04(b).

(b) If no Event of Default has occurred and is continuing, moneys received by the Trustee from the Issuer shall be applied by the Trustee not later than the twenty-fifth day of each month preceding an Interest Payment Date or Principal Payment Date, as applicable, in the following manner in the order of priority indicated:

FIRST, for deposit in the Interest Account of the Bond Fund, an amount equal to the Debt Service Charges for interest coming due on such Interest Payment Date (less any amount then on deposit in the Interest Account and available for such payment);

SECOND, for deposit in the Principal Account of the Bond Fund, an amount equal to the Debt Service Charges for the Principal Installment or Redemption Price coming due on such Principal Payment Date (less

any amount then on deposit in the Principal Account and available for such payment); and

THIRD, for deposit in the Bond Fund, an amount or amounts necessary to pay Administrative Expenses.

(c) All required payments for Debt Service Charges shall be satisfied prior to any revenues being disbursed or otherwise paid for Operating Expenses.

Section 5.05. The Bond Fund.

(a) There shall be deposited to the credit of the Bond Fund (i) moneys required to be deposited in the Bond Fund pursuant to Sections 5.03(c) or 5.04(b) hereof, and (ii) any other moneys required hereunder to be transferred thereto or for which no other designation as to a fund or account has been made. Subject to such priorities of application as are established herein, moneys on deposit in the Bond Fund shall be used to pay Debt Service Charges when due at maturity, upon prior redemption, prepayment or acceleration, or otherwise.

(b) Income from the investment of moneys on deposit in the Interest Account shall be deposited in such account.

Section 5.06. Bonds Not Presented for Payment. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption or prepayment thereof or the acceleration of maturity, if moneys sufficient to pay such Bonds are held by the Trustee, the Trustee shall segregate and hold such moneys in trust, without liability for interest thereon, for the benefit of the Holders of such Bonds who shall, except as provided in the following paragraph, thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to said Bonds.

Any moneys which the Trustee shall segregate and hold in trust for the payment of the Debt Service Charges on any Bond and which remain unclaimed for two years after such Debt Service Charges have become due and payable shall be paid to the Issuer upon receipt by the Trustee of a written request from an Authorized Representative. After the payment of such unclaimed moneys to the Issuer, the Holder of any such Bond shall thereafter look only to the Issuer for the payment thereof, and all liability of the Issuer and the Trustee with respect to such moneys shall thereupon cease.

Section 5.07. Series 2011 Projects Fund. The Project Fund shall be used for the payment of Project Costs. The Project Fund shall consist of the amounts required

or permitted to be deposited therein pursuant to any provision hereof, and the proceeds of the Series 2011 Bonds shall be deposited therein in the amount set forth above. Separate accounts within the Project Fund shall be maintained by the Trustee for future capital acquisitions and improvements if the Issuer determines that separate accounts are desirable with respect to particular capital acquisitions and improvements or designated portions of capital acquisitions and improvements. Payments from the Project Fund, including any account so established, shall be made by the Trustee as follows:

(a) Payments from the Project Fund shall be made only upon receipt by the Trustee of a requisition executed by the University in the form attached hereto as Exhibit B.

(b) Upon completion of the Series 2011 Projects (as evidenced by a certificate of the University delivered to the Trustee), any moneys remaining in the Project Fund shall be transferred to the Bond Fund and used to pay debt service on the Series 2011 Bonds on the next Interest Payment Date, unless the University directs that such moneys be applied to any other use, accompanied in such case by an opinion of Bond Counsel to the effect that such application will not adversely affect any applicable exemption from federal income taxation of the interest on any Series of Bonds.

(c) Notwithstanding anything to the contrary herein, to the extent an Event of Default described in clause (a) or (b) of Section 9.01 shall have occurred and be continuing and no other moneys are available under this Indenture to cure such Event of Default, no moneys on deposit in the Project Fund shall be applied in accordance with Section 5.07(b). In such event, moneys on deposit in the Project Fund shall be applied by the Trustee in accordance with Article IX.

Section 5.08. Rebate Fund.

(a) The Rebate Fund shall be separate from any other fund established and maintained hereunder or under any laws governing the creation and use of funds by the Issuer. There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Regulatory Agreement. Subject to the transfer provisions provided in paragraph (e) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Amount (as defined in the Tax Regulatory Agreement), for payment to the federal government of the United States of America, and neither the Issuer nor the Holder of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, and by the Tax Regulatory Agreement (which is incorporated herein by reference).

(b) Notwithstanding any other provisions herein, the Trustee shall deposit amounts to the Rebate Fund from deposits by the Issuer or from amounts available for such purpose held in the Bond Fund, if and to the extent required, when stipulated pursuant to the Tax Regulatory Agreement. Computations of the Rebate Amount shall be furnished to the Trustee in accordance with the Tax Regulatory Agreement.

(c) The Trustee shall have no obligations to rebate any amounts required to be rebated pursuant to this Section, other than from moneys held in the funds and accounts created under this Indenture or from other moneys provided to it by the Issuer.

(d) The Trustee shall invest all amounts, if any, held in the Rebate Fund in Permitted Investments in writing as directed by the Issuer and subject to the restrictions set forth in the Tax Regulatory Agreement.

(e) The Trustee shall remit part or all of the balances in the Rebate Fund to the United States. At the direction of the Issuer, any funds remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor satisfactory to the Trustee shall be withdrawn and remitted to the Borrower.

(f) Notwithstanding any other provision of this Indenture, the obligation to remit the Rebate Amounts to the United States and to comply with all other requirements of this Section and the Tax Regulatory Agreement shall survive the defeasance or payment in full of the Bonds.

Section 5.09. Moneys Held in Trust. Except where moneys have been deposited with or paid to the Trustee pursuant to an instrument restricting their application to particular Bonds, all moneys required or permitted to be deposited with or paid to the Trustee or any Paying Agent under any provision of this Indenture and to be used to pay Debt Service Charges and any investments thereof, shall be held by the Trustee or that Paying Agent in trust. Except (i) for moneys deposited with or paid to the Trustee or any Paying Agent for the redemption of Bonds, notice of the redemption of which shall have been duly given and (ii) for moneys held by the Trustee pursuant to Section 5.06 hereof, and (iii) for moneys held in the Rebate Fund, all moneys described in the preceding sentence held by the Trustee or any Paying Agent shall be subject to the lien hereof while so held.

Section 5.10. Payment to the Issuer After the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Holders shall have ceased, terminated and become void and shall have been satisfied and discharged in accordance with Article IX hereof, and amounts due and owing to the United States of America pursuant to Section 5.08 hereof and all fees, expenses and other amounts payable to the Issuer, the Trustee, the Registrar, any Authenticating Agent, any Paying Agent, the Rebate Analyst and the Disclosure Agent, pursuant to any provision hereof shall have been paid in full, any moneys remaining in any fund or account held under this Indenture (other than moneys held for the payment of Debt Service Charges) shall be paid to the Issuer, except as otherwise provided in Section 5.09 hereof.

ARTICLE VI
RESERVED

ARTICLE VII

INVESTMENT OF MONEYS

Section 7.01. Investment of Moneys. Except as otherwise provided in this Indenture, any moneys held as a part of the funds and accounts created pursuant to this Indenture shall be invested or reinvested by the Trustee at the written direction of the Issuer, confirmed by an Issuer's Certificate, in any Permitted Investments; provided, however, that, in the absence of any direction from the Issuer, the Trustee shall keep such funds invested in Defeasance Obligations.

Except as otherwise specifically provided herein, any such investment shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys were originally held. Any loss resulting from such investments shall be charged to such fund. Any interest or other gain from any fund from any investment or reinvestment shall, except as otherwise provided herein, remain in such fund.

The Trustee shall value the investments held for any fund at the lower of cost or then current market, or at the redemption price thereof if then redeemable at the option of the owner, including the value of accrued interest and giving effect to the amortization of discount. The Trustee shall sell at the best price reasonably obtainable and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund is insufficient to make the payments required from such fund regardless of the loss on such liquidation. The Trustee may make any and all investments permitted by this Section 7.01 through its own bond department.

In making investments of the moneys held hereunder the Trustee may rely on the written direction of the Issuer as sufficient evidence that such investment is made in accordance with this Indenture and applicable law, and shall not be liable for any investments made in violation of the covenant as to arbitrage contained herein or otherwise, if made pursuant to such direction.

All investments shall be valued as of the end of each Bond Year and on such other dates as required by the term of this Indenture. Although the Issuer recognizes that it may obtain a broker's confirmation or written statement containing comparable information at no additional cost, the Issuer agrees the confirmation of Permitted Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered; provided that no such statement need be rendered for any account if no activity occurred in such accounting during such month.

ARTICLE VIII

DISCHARGE OF INDENTURE

Section 8.01. Discharge of Indenture. (a) If the Issuer shall pay or cause to be paid, or there shall be otherwise paid, to or for the holders of the Bonds, the Debt Service Charges due or to become due thereon at the times and in the manner stipulated therein from the funds and accounts established hereunder as a part of the Trust Estate, and shall pay or cause to be paid to the Trustee all sums of money due or to become due according to the provisions hereof, then these presents and the estate and rights hereby granted shall cease, determine and void, whereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and release, assign and deliver unto the Issuer, any and all of the estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee or otherwise subject to the lien of this Indenture, except moneys or securities held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) All Bonds shall have become due and payable in accordance with their terms at their stated maturity or otherwise as provided in this Indenture or have been duly called for redemption, or irrevocable instructions to call the Bonds for redemption or to pay the Bonds at their stated dates of maturity have been given to the Trustee and either (i) the whole amount of the principal and interest so due and payable upon all of the Bonds (other than Bonds theretofore canceled or delivered to the Trustee for cancellation) shall have been paid or (ii) there shall have been deposited with the Trustee Defeasance Obligations which are non-callable prior to the stated maturity thereof and having stated maturities arranged so that the principal or redemption price of and interest becoming due and payable on such Defeasance Obligations will under any and all circumstances (and without further investment or reinvestment of either the principal amount thereof or the interest earned thereon) be sufficient (as confirmed by a Certified Public Accountant or Rebate Analyst) to pay and discharge the entire indebtedness of each Bond, not theretofore delivered to the Trustee for cancellation, or Debt Service Charges to the stated maturity or redemption date or dates, as the case may be, thereof.

(c) If all Bonds have not become due and payable, the Issuer has delivered to the Trustee a ruling of the Internal Revenue Service or an opinion of Bond Counsel to the effect that the operation of this Section 8.01 would not either (1) cause interest on the Bonds to become includable in the gross income of the Owners thereof for federal income tax purposes or (2) adversely affect any tax credits or federal subsidy with respect to such Bonds if such Bonds were issued on a federally taxable basis, or cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(d) If the date of satisfaction and discharge of this Indenture is more than six months prior to the stated maturity date of the Bonds, and redemption of the Bonds is then required by the Issuer, arrangements, satisfactory to the Trustee, shall have been made for the giving of notice of redemption of the Bonds on the date selected for redemption.

(e) The Issuer has delivered to the Trustee an Issuer's Certificate and an opinion of Bond Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

(f) In the event of an advance refunding, the Issuer shall cause to be delivered a verification report of an Independent nationally recognized Certified Public Accountant or Rebate Analyst. If a forward supply contract is employed in connection with the refunding, (i) such verification report shall expressly state that the adequacy of the escrow to accomplish the refunding relies solely on the initial escrowed investments and the maturing principal thereof and interest income thereon and does not assume performance under or compliance with the forward supply contract, and (ii) the applicable escrow agreement shall provide that in the event of any discrepancy or difference between the terms of the forward supply contract and the escrow agreement (or the authorizing document, if no separate escrow agreement is utilized), the terms of the escrow agreement or authorizing document, if applicable, shall be controlling.

(g) The obligation of the Issuer to pay the fees and expenses of the Trustee, and to indemnify the Trustee, shall survive defeasance of the Series 2010 Bonds.

ARTICLE IX
 DEFAULT PROVISIONS AND REMEDIES
 OF TRUSTEE AND BONDHOLDERS

Section 9.01. Defaults; Events of Default. If any of the following events occur, it is hereby defined as and declared to be and constitute an "Event of Default":

(a) default by the Issuer in the due and punctual payment of any interest on any Bond;

(b) default by the Issuer in the due and punctual payment of any Principal Installment;

(c) upon the expiration of the period for filing a responsive pleading, in the event any proceeding is instituted in a court of competent jurisdiction which may adversely affect the lien of the Owners upon the Revenues unless (i) a responsive pleading has been filed on behalf of the Issuer contesting the bona fides of such proceeding or (ii) the Issuer causes an opinion of counsel (which counsel must be reasonably satisfactory to the Trustee) to be delivered to the Trustee to the effect such proceeding is without merit; or

(d) default in the performance of observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Indenture or in the Bonds and failure to remedy the same after notice thereto pursuant to Section 9.10.

Section 9.02. Rights and Remedies of Trustee. Upon the occurrence of an Event of Default the Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of and interest on the Bonds then Outstanding, including, but not limited to, a proceeding in mandamus to enforce any rights on behalf of the Owners or the appointment of a receiver for the protection of the Owners.

If an Event of Default shall have occurred, and if requested to do so by the Owners of no less than 25% of the Bonds Outstanding and indemnified as provided in Section 10.01(l) hereof, the Trustee shall be obligated to exercise one or more of the rights and powers conferred by this Article, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

The Trustee shall have the right to compel an immediate accounting with respect to the Revenues in the event the Revenues are not transferred to the Trustee in accordance with the terms hereof.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owners) is intended to be exclusive of any other remedy, but 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 hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right and power may be exercised from time to time as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Owners, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Section 9.03. Right of Owners to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owners of a majority of the Bonds Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken by the Trustee in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

In the event the Trustee receives conflicting instructions from the Owners of the Bonds, the Trustee shall follow the instructions of the holders of the greatest principal amount of Bonds if the greatest principal amount is at least 25% of the Bonds Outstanding.

Section 9.04. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate (and to the extent then permitted by law, of the Facilities), and of the Revenues, pending such proceedings, with such powers as the court making such appointment shall confer.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all the Facilities and shall hold, operate and maintain, manage and control such Facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said Facilities as the Issuer itself might do.

Whenever all Debt Service Charges then due shall have been paid and made good, and all defaults under the provisions of this Indenture shall have been cured and made good, possession of the Facilities shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, the Trustee shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the Facilities, but the authority of such receiver shall be limited to the possession, operation and maintenance of the Facilities, for the sole purpose of the protection of both the Issuer and Owners, and the curing and making good of any default under the provisions of this Indenture, and the title to and ownership of said Facilities shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the Facilities.

Section 9.05. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, fees, liabilities and advances, including counsel fees, incurred or made by the Trustee, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied:

FIRST -- to the payment to the persons entitled thereto of all interest then due on the Bonds, in the order of the due dates of such interest and, if the amount available shall not be sufficient to pay in full said amount, then to the payment ratably, according to the amounts due to the persons entitled thereto, without any discrimination or privilege;

SECOND -- to the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than the Bonds matured for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they became due at the rates borne by the Bonds 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 due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD -- to be held for the payment to the persons entitled thereto as the same shall become due of the principal of and interest on the Bonds which may thereafter become due at maturity and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with interest then due and owing thereon, payment shall be made ratably according to the amount of principal due on such date to the persons entitled thereto without any discrimination or privilege.

(b) If the principal of all the Bonds shall have become due, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

Section 9.06. Remedies Vested in the Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee without the necessity of joining as plaintiffs or defendants any holder of the Bonds, and any recovery of judgment shall be for the equal and ratable benefit of the holders of the outstanding Bonds.

Section 9.07. Rights and Remedies of Bondholders. No Owner of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver of any other remedy hereunder, unless (1) a default has occurred of which the Trustee has been notified as provided in Section 10.01(h) hereof, or of which by said subsection it is deemed to have received notice, (2) such default shall have become an Event of Default and the Owners of not less than 25% of the Bonds Outstanding shall have made written notice to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in their own name or names, (3) they have offered to the Trustee indemnity as provided in Section 10.01(l) hereof, and (4) the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners of the Bonds shall, solely by virtue of being such Owner, have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit to the Owners of all Bonds then outstanding. However, nothing contained in this Indenture shall affect or impair the right of any Owners to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the sources and in the manner in the Bonds expressed.

Section 9.08. Termination of Proceedings. In the case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property herein subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 9.09. Waivers of Events of Default. The Trustee may at its discretion waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the Owners of (1) more than two-thirds of the Bonds Outstanding in respect of which default in the payment of principal or interest, or both,

exists, or (2) more than 50% of the Bonds Outstanding in the case of any other default; provided, however, that there shall not be waived (a) any Event of Default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Bonds unless, prior to such waiver or rescission, all arrears of interest or all arrears of payments of principal when due, as the case may be, with interest on overdue principal at the rate borne by the Bonds, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceedings taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 9.10. Notice of Defaults Under Section 9.01(d); Opportunity of Issuer to Cure Such Defaults. Anything herein to the contrary notwithstanding, no default under Section 9.01(d) shall constitute an Event of Default until actual notice of such default by first class mail (postage prepaid) shall be given to the Issuer by the Trustee or by the Owners of not less than 25% of the Series 2010 Bonds Outstanding and the Issuer shall have had 60 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Issuer within the applicable period and diligently pursued until the default is corrected.

Section 9.11. Acceleration and Annulment Thereof.

(a) Upon the occurrence of an Event of Default specified in Section 9.01 hereof, and at any time thereafter while such Event of Default shall continue in each and every case, unless the principal of all the Bonds shall already have become due and payable, the Trustee may and, upon written request of the Owners of 25% of aggregate principal amount of the Bonds then Outstanding shall declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Indenture or in any of the Bonds contained and to the contrary notwithstanding.

(b) The provisions of the preceding paragraph however, are subject, to the condition that if, after the principal of the Bonds has been so declared to be due and

payable, all arrears of interest upon the Bonds (and interest on overdue installments of interest at the maximum rate permitted by law or 2% over the interest rate on the respective Bonds, whichever is less) are paid by or on behalf of the Issuer, and no Event of Default or event which, with the passage of time or the giving of notice, or both, would constitute an Event of Default, is continuing hereunder, and the Issuer also performs all other things in respect to which the Issuer may have been in default hereunder and pays the reasonable charges of the Trustee and the Owners, including reasonable attorneys fees, then, and in every such case, the Trustee may annul such declaration and its consequences and such annulment shall be binding upon the Trustee and upon all Owners of Bonds issued hereunder; but no such annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.

ARTICLE X

THE TRUSTEE

Section 10.01. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions to all of which the Issuer agrees and the respective Bondholders agree by their acceptance of any of the Bonds:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorneys (who may be the attorney or attorneys for the Issuer), approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein, or in the Bonds, or for the validity of the execution by the Issuer of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not the Trustee.

(e) Except with respect to the matters covered in Section 12.01 hereof, the Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, or other paper or document believed to be genuine and

correct and to have been signed or sent by the proper person or persons. The Trustee shall not withhold unreasonably its consent, approval or action to any reasonable request to the Issuer. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by the Authorized Representative of the Issuer as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may, at its discretion, secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall be construed as a duty and it shall not be answerable for other than its gross negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to cause to be made any of the payments to the Trustee required to be made by Article V or the failure of the Issuer to file with the Trustee any document required by this Indenture to be so filed subsequent to the issuance of the Bonds, unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the owners of at least 25% of the Bonds Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal office of the Trustee, and, in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(i) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right fully to inspect any and all of the property herein conveyed, including all books, papers, and records of the Issuer pertaining to the revenues and receipts of the Facilities and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of such any cash, or any action whatsoever within purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Section 9.02 or 9.07 hereof, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful default by reason of any action so taken.

(m) All moneys received by the Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

Section 10.02. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services solely from moneys available therefor. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal of and interest on any Bond upon the Trust Estate for the foregoing fees, charges and expenses incurred by it.

Section 10.03. Notice to Owners in the Event of Default or Certain Other Occurrences. If a default occurs of which the Trustee is by Section 10.01(h) required to take notice or if notice of default be given as in Section 10.01(h) provided, then the Trustee shall promptly give written notice thereof by registered or certified mail to the Owners of all Bonds then Outstanding shown on the registration books of the Issuer kept at the office of the Trustee.

Section 10.04. Intervention by Trustee. In any judicial proceeding concerning the issuance of the payment of the Bonds to which the Issuer is a party and which in the opinion of the Trustee has a substantial bearing on the interests of Owners of the Bonds, the Trustee may intervene on behalf of Owners and shall do so if requested in writing by the owners of at least 25% of the Bonds Outstanding and being provided a bond as described in Section 10.01(l) hereof.

Section 10.05. Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto shall be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 10.06. Resignation by Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 90 days' written notice by registered or certified mail to the Issuer and by first class mail (postage prepaid) Owners of each Series 2010 Bond, and such resignation shall take effect upon the appointment of a successor Trustee by the Owners or by the Issuer. The Issuer hereby agrees to make a reasonable effort to appoint such a successor Trustee within a reasonable period of time. If the Issuer fails to appoint a successor Trustee within a reasonable period of time, the Trustee may apply to a court of competent jurisdiction to appoint a successor Trustee.

Section 10.07. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer signed by the Owners of a majority in aggregate principal amount of the Bonds Outstanding.

Section 10.08. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Owners of a majority in aggregate principal amount of the Bonds Outstanding, by an instrument or concurrent instruments in writing signed by such Owners, or by their

attorneys in fact, duly authorized and a copy of which shall be delivered personally or sent by registered mail to the Issuer. Nevertheless, in case of such vacancy, the Issuer may appoint a temporary Trustee to fill such vacancy until a successor trustee shall be appointed by the Owners in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by the Owners. Notice of the appointment of a successor trustee shall be given in the same manner as provided in Section 10.06 with respect to the resignation of a Trustee. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing, which has combined capital, surplus and undivided profits of not less than \$50,000,000. No resignation or removal of the Trustee, Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Trustee, Paying Agent or Bond Registrar and the appointment of any successor thereto.

Section 10.09. Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the Issuer, an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessors shall, nevertheless, on the written request of the Issuer, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its or his successor, less the reasonable fees owed and legally due to the Trustee. Should any instrument in writing from the Issuer be required by a successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded, if any.

Section 10.10. Designation and Succession of Paying Agent. The Issuer at all times shall employ one or more Paying Agents for the Bonds. Initially, the Issuer hereby appoints the Trustee as Paying Agent. Any bank or trust company with or into which any Paying Agent may be merged or consolidated, or to which the assets or business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Indenture. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank or trust company as such Paying Agent to fill such vacancy; provided, however, that if

the Issuer shall fail to appoint such Paying Agent within said period, the Trustee shall make such appointment. Other Paying Agents may be appointed pursuant to Article X hereof by the Issuer if in its discretion additional Paying Agents are deemed advisable.

The Paying Agent shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in Section 10.01 hereof with respect to the Trustee insofar as such provisions may be applicable.

Notice of the appointment of additional Paying Agents shall be given in the same manner as provided in Section 10.08 hereof with respect to the appointment of a successor Trustee.

Section 10.11. Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that, in case of litigation under this Indenture and, in particular, in case of the enforcement hereof on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or taken any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate Co-Trustee. The following provisions of this Section are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate Co-Trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate Co-Trustee but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights, and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or Co-Trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Issuer be required by the separate or Co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate or Co-Trustee or a successor to either shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or Co-Trustee, so far as permitted

by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate or Co-Trustee.

ARTICLE XI

SUPPLEMENTAL TRUST INDENTURES

Section 11.01. Supplemental Trust Indentures Not Requiring Consent of Bondholders. The Issuer and the Trustee may, without the consent of, or notice to, any of the Bondholders enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

(a) to cure any ambiguity or defective provision or omission to this Indenture;

(b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bondholders or the Trustee, or to make any change which, in the judgment of the Trustee (which may rely upon an opinion of Bond Counsel), is not to the prejudice of the Bondholders;

(c) to subject to this Indenture additional revenue, properties or collateral as may be reasonably required, including, but not limited to, any rents, fees or charges from new dormitories or other facilities being constructed or acquired with the proceeds of Additional Bonds, additional amounts constituting “auxiliary fees” or “auxiliary capital fees” as defined in West Virginia Code Section 18B-10-1c or any other amounts which the Issuer may legally pledge to support debt obligations;

(d) to comply with the provisions of the Code, as now or hereafter amended, and any applicable court decisions, if such amendment, in the opinion of Bond Counsel, will insure that the tax-exempt status of interest on any Series of Bonds issued on a tax-exempt basis is not impaired;

(e) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States of America, and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute;

(f) to evidence the appointment of a separate or Co-Trustee or the succession of a new Trustee or Paying Agent hereunder;

(g) to provide for the issuance of a series of Additional Bonds and in connection therewith to amend the provisions of this Indenture in such manner as is necessary to broaden the definition of Facilities to include any structures or improvements which the Issuer has the legal authority to construct or acquire, to pledge any additional sources of revenue which the Issuer may lawfully pledge, to adjust the rate covenant set forth in Section 4.04 hereof to provide for such additional revenue sources, to provide for a debt service reserve fund with respect to any series of Additional Bonds; or

(h) to comply with the requirements of any nationally recognized rating agency as long as such requirements do not impair the security for the Bonds or adversely effect other ratings on the Bonds.

Section 11.02. Supplemental Trust Indentures Requiring Consent of Bondholders. Exclusive of supplemental indentures covered by Section 11.01 and subject to the terms and provisions contained in this Section, and not otherwise, the holder of not less than two-thirds of any series of Outstanding Bonds shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Trustee for the purpose of modifying, altering, amending adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture relating to such series of Bonds; provided, however, that nothing contained in this Section shall permit, or be construed as permitting, without the consent of the holders of all Outstanding Bonds of any series, (a) an extension of the maturity date of the principal of or the interest on any Bond of such series, or (b) a reduction in the principal amount of any Bond of such series or the rate of interest thereon, or (c) a privilege or priority of any Bond of such series or over any other Bonds of any series, or (d) a reduction in the principal amount of such series of Outstanding Bonds required for consent to such supplemental indenture, or (e) the creation of any lien other than a lien ratably securing all of the Outstanding Bonds of such series at any time, or (f) any modification of the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of the Trustee without the written consent of the Trustee.

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by registered or certified mail to each owner of a Bond of a series effected thereby. Such notices shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on

file at the principal office of the Trustee for inspection by all Bondholders of series effected thereby. If, within 60 days or such longer period as shall be prescribed by the Issuer following the mailing of such notice, the holders of not less than two-thirds of the Bonds Outstanding of a series effected thereby at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any Bond of such series shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as permitted and provided for in this Section and the delivery to the Trustee of an opinion of Bond Counsel that such supplemental indenture is in compliance with the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance herewith.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Consents, Etc. of Bondholders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of counterparts and may be signed or executed by such Bondholders in person or by an agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and or the ownership of, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee and any Paying Agent with regard to any action taken by it under such request or other instrument, namely:

(a) the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution; or

(b) the fact of ownership of Bonds and the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee pursuant to Section 2.07 hereof.

Section 12.02. Reserved.

Section 12.03. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 12.04. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed to the appropriate address. The Issuer and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

if to the Issuer: Board of Governors of Marshall University
Marshall University
One John Marshall Drive
Huntington, West Virginia 25705
Attention: Senior Vice President for Finance and Administration

if to the Trustee: United Bank, Inc.
500 Virginia Street East
Charleston, West Virginia 25301
Attention: Corporate Trust Department

Section 12.05. Payments due on Non-Business Days. In any case where the date of maturity of interest on or principal of any Series of Bonds shall be a non-Business Day, then payment of interest or principal may be made on the succeeding Business Day with the same force and effect as if made on the date of maturity.

Section 12.06. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.07. Applicable Provisions of Law. This Indenture shall be governed by and construed in accordance with the laws of the State.

Section 12.08. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Indenture.

Section 12.09. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Issuer, the insurer, if any, of any series of Bonds issued hereunder, the Trustee, the Paying Agent, and the Bondholder, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the insurer, if any, of any series of Bonds issued hereunder, the Trustee, the Paying Agent, and the registered owners of the Bonds.

IN WITNESS WHEREOF, the Issuer has executed this Indenture, and the Trustee, to evidence its acceptance of the trusts created hereunder, has caused this Indenture to be executed in its name by its duly authorized officers and duly attested, all as of the day and year first above written.

BOARD OF GOVERNORS OF MARSHALL UNIVERSITY

By: _____

Attest:

By: _____
Its: Secretary

UNITED BANK, INC., as Trustee

By: _____

(SEAL)

Attest:

By: _____
Its: Authorized Representative

This document was prepared by Fred Williams, Esquire, Steptoe & Johnson PLLC, P. O. Box 2195, Huntington, West Virginia 25722-2195.

EXHIBIT A-1
FORM OF SERIES 2010 BOND

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
BOARD OF GOVERNORS OF MARSHALL UNIVERSITY
UNIVERSITY REFUNDING REVENUE BONDS, SERIES 2010

No. _____ \$ _____

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>BOND</u> <u>DATE</u>	<u>CUSIP NO.</u>
_____ %	_____	_____	_____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

KNOW ALL MEN BY THESE PRESENTS: That the Board of Governors of Marshall University (the "Board"), a body corporate and politic, constituting a public corporation and a governmental instrumentality of the State of West Virginia (the "State"), on behalf of the State, for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set

forth above and solely from such special funds also to pay interest on said sum from the Bond Date, set forth above, at the Interest Rate set forth above semiannually, on May 1 and November 1 of each year, beginning May 1, 2011, both principal of and interest on this Bond being payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by United Bank, Inc., Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each April 15 and October 15) at the address of such Registered Owner as it appears on the registration books of the Board maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the designated corporate trust operations office of the Paying Agent, in Charleston, West Virginia.

This Bond is one of a series of bonds (the "Bonds"), in the aggregate principal amount of \$37,140,000, of like date and of like tenor and effect, except as to number, date of maturity and interest rate, issued to finance the refunding of the outstanding portion of the West Virginia Higher Education Interim Governing Board's University Facilities Revenue Bonds, Series 2001A (Marshall University Projects) issued in the original principal amount of \$46,610,000 and which were issued on behalf of Marshall University by the West Virginia Higher Education Interim Governing Board, the predecessor to the Board, to finance certain improvements at Marshall University's Huntington West Virginia campus and to provide for the payment of the costs relating to the issuance of the Bonds, all under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 18B, Articles 2 and 10; Chapter 18, Article 23; and Chapter 13, Article 2G, of the West Virginia Code of 1931, as amended (collectively, the "Act"), a resolution duly adopted by the Board on August 26, 2010 and a resolution duly adopted by the West Virginia Higher Education Policy Commission on October 5, 2010 (collectively, the "Resolution"), and a Trust Indenture, dated as of November 1, 2010 (the "Indenture") between the Board and United Bank, Inc., Charleston, West Virginia (in such capacity, the "Trustee"), and is subject to all the terms and conditions of said Resolution and Indenture.

The Bonds maturing on May 1, 2030 (collectively, the "Term Bonds"), are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund at a Redemption Price equal to 100% of the principal amount thereof, plus

accrued interest to the Mandatory Redemption Date, in the years and in the annual principal amounts as follows:

2030 Term Bond A maturing May 1, 2030:

<u>Year</u> <u>(May 1)</u>	<u>Amount</u>
2025	\$895,000
2026	\$935,000
2027	\$985,000
2028	\$1,035,000
2029	\$1,085,000
2030*	\$1,140,000

*Maturity

2030 Term Bond B maturing May 1, 2030:

<u>Year</u> <u>(May 1)</u>	<u>Amount</u>
2025	\$1,395,000
2026	\$1,465,000
2027	\$1,530,000
2028	\$1,595,000
2029	\$1,670,000
2030*	\$1,745,000

*Maturity

The principal amount of the Term Bonds of a certain maturity delivered to or purchased by the Trustee shall reduce pro tanto the principal amount of such Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

The Bonds maturing on and after May 1, 2021, are subject to redemption prior to maturity, on or after May 1, 2020, at the option of the Issuer, in whole or in part, on any Business Day, in order of maturity selected by the Issuer and by lot within a maturity in multiples of \$5,000, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption.

The Bonds are secured by and payable from the Revenues of the Facilities and certain funds held under the Indenture. Said revenues shall be sufficient to pay the

principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Board within any constitutional or statutory provision or limitation, nor shall the Board be obligated to pay the same or the interest hereon except from said special fund provided from the revenues from the operation of the Facilities. Prior to the issuance of the Bonds Marshall University has fixed and established just and equitable rents, charges and fees for the use and occupancy of the Facilities. The Board covenants that the schedule of rents, charges and fees shall at all times be adequate to produce Revenues from the Facilities sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder, and that such schedule of rents, charges and fees shall be revised from time to time to provide for all reasonable Operating Expenses and leave Net Revenues when combined with other monies legally available to be used for such purposes each year equal at least One Hundred Ten percent (110%) of Maximum Annual Debt Service, as defined in the Indenture.

THIS BOND IS A SPECIAL OBLIGATION OF THE BOARD, PAYABLE, TOGETHER WITH ANY ADDITIONAL BONDS WHICH MAY HEREAFTER BE ISSUED, SOLELY FROM THE SOURCES PLEDGED UNDER THE INDENTURE. THE BONDS OF THE SERIES OF WHICH THIS BOND IS ONE, AS TO BOTH PRINCIPAL AND INTEREST, SHALL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA, AND THE OWNERS THEREOF SHALL HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE LEGISLATURE FOR THE PAYMENT OF THE PRINCIPAL THEREOF OR INTEREST THEREON, BUT THE BONDS, TOGETHER WITH ANY ADDITIONAL BONDS WHICH MAY SUBSEQUENTLY BE ISSUED ON A PARITY THEREWITH, SHALL BE PAYABLE EQUALLY AND RATABLY SOLELY FROM THE SOURCES PLEDGED UNDER THE INDENTURE.

This Bond is transferable, as provided in the Indenture, only upon the books of the Registrar, which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney or legal representative duly authorized in writing.

The holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture.

Additional Bonds may be issued under the Indenture and reference is made to the Indenture with respect to the requirements for the issuance of Additional Bonds which shall be equally and ratably secured under the Indenture with the Bonds.

Modifications or amendments of the Indenture may be made to the extent and in the circumstances permitted by the Indenture to which reference is hereby made.

This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Registrar and exchanged for other fully registered bonds, upon the terms set forth in the Indenture. Neither the Board nor the Registrar shall be required to register or transfer this Bond or exchange other Bonds for this bond during the period beginning on a Record Date and ending on an Interest Payment Date.

Subject to registration requirements, this Bond under the provision of the Act is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

[Remainder of Page Intentionally Left Blank]

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said Board, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the revenues of the Facilities have been pledged to and will be set aside into said special fund by said Board for the prompt payment of the principal of and interest on the Bonds.

All provisions of the Resolution, the Indenture and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the State has caused this Bond to be signed by its Governor and the Board by the Chairman thereof, under the Great Seal of the State attested by the Secretary of State, all as of the Bond Date.

[SEAL]

STATE OF WEST VIRGINIA

By: _____
Governor

BOARD OF GOVERNORS OF
MARSHALL UNIVERSITY

By: _____
Chairman

ATTEST:

By:
Secretary of State

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Board of Governors of Marshall University, University Refunding Revenue Bonds, Series 2010, described in the within-mentioned Resolution and Indenture and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date: _____

UNITED BANK, INC.

By:
Its Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____, the within Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatsoever.

SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Bond Trustee, which requirements include membership or participation in the Securities Transfer Association Medallion Program (STAMP) or such other "signature guaranty program" determined to be acceptable by the Bond Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to the applicable laws or regulations:

TEN COM -- as tenants in common (Minor)

UTMA.....Custodian..... (Cust)

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship and not as tenants in common

under Uniform Transfers to Minors Act..... (State)

Other abbreviations may also be used.

EXHIBIT A-2
FORM OF SERIES 2011 BOND

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
BOARD OF GOVERNORS OF MARSHALL UNIVERSITY
UNIVERSITY REVENUE BONDS, SERIES 2011

No. _____ \$ _____

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>BOND</u> <u>DATE</u>	<u>CUSIP NO.</u>
_____ %	_____	_____	_____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

KNOW ALL MEN BY THESE PRESENTS: That the Board of Governors of Marshall University (the "Board"), a body corporate and politic, constituting a public corporation and a governmental instrumentality of the State of West Virginia (the "State"), on behalf of the State, for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set

forth above and solely from such special funds also to pay interest on said sum from the Bond Date, set forth above, at the Interest Rate set forth above semiannually, on May 1 and November 1 of each year, beginning May 1, 2012, both principal of and interest on this Bond being payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by United Bank, Inc., Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each April 15 and October 15) at the address of such Registered Owner as it appears on the registration books of the Board maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the designated corporate trust operations office of the Paying Agent, in Charleston, West Virginia.

This Bond is one of a series of bonds (the "Bonds"), in the aggregate principal amount of \$54,000,000, of like date and of like tenor and effect, except as to number, date of maturity and interest rate, issued to finance certain capital expenditures relating to assets of the University and to provide for the payment of the costs relating to the issuance of the Bonds, all under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 18B, Articles 2 and 10 of the West Virginia Code of 1931, as amended (the "Act"), a resolution duly adopted by the Board on September 29, 2011 and a resolution duly adopted by the West Virginia Higher Education Policy Commission on October __, 2011 (collectively, the "Resolution"), and an Amended and Restated Trust Indenture, dated as of November 1, 2011 (the "Indenture") between the Board and United Bank, Inc., Charleston, West Virginia (in such capacity, the "Trustee"), and is subject to all the terms and conditions of said Resolution and Indenture.

The Bonds maturing on May 1, 20__ (collectively, the "Term Bonds"), are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the Mandatory Redemption Date, in the years and in the annual principal amounts as follows:

20__ Term Bond A maturing May 1, 20__:

<u>Year</u> <u>(May 1)</u>	<u>Amount</u>
-------------------------------	---------------

*Maturity

20__ Term Bond B maturing May 1, 20__:

<u>Year</u> <u>(May 1)</u>	<u>Amount</u>
-------------------------------	---------------

*Maturity

The principal amount of the Term Bonds of a certain maturity delivered to or purchased by the Trustee shall reduce pro tanto the principal amount of such Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

The Bonds maturing on and after May 1, 20__, are subject to redemption prior to maturity, on or after May 1, 202_, at the option of the Issuer, in whole or in part, on any Business Day, in order of maturity selected by the Issuer and by lot within a maturity in multiples of \$5,000, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption.

The Bonds are secured by and payable from the Revenues as defined in the Indenture which includes revenues from the operation of certain auxiliary facilities, educational and general capital fees, certain other revenues of the University and certain funds held under the Indenture. Said revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside

as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Board within any constitutional or statutory provision or limitation, nor shall the Board be obligated to pay the same or the interest hereon except from said special fund provided from the revenues from the operation of the Facilities. Prior to the issuance of the Bonds Marshall University has fixed and established just and equitable rents, charges and fees for the use and occupancy of the Auxiliary Facilities. The Board covenants that the schedule of rents, charges and fees shall at all times be adequate to produce revenues from the Auxiliary Facilities sufficient to pay Operating Expenses and, when combined with revenues from E&G Capital Fees, Medical Center Rental Income and Athletic Facility Enhancement Fee Revenues, to make the prescribed payments into the funds and accounts created hereunder, and that such schedule of rents, charges and fees and the E&G Capital Fees, Medical Center Rental Income and Athletic Facility Enhancement Fee Revenues shall be revised from time to time to provide for all reasonable Operating Expenses and will leave Net Revenues when combined with other monies legally available to be used for such purposes each year equal at least One Hundred Ten percent (110%) of Maximum Annual Debt Service, as defined in the Indenture.

THIS BOND IS A SPECIAL OBLIGATION OF THE BOARD, PAYABLE, TOGETHER WITH ANY ADDITIONAL BONDS WHICH MAY HEREAFTER BE ISSUED, SOLELY FROM THE SOURCES PLEDGED UNDER THE INDENTURE. THE BONDS OF THE SERIES OF WHICH THIS BOND IS ONE, AS TO BOTH PRINCIPAL AND INTEREST, SHALL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA, AND THE OWNERS THEREOF SHALL HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE LEGISLATURE FOR THE PAYMENT OF THE PRINCIPAL THEREOF OR INTEREST THEREON, BUT THE BONDS, TOGETHER WITH ANY ADDITIONAL BONDS WHICH MAY SUBSEQUENTLY BE ISSUED ON A PARITY THEREWITH, SHALL BE PAYABLE EQUALLY AND RATABLY SOLELY FROM THE SOURCES PLEDGED UNDER THE INDENTURE.

This Bond is transferable, as provided in the Indenture, only upon the books of the Registrar, which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney or legal representative duly authorized in writing.

The holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture.

Additional Bonds may be issued under the Indenture and reference is made to the Indenture with respect to the requirements for the issuance of Additional Bonds which shall be equally and ratably secured under the Indenture with the Bonds.

Modifications or amendments of the Indenture may be made to the extent and in the circumstances permitted by the Indenture to which reference is hereby made.

This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Registrar and exchanged for other fully registered bonds, upon the terms set forth in the Indenture. Neither the Board nor the Registrar shall be required to register or transfer this Bond or exchange other Bonds for this bond during the period beginning on a Record Date and ending on an Interest Payment Date.

Subject to registration requirements, this Bond under the provision of the Act is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

[Remainder of Page Intentionally Left Blank]

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said Board, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the revenues of the Facilities have been pledged to and will be set aside into said special fund by said Board for the prompt payment of the principal of and interest on the Bonds.

All provisions of the Resolution, the Indenture and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the State has caused this Bond to be signed by its Governor and the Board by the Chairman thereof, under the Great Seal of the State attested by the Secretary of State, all as of the Bond Date.

[SEAL]

STATE OF WEST VIRGINIA

By: _____
Governor

BOARD OF GOVERNORS OF
MARSHALL UNIVERSITY

By: _____
Chairman

ATTEST:

By:
Secretary of State

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Board of Governors of Marshall University, University Refunding Revenue Bonds, Series 2011, described in the within-mentioned Resolution and Indenture and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date: _____

UNITED BANK, INC.

By:
Its Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____, the within Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatsoever.

SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Bond Trustee, which requirements include membership or participation in the Securities Transfer Association Medallion Program (STAMP) or such other "signature guaranty program" determined to be acceptable by the Bond Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to the applicable laws or regulations:

TEN COM -- as tenants in common (Minor)

UTMA.....Custodian..... (Cust)

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship and not as tenants in common

under Uniform Transfers to Minors Act..... (State)

Other abbreviations may also be used.

EXHIBIT B
FORM OF REQUISITION FROM PROJECT FUND

TRUST INDENTURE

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