COLLECTIVE BARGAINING AGREEMENT

Between

MARYMOUNT MANHATTAN COLLEGE

and

MARYMOUNT ADJUNCT COLLECTIVE (MAC),

Local 7946, NYSUT, AFT, NEA, AFL-CIO

September 1, 2009 – August 31, 2012

TABLE OF CONTENTS

Page

ARTICLE I -- RECOGNITION .....

ARTICLE II – BARGAINING UNIT INFORMATION .....

ARTICLE III – UNION SECURITY .....

ARTICLE IV – COMMITMENT TO ACADEMIC FREEDOM .....

ARTICLE V – NON-DISCRIMINATION .....

ARTICLE VI – SEXUAL HARASSMENT.....

ARTICLE VII – LABOR MANAGEMENT COMMITTEE.....

ARTICLE VIII – OBSERVATION AND PEDAGOGICAL REVIEW .....

ARTICLE IX – APPOINTMENT AND REAPPOINTMENT .....

ARTICLE X – CLASS SIZE.....

ARTICLE XI – DISTANCE LEARNING AND EDUCATION TECHNOLOGY .....

ARTICLE XII – DEPARTMENT MEETINGS AND INFORMATION .....

ARTICLE XIII – SPACE, FACILITIES, AND ACCESS .....

ARTICLE XIV – TUTORS .....

ARTICLE XV – VISITATION, UNION ACTIVITY, BULLETIN BOARDS, NOTICE .....

ARTICLE XVI – UNION MEETINGS .....

ARTICLE XVII – GRIEVANCE PROCEDURE .....

ARTICLE XVIII – ARBITRATION.....

ARTICLE XIX – SALARIES .....

ARTICLE XX – MEDICAL ASSISTANCE FUND.....

ARTICLE XXI – ABSENCE POLICY .....

Page

ARTICLE XXII – PROFESSIONAL SUPPORT AND DEVELOPMENT .....

ARTICLE XXIII – WAIVER OF TUITION FEES AND AUDITING .....

ARTICLE XXIV – MANAGEMENT RIGHTS .....

ARTICLE XXV – PERSONNEL FILES .....

ARTICLE XXVI – HEALTH AND SAFETY .....

ARTICLE XXVII – RESPONSIBILITIES OF THE PARTIES .....

ARTICLE XXVIII – SAVE HARMLESS .....

ARTICLE XXIX – UNION COPE FUND CHECKOFF

ARTICLE XXX -- TERM OF AGREEMENT

This Agreement is made and entered into as of the 9th day of December, 2009 by and between MARYMOUNT MANHATTAN COLLEGE in the City of New York (hereinafter called "the College") and MARYMOUNT ADJUNCT COLLECTIVE, Local 7946, NYSUT, AFT, NEA, AFL-CIO (hereinafter called "the Union), wherein it is mutually agreed as follows:

ARTICLE I – RECOGNITION: THE COLLECTIVE BARGAINING UNIT

Section 1: Marymount Manhattan College ("the College") recognizes the Marymount Adjunct Collective, Local 7946, New York State United Teachers, AFT, NEA, AFL-CIO ("the Union") as the sole and exclusive bargaining agent for all regular adjunct faculty, tutors, accompanists, private voice instructors, and dance technique instructors employed by the College at and out of its facility at 221 East 71st Street, New York, NY.

Section 2: All other employees, including full-time faculty, individuals paid on a per session basis, faculty who do not teach a course for at least one credit, adjunct faculty who are employed on a casual fill-in basis (i.e. not more than five (5) classes in a semester), advisors, independent contractors, visiting guest artists or lecturers, administrative, managerial, professional and other regular and part-time staff including those who concurrently lecture or teach courses, non-teaching personnel, students, and guards, executives, administrators, managers and supervisors as defined by the Act, are excluded from the bargaining unit.

Section 3: Whenever the word "employee," "adjunct faculty," "part-time," "tutors," "accompanists," and "dance technique instructors" are used in this Agreement, they shall be deemed to mean the employees of the College in such classifications, respectively, described in the inclusions in the bargaining unit covered by this Agreement, as defined in Section 1 of Article I above.

ARTICLE II – BARGAINING UNIT INFORMATION

Section 1: Within thirty (30) calendar days after the commencement of the Fall and Spring semesters, and within seven (7) calendar days after the commencement of the January and Summer semesters, the Union shall provide the College with a list of its officers and representatives, including their official mailing address, email addresses and phone numbers. If there are changes in these positions, the Union will advise the College of such changes as soon as possible.

Section 2: Within thirty (30) calendar days after the commencement of the Fall and Spring semesters, and within seven (7) calendar days after the commencement of the January and Summer semesters, the College shall provide to the Marymount Adjunct Collective a list of all bargaining unit members. This list will include name, mailing address, position, date of hire, department name(s), course title(s), compensation, and any other benefits(s) known at the time, and, with the employee's individual written consent, telephone number and email address. At the same time, the College shall also provide a list of all withdrawals from the unit and any other changes of status of unit personnel.

ARTICLE III - UNION SECURITY

Section 1: All employees shall become members of the Union or agency fee payers no later than the thirtieth (30th) day following the beginning of such employment or thirty (30) days after the execution date, whichever is later, and shall thereafter maintain their membership in the Union in good standing as a condition of continued employment. All employees who choose to pay agency fees, rather than membership dues, shall pay agency fees as a condition of continued employment.

Section 2: For the purposes of this Article, an employee shall be considered a member of the Union in good standing if he/she tenders his/her periodic dues and initiation fee uniformly required as a condition of membership.

Section 3: An employee who has failed to maintain membership in good standing or fails to pay agency fees as required by this Article shall, within thirty (30) calendar days following receipt of a written demand from the Union requesting his/her discharge, be discharged if, during such period, the required dues and initiation fee or agency fees have not been tendered.

Section 4: The Union agrees that it will indemnify and hold the College harmless from any recovery of damages sustained by reason of any action taken under this Article.

Section 5: Upon written notice from the Union, the College will deduct all Union membership dues as provided for in the authorization form set forth below, upon condition that at the time of such notice, the Union shall furnish the College with a written authorization executed by the employee in the following form:

"AUTHORIZATION OF PAYROLL DEDUCTIONS

"I hereby authorize and direct Marymount Manhattan College to deduct from my salary and to remit to the Union on my behalf, Union initiation fees and regular periodic membership dues or agency fees in amounts specified by the Marymount Adjunct Collective (MAC), Local 7942, NYSUT, AFT, NEA, AFL-CIO. This authorization may be revoked by me as of any anniversary date hereof by written notice by me of such revocation, received by the College and the Union, by registered mail, return receipt requested, not more than sixty (60) days and not less than ten (10) days, before any such anniversary date, or on the termination date of the Collective Bargaining Agreement, by like notice, prior to such termination date, whichever occurs sooner. All employees represented by the Marymount Adjunct Collective are required to pay membership dues or agency fees to the Union within thirty (30) days of their employment, or the execution date of the first Collective Bargaining Agreement between the Union and the College, whichever is later, as a condition of their employment at Marymount Manhattan College."

Signature	Date
Name	Social Security No.

Section 6: The College will notify the Union promptly of any revocation of such authorization received by it.

ARTICLE IV – COMMITMENT TO ACADEMIC FREEDOM

Section 1: Marymount Manhattan College and the Marymount Adjunct Collective subscribe to the principles of Academic Freedom. Specifically, unit members shall have academic freedom as teachers and researchers in full accordance with the provisions of the 1940 AAUP *Statement of Principles on Academic Freedom and Tenure* and the College's Policy on Academic Policies set forth in the College's Faculty Handbook.

ARTICLE V – NON-DISCRIMINATION

Section 1: Neither the College nor the Union shall discriminate against any adjunct faculty member on the basis of race, color, religion, gender, sexual orientation, ethnic or national origin, disability, age, veterans' status, union activity, lack of union activity, or any other protected status. Any violation of this Article may be grieved under the grievance procedure as defined in the contract.

ARTICLE VI – SEXUAL HARASSMENT

Section 1: Marymount Manhattan College is committed to the principle that no employees shall be subject to sexual harassment, which includes, but is not limited to, unwelcome verbal or physical sexual advances. In the case of such harassment, an employee may pursue the grievance procedure. Grievances under this Article will be processed in an expedited manner.

Section 2: In this spirit the College shall notify all of its employees of its policy regarding sexual harassment, including required participation in the College's online training program.

ARTICLE VII – LABOR MANAGEMENT COMMITTEE

Section 1: Once per academic year, a meeting shall be convened between the President of Marymount Manhattan College and the President of the Union. Such meeting shall be scheduled at a mutually convenient time. Either individual may submit items for discussion, so as to keep each other abreast of developments and to foster openness, productive dialogue and collegiality. Such items will be submitted in writing to the other individual at least seven (7) calendar days before the scheduled meeting.

Section 2: Once per year, a management committee representing Marymount Manhattan College and a committee representing the elected leadership of the Union shall meet to discuss matters of mutual concern and interest. Such meeting shall be scheduled at a mutually convenient time that does not conflict with either party's academic responsibilities. Either party may submit items for discussion. Such items must be submitted in writing to the other party at least seven (7) calendar days before the scheduled meeting. The meeting shall be limited to one hour and shall be restricted to these agenda items. The College and the Union shall designate up to two (2) committee members. The Union committee shall be comprised of unit members who are employed in the current semester or who have been employed within the past calendar year except that one may be a Union official who is not a currently employed unit member.

Additionally, any previous MMC unit member who has been terminated for cause is not eligible to serve on this committee. No items discussed nor actions taken during such meetings shall modify the collective bargaining agreement (including, but not limited to, its management rights clause) or any College prerogative, policy, or procedure.

ARTICLE VIII – OBSERVATION AND PEDAGOGICAL REVIEW POLICY

Section 1: The College is dedicated to the observation and pedagogical review of unit members to support excellence in teaching and adherence to academic and professional standards. Written policies regarding the classroom observation and pedagogical review of bargaining unit adjunct faculty, as they may exist from time to time, will be made available upon request.

Section 2: Commencing after the second semester of appointment, and no more than once during every two (2) continuous academic years of appointment thereafter, a unit member will receive or may make a request, in writing, to the Vice President for Academic Affairs and Dean of Faculty (hereinafter in Article 8 "Dean") and the Chair of the division in which the bargaining unit adjunct faculty member teaches, for an observation and pedagogical review of the unit member. Upon such a request, the Chair and/or Dean in her or his discretion, shall decide whether the request will be approved or deferred. The decision to approve or defer the request shall be timely made in writing. Further, the Chair and/or Dean shall determine who shall conduct the observation and pedagogical review, which shall include either active or retired full-time faculty or academic administrators. The Chair and/or Dean has the unlimited discretion to defer the request based on division/department resources and/or any factor the Chair and/or Dean considers relevant. Any such observation and pedagogical review conducted under this Section or the decision to defer the request shall not necessarily be construed to mean that the bargaining unit adjunct faculty member's performance is satisfactory. Reasonable efforts will be made to conduct the evaluation in the semester requested, but it may be deferred to a subsequent appointment term within two (2) years from the time of the initial request.

Section 3: Neither the Union nor any bargaining unit member shall have the right to grieve the results of any observation or pedagogical review.

Section 4: The College may observe teaching performance at any time. The unit member ordinarily shall have advance notice of such action but may not if, in the College's good faith judgment, circumstances do not warrant it.

Section 5: In an effort to ensure teaching excellence, the College will promptly notify adjunct faculty members of any concern(s) regarding poor performance. In the event that an adjunct faculty member receives a negative pedagogical review, the adjunct faculty member shall have the right to request, in writing, one (1) subsequent review from the Chair and/or Dean of the division in which the bargaining unit adjunct faculty member teaches. The Chair and/or Dean has the unlimited discretion to approve or defer the request based on division/department resources and/or any factor the Chair and/or Dean considers relevant. The decision to approve or defer the request shall be timely made in writing. Further, the Chair and/or Dean shall determine who shall conduct the subsequent observation and pedagogical review, but in no case shall the

observation and pedagogical review be conducted by the same individual who conducted the initial negative review.

ARTICLE IX - APPOINTMENT AND REAPPOINTMENT

Section 1: The appointment or reappointment of bargaining unit adjunct faculty shall be the exclusive responsibility of the College. Notification of an appointment or reappointment shall be in writing and include details of the assignment, term of appointment, and compensation. Such notification shall be communicated to the adjunct faculty member as soon as practicable after the decision is made.

Section 2: Adjunct faculty members shall receive notice of appointment or reappointment as soon as reasonably possible, but, (a) for the Fall or Spring semester, no later than fourteen (14) days before the start of the semester in which the adjunct faculty member has been appointed or reappointed to teach, unless the course only becomes available within such fourteen (14) days or other circumstances make fourteen (14) days notice impossible, and, (b) for the January or Summer semester, no later than seven (7) days before the start of the semester in which the adjunct faculty member has been appointed or reappointed to teach unless the course only becomes available within such seven (7) days or other circumstances make seven (7) days notice impossible. In the event the course only becomes available or circumstances make the aforementioned notice periods impossible, the College shall provide as much notice as is practicable. Such appointment or reappointment shall be made for a particular course(s) and term only.

Section 3: Adjunct faculty members who have previously taught a course for a minimum of six (6) semesters at the College will receive good faith consideration for appointment to teach the same course if it is offered by the College within one (1) academic year of the most recent appointment, provided that the College intends for the course to be taught by a unit member covered by this Agreement. Good faith consideration shall mean that reappointment may be denied, reduced, or subsequently cancelled in the following circumstances:

(a) Elimination or downsizing of a department or program, or elimination of a course or section, or a reduction in the number of courses or sections (hereinafter "courses") offered in the applicable semester;
(b) Any circumstance in which a course will be taught by a full-time faculty member;
(c) Cancellation of a course(s) due to under enrollment;
(d) Poor performance by the unit member, which shall be based upon, but not limited to, pedagogical reviews, classroom observation(s), student evaluations, or failure to follow the College's standard procedures, including those contained in the unit member's respective Letter of Agreement and the applicable Part-Time Faculty Handbook. Student evaluations alone shall not be used as the exclusive basis to deny, reduce, or subsequently cancel an appointment;
(e) Discharge or misconduct as defined by the College's Standards of Conduct or other rules and regulations, non-performance, improper or incompetent performance, or for any other cause deemed sufficient in its sole discretion;

(f) Denial of access of a unit member to the Bedford Hills Correctional Facility or other entity that has shared responsibility with the College for the educational program(s) offered by the College; or

(g) Other bona fide reasons necessitating a relevant change in academic, fiscal, or programmatic needs.

In the circumstances set forth in subparagraphs a, b, c, f and g, the Vice President of Academic Affairs and Dean of Faculty, or his or her designee shall use his or her best efforts to consider appointing the impacted faculty member to an available scheduled course that the unit member is qualified to teach.

Section 4: A. The College shall have the right to discipline and discharge any bargaining unit employee for just cause. The College shall notify the Union in writing of any suspension or discharge within five (5) days of the time of suspension or discharge. If the Union desires to contest the suspension or discharge, it shall give written notice thereof to the College within five (5) working days, but no later than ten (10) working days from the date of receipt of notice of suspension or discharge. In such event, the dispute shall be submitted and determined under the grievance and arbitration procedure hereinafter set forth; however, commencing at Step 3 of the grievance procedure.

B. In the event a termination from employment during a term occurs, the bargaining unit member shall have the right to grieve said termination. Should the matter proceed to arbitration, and the Arbitrator finds that the College lacked just cause, the Arbitrator shall have the authority to order reinstatement and back pay, but only up to the balance of the term in which the termination occurs.

ARTICLE X - CLASS SIZE

Section 1: The College shall have sole discretion for accepting an overenrollment of students in classes taught by bargaining unit members. In the event enrollment exceeds published class limits, the Department Chair shall discuss any issues related thereto with the affected adjunct faculty member within two (2) weeks of the commencement of the term.

ARTICLE XI – DISTANCE LEARNING AND EDUCATIONAL TECHNOLOGY

Section 1: The College and the Union agree to study Distance Learning and related educational technology. Distance learning is defined as a form of teaching and learning where the teacher and the student are not in the same room at the same time.

ARTICLE XII – DEPARTMENT MEETINGS AND INFORMATION

Section 1: All bargaining unit members shall be invited to attend department meetings at the discretion of the Department Chair. Requests by bargaining unit members to attend department meetings won't be unreasonably denied. In addition, bargaining unit members shall be invited, where not inappropriate, and at the discretion of the Department Chair, to serve on department committees.

Section 2: Official College notices regarding curricula, course offerings, and full-time faculty vacancies which are distributed to full-time faculty, shall also be distributed to bargaining unit members.

ARTICLE XIII - SPACE, FACILITIES, AND ACCESS

Section 1: The parties recognize the importance of adequate space and facilities in accomplishing the educational mission of the College.

Section 2: Bargaining unit adjunct faculty shall have reasonable access to desk space, computers and meetings spaces for the purpose of class preparation, meetings with students and other academic activities. Meeting spaces include, but are not limited to department offices, the library, Nugent Lounge, the cafeteria and classrooms when not in use for class. Bargaining unit adjunct faculty also shall have access to College libraries, lounges, cafeterias, computer rooms, etc. on the same basis as these facilities may be available to full-time members of the College faculty. Such faculty also shall have access to College e-mail accounts. Bargaining unit adjunct faculty shall not be permitted to conduct classes or instruction in their private residence and/or off campus office. If bargaining unit adjunct faculty deem it necessary to meet with students in galleries, studios, museums, performance spaces or other off-premises locations not otherwise prohibited above, they must comply with any College policies in connection with such off-premises activity.

Section 3: Bargaining unit adjunct faculty shall have access to photocopying machines for the purpose of copying College, class-related materials, shall have library borrowing privileges including any consortia rights, the right to borrow books for the entire semester and shall not be charged for late fees until such time as the full-time faculty members are charged.

Section 4: Twice per year, two (2) College representatives and two (2) Union representatives shall meet to discuss issues relating to space and facilities for bargaining unit adjunct faculty. Such meetings shall be scheduled at a mutually convenient time that does not conflict with either party's academic responsibilities. Either party may submit items for discussion. Such items must be submitted in writing to the other party at least seven (7) calendar days before the scheduled meeting. The meeting shall be limited to one (1) hour and shall be restricted to these agenda items. The Union representatives shall be unit members who are employed in the current semester or who have been employed within the past calendar year except that one may be a Union official who is not a currently employed unit member. Additionally, any previous MMC unit member who has been terminated for cause is not eligible to serve on this committee. No items discussed nor actions taken during such meetings shall modify the collective bargaining agreement (including but not limited to its management rights clause) or any College prerogative, policy or procedure.

ARTICLE XIV - TUTORS AND ACCOMPANISTS

Appointment and Reappointment:

Section 1: Students will be assigned to work with tutors in the Center for Academic Advancement based on the tutor's area of expertise, the quality of the tutor's prior performance, the tutor's credentials and experience, and students' specific learning needs. Setting the tutoring

schedule will take into account the availability of tutors and students as well as the opportunity to make tutors available to students at times that complement the schedule of relevant courses. Length of employment with the College shall also be given substantial consideration if the foregoing factors are otherwise equal.

Observation and Pedagogical Review:

Section 2: Currently, the Director and/or Assistant Director, or their designees, observe and evaluate the work of tutors and the Program Coordinator and Chairs observe and evaluate the work of accompanists. At the Director's or Chair's sole discretion, peers may also be asked to observe and evaluate the work of tutors and accompanists. This practice will continue.

Other Work:

Section 3: During downtime (i.e., non tutoring time), tutors may be required to perform other tasks for the Employer, such as recruiting students to the Center. However, tutors will not be required to create materials on the Center's website (but may be required to input material created by others).

ARTICLE XV - VISITATION, UNION ACTIVITY BULLETIN BOARDS, NOTICE

Section 1: A representative of the Union shall have reasonable access to the College, upon reasonable advance notice to the Director of Human Resources, or her designee, in a mutually agreeable location and time, for the purpose of conferring with the stewards of the Union and/or employees covered by this Agreement, and for the purpose of administering this Agreement. Such visits shall not interfere with the operation of any department or office.

Section 2: No employees shall engage in any Union activity, including the distribution of literature, which would interfere with the performance of work.

Section 3: The College shall provide at least one (1) bulletin board in a reasonably accessible place, such as near the elevator banks, for Union notices. No notices which are derogatory to the College shall be posted.

Section 4: The College shall have the right to reasonable use of photocopying equipment. A separate account for photocopying shall be made available to the Union for the purpose of carrying out Union activities.

Section 5: The College agrees to provide the Union with a locked file cabinet.

Section 6: Shop stewards shall not handle grievances during the working time of either the steward or the affected employee.

Section 7: The Collective Bargaining Agreement shall be posted on the College's Human Resources website.

ARTICLE XVI – UNION MEETINGS

Section 1: Upon request of the Union, and subject to space availability, the College will make available a suitable meeting space for general Union meetings. Union requests must be made no later than ten (10) business days prior to the desired meeting date.

ARTICLE XVII - GRIEVANCE PROCEDURE

Adjustments of all complaints, disputes, controversies, and grievances of any kind or nature arising between the College and the Union concerning the interpretation, operation, application or performance of the terms of this Agreement, or any complaint, dispute, controversy or grievance involving a claimed breach of any of the terms or conditions of this Agreement shall be undertaken in accordance with the following procedure:

STEP 1. Any employee feeling him/herself aggrieved must raise a grievance within ten (10) days from the time the dispute arises or within ten (10) days of when the employee becomes aware of it with the Department Chairperson or Program Coordinator either alone or, at the employee's option, accompanied by a shop steward. Such immediate supervisor shall give an answer to said grievance within ten (10) working days.

STEP 2. If the grievance is not settled satisfactorily in Step 1, then within five (5) working days after the time in which the Department Chairperson's answer referred to in Step 1 is due, the employee, with or without a Union representative, shall present a written grievance in person to the grievant's Division Chairperson or that person's designee. A grievance so presented shall be answered by the Division Chairperson or that person's designee in writing within five (5) working days after its presentation.

STEP 3. If the grievance is not satisfactorily settled in Step 2, the grievance must, within five (5) working days after the answer in Step 2 is due, be presented to the Vice President for Academic Affairs or a designated representative of the Vice President. At the third step a grievance must again be presented in writing. The Vice President for Academic Affairs, or the designee, shall, within five (5) days of the receipt of said written grievance, discuss the matter together with the Union representative, either the Department Chairperson or Program Coordinator or the Division Chairperson, and with the aggrieved employee, unless the employee waives the right to be present; and the Vice President or the Vice President's designee shall render a decision in writing within ten (10) working days after the meeting.

For bargaining unit members assigned to the Bedford Hills College Program, Step 1 shall be presented to the Director of the Bedford Hills College Program and Step 2 to the Executive Director of Special Programs. For bargaining unit members who are tutors, Step 1 shall be presented to the Assistant Director of the Center for Academic Advancement and Step 2 to the Executive Director of Special Programs.

ARTICLE XVIII - ARBITRATION

Section 1: A timely grievance, as defined in Article XVII, which has not been resolved thereunder must, within fifteen (15) working days after completion of Step 3 of the grievance procedure, if the complaining party wishes to pursue, be referred for arbitration by the College or

the Union to arbitration before an arbitrator to be selected in accordance with the procedures of the American Arbitration Association. The arbitration shall be conducted under the Voluntary Labor Arbitration Rules then prevailing of the American Arbitration Association.

Section 2: The fees and expenses of the American Arbitration Association and the arbitrator shall be borne equally by the parties.

Section 3: The arbitrator shall have jurisdiction only over disputes arising out of grievances, as defined in Article XVII, and he or she shall have no power to add to, subtract from, modify, alter or amend in any way any of the terms of this Agreement.

Section 4: It is agreed that time is of the essence in any arbitration, and both parties will exert their best efforts to obtain a speedy decision.

Section 5: Failure on the part of the College to answer a grievance at any step shall not be deemed acquiescence thereto, and the Union may proceed to the next step.

Section 6: Anything to the contrary herein notwithstanding, a grievance concerning discharge may be presented initially at Step 3 in the first instance within ten (10) working days from the receipt of notice of the discharge.

Section 7: Without waiving their statutory rights, a grievance either on behalf of the College or the Union may be presented initially at Step 3 by notice in writing addressed to the Union at its offices, or to the College.

Section 8: All time limits herein specified shall be deemed to be regular working days.

Section 9: Any failure to file a grievance, or disposition of a grievance from which no appeal is taken within the time limits specified herein shall render the matter closed and shall not thereafter be considered subject to the grievance and arbitration provisions of this Agreement.

Section 10: A grievance which affects a substantial number of a class of employees, and which the College representative designated in Step 1 and Step 2 lacks authority to settle, may initially be presented at Step 3 by the Union representative.

ARTICLE XIX - WAGES

Section 1: The College shall increase the rate of pay for adjunct faculty to $2900.00 per three credit course, effective September 1, 2009. The rate of pay for adjunct faculty shall be increased by the greater of (i) two percent (2%) per year beginning on September 1, 2010 and September 1, 2011, or (ii) the amount of the increase in the faculty overload rate.

Section 2: Effective September 1, 2011, the College shall pay a longevity increase of $100.00 per course to all adjunct faculty who have taught at least one (1) course in at least fourteen (14) semesters. In determining the total number of semesters taught, there shall be a maximum of two (2) semesters credited to any particular academic year. The semesters of teaching do not have to be consecutive for adjunct faculty to receive the longevity increase.

Section 3: The College shall increase the rate for tutors to $25.28 per hour. The College shall increase this rate of pay by 2% on September 1, 2010 and 2% on September 1, 2011.

Section 4: The College shall increase the rate for accompanists to $29.16 per hour. The College shall increase this rate of pay by 2% on September 1, 2010 and 2% on September 1, 2011.

Section 5: The College shall increase the rate of pay for private voice instructors to $810 per student per semester. The College shall increase this rate of pay by 2% on September 1, 2010 and 2% on September 1, 2011.

Section 6: Any bargaining unit member who is employed to teach at least one course (or serve as tutor, accompanist, or private voice instructor) at the College during the 2008-2009 academic year or the 2009-2010 academic year shall be eligible for a one time lump sum payment, to be paid within seven (7) days of the execution of this Agreement, equal to four (4%) of his/her total annual compensation for each of the following years: a) September 1, 2006 through August 31, 2007; (b) September 1, 2007 through August 31, 2008; and, c) September 1, 2008 through August 31, 2009.

Section 7: In the event that any course for which an adjunct faculty member has been appointed or reappointed is cancelled (a) for a fall or spring semester course, less than fourteen (14) days prior to the commencement of the semester, or (b) for a summer or January semester course, less than five (5) days prior to the commencement of the semester, the adjunct faculty member shall be paid twenty percent (20%) of the adjunct rate. This provision shall not apply to tutors and accompanists.

ARTICLE XX – MEDICAL ASSISTANCE FUND

Section 1: The College shall establish a Medical Assistance Fund of $12,000.00 per year to be utilized to provide medical assistance to both adjunct faculty bargaining unit members (including tutors, accompanists, and private voice instructors) and eligible part-time staff employees (as described in the collective bargaining agreement covering staff employees between the Union and the College) (that is, a single fund covering both groups) to offset medical expenses incurred by adjunct faculty members and eligible part-time staff employees, in a manner to be determined jointly by the College and the Union, upon presentation of documentation demonstrating the payment of medical expenses by employees seeking reimbursement from the fund.

Section 2: Within thirty (30) days after the execution of this Agreement, representatives of the College and the Unions shall meet to discuss and mutually agree upon the manner in which monies from the Medical Assistance Fund will be allocated to members of the bargaining units. The discussion and mutual agreement shall include, but not be limited to, criteria for eligibility, amount of money to be allocated per eligible bargaining unit member, and length of time in which monies will be allocated to eligible bargaining unit members.

Section 3: The parties agree to study, during the term of the Agreement, alternate methods of providing health insurance to adjunct faculty members and part time staff employees, by meeting at least twice per year on this issue. Such meetings shall be scheduled at mutually convenient times that do not conflict with the party's academic responsibilities and/or MMC part time employment responsibilities. Either party may submit items for discussion. Such items must be submitted in writing to the other party at least seven (7) calendar days before the scheduled meeting. The meeting shall be limited to one hour and shall be restricted to these agenda items.

ARTICLE XXI – ABSENCE POLICY

Section 1: Unit members shall be allowed up to two (2) absences from a scheduled class in a credit course (1-6 credits) during any semester without loss of pay for personal illness, jury duty, bereavement, academic or professional conferences or meetings approved under Article XXII, or personal emergencies or similar personal needs, including religious observance, which cannot be postponed. In all cases, the bargaining unit adjunct faculty members must notify, as soon as possible, the Chair of the division in which the bargaining unit adjunct faculty member teaches. Unless otherwise directed by the Chair, the unit member shall reschedule the class and/or require the affected students in the class to engage in a scholarly activity that does not require member "in class" time, but constitutes a learning experience for the affected students.

Section 2: Unit members' absences are cumulative and, in no case, will a bargaining unit adjunct faculty member be permitted more than two (2) absences from scheduled classes in credit courses (1-6 credits) during any semester without loss of pay. Except as otherwise provided in Sections 3 and 4 of this Article, in the case of a unit member absence extending beyond two (2) scheduled classes in a credit course (1-6 credits) during any semester, the College may elect to replace the bargaining unit adjunct faculty member at the sole discretion of the Vice President for Academic Affairs and Dean of Faculty or his or her designee. The decision to replace an adjunct faculty member under Article XXI is vested exclusively in the management of the College and is not subject to the grievance procedure (except as to any dispute as to the actual occurrence of two absences). In the event the College declines to exercise its right to replace the adjunct faculty member, his or her salary shall be reduced on a pro-rata basis for all missed days in excess of two.

Section 3: Unit members requiring additional absences due to extraordinary personal or professional reasons may make a request to the Chair of the division or his or her designee with as much advance notice as is possible. The decision to approve or deny the unit member's request is at the discretion of the Chair of the division or his or her designee and is not subject to the grievance procedure. Such extraordinary absences, while unpaid, shall not be cause for disciplinary action. Where additional absences are not approved by the Chair of the division or his or her designee, the College retains the right, under Section 2 above, to replace the unit member where the adjunct faculty member is absent beyond two (2) scheduled classes in a credit course (1-6 credits) during the semester.

Section 4: In the event that an adjunct faculty member has more than two (2) absences from a scheduled class in a credit course (1-6 credits) during any semester, and such absence has not been approved as exceptional by the Chair of the division under Section 3 of this Article, the adjunct faculty member shall have the right to appeal the decision, in writing, to the Vice

President for Academic Affairs and Dean of Faculty. The Vice President for Academic Affairs and Dean of Faculty's decision to approve more than two (2) absences from a scheduled class in a credit course (1-6 credits) during any semester shall be final and is not subject to the grievance procedure.

ARTICLE XXII – PROFESSIONAL SUPPORT AND DEVELOPMENT

Section 1: Effective with the commencement of the first budget request and resultant budget implementation following ratification of this Agreement, the College shall allocate the sum of $10,000 per year for each year during the term of this Agreement for the purpose of professional development and scholarly activities of the adjunct faculty. This yearly allocation shall not be a separate fund but shall be a line item in the College's annual budget. If any portion of the yearly $10,000 allotment is not used within such year, it shall not be retained or carried over into the subsequent budget year. The fund shall include $10,000.00 allocated for individual grant applications set forth herein. An adjunct faculty member who has taught at least one (1) Fall or Spring semester at the College in each of the five (5) years immediately prior to a given semester, may apply for one (1) or a combination of three (3) grants per year from the fund for up to, but not to exceed on an individual or cumulative basis, $750.00 for research in his/her field, or for travel, room, board, or other expenses incurred for verifiable active participation at an academic or professional conference or meeting. The applications will be selected by the Vice President of Academic Affairs and Dean of Faculty. The decision to approve or deny an application for a grant from the fund is vested exclusively in the Vice President of Academic Affairs and Dean of Faculty or his or her designee and is not subject to the grievance procedure. The decision to approve or deny an application under this Section shall be timely made in writing.

Section 2: Absences due to attendance at an academic or profession conference or meeting shall be subject to the Absence Policy, set forth in Article XXI.

ARTICLE XXIII – WAIVER OF TUITION FEES AND AUDITING

Section 1: All bargaining unit members are eligible for tuition remission benefits for College-sponsored courses, on a space-available basis, and where all College students seeking to be enrolled have been accommodated. An adjunct faculty member who has taught at least one semester at the College in each of the five (5) years immediately prior to a given semester is eligible to enroll in one (1) course for credit, or non-credit, in such semester. The registration fee for the course for which tuition remission benefits are received shall be waived, however the unit member shall be responsible for any additional course fees, including but not limited to, lab fees, library fees, technology fees, activity fees, materials, and other course-related incidental fees or costs. Notwithstanding the requirements of five (5) continuous years of teaching services at the College, adjunct faculty members who have (5) continuous years of teaching service and who thereafter experience no more than two (2) consecutive semesters of interruption of service to the College shall continue to be eligible for tuition remission benefits.

Section 2: Upon commencement of employment, all bargaining unit members may audit classes at the College subject to the terms and conditions in the College Catalogue. The audit fee shall be waived for all unit members auditing classes, however the unit member shall be

responsible for any additional course fees, including but not limited to, lab fees, library fees, technology fees, activity fees, materials, and other course-related incidental fees or costs.

Section 3: Applications for a tuition remission benefit must be submitted to the Department of Human Resources with verification of enrollment.

ARTICLE XXIV – MANAGEMENT RIGHTS

Section 1: Management of the College is vested exclusively in the College. Except as otherwise provided in this Agreement, the Union agrees that the College has the right to establish, plan, direct and control the College's missions, programs, objectives, activities, resources, and priorities; to establish and administer procedures, rules and regulations, and direct and control College operations; to alter, extend or discontinue existing equipment, facilities, and the location of operation; to continue, discontinue or cancel any academic or non-academic program, class or service for any reason deemed sufficient in the sole discretion of the College; to determine or modify the number, qualifications, scheduling, responsibilities and assignment of bargaining unit adjunct faculty; to establish, maintain, modify or enforce standards of performance, conduct, order and safety; to evaluate, to determine the content of evaluations, and to determine the processes and criteria by which bargaining unit adjunct faculty's performance is evaluated; to establish and require bargaining unit adjunct faculty to observe College rules and regulations; to discipline or dismiss bargaining unit adjunct faculty; to establish or modify the academic calendars, including holidays and holiday scheduling; to assign work locations; to schedule hours of work; to recruit hire or transfer; to determine how and when and by whom instruction is delivered; to determine in its sole discretion all matters relating to faculty hiring and tenure and student admissions; to introduce new methods of instruction; to assign full-time faculty or others to teach any class, including classes previously taught by adjunct faculty; and to exercise sole authority on all decisions involving academic matters.

Section 2: Decisions regarding which students are to be admitted, which subjects and courses are to be taught, when such courses are to be offered, how long terms, semesters, and sessions shall be and who is to be appointed or assigned to teach courses involve both academic and business judgments which shall be made at the sole discretion of the College, its Dean and the Academic Division Chairs.

Section 3: The forgoing statement of the rights of management and of the College functions is not exhaustive or all inclusive, but indicates the type of matters or rights which belong to and are inherent in management and shall not be construed in any way to exclude other Employer functions not specifically enumerated.

Section 4: Failure to exercise any of the rights or functions, whether or not expressly stated herein, shall not constitute a waiver thereof.

Section 5: No action taken by the College with respect to management or academic rights shall be subject to litigation unless the exercise thereof violates an express written provision of this Agreement.

ARTICLE XXV – PERSONNEL FILES

A personnel file shall be maintained for every bargaining unit member in accordance with the following:

Section 1: Upon written request, the College shall permit a bargaining unit member to examine any and all materials in his/her personnel file within three business days (i.e. exclusive of weekends and holidays), with the exception of pre-employment material or other privileged or confidential material under the law. Inspection of the personnel file shall occur under the supervision of a College management representative. No material may be removed by the bargaining unit member during his/her inspection of the file. After inspecting his or her file a bargaining unit member may request and obtain copies of any material within the file within a reasonable time, subject to paying the cost of such reproduction.

Section 2: No disciplinary or evaluative material or documentation relating to the bargaining unit member's character, conduct or competence, will be placed in an Employee's file unless the Employee has had a chance to sign it and simultaneously receive a copy. All materials received from department chairs, administrative officers, or other responsible sources concerning a unit member's character or conduct shall be signed by the originator before being placed in the personnel file. Anonymous student evaluations and non-evaluative documentation (e.g. administrative forms) may be placed in the bargaining unit member's personnel file without being signed. Materials may be removed from the bargaining unit member's personnel file upon mutual written agreement of the unit member and the College President or his or her designee. An employee has the right to attach his/her views to any disciplinary record in his or her own file.

Section 3: Subject to written consent signed by the bargaining unit member, the Union shall have the right to inspect such member's personnel file within three business day (i.e. exclusive of weekends and holidays), with the exception of pre-employment material or other privileged or confidential material under the law. Inspection of the personnel file shall occur under the supervision of a College management representative. No material may be removed by the union representative during his/her inspection of the file. After inspecting the file the Union may request and obtain copies of any material within the file within a reasonable time, subject to paying the cost of such reproduction.

ARTICLE XXVI – HEALTH AND SAFETY

Section 1: The College shall carry out its obligation as set forth in the applicable federal, state and local laws and regulations to provide a safe and healthy environment for its employees.

Section 2: Two (2) College representative and two (2) Union representatives, at the request of either party shall meet twice a year at a mutually agreeable place to discuss matters relating to health and safety. The Union committee shall be comprised of at least one (1) currently employed bargaining unit member. Such meetings shall be scheduled at a mutually convenient time that does not conflict with either party's academic responsibilities. Either party may submit items for discussion. Such items must be submitted in writing to the other party at least seven (7) calendar days before the scheduled meeting. The meeting shall be limited to one (1) hour and

shall be restricted to these agenda items. No items discussed nor actions taken during such meetings shall modify the collective bargaining agreement (including but not limited to its management rights clause) or any College prerogative, policy, procedure or practice.

ARTICLE XXVII - RESPONSIBILITIES OF THE PARTIES

Section 1: Each of the parties hereto acknowledges the rights and responsibilities of the other party and hereby agrees to discharge its responsibilities under this Agreement.

Section 2: The Union, its officers and representatives at all levels, and all employees, are bound to observe the provisions of this Agreement.

Section 3: The College, and its representatives at all levels, are bound to observe the provisions of this Agreement.

Section 4: During the life of this Agreement, the Union will not cause, or cause the employees represented by it to cause, nor will any such employee take part in any strike, sympathy strike, slowdown, work stoppage, or any other concerted interference with the College's work. No officer or representative of the Union shall authorize, instigate, aid, or condone any such activity and no employee shall participate in any such activity.

Section 5: Should any employee or employees take part in any strike or other Union activities contrary to the terms of this provision, the College shall immediately notify the Union, and the Union through its representatives shall take steps, as described herein, to have the employee or employees concerned immediately returned to work in the case of a strike or to cease any other activity prohibited by this Article:

Publicly disavow such action by the employees.

Advise the College in writing that such action by employees has not been called or sanctioned by the Union.

Notify employees of its disapproval of action and instruct such employees to cease such action and to return to work immediately.

Post notices at Union bulletin boards advising that it disapproves such action and instructing employees to return to work immediately.

Section 5: The College agrees there shall be no lockout of any kind whatsoever during the life of this Agreement.

Section 6: Any violation of this Article shall be subject to the grievance and arbitration procedures established and described in this Agreement. Any employee or employees engaged in an unauthorized strike, slowdown, work stoppage, or any other concerted interference with the College's work in violation of this Agreement, will be subject to disciplinary action, at the discretion of the College, up to and including discharge. Such disciplinary action shall be subject to the grievance procedure.

ARTICLE XXVIII – SAVE HARMLESS

Section 1: Should any provision of this Agreement or any application thereof be unlawful by virtue of any federal or state law, such provision of this Agreement shall be null and void, but in all other respects the provisions of this Agreement shall continue in full force and effect for the life thereof.

Section 2: Except as otherwise provided therein, this Agreement constitutes the entire Agreement of and between the parties governing all mandatory and permissive subjects of collective bargaining, and the parties agree that in negotiations leading to this Agreement, each had the full opportunity to present and discuss all subjects which they are obliged to discuss under federal law, and that all understanding and agreements of and between the parties after the exercise of that right and opportunity are set forth in this Agreement. No prior agreements or understanding shall be controlling or in any way effect the relations between the parties unless such agreements or understandings have been reduced to writing and are duly executed and in effect.

Section 3: Failure of either party to insist upon performance of the terms and conditions of this Agreement by the other in any one or more instances shall not be construed as a waiver or relinquishment of the rights of either party to expect and require future performance of any such terms and conditions by the other, and notwithstanding any such failure, the obligations of the parties and of the bargaining unit members covered by this Agreement to such future performance of its terms and conditions shall continue in force and effect.

ARTICLE XXIX – UNION COPE FUND CHECKOFF

The College shall provide a payroll mechanism to permit employee contributions to the Union COPE Fund.

ARTICLE XXX – TERM OF AGREEMENT

This Agreement shall be in full force and effect for the period commencing **September 1, 2009 to August 31, 2012**.

The College and the Union agree jointly to enter into discussions relative to a renewal of this Agreement no later than the sixtieth (60th) day immediately preceding the termination date of the Agreement.

<u>IN WITNESS WHEREOF</u>, the Union and the College have executed this Agreement as of the date first above written.

Marymount Adjunct Collective (MAC), Local 7946, NYSUT, AFT, NEA, AFL-CIO
By:_____
_____
_____

Marymount Manhattan College

By: _____
Judson R. Shaver, President