

New Issue—Book-Entry Only

Rating: Moody's "Baa2"  
(See "RATING" herein)

Maynard Nexsen PC, Bond Counsel, is of the opinion that, under existing law and subject to the assumptions, exceptions and qualifications set forth in "TAX MATTERS", that (a) interest on the Series 2024A Bonds (i) is excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Federal Tax Code"), (ii) is not an item of tax preference for purposes of the federal alternative minimum tax; provided, as a result of amendments to Federal Tax Code enacted pursuant to the Inflation Reduction Act of 2022, interest on the Series 2024A Bonds may be taken into account for purposes of the alternative minimum tax imposed by Section 55(b)(2) of Federal Tax Code, and (iii) is exempt from State of Alabama income taxation, and (b) interest on the Series 2024B Bonds (i) is not excludable from gross income for purposes of federal income taxation and (ii) is exempt from State of Alabama income taxation. See "TAX MATTERS" herein.

## THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD (ALABAMA)

\$74,405,000\*

Lease Revenue Bonds

(CHF – Horizons I, L.L.C. Recreation Center  
Project at Samford University)  
Tax-Exempt Series 2024-A

\$14,280,000\*

Lease Revenue Bonds

(CHF – Horizons I, L.L.C. Recreation Center  
Project at Samford University)  
Taxable Series 2024-B

Maturity Dates, Interest Rates, Principal Amounts, Yields and CUSIPS Shown on the Inside Cover Pages

The Educational Building Authority of the City of Homewood (the "Authority") is issuing (a) \$74,405,000\* aggregate principal amount of its Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), Tax-Exempt Series 2024-A (the "Series 2024A Bonds"); and (b) \$14,280,000\* aggregate principal amount of its Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), Taxable Series 2024-B (the "Series 2024B Bonds" and, together with the Series 2024A Bonds, the "Series 2024 Bonds"), each pursuant to a Trust Indenture, dated as of June 1, 2024 (the "Original Indenture"), by and between the Authority and Regions Bank, as trustee (the "Trustee"), as supplemented by a Series 2024-A Supplemental Trust Indenture, dated as of June 1, 2024 (the "Series 2024A Supplemental Indenture"), and as further supplemented by a Series 2024-B Supplemental Trust Indenture, dated as of June 1, 2024 (the "Series 2024B Supplemental Indenture" and, collectively with the Series 2024A Supplemental Indenture and Original Indenture, the "Indenture").

The Series 2024 Bonds are being issued for the purposes of providing funds to finance the costs of: (a) the acquisition, construction, furnishing and equipping of an approximately 154,000 square foot recreation center and athletic complex (the "Recreation Facility" and a "Project" under the Indenture) and related site improvements, currently under construction on the campus of Samford University ("Samford" or the "University") and refinancing outstanding debt related thereto; and (b) amounts required for capitalized interest, costs of issuance and other financing expenses related to the issuance of the Series 2024 Bonds (collectively, the "Recreation Center Project"). The Recreation Facility is located on land (the "Property"), which is located within the campus boundaries of the University. The Property will be leased to the Authority by the University pursuant to a Ground Lease, dated the date of issuance of the Series 2024 Bonds (the "Ground Lease").

The Authority will lease the Recreation Facility to CHF – Horizons I, L.L.C. (the "Borrower"), whose sole member is the Collegiate Housing Foundation (the "Foundation"), an organization exempt from the payment of federal income tax under Section 501(a) of the Federal Tax Code, as an organization described in Section 501(c)(3) of the Federal Tax Code, under a Bond Lease (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), dated as of June 1, 2024 (the "Bond Lease"), by and between the Authority and the Borrower. The Borrower is a "disregarded entity" of the Foundation for federal income tax purposes.

The Series 2024 Bonds will be secured by the Trust Estate as provided in the Indenture and payable solely out of the payments made pursuant to the Bond Lease and from property pledged by the Borrower under the Borrower Security Agreement, all as defined and described herein. At the time of the execution and delivery of the Series 2024 Bonds, no debt service reserve fund will be established to secure the payment of the principal of and interest on the Series 2024 Bonds. There is no intention of establishing a debt service reserve fund in the future to secure the payment of the principal of and interest on the Series 2024 Bonds. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS" herein.

The Series 2024 Bonds will be issued as fully registered bonds without coupons in denominations of \$5,000 and any multiple thereof for each maturity. The Series 2024 Bonds will bear interest from the date of issuance and delivery thereof, payable semiannually on each April 1 and October 1, commencing October 1, 2024 (each, a "Stated Interest Payment Date"). The Series 2024 Bonds will be subject to prior mandatory, optional, and extraordinary redemption as described herein. The Series 2024 Bonds will be issued in fully registered form and when issued will be initially registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Series 2024 Bonds and purchasers of the Series 2024 Bonds will not receive certificates evidencing their ownership interests therein. So long as Cede & Co. is the registered owner of the Series 2024 Bonds as nominee of DTC, references herein to the Owners of the Series 2024 Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Series 2024 Bonds. See "DTC Book-Entry System" in Appendix C.

THE SERIES 2024 BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM THE TRUST ESTATE AND, EXCEPT FROM SUCH SOURCE, NONE OF THE AUTHORITY, ANY ISSUER INDEMNIFIED PERSON, THE STATE OF ALABAMA OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, OR ANY POLITICAL SUBDIVISION APPROVING THE ISSUANCE OF THE SERIES 2024 BONDS IS OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST THEREON OR ANY COSTS INCIDENTAL THERETO. THE SERIES 2024 BONDS ARE NOT GENERAL OBLIGATIONS OF THE AUTHORITY BUT ARE LIMITED OBLIGATIONS PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE GRANTED IN THE GRANTING CLAUSES AT THE BEGINNING OF THE INDENTURE, WHICH REVENUES AND RECEIPTS ARE HEREBY SPECIFICALLY PLEDGED TO SUCH PURPOSES IN THE MANNER AND TO THE EXTENT PROVIDED HEREIN. NEITHER THE DIRECTORS OF THE AUTHORITY NOR ANY PERSONS EXECUTING THE SERIES 2024 BONDS SHALL BE LIABLE PERSONALLY ON THE SERIES 2024 BONDS BY REASON OF THE ISSUANCE THEREOF. THE SERIES 2024 BONDS SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, THE STATE OF ALABAMA OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE STATE OF ALABAMA NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL BE LIABLE FOR THE SERIES 2024 BONDS OR OBLIGATED TO PAY THE PRINCIPAL, PREMIUM, IF ANY, OR THE INTEREST THEREON OR OTHER COSTS INCIDENTAL THERETO EXCEPT FROM THE REVENUES AND RECEIPTS PLEDGED THEREFOR, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF ALABAMA OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE PREMIUM, IF ANY, OR THE INTEREST ON THE SERIES 2024 BONDS OR OTHER COSTS INCIDENTAL THERETO.

The Series 2024 Bonds are offered when, as, and if issued by the Authority and received by the Underwriters and are subject to prior sale and the approval of legality by Maynard Nexsen PC, Birmingham, Alabama, Bond Counsel. Certain legal matters will be passed for the Borrower and the Foundation by Hand Arendall Harrison Sale LLC, Mobile, Alabama; for the University by Dentons Sirrote PC, Birmingham, Alabama; and for the Underwriters by Kutak Rock LLP, Denver, Colorado. Delivery of the Series 2024 Bonds to DTC in New York, New York is expected on or about June 20\*, 2024.

Capital  
Markets

STIFEL

Dated: May \_\_, 2024

\* Preliminary; subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

**THE EDUCATIONAL BUILDING AUTHORITY  
OF THE CITY OF HOMEWOOD (ALABAMA)**

**\$74,405,000\***  
**Lease Revenue Bonds**  
**(CHF – Horizons I, L.L.C. Recreation Center**  
**Project at Samford University)**  
**Tax-Exempt Series 2024-A**

**\$14,280,000\***  
**Lease Revenue Bonds**  
**(CHF – Horizons I, L.L.C. Recreation Center**  
**Project at Samford University)**  
**Taxable Series 2024-B**

**Dated: Date of Delivery**

**Due: As shown below**

The Series 2024 Bonds will be issuable in fully registered form without coupons in minimum denominations of \$5,000 and any multiple thereof. Interest on the Series 2024 Bonds will be payable on each April 1 and October 1, commencing October 1, 2024.

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, YIELDS AND CUSIPS\***

**TAX-EXEMPT SERIES 2024-A\***

| <b>Maturity<br/>October 1*</b> | <b>Principal<br/>Amount*</b> | <b>Interest Rate</b> | <b>Price</b> | <b>Yield</b> | <b>CUSIP*<br/>Base: 437887</b> |
|--------------------------------|------------------------------|----------------------|--------------|--------------|--------------------------------|
| 2034                           | \$1,810,000                  | %                    |              | %            |                                |
| 2035                           | 2,195,000                    |                      |              |              |                                |
| 2036                           | 2,305,000                    |                      |              |              |                                |
| 2037                           | 2,420,000                    |                      |              |              |                                |
| 2038                           | 2,540,000                    |                      |              |              |                                |
| 2039                           | 2,670,000                    |                      |              |              |                                |
| 2040                           | 2,800,000                    |                      |              |              |                                |
| 2041                           | 2,940,000                    |                      |              |              |                                |
| 2042                           | 3,090,000                    |                      |              |              |                                |
| 2043                           | 3,245,000                    |                      |              |              |                                |
| 2044                           | 3,405,000                    |                      |              |              |                                |

**TAX-EXEMPT SERIES 2024A TERM BONDS\***

\$19,760,000\* \_\_\_\_\_% Due October 1, 2049\* Priced at \_\_\_\_\_ to Yield \_\_\_\_\_% CUSIP<sup>†</sup>437887 \_\_\_\_\_  
\$25,225,000\* \_\_\_\_\_% Due October 1, 2054\* Priced at \_\_\_\_\_ to Yield \_\_\_\_\_% CUSIP<sup>†</sup>437887 \_\_\_\_\_

\*Preliminary; subject to change.

<sup>c</sup> Priced to the first optional redemption date on April 1, 2034.

<sup>†</sup> CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein provided by CUSIP Global Services ("CGS"), managed on behalf of The American Bankers Association by S&P Capital IQ. This information is not intended to create a database and does not serve in any way as a substitute for services provided by CGS. CUSIP numbers have been assigned by an independent company not affiliated with the Authority or the Underwriters and are included solely for the convenience of the registered and beneficial owners of the applicable Series 2024A Bonds. Neither the Authority nor the Underwriters is responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the applicable Series 2024A Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2024A Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2024A Bonds.

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, YIELDS AND CUSIPS\*****TAXABLE SERIES 2024-B**

| <b>Maturity<br/>October 1*</b> | <b>Principal<br/>Amount*</b> | <b>Interest Rate</b> | <b>Price</b> | <b>Yield</b> | <b>CUSIP†<br/>Base: 437887</b> |
|--------------------------------|------------------------------|----------------------|--------------|--------------|--------------------------------|
| 2025                           | \$1,205,000                  | %                    |              | %            |                                |
| 2026                           | 1,280,000                    |                      |              |              |                                |
| 2027                           | 1,360,000                    |                      |              |              |                                |
| 2028                           | 1,445,000                    |                      |              |              |                                |
| 2029                           | 1,535,000                    |                      |              |              |                                |
| 2030                           | 1,630,000                    |                      |              |              |                                |
| 2031                           | 1,735,000                    |                      |              |              |                                |
| 2032                           | 1,845,000                    |                      |              |              |                                |
| 2033                           | 1,965,000                    |                      |              |              |                                |
| 2034                           | 280,000                      |                      |              |              |                                |

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\* Preliminary; subject to change.

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**ISSUER**

The Educational Building Authority of the City of Homewood

**UNIVERSITY**

Samford University

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**BORROWER**

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Regions Bank

**UNDERWRITERS**

RBC Capital Markets, LLC and Stifel, Nicolaus & Company, Incorporated

**UNDERWRITERS' COUNSEL**

Kutak Rock LLP, Denver, Colorado

## NOTICE TO INVESTORS

THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, ARE NOT TO BE DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY, OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SERIES 2024 BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.

No person has been authorized by the Authority, the Borrower or the Underwriters to give any information or to make any representation, other than those contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2024 Bonds, by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. Information with respect to the Borrower, the University and the Recreation Center Project has been furnished by the Borrower, the University and the Underwriters, respectively, and neither the Authority nor the Underwriters make any representation or warranty as to the accuracy or completeness of such information. Information with respect to the Authority under the captions “THE AUTHORITY” and “LITIGATION” (insofar as such information pertains to the Authority) has been furnished by the Authority, and neither the Borrower nor the Underwriters make any representation or warranty as to the accuracy or completeness of such information. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in any of the information set forth herein since the date hereof.

The statements and information contained in this Official Statement under the headings “THE BORROWER,” “LITIGATION” (but only insofar as such information pertains to the Borrower) and “Consequences of Changes in the Foundation’s Tax Status” under the heading “CERTAIN BONDHOLDERS’ RISKS”, and corresponding information on the cover and under the heading “SHORT STATEMENT” have been supplied by the Borrower, and neither the Underwriters nor the Authority make any representation as to its accuracy or completeness.

The Underwriters have provided the following sentence for inclusion in the Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities law as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

The quotations from, and summaries and explanations of, provisions of laws and documents contained herein, including the cover page and Appendices attached hereto, do not purport to be complete. Reference is made to such laws and documents for full and complete statements of their provisions. Any statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Series 2024 Bonds shall under any circumstances create any implication that there has been no change in the affairs of Authority or the Borrower since the date of this Official Statement.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader’s convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement for purposes of, and as that term is defined in, Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Rule”).

THE SERIES 2024 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 NOR HAS THE INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2024 BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF SECURITIES LAWS OF THE STATES IN WHICH THE SERIES 2024 BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN THE OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF

THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE SERIES 2024 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE SERIES 2024 BONDS HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THIS PRELIMINARY OFFICIAL STATEMENT IS DEEMED TO BE FINAL (EXCEPT FOR PERMITTED OMISSIONS) FOR PURPOSES OF COMPLYING WITH RULE 15c2-12.

### **CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS**

This Official Statement contains statements which should be considered “forward-looking statements,” within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended, meaning they refer to possible future events or conditions. Such statements are generally identifiable by the words such as “anticipate,” “believe,” “budget,” “estimate,” “expect,” “intend,” “plan,” “forecast,” or similar words.

If and when included in this Official Statement or in documents incorporated herein by reference, the words “projections,” “expects,” “intends,” “anticipates,” and “estimates” and analogous expressions are intended to identify “forward-looking statements,” as defined in the Private Securities Litigation Reform Act of 1995. Any such statements, which may include statements contained under the headings “THE RECREATION CENTER PROJECT,” “CERTAIN BONDHOLDERS’ RISKS” and inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Such risks and uncertainties include, among others, general economic and business conditions; competition; changes in political, social, and economic conditions; regulatory initiatives and compliance with governmental regulations; discovery of previously unknown conditions; and various other events, conditions, and circumstances. These forward-looking statements speak only as of the date of this Official Statement. The Authority, the Underwriters, and the Borrower expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained in this Official Statement to reflect any change in their expectations with regard thereto or any change in events, conditions, or circumstances on which any such statement is based.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS THAT MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE BORROWER DOES NOT EXPECT OR INTEND TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

On or prior to the delivery of the Series 2024 Bonds, the Borrower and the University will each enter into an undertaking for the benefit of the owners of the Series 2024 Bonds to send or cause to be sent certain financial information and operating data to certain information repositories annually and to provide notice to the Municipal Securities Rulemaking Board or to certain information repositories of certain events, pursuant to the requirements of Section (b)(5)(i) of the Rule.



## RECREATION CENTER PROJECT RENDERINGS



# Table of Contents

Page

|  |    |
|--|----|
| SHORT STATEMENT .....  | 1  |
| Purpose of This Official Statement .....                               | 1  |
| The Authority .....  | 1  |
| The Borrower .....   | 2  |
| The Foundation.....  | 2  |
| The University .....   | 2  |
| The Trustee.....   | 3  |
| Plan of Finance.....   | 3  |
| Description of the Series 2024 Bonds .....                             | 4  |
| Certain Bondholders' Risks.....  | 6  |
| Continuing Disclosure .....  | 6  |
| Miscellaneous.....   | 7  |
| THE AUTHORITY .....  | 7  |
| THE GROUND LEASE.....  | 7  |
| Term; No Leasehold Mortgage.....                                       | 7  |
| Covenants of the Authority .....                                       | 8  |
| PLAN OF FINANCING.....   | 8  |
| The Recreation Center Project.....                                     | 8  |
| ESTIMATED SOURCES AND USES OF FUNDS .....                              | 9  |
| THE SERIES 2024 BONDS.....   | 9  |
| General Description.....   | 9  |
| Registration of Bonds .....  | 10 |
| Series 2024 Bonds Are Limited Obligations .....                        | 10 |
| Redemption .....   | 10 |
| ANNUAL DEBT SERVICE REQUIREMENTS.....                                  | 13 |
| SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS.....         | 14 |
| Pledge and Assignment of Trust Estate .....                            | 14 |
| Facility Lease; Rent.....  | 15 |
| Pledged Revenues; Borrower Security Agreement .....                    | 16 |
| Outstanding Covered Parity Debt of the University; Cross Default.....  | 16 |
| Funds Held Under the Indenture .....                                   | 17 |
| Title and Property Insurance.....                                      | 19 |
| Additional Bonds.....  | 19 |
| Enforceability of Remedies .....                                       | 19 |
| Certain Covenants of the Borrower Under the Bond Lease .....           | 19 |
| The Borrower's Obligation to Operate.....                              | 21 |
| THE FACILITY LEASE.....  | 21 |
| Rent .....   | 21 |
| Redemption of Series 2024 Bonds; Prepayment of Rent.....               | 23 |
| Default.....   | 23 |
| Insurance .....  | 24 |
| Obligations Unconditional.....   | 24 |
| THE DEVELOPMENT MANAGER AND THE DEVELOPMENT AGREEMENT .....            | 24 |
| The Development Manager .....  | 24 |
| Development Agreement.....   | 25 |
| THE CONSTRUCTION MANAGER AND THE CONSTRUCTION SERVICES AGREEMENT ..... | 26 |
| The Construction Manager .....   | 26 |
| The Architect.....   | 27 |
| MANAGEMENT OF RECREATION FACILITY .....                                | 27 |



Table of Contents  
(continued)

|   |    |
|---|----|
| Service Contracts; Management Agreement .....                                       | 27 |
| The Facilities Manager and the Services Agreement .....                             | 27 |
| THE BORROWER.....   | 28 |
| General .....   | 28 |
| The Foundation.....   | 28 |
| NO RECOURSE AGAINST THE BORROWER’S MEMBER AND OFFICERS .....                        | 29 |
| THE UNIVERSITY .....  | 29 |
| CERTAIN BONDHOLDERS’ RISKS.....   | 30 |
| Introduction .....  | 30 |
| Economic and Other Factors .....  | 30 |
| Limited Obligations of the Authority .....  | 31 |
| Risks of Construction .....   | 31 |
| Limited Resources.....  | 32 |
| Risks Associated with Leasehold Interest and No Leasehold Mortgage .....            | 32 |
| Reliance on the University; Outstanding Covered Parity Debt of the University ..... | 32 |
| No Debt Service Reserve Fund .....  | 33 |
| Insurance and Legal Proceedings .....   | 33 |
| Bankruptcy .....  | 33 |
| Limitations on Enforceability of Remedies.....                                      | 34 |
| Possible Limitations on Security .....  | 34 |
| Additional Bonds.....   | 35 |
| Clean-up Costs and Liens Under Environmental Statutes.....                          | 35 |
| Cybersecurity Risks.....  | 35 |
| COVID-19 and Future Pandemics or Epidemics.....                                     | 35 |
| Risk of Early Redemption .....  | 36 |
| Forward Looking Statements.....   | 36 |
| Consequences of Changes in the Foundation’s Tax Status .....                        | 36 |
| Effect of Determination of Taxability .....   | 36 |
| Taxation of Series 2024 Bonds.....  | 37 |
| Risk of Audit by Internal Revenue Service .....                                     | 37 |
| Market and Prices for the Series 2024 Bonds.....                                    | 37 |
| LITIGATION .....  | 37 |
| The Authority .....   | 37 |
| The Borrower .....  | 38 |
| The University .....  | 38 |
| TAX MATTERS .....   | 38 |
| The Tax-Exempt Bonds.....   | 38 |
| The Series 2024B Bonds .....  | 39 |
| UNDERWRITING .....  | 39 |
| SPECIAL RELATIONSHIPS .....   | 40 |
| OPINIONS AND ENGAGEMENT OF BOND COUNSEL.....  | 41 |
| Opinions of Bond Counsel .....  | 41 |
| Termination of Engagement of Bond Counsel Upon Issuance of Series 2024 Bonds.....   | 41 |
| RATING.....   | 41 |
| LEGAL MATTERS AND OTHER ADVISORS.....   | 41 |
| CONTINUING DISCLOSURE.....  | 42 |
| MISCELLANEOUS .....   | 43 |

Table of Contents  
(continued)

|              |  |
|--------------|--|
| APPENDIX A-1 | INFORMATION REGARDING SAMFORD UNIVERSITY   |
| APPENDIX A-2 | AUDITED FINANCIAL STATEMENTS OF THE UNIVERSITY FOR THE YEARS<br>ENDED JUNE 30, 2023 AND 2022 |
| APPENDIX B-1 | FORM OF THE TRUST INDENTURE AS SUPPLEMENTED  |
| APPENDIX B-2 | FORM OF THE BOND LEASE   |
| APPENDIX C   | DTC BOOK-ENTRY SYSTEM  |
| APPENDIX D   | PROPOSED FORMS OF OPINIONS OF BOND COUNSEL   |
| APPENDIX E-1 | FORM OF BORROWER CONTINUING DISCLOSURE AGREEMENT   |
| APPENDIX E-2 | FORM OF UNIVERSITY CONTINUING DISCLOSURE AGREEMENT   |
| APPENDIX F   | FORM OF FACILITY LEASE   |

## **OFFICIAL STATEMENT**

**Relating to:**

**\$88,685,000\***

**THE EDUCATIONAL BUILDING AUTHORITY  
OF THE CITY OF HOMEWOOD (ALABAMA)**

**Lease Revenue Bonds**

**(CHF – Horizons I, L.L.C. Recreation Center Project at Samford University)**

**\$74,405,000\***

**Tax-Exempt Series 2024-A**

**\$14,280,000\***

**Taxable Series 2024-B**

## **SHORT STATEMENT**

This Short Statement contains certain information for quick reference only. Prospective purchasers of the Series 2024 Bonds must read this entire Official Statement, including the appendices hereto, in order to obtain information essential to the making of an informed investment decision. The information set forth in this short statement is subject in all respects to more complete information set forth elsewhere in this Official Statement, which should be read in its entirety.

All capitalized terms used in this Official Statement and not otherwise defined herein have the same meaning as in the hereinafter defined Indenture, Bond Lease and Facility Lease. To the extent there are conflicts in defined terms used in this Official Statement, the definitions in the Indenture and Bond Lease shall control. The descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each document for the complete details of its terms and conditions. All statements herein are qualified in their entirety by reference to each document. Forms of the Indenture and the Bond Lease are attached respectively in Appendices D-1 and D-2 hereto and a form of the Facility Lease is attached as Appendix F hereto. The offering of the Series 2024 Bonds to potential investors is made only by means of this entire Official Statement. No person is authorized to detach this short statement from this Official Statement or otherwise to use it without this entire Official Statement.

### **Purpose of This Official Statement**

This Official Statement, which includes the cover page, prefatory information and the appendices, furnishes information in connection with the issuance and sale by The Educational Building Authority of the City of Homewood (the “Authority”) of (a) \$74,405,000\* aggregate principal amount of its Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), Tax-Exempt Series 2024-A (the “Series 2024A Bonds”); and (b) \$14,280,000\* aggregate principal amount of its Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), Taxable Series 2024-B (the “Series 2024B Bonds” and, together with the Series 2024A Bonds, the “Series 2024 Bonds”). The Series 2024 Bonds and any additional bonds issued in the future under the Indenture (defined below) are collectively referred to herein as the “Bonds.”

### **The Authority**

The Authority is a public corporation of the State of Alabama established under Chapter 17 of Title 16 of the Code of Alabama 1975 (the “Enabling Law”). The Authority has no taxing power.

Reference is made to the Enabling Law for a complete description of the powers of the Authority. The Authority is governed by directors elected by the City Council of the City of Homewood, Alabama. All powers of the Authority are vested in the board of directors.

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\* Preliminary; subject to change.

The Indenture provides that the obligations of the Authority under the Series 2024 Bonds and the Indenture are limited to, and are payable solely from, the Trust Estate, without recourse to the Authority and without recourse to any past, present or future incorporator, officer, or director of the Authority or of any successor corporation. See “THE AUTHORITY” herein.

### **The Borrower**

CHF – Horizons I, L.L.C. (the “Borrower”) is a single member limited liability company duly formed and validly existing under the laws of the State of Alabama. The sole member of the Borrower is the Collegiate Housing Foundation (the “Foundation”). The Borrower is treated as a “disregarded entity” of the Foundation for federal income tax purposes, meaning that its activities are deemed to be those of its sole member for federal income tax purposes. The Foundation, as the Borrower’s sole member, has executed a Limited Liability Company Agreement (the “Operating Agreement”), dated March 5, 2024, setting forth the purpose of the Borrower and vesting the management of the Borrower exclusively in the Foundation, as sole member. See “THE BORROWER” herein.

### **The Foundation**

The Foundation is a nonprofit corporation formed in 1996 under the laws of the State of Alabama. The Foundation is also an organization that is exempt from federal income tax pursuant to §501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Federal Tax Code”). It was organized and is operated exclusively for charitable and educational purposes including the purpose of assisting colleges and universities in providing housing for their enrolled students and otherwise assisting them in furtherance of their educational missions. The membership of the Foundation is comprised of those colleges and universities so assisted by the Foundation. To date, the Foundation has assisted 50 different colleges and universities with providing housing, including multiple housing facilities on some campuses. In assisting many of those colleges and universities, the Foundation has established other single member limited liability companies for the limited purpose of acquiring and financing student housing projects for such schools, none of which have any assets other than the particular project for which they were established or any obligations beyond the acquisition and financing of such particular project. **Neither the Foundation nor any limited liability company established by the Foundation other than the Borrower will have any obligation with respect to the Series 2024 Bonds or under the hereinafter described, Bond Lease, Facility Lease, or the Borrower Security Agreement.** See “THE BORROWER—The Foundation” herein.

### **The University**

Samford University (“Samford” or the “University”) is one of the country’s leading Christian universities and offers undergraduate programs grounded in the liberal arts with an array of nationally recognized graduate and professional schools. Founded in 1841, Samford is the 87th-oldest institution of higher learning in the United States. Located in the Birmingham, Alabama suburb of Homewood, the university’s campus covers approximately 247 acres and is renowned for its beauty and Georgian-Colonial style architecture. The university currently enrolls 5,791 students from 49 states, the District of Columbia and 16 countries. The student-to-faculty ratio is 14:1, with an average undergraduate class size of 19 people.

The University continues to receive national recognition for the value, affordability, and the quality of its academic programs. In its annual ranking of higher education institutions, The Wall Street Journal ranked Samford #10 in the nation for career preparation of its students (2024). Two years prior, the same publication ranked Samford first in the nation for student engagement (2022). Samford offers undergraduate and graduate degrees across 10 academic schools: arts, arts and sciences, business, divinity, education, health professions, law, nursing, pharmacy, and public health. The University has one of three accredited law schools and one of only two accredited pharmacy schools in Alabama. Samford’s Beeson Divinity School is the only fully accredited graduate divinity school based in Alabama. The University is classified by the Carnegie Commission on Higher Education as a national doctoral/professional institution.

Samford’s mission to nurture student development intellectually, ethically, and spiritually is fostered through an array of opportunities, including 182 student organizations, global engagement in more than 14 different countries, and a wide array of courses that incorporate community service. Additionally, undergraduate students complete Samford’s core curriculum, providing a well-rounded foundation in the liberal arts. The result is a highly tailored

educational experience that results in 97% of undergraduate alumni employed or in further study within six months of graduation. See “THE UNIVERSITY” herein. In addition, demographic and summary operating and financial information related to the University is attached hereto as Appendix A-1. The University’s Consolidated Financial Statements for the years ended June 30, 2023 and 2022, are attached hereto as Appendix A-2.

## **The Trustee**

Regions Bank will act as trustee, bond registrar, and paying agent for the Series 2024 Bonds.

## **Plan of Finance**

The Series 2024 Bonds are being issued for the purposes of providing funds to finance the costs of: (a) the acquisition, construction, furnishing and equipping of an approximately 154,000 square foot recreation center and athletic complex (the “Recreation Facility”) and related site improvements, currently under construction on the Samford campus and refinancing outstanding debt related thereto; and (b) amounts required for capitalized interest, costs of issuance and other financing expenses related to the issuance of the Series 2024 Bonds (collectively, the “Recreation Center Project”). Construction of the Recreation Facility on the University’s campus is currently underway and expected to be fully completed in October 2024. For further information on the Recreation Facility, see “PLAN OF FINANCING – The Recreation Center Project” herein.

The design and construction of the Recreation Facility has been initially financed through a term loan in the principal amount of \$84,706,398.68 (the “UFI Term Loan”), made to the University as of June 30, 2023 by United Financial of Illinois, Inc., an Illinois corporation (together with its successors and assigns, the “Lender”) pursuant to the terms of a Loan Agreement dated as of June 30, 2023, by and between the University and the Lender. Proceeds of the Series 2024 Bonds will be used to pay and cancel the UFI Term Loan and discharge the Loan Agreement on the date of issuance of the Series 2024 Bonds (the “Closing Date”).

Concurrently with the issuance of the Series 2024 Bonds, the Authority will issue its \$122,195,000\* Revenue Bonds (CHF – Horizons II, L.L.C. Student Housing & Parking Project at Samford University) Tax-Exempt Series 2024-C and its \$66,605,000\* Revenue Bonds (CHF – Horizons II, L.L.C. Student Housing & Parking Project at Samford University) Taxable Series 2024-D (collectively the “Series 2024CD Bonds”) to finance the construction of certain student housing and parking facilities on the core campus of the University. See “SHORT STATEMENT—University NFRA Payments for Student Housing & Parking Project Bonds.”

## **Security and Sources of Payment for the Series 2024 Bonds**

***The Ground Lease.*** The Recreation Facility is located certain land (collectively, the “Property”) on the core campus of the University. The Property will be leased to the Authority pursuant to a Ground Lease (the “Ground Lease”) dated the date of issuance of the Series 2024 Bonds, between the University, as landlord and the Authority, as tenant. Pursuant to the Ground Lease, the University will lease the Property to the Authority, beginning on or about the date of issuance of the Series 2024 Bonds, and continuing for a period of 35 years thereafter; provided, the University may terminate the Ground Lease at any time after the defeasance and termination of the Bond Lease and the Indenture in accordance with the respective terms thereof. See “THE GROUND LEASE” herein. Payment of the Series 2024 Bonds is not secured by a Leasehold Mortgage on the Recreation Facility. The Trustee has no ability to foreclose or exercise other leasehold mortgage remedies with respect to the Recreation Facility upon an Event of Default under the Bond Documents. See “CERTAIN BONDHOLDER’S RISKS—Risks Associated with Leasehold Interest and No Leasehold Mortgage.”

***Indenture.*** As security for its obligations under the Series 2024 Bonds, the Authority will enter into the Trust Indenture, dated as of June 1, 2024 (as supplemented and amended, the “Indenture”) with the Trustee. Pursuant to the Indenture, the Authority will pledge, assign and grant to the Trustee a first priority security interest in the Bond Lease,

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\* Preliminary; subject to change.

all property described therein, all amounts to be received thereunder, and all property to be held thereunder (except for Unassigned Rights as defined in the Bond Lease).

**Bond Lease.** Pursuant to the Bond Lease, the Borrower agrees to make Basic Lease Payments to the Trustee in such amounts as will be sufficient to pay, when due, the principal or redemption price of and interest on the Series 2024 Bonds. In addition, the Borrower agrees to make Additional Lease Payments to the Trustee for payment of additional fees, expenses and other payment obligations of the Borrower under the Bond Lease. Basic Lease Payments and Additional Lease Payments are collectively referred to herein as Lease Payments. The Bond Lease will constitute an obligation of the Borrower to pay amounts sufficient to pay principal or redemption price of and interest on the Series 2024 Bonds. Pursuant to the Indenture, the Authority will assign to the Trustee all of its right, title and interest in and to, and remedies under, the Bond Lease, except for certain reserved rights, including rights to reimbursement of expenses and indemnification. See “SECURITY AND SOURCES OF PAYMENT OF THE SERIES 2024 BONDS” and “FORM OF THE BOND LEASE” in Appendix B-2 hereto.

**Facility Lease.** The University will enter into a Facility Lease with the Borrower, dated the date of issuance of the Series 2024 Bonds (the “Facility Lease”) detailing the University’s obligations related to the construction, furnishing, installation, and equipping of the Recreation Facility, including all Offsite Improvements (as defined therein) related thereto, by the guaranteed date and for the agreed upon not-to-exceed total development cost for the Recreation Facility. In addition, payments of Base Rent (as defined in the Facility Lease) to be received by the Borrower from the University pursuant to the Facility Lease will be deposited directly by the University with the Trustee as a credit against, and as the primary source of repayment for, the Borrower’s obligation to make Basic Lease Payments pursuant to the Bond Lease. The Base Rent is calculated to be in an amount sufficient to make such Basic Lease Payments. The University will also, on the Borrower’s behalf, make payments of Additional Rent (as defined in the Facility Lease, and together with the Base Rent, shall be referred to herein as “Rent”) directly to the Trustee to be credited against, and as the primary source of repayment for, the Borrower’s obligation to make Additional Lease Payments under the Bond Lease. The University’s obligations under the Facility Lease, including its obligation to pay sufficient Rent under the Facility Lease, are absolute, irrevocable and unconditional without regard to any claim of the University to any right of abatement, counterclaim, set-off, recoupment, or other claim or action the University may have against the Borrower, the Authority, or the Trustee and constitutes a general obligation of the University payable from all lawfully available funds and revenues thereof. See “THE FACILITY LEASE” and the form of Facility Lease attached hereto as Appendix F.

**Borrower Security Agreement.** To secure the Borrower’s obligations to the Authority under the Bond Lease, the Borrower will execute and deliver to the Trustee a Borrower Security Agreement (the “Borrower Security Agreement”) dated the date of issuance of the Series 2024 Bonds, pursuant to which the Borrower will pledge, assign and grant to the Trustee a continuing security interest in, all right, title and interest to the “Collateral” as such term is defined in the Borrower Security Agreement, and which includes all Pledged Revenues, including of the Borrower’s rights under the Facility Lease, all accounts and funds established thereunder and all Base Rent payments to be made by the University to the Borrower thereunder. See “SECURITY AND SOURCES OF PAYMENT OF THE SERIES 2024 BONDS—Pledged Revenues; Borrower Security Agreement” herein.

### **Description of the Series 2024 Bonds**

**Redemption.** The Series 2024 Bonds are subject to redemption prior to their stated maturity. See “THE SERIES 2024 BONDS—Redemption” herein.

**Denominations.** The Series 2024 Bonds are issuable in denominations of \$5,000 and any multiple thereof. See “THE SERIES 2024 BONDS” herein.

**Registration, Transfers and Exchanges.** The Series 2024 Bonds will be issued in fully registered form and will initially be in book-entry form through The Depository Trust Company (“DTC”). Bondholders will not receive a certificate representing their Series 2024 Bonds except in very limited circumstances. When in book-entry form, ownership of Series 2024 Bonds held by DTC or its nominee, Cede & Co., on behalf of the beneficial owners thereof (the “Beneficial Owners”), and beneficial ownership may be transferred upon delivery to DTC (or its nominee, Cede & Co.) of an assignment duly executed by the Beneficial Owner or his duly authorized attorney or legal representative. See “THE SERIES 2024 BONDS” herein.



**Payments.** Interest on the Series 2024 Bonds is payable on April 1 and October 1 of each year (each such date, a “Stated Interest Payment Date”), commencing October 1, 2024. Payment of the principal of and interest on the Series 2024 Bonds will be made by the Trustee directly to Cede & Co., as nominee of DTC, and will subsequently be disbursed to DTC Participants (as defined in “DTC BOOK-ENTRY SYSTEM” in Appendix C hereto) and thereafter to Beneficial Owners of the Series 2024 Bonds. See “DTC BOOK-ENTRY SYSTEM” in Appendix C hereto.

**Tax Exemption.** Upon the issuance of the Series 2024A Bonds (the “Tax-Exempt Bonds”), Maynard Nexsen PC, as Bond Counsel, will provide opinions, substantially in the forms thereof in Appendix D, subject to amendment to comply with relevant facts and applicable law on such date, that, under existing law and subject to the assumptions, exceptions and qualifications set forth in “TAX MATTERS” hereinafter, that (a) interest on the Series 2024A Bonds (i) is excludable from gross income for federal income tax purposes under the Federal Tax Code, (ii) is not an item of tax preference for purposes of the federal alternative minimum tax; provided, as a result of amendments to the Federal Tax Code enacted pursuant to the Inflation Reduction Act of 2022, interest on the Series 2024A Bonds may be taken into account for purposes of the alternative minimum tax imposed by Section 55(b)(2) of the Federal Tax Code, and (iii) is exempt from State of Alabama income taxation, and (b) interest on the Series 2024B Bonds (i) is not excludable from gross income for purposes of federal income taxation and (ii) is exempt from State of Alabama income taxation. See “TAX MATTERS” herein and the forms of opinions of Bond Counsel contained in Appendix D to this Official Statement.

For a more complete description of the Series 2024 Bonds, see “THE SERIES 2024 BONDS” herein.

### **The Recreation Facility Development Team**

**The Development Manager.** Landmark Development Services Company, LLC (“Landmark” or the “Development Manager”) is a real estate development company based in Madison, Wisconsin which has and will continue to provide development management services during the design and construction phase of the Recreation Facility, in accordance with the Development Services Agreement with the University, dated as of March 1, 2023 (the “Development Agreement”). See “THE DEVELOPMENT MANAGER AND THE DEVELOPMENT AGREEMENT” herein.

**The Architect.** Davis Architects, Inc. is the architect for the Recreation Facility (the “Architect”) responsible for management of design and engineering subconsultants on the respective elements of the Recreation Facility, as set forth in the Design Services Agreement between the University and the Architect, dated as of June 15, 2023 (the “Architect Agreement”). See “THE DEVELOPMENT MANAGER AND THE DEVELOPMENT AGREEMENT—The Architect” herein.

**The Construction Manager.** Hoar Construction, LLC, a Delaware limited liability company (the “Construction Manager”) is the Construction Manager for the Recreation Facility. The Construction Manager entered into a Construction Services Agreement with the University, dated as June 15, 2023, with respect to the Recreation Facility (the “Construction Services Agreement”). The Construction Services Agreement obligates the Construction Manager to construct the Recreation Facility not to exceed a fixed construction budget, subject to adjustment as provided in the Construction Services Agreements. See “THE CONSTRUCTION MANAGER AND THE CONSTRUCTION SERVICES AGREEMENT” herein.

### **University NFRA Payments for Student Housing & Parking Project Bonds**

Concurrently with the issuance of the Series 2024 Bonds, the Authority will issue its \$122,195,000\* Revenue Bonds (CHF – Horizons II, L.L.C. Student Housing & Parking Project at Samford University) Tax-Exempt Series 2024C and its \$66,605,000\* Revenue Bonds (CHF – Horizons II, L.L.C. Student Housing & Parking Project at Samford University) Taxable Series 2024D (collectively the “Series 2024CD Bonds”), which are being issued for the purposes of financing: (a) construction of Phase 1A of the Samford Horizons Campus Master Plan on the core campus of the University, consisting of (i) an approximately 515-bed student housing facility for freshman students (the “Freshman Housing Facility”), (ii) an approximately 140-bed student housing facility for upper-level students and

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\* Preliminary; subject to change.

Greek organizations (the “Greek Housing Facility” and together with the Freshman Housing Facility, the “Student Housing Facilities”), and (iii) an approximately 540-space parking deck expansion, and related amenities and facilities, along with associated site development, for the benefit of the students of the University; and (b) amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Series 2024 Bonds. The Series 2024CD Bonds are being offered under a separate official statement and are secured under a separate indenture of trust and payable from revenues derived from the operation of the Student Housing Facilities and certain payments from the University (the “NFRA Payments”) payable pursuant to an Affiliation Agreement, dated as of the date of issuance of the Series 2024 Bonds, by and between CHF – Horizons II, L.L.C. (the “Series 2024CD Borrower”) and the University. The University’s obligation to make such NFRA Payments is an unconditional and absolute obligation of the University on a parity with the University’s obligation to pay Rent under the Facility Lease, and such NFRA Payments are available for payment of the principal of and interest on the Series 2024CD Bonds without regard to any claim of the University to any right of abatement, counterclaim, set-off, recoupment, or other claim or action the University may have against the Series 2024CD Borrower, the Authority, or the Trustee. The University’s obligations to make NFRA Payments and Rent payments are each a general obligation of the University payable from all lawfully available funds and revenues thereof. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Outstanding Covered Parity Debt of the University”. See also “CERTAIN BONDHOLDERS’ RISKS - General”.

### **Certain Bondholders’ Risks**

A PROSPECTIVE BONDHOLDER IS ADVISED TO READ THE ENTIRE OFFICIAL STATEMENT, INCLUDING THE APPENDICES HERETO, BEFORE MAKING AN INVESTMENT DECISION TO PURCHASE SERIES 2024 BONDS. SPECIAL REFERENCE IS MADE TO THE SECTIONS “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS” AND “CERTAIN BONDHOLDERS’ RISKS” HEREIN FOR A DISCUSSION OF CERTAIN RISK FACTORS WHICH SHOULD BE CONSIDERED IN CONNECTION WITH AN INVESTMENT IN THE SERIES 2024 BONDS. Careful consideration should be given to these risks and other risks described elsewhere in this Official Statement as well as other risks that are typical with respect to similar offerings. Among other things, the Series 2024 Bonds and the obligation to pay principal, premium, if any, and interest thereon, are special, limited obligations of the Authority, secured by the Trust Estate (as defined herein) as provided in the Indenture and payable solely out of the payments made pursuant to the Bond Lease, the Facility Lease and the Borrower Security Agreement (as defined in the Indenture) and as otherwise provided in the Indenture and the Bond Lease. In addition, because the Series 2024 Bonds are payable solely from the Borrower’s receipt of payments of Base Rent and Additional Rent under the Facility Lease, careful evaluation should be made of the adverse effects from a wide variety of future events and conditions including construction risks, a decline in the enrollment of the University, increased competition from other schools and other student housing facilities on or near the University campus, loss of accreditation, failure to meet federal guidelines or some other event that results in students being ineligible for federal financial aid, and cost overruns in connection with the Recreation Facility or other capital improvements, that may adversely and materially affect the ability of the University to make such payments of Base Rent and Additional Rent sufficient to pay its expenses of operation, including the principal or redemption price of and interest on the Series 2024 Bonds. At the time of the execution and delivery of the Series 2024 Bonds, no debt service reserve fund will be established to secure the payment of the principal of and interest on the Series 2024 Bonds. There is no intention of establishing a debt service reserve fund in the future to secure the payment of the principal of and interest on the Series 2024 Bonds. Additionally, no leasehold mortgage will be established to secure the Series 2024 Bonds. See “CERTAIN BONDHOLDERS’ RISKS” and “CAUTIONARY STATEMENTS REGARDING FORWARD LOOKING STATEMENTS” herein. The foregoing risks are not intended to be exhaustive but include certain major factors that should be considered by prospective purchasers along with other factors set forth elsewhere in this Official Statement, including the Appendices hereto.

### **Continuing Disclosure**

The Borrower will agree to provide information pursuant to a Continuing Disclosure Agreement required by the provisions of Rule 15c2-12 (“Rule 15c2-12”) promulgated by the SEC, and neither the University nor the Authority will undertake any responsibility with respect to such continuing disclosure of the Borrower under Rule 15c2-12. See “CONTINUING DISCLOSURE” herein and “APPENDIX E-1—FORM OF BORROWER CONTINUING DISCLOSURE AGREEMENT” attached hereto for a more detailed description of disclosure requirements of the Borrower.

The University will agree to provide information pursuant to a Continuing Disclosure Agreement required by the provisions of Rule 15c2-12 promulgated by the SEC, and neither the Borrower nor the Authority will undertake any responsibility with respect to such continuing disclosure of the University under Rule 15c2-12. See “CONTINUING DISCLOSURE” herein and “APPENDIX E-2—FORM OF UNIVERSITY CONTINUING DISCLOSURE AGREEMENT” attached hereto for a more detailed description of disclosure requirements of the University.

## **Miscellaneous**

This Official Statement speaks only as of its date, and the information contained herein is subject to change without notice. Copies of the Official Statement in final form will be provided to the Municipal Securities Rulemaking Board for availability to the public on its Electronic Municipal Market Access web site known as EMMA. Copies of this Official Statement and other relevant documents and information regarding the documents are available upon request from the Underwriters prior to the issuance and delivery of the Series 2024 Bonds and from the Trustee after the issuance and delivery of the Series 2024 Bonds. This Official Statement, including the cover page and the attached Appendices, contains specific information relating to the Series 2024 Bonds, the Authority, the University, the Recreation Facility, and the Borrower and other information pertinent to the Series 2024 Bonds described herein. Persons considering purchasing the Series 2024 Bonds should review carefully the Appendices attached hereto as well as copies of such documents, which prior to the issuance of the Series 2024 Bonds may be obtained from the Underwriters and, following the issuance of the Series 2024 Bonds, will be held by the Trustee at its designated corporate trust office.

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

## **THE AUTHORITY**

The Authority is a public nonprofit corporation duly organized and existing under the laws of the State of Alabama (the “State”), including particularly Chapter 17 of Title 16 of the Code of Alabama 1975 (the “Act”). The Authority is authorized under the Act to carry out the public purposes described in the Act by issuance of its revenue bonds to provide funds for the financing of education and multi-family housing projects located in Homewood, Alabama. The Authority does not have the power of taxation.

AS DESCRIBED ON THE COVER HEREOF, THE SERIES 2024 BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY OUT OF REVENUES SPECIFICALLY PLEDGED THERETO.

Although the Authority has authorized the use of this Official Statement in connection with the offer and the sale of the Series 2024 Bonds, it has not participated in the preparation hereof and it assumes no responsibility as to its accuracy or completeness (other than with respect to the information in “THE AUTHORITY” and “LITIGATION—The Authority”).

## **THE GROUND LEASE**

*In addition to the description of certain provisions of the Ground Lease contained elsewhere herein, the following is a brief summary of certain provisions of the Ground Lease and does not purport to be comprehensive or definitive. Capitalized terms used but not defined in the below summary of certain provisions of the Ground Lease have the meaning ascribed in the Ground Lease.*

### **Term; No Leasehold Mortgage**

Pursuant to a Ground Lease dated the date of the issuance of the Series 2024 Bonds, the University, as lessor will agree to lease the Property to the Authority, as lessee, beginning on or about the date of issuance of the Series 2024 Bonds, and continuing for a period of 35 years thereafter; provided, the University may terminate the Ground

Lease at any time after the defeasance and termination of the Bond Lease and the Indenture in accordance with the respective terms thereof. Payment of the Series 2024 Bonds is not secured by a Leasehold Mortgage on the Recreation Facility. The Trustee has no ability to foreclose or exercise other leasehold mortgage remedies with respect to the Recreation Facility in an Event of Default under the Bond Documents. See “CERTAIN BONDHOLDER’S RISKS—Risks Associated with Leasehold Interest and No Leasehold Mortgage.”

### **Covenants of the Authority**

The Authority covenants and agrees with the University that: (a) the Authority will not authorize, execute or deliver the Bond Lease without the prior written consent of the University; (b) the Authority will duly and punctually observe and perform all agreements and obligations thereof under the Bond Lease and the Indenture in due time, form and manner as provided therefor; (c) the Authority will not use, or permit the use of, the Property by any Person, or for any purpose, other than the location and operation of the Recreation Facility pursuant to the Bond Lease; (d) the Authority will apply all proceeds of any insurance and condemnation awards made in respect of the interest of the Authority in and to the Recreation Facility in accordance with the Indenture and the Bond Lease; (e) the Authority will not alien, assign, convey, encumber or transfer any interest of the Authority in and to the Property or the Ground Lease without the prior written consent of the University.

## **PLAN OF FINANCING**

### **The Recreation Center Project**

This Official Statement, including the cover page and the Appendices hereto, furnishes certain information in connection with the sale by the Authority of the Series 2024 Bonds for the purpose of providing funds to finance and refinance the costs of constructing the Recreation Facility, described below, on the core campus of the University. Proceeds of the Series 2024 Bonds will also finance amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Series 2024 Bonds. All capitalized terms used in this Official Statement and not otherwise defined herein shall have the meanings ascribed thereto in the Indenture and the Bond Lease, as applicable, which are attached in Appendices B-1 and B-2 hereto, respectively.

Construction of the Recreation Facility is currently underway and expected to be completed in October 2024. When completed, the Recreation Facility complex will include: (a) Seibert Hall being completely redesigned to include two basketball courts, a new multi-use court, studios for fitness classes, an e-sports studio, dance studios, state-of-the-art weight and cardio machines, a multi-purpose workout area, relocating the scoreboard for the Bobby Bowden Field, and common areas for students to gather with lounge areas, a coffee house and a 24-hour convenience store; (b) Bashinsky Field House being fully refurbished as a dedicated facility for the University’s student-athletes, including new training spaces for teams and practice spaces for the men’s and women’s basketball and volleyball program; (c) a third building being built adjacent to Seibert Hall with approximately 20,000 square feet of recreation and event space, which will include a suspended indoor track, additional basketball courts and cardio spaces, sound and staging to host campus events, a catering kitchen, covered outdoor athletic space, a pedestrian walkway and a covered balcony that overlooks Bobby Bowden Field.

The proceeds of the Series 2024 Bonds will also finance and refinance the costs of certain Offsite Improvements, including renovations to the first floor of the Dwight and Lucille Beeson Center, located directly across the street from the Recreation Facility complex discussed above, which was renovated to serve as the new home for the University’s health center and counseling services, for the benefit of the University students. Offsite Improvements also include landscaping, site paving, and limited site infrastructure, as well as football field improvements, around and for the benefit of the Recreation Facility located outside of the footprint of the Ground Lease. The cost of the Offsite Improvements financed or refinanced with the proceeds of the Series 2024 Bonds totals approximately \$3,300,660\*.

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\* Preliminary; subject to change.

The design and construction of the Recreation Facility has been initially financed through the UFI Term Loan. Proceeds of the Series 2024 Bonds will be used to pay and cancel the Term Loan and discharge the Loan Agreement on the date of issuance of the Series 2024 Bonds.

### ESTIMATED SOURCES AND USES OF FUNDS\*

The schedule below contains the estimated sources and uses of funds resulting from the sale of the Series 2024 Bonds:

|  | Series 2024A<br>Bonds  | Series 2024B<br>Bonds  | Aggregate              |
|--|------------------------|------------------------|------------------------|
| <b>Sources:*</b>                                     |                        |                        |                        |
| The Series 2024 Bonds                                | \$74,405,000.00        | \$14,280,000.00        | \$88,685,000.00        |
| [Net] Original Issue Premium                         | <u>2,926,991.95</u>    | --                     | <u>2,926,991.95</u>    |
| Total  | <u>\$77,331,991.95</u> | <u>\$14,280,000.00</u> | <u>\$91,611,991.95</u> |
| <b>Uses:*</b>  |                        |                        |                        |
| UFI Term Loan Payoff                                 | \$73,475,665.73        | \$14,000,000.00        | \$87,475,665.73        |
| Deposit to the Series 2024A Construction Fund        | 1,250,000.00           | --                     | 1,250,000.00           |
| Deposit to Capitalized Interest Account <sup>1</sup> | 1,116,075.00           | 270,376.50             | 1,386,451.50           |
| Costs of Issuance <sup>2</sup>                       | <u>1,490,251.22</u>    | <u>9,623.50</u>        | <u>1,499,874.72</u>    |
| Total  | <u>\$77,331,991.95</u> | <u>\$14,280,000.00</u> | <u>\$91,611,991.95</u> |

<sup>1</sup> This amount, constituting the amount of interest to be paid on the Series 2024 Bonds during and shortly after construction of the Recreation Facility, will be deposited to the Capitalized Interest Account of the Series 2024A Construction Fund and to the Capitalized Interest Account of the Series 2024B Construction Fund and disbursed to pay the initial interest to accrue on the Series 2024 Bonds through October 1, 2024.

<sup>3</sup> Includes Underwriters' discount, legal fees, accounting fees, Authority fees, and other costs of issuance.

### THE SERIES 2024 BONDS

#### General Description

The Series 2024 Bonds will be issued in the aggregate principal amount of \$88,685,000\*, will be dated the Closing Date, and will mature on October 1 as set forth on the inside cover pages hereof, subject to optional, special mandatory, mandatory, and extraordinary optional redemption provisions, as set forth herein.

The Series 2024 Bonds will bear interest at the rates and will be sold at prices to bear the yields shown on the cover page of this Official Statement. Interest on the Series 2024 Bonds will be payable on October 1, 2024 and semi-annually thereafter on April 1 and October 1 (collectively, the "Stated Interest Payment Dates" and each, a "Stated Interest Payment Date").

Interest on the Series 2024 Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months. The Series 2024 Bonds will be issued as fully registered bonds without coupons in the denominations ("Authorized Denominations") of \$5,000 and any multiple thereof.

The Series 2024 Bonds will be initially registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Series 2024 Bonds and purchasers of the Series 2024 Bonds will not receive certificates evidencing their ownership interests therein. So long as Cede & Co. is the registered owner of the Series 2024 Bonds as nominee of DTC, references herein to the Owners of the Series 2024 Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Series 2024 Bonds. So long as Cede & Co. is the registered owner of the Series 2024 Bonds, the Debt Service on the Series 2024 Bonds will be made to Cede & Co., as nominee for DTC, which will in turn remit

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\* Preliminary; subject to change.

such Debt Service to the Direct Participants and Indirect Participants for subsequent disbursement to the beneficial owners. See “DTC BOOK-ENTRY SYSTEM” in Appendix C attached hereto.

### **Registration of Bonds**

The Authority will cause the Bond Register to be kept at the Office of the Trustee in which, subject to such reasonable regulations as it may prescribe, the Authority will provide for the registration of Series 2024 Bonds. The Bond Registrar will register the ownership of each of the Series 2024 Bonds on the Bond Register in the name of the Person who is to have acquired such Series 2024 Bond.

### **Series 2024 Bonds Are Limited Obligations**

THE SERIES 2024 BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM THE TRUST ESTATE AND, EXCEPT FROM SUCH SOURCE, NONE OF THE AUTHORITY, ANY AUTHORITY INDEMNIFIED PERSON (AS DEFINED IN THE INDENTURE), THE STATE OF ALABAMA OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, THE UNIVERSITY IS OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST THEREON OR ANY COSTS INCIDENTAL THERETO. THE SERIES 2024 BONDS ARE NOT GENERAL OBLIGATIONS OF THE AUTHORITY BUT ARE LIMITED OBLIGATIONS PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE GRANTED IN THE GRANTING CLAUSES AT THE BEGINNING OF THE INDENTURE, WHICH REVENUES AND RECEIPTS ARE HEREBY SPECIFICALLY PLEDGED TO SUCH PURPOSES IN THE MANNER AND TO THE EXTENT PROVIDED IN THE INDENTURE. NEITHER THE DIRECTORS OF THE AUTHORITY NOR ANY PERSONS EXECUTING THE SERIES 2024 BONDS SHALL BE LIABLE PERSONALLY ON THE SERIES 2024 BONDS BY REASON OF THE ISSUANCE THEREOF. THE SERIES 2024 BONDS SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, THE STATE OF ALABAMA, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND THE CITY OF HOMEWOOD, ALABAMA. NEITHER THE STATE OF ALABAMA NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND THE CITY OF HOMEWOOD, ALABAMA, SHALL BE LIABLE FOR THE SERIES 2024 BONDS OR OBLIGATED TO PAY THE PRINCIPAL, PREMIUM, IF ANY, OR THE INTEREST THEREON OR OTHER COSTS INCIDENT THERETO EXCEPT FROM THE REVENUES AND RECEIPTS PLEDGED THEREFOR, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF ALABAMA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND THE CITY OF HOMEWOOD, ALABAMA, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE PREMIUM, IF ANY, OR THE INTEREST ON THE SERIES 2024 BONDS OR OTHER COSTS INCIDENT THERETO. THE AUTHORITY HAS NO TAXING POWER.

### **Redemption**

#### ***Optional Redemption.***

(a) The Series 2024A Bonds having stated maturities in 2034 and thereafter are subject to prior redemption on April 1, 2034\*, or on any Business Day thereafter, in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity) as the Borrower is to direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, without premium or penalty.

(b) The Series 2024B Bonds having stated maturities in 2034 and thereafter are subject to prior redemption on April 1, 2034\*, or on any Business Day thereafter, in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity)

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\* Preliminary; subject to change.



as the Borrower is to direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, without premium or penalty.

***Mandatory Redemption.*** The Authority authorizes and directs the Trustee to effect the mandatory redemption of those of the Series 2024A Bonds having a stated maturity on the Stated Principal Payment Date in 2049 and 2054 (collectively, the “2024A Term Bonds”) without consent of or direction by the Authority or the Borrower, by lot, on the Stated Principal Payment Date in each of the years and in the aggregate principal amounts set forth below (subject to a credit for the principal amount of the 2024A Term Bonds then cancelled or redeemed and not previously claimed as a credit, and without regard to any prior extraordinary mandatory redemption or optional redemption of the 2024A Term Bonds and without reduction of the principal amount subject to mandatory redemption in any year by reason of such prior extraordinary mandatory redemption or optional redemption) at a redemption price for each 2024A Term Bond to be redeemed equal to the principal amount thereof, plus accrued interest thereon to the redemption date, without premium or penalty:

**Series 2024A Bonds Maturing on October 1, 2049\***

| <b>October 1<br/>of the Year</b> | <b>Principal<br/>Amount</b> |
|----------------------------------|-----------------------------|
| 2045                             | \$3,575,000                 |
| 2046                             | 3,755,000                   |
| 2047                             | 3,945,000                   |
| 2048                             | 4,140,000                   |
| 2049                             | 4,345,000                   |

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<sup>1</sup> Stated Maturity.

**Series 2024A Bonds Maturing on October 1, 2054\***

| <b>October 1<br/>of the Year</b> | <b>Principal<br/>Amount</b> |
|----------------------------------|-----------------------------|
| 2050                             | \$4,565,000                 |
| 2051                             | 4,795,000                   |
| 2052                             | 5,030,000                   |
| 2053                             | 5,285,000                   |
| 2054                             | 5,550,000                   |

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<sup>1</sup> Stated Maturity.

***Extraordinary Redemption.*** The Series 2024 Bonds are subject to prior redemption on any Business Day in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity) as the Borrower is to direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, plus the unamortized amount of any original issue premium on the Series 2024A Bonds called for redemption, and otherwise without premium or penalty, from amounts deposited in the Redemption Fund pursuant to the Indenture from any one or more of the following sources, in an amount equal to such deposit (rounded down to the next highest Authorized Denomination):

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\* Preliminary; subject to change.

(a) any amount received by the Trustee as Net Proceeds of title insurance pursuant to the Bond Lease;

(b) any amount received by the Trustee as Net Proceeds of a disposition of any Equipment pursuant to the Bond Lease;

(c) any amounts on deposit in an account of a construction fund which are transferred to the Trustee for deposit in the Redemption Fund with a written certificate of an Authorized Borrower Representative to the effect that no further disbursements will be requested from such Account; and

(d) any amounts transferred to the Redemption Fund by the Trustee pursuant to Section 6.02 (c), (d), and (e); and Section 6.04(c).

***Notice of Redemption.*** The Trustee will give the applicable notice of redemption on the dates and in the manner prescribed in the Indenture.

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## ANNUAL DEBT SERVICE REQUIREMENTS

The following table sets forth the principal, including principal payable at maturity and by mandatory redemption, and interest payment requirements with respect to the Series 2024 Bonds, subject to optional, mandatory and extraordinary redemption prior to maturity, as described herein.

| Period<br>Ending<br>(October 1) * | Series 2024A<br>Principal* | Series 2024A<br>Interest* <sup>1</sup> | Series 2024B<br>Principal* | Series 2024B<br>Interest* <sup>1</sup> | Capitalized<br>Interest* | Series 2024 Net<br>Debt Service* <sup>1</sup> |
|-----------------------------------|----------------------------|--|----------------------------|--|--------------------------|---|
| 2024                              | --                         | \$1,116,075                            | --                         | \$270,377                              | \$1,386,452              | --  |
| 2025                              | --                         | 3,720,250                              | \$1,205,000                | 901,255                                | --                       | \$5,826,505                                   |
| 2026                              | --                         | 3,720,250                              | 1,280,000                  | 824,858                                | --                       | 5,825,108                                     |
| 2027                              | --                         | 3,720,250                              | 1,360,000                  | 744,986                                | --                       | 5,825,236                                     |
| 2028                              | --                         | 3,720,250                              | 1,445,000                  | 660,258                                | --                       | 5,825,508                                     |
| 2029                              | --                         | 3,720,250                              | 1,535,000                  | 570,668                                | --                       | 5,825,918                                     |
| 2030                              | --                         | 3,720,250                              | 1,630,000                  | 474,731                                | --                       | 5,824,981                                     |
| 2031                              | --                         | 3,720,250                              | 1,735,000                  | 372,204                                | --                       | 5,827,454                                     |
| 2032                              | --                         | 3,720,250                              | 1,845,000                  | 262,205                                | --                       | 5,827,455                                     |
| 2033                              | --                         | 3,720,250                              | 1,965,000                  | 144,494                                | --                       | 5,829,744                                     |
| 2034                              | \$ 1,810,000               | 3,720,250                              | 280,000                    | 18,144                                 | --                       | 5,828,394                                     |
| 2035                              | 2,195,000                  | 3,629,750                              | --                         | --                                     | --                       | 5,824,750                                     |
| 2036                              | 2,305,000                  | 3,520,000                              | --                         | --                                     | --                       | 5,825,000                                     |
| 2037                              | 2,420,000                  | 3,404,750                              | --                         | --                                     | --                       | 5,824,750                                     |
| 2038                              | 2,540,000                  | 3,283,750                              | --                         | --                                     | --                       | 5,823,750                                     |
| 2039                              | 2,670,000                  | 3,156,750                              | --                         | --                                     | --                       | 5,826,750                                     |
| 2040                              | 2,800,000                  | 3,023,250                              | --                         | --                                     | --                       | 5,823,250                                     |
| 2041                              | 2,940,000                  | 2,883,250                              | --                         | --                                     | --                       | 5,823,250                                     |
| 2042                              | 3,090,000                  | 2,736,250                              | --                         | --                                     | --                       | 5,826,250                                     |
| 2043                              | 3,245,000                  | 2,581,750                              | --                         | --                                     | --                       | 5,826,750                                     |
| 2044                              | 3,405,000                  | 2,419,500                              | --                         | --                                     | --                       | 5,824,500                                     |
| 2045                              | 3,575,000                  | 2,249,250                              | --                         | --                                     | --                       | 5,824,250                                     |
| 2046                              | 3,755,000                  | 2,070,500                              | --                         | --                                     | --                       | 5,825,500                                     |
| 2047                              | 3,945,000                  | 1,882,750                              | --                         | --                                     | --                       | 5,827,750                                     |
| 2048                              | 4,140,000                  | 1,685,500                              | --                         | --                                     | --                       | 5,825,500                                     |
| 2049                              | 4,345,000                  | 1,478,500                              | --                         | --                                     | --                       | 5,823,500                                     |
| 2050                              | 4,565,000                  | 1,261,250                              | --                         | --                                     | --                       | 5,826,250                                     |
| 2051                              | 4,795,000                  | 1,033,000                              | --                         | --                                     | --                       | 5,828,000                                     |
| 2052                              | 5,030,000                  | 793,250                                | --                         | --                                     | --                       | 5,823,250                                     |
| 2053                              | 5,285,000                  | 541,750                                | --                         | --                                     | --                       | 5,826,750                                     |
| 2054                              | 5,550,000                  | 277,500                                | --                         | --                                     | --                       | 5,827,500                                     |
| 2055                              | --                         | --                                     | --                         | --                                     | --                       | --  |
| 2056                              | --                         | --                                     | --                         | --                                     | --                       | --  |
| Total <sup>1</sup>                | <u>\$74,405,000</u>        | <u>\$82,230,825</u>                    | <u>\$14,280,000</u>        | <u>\$5,244,178</u>                     | <u>\$1,386,452</u>       | <u>\$174,773,551</u>                          |

\* Preliminary; subject to change.

<sup>1</sup> Totals may not be exact due to rounding. Assumes the Series 2024A Bonds bear interest at an approximate rate of 5.000% and the Series 2024B Bonds bear interest at the approximate rate of 6.337%.

## SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS

*In addition to the description of certain provisions of the Indenture, the Bond Lease and the Facility Lease contained elsewhere herein, the following is a brief summary of certain provisions of the Indenture, the Bond Lease, the Borrower Security Agreement, and the Facility Lease, which summaries do not purport to be comprehensive or definitive. All summaries of provisions of the Indenture and the Bond Lease and the Facility Lease are qualified in the entirety thereof by reference to the exact terms thereof as attached to as Appendices B-1 and B-2 and F. Capitalized terms used but not defined in the below summary of certain provisions of the Indenture, Bond Lease and Facility Lease have the meaning ascribed in Indenture, Bond Lease and Facility Lease.*

### **Pledge and Assignment of Trust Estate**

As described on the cover page hereof, the Series 2024 Bonds are limited obligations of the Authority, payable solely out of revenues specifically pledged thereto. Pursuant to the Indenture, the following properties and interests, as assigned and pledged to the Trustee for the benefit and security of the owners of the Series 2024 Bonds, and constitute the “Trust Estate” for all purposes of the Bond Documents:

- (a) all right, title, and interest of the Authority in and to the Authority Pledged Property (as defined below), as pledged to the Trustee pursuant to the Indenture;
- (b) all right, title, and interest of the Borrower in and to the Pledged Revenues, as pledged to the Trustee pursuant to the Borrower Security Agreement;
- (c) all right, title, and interest of the Borrower in and to the Collateral, as pledged to the Trustee pursuant to the Borrower Security Agreement;
- (d) all right, title and interest of the Authority, the Borrower and the University in and to any Net Proceeds of insurance or condemnation, subject to the provisions of the Bond Lease and the Indenture with respect to the application thereof;
- (e) all right, title and interest of the Borrower and the University in and to Facility Lease; and
- (f) all Remedy Proceeds.

Further, in order to secure the payment of the Series 2024 Bonds and the performance of the covenants contained in the Indenture, the Authority will pledge, assign and grant to the Trustee a continuing security interest in the “Authority Pledged Property” which consists of:

- (a) All the right, title, and interest of the Authority in and to the Pledged Revenues;
- (b) All right, title and interest of the Authority in and to the money and Permitted Investments on deposit in, or forming a part of, the Indenture Funds, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions of the Indenture;
- (c) All right, title and interest of the Authority in and to the Bond Lease (except for Unassigned Rights), and all Lease Payments to be made, and all powers, privileges, options and other benefits of the Authority, pursuant thereto; provided, however, that nothing contained in this section of the Indenture as described under this caption “—Pledge and Assignment of Trust Estate” will impair or diminish any obligation of the Authority under the Bond Lease or impair or diminish the right of the Authority to enforce compliance with the obligations of the Borrower under the Bond Lease; and
- (d) All the right, title, and interest of the Authority in and to all money, securities and interest earnings thereon from time to time delivered to and held by the Trustee under the terms of any of the Security Documents (excluding money on deposit in the Rebate Fund) and all other rights of every name and nature and any and all other property, rights and privileges from time to time thereafter by delivery or by writing of

any kind conveyed, mortgaged, pledged, delivered, assigned, hypothecated or transferred as and for additional security under the Indenture by the Authority or by any Person or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture.

**The Authority Pledged Property is granted to the Trustee in trust for the benefit, security, and protection of all present and future Owners of the Series 2024 Bonds from time to time issued under and secured by the Indenture without privilege, priority, or distinction as to the Lien or otherwise of any of the Series 2024 Bonds over any of the other Series 2024 Bonds, subject at all times to the rights of the Trustee pursuant to the Indentures.**

Unless an Event of Default shall occur and be continuing, the Borrower will be permitted to possess and use the Security (as such term is defined in the Indenture) (except cash, securities, and other personal property deposited with the Trustee) and receive and use the revenues, issues, profits, and other income of the Security (except cash, securities, and other personal property required to be deposited with the Trustee).

At the time of the execution and delivery of the Series 2024 Bonds, no debt service reserve fund will be established to secure the payment of the principal of and interest on the Series 2024 Bonds. There is no intention of establishing a debt service reserve fund in the future to secure the payment of the principal of and interest on the Series 2024 Bonds.

Because of certain risks associated with granting a security interest in collateral of the nature described above, prospective purchasers should not rely solely upon such collateral as providing security for the Series 2024 Bonds. See “CERTAIN BONDHOLDERS’ RISKS—Pledge and Assignment of, and Grant of Security Interest in, Future Revenues” herein.

#### **Facility Lease; Rent**

*Capitalized terms used but not defined in the below summary of certain provisions of the Facility Lease have the meaning ascribed in the Facility Lease. For reference, the Borrower is referred to as the “Lessor” and the University is referred to as the “Lessee” in the Facility Lease attached hereto as Appendix F.*

Payments of Base Rent (as defined below) to be received by the Borrower from the University pursuant to the Facility Lease will be deposited directly by the University with the Trustee as a credit against, and as the primary source of repayment for, the Borrower’s obligation to make Basic Lease Payments pursuant to the Bond Lease. The Base Rent is calculated to be in an amount sufficient to make such Basic Lease Payments. The University will also, make payments of Additional Rent (as defined below, and together with the Base Rent, shall be referred to herein as “Rent”) directly to the Borrower or to the Trustee, as the primary source of repayment for, the Borrower’s obligation to make Additional Lease Payments under the Bond Lease.

“*Base Rent*” is defined in the Facility Lease as, without right of set-off, abatement, credit or deduction, base rent for the Recreation Facility on March 20 and September 20 of each year, commencing on September 20, 2024 on the dates and in the amounts set forth on the Schedule of Base Rent attached to and made a part of the Facility Lease as Exhibit 2. See “APPENDIX F—FORM OF FACILITY LEASE” attached hereto.

“*Additional Rent*” is defined in the Facility Lease as, without right of set-off, abatement, credit or deduction, additional rent for the Recreation Facility, all costs incurred by Lessor in connection with the Recreation Facility or the Series 2024 Bonds, including without limitation the following: costs incurred by Lessor for its annual audits, accounting services, corporate and bond compliance fees, rating agency fees, the Foundation’s annual membership fee, as provided in Section 16 of the Facility Lease, costs of UCC financing statement continuations, Lessor insurance costs, Authority fees and costs (unless paid by Lessee directly to the Authority), costs of calculating and paying arbitrage rebate, Trustee fees and costs, obligations of Lessor under the Bond Lease, including without limitation its indemnity obligations thereunder, and reasonable legal and other expenses incurred by Lessor in connection with the Recreation Facility, including without limitation the reasonable costs and expenses incurred by Lessor in complying with its obligations under Section 11 of the Facility Lease.

The obligation to pay Rent is an independent covenant and an absolute, irrevocable and unconditional obligation, without regard to any claim of the University to any right of abatement, counterclaim, set-off, recoupment, or other claim or action the University may have against the Borrower, the Authority, or the Trustee and constitutes a general obligation of the University payable from all lawfully available funds and revenues thereof. See “FACILITY LEASE” herein and “APPENDIX F—FORM OF FACILITY LEASE” attached hereto.

### **Pledged Revenues; Borrower Security Agreement**

As security for the obligations of the Borrower to the Authority under the Bond Lease, the Borrower will, subject only to Permitted Encumbrances, pledge, assign and grant to the Trustee a continuing security interest in the “Collateral”, which includes the Pledged Revenues, pursuant to the Borrower Security Agreement.

“*Collateral*” is defined in the Borrower Security Agreement to mean, in summary: (a) all accounts, chattel paper, documents, and all General Intangibles (b) all Pledged Revenues, including: (i) all gross receipts and operating and non-operating revenues derived by the Borrower from the operation or ownership of the Recreation Facility (other than contributions), (ii) all right, title and interest of the Borrower in and to the Facility Lease, all accounts and funds established pursuant thereto, all Base Rent payments to be made by the University pursuant thereto, all Additional Rent payments to be made by the University pursuant thereto, and all rights and remedies of the Borrower thereunder, and (iii) all right, title and interest of the Borrower in and to any Net Proceeds of insurance or condemnation, subject to the provisions of the Bond Documents with respect to the application thereof, and (iv) all right, title and interest of the Borrower in and to the Unrestricted Contributions; (c) all agreements between the Borrower and any Person rendering services or supplying material in connection with the development, design, or construction of the Recreation Facility; (d) all surveys and permits relating to the acquisition, construction, renovation, or development of the Recreation Facility; (e) all warranties and guaranties covering any appliances and fixtures now or hereafter located on or placed on the Recreation Facility; (f) all accounts, books, records, and other property relating or referring to any of the foregoing; and (g) all proceeds of any and all of the foregoing and, to the extent not otherwise included, all payments under insurance (whether or not the Trustee is the loss payee thereof), or any warranty, or guaranty, payable by reason of damage, loss, or otherwise with respect to, any of the foregoing.

“*Pledged Revenues*,” is defined in the Indenture to mean, for any period the sum of the (a) gross receipts and operating and non-operating revenues derived by the Borrower from the operation or ownership of the Recreation Facility (other than contributions), including without limitation the Lease Payments and the Facility Lease Payments, all as pledged to the Trustee pursuant to the Indenture and the Borrower Security Agreement; and (b) Net Proceeds of insurance; (c) Unrestricted Contributions, but excluding in any event the sum of (i) earnings on amounts that are irrevocably deposited in escrow to pay the principal of or interest on Indebtedness, (ii) earnings or gains resulting from any reappraisal, revaluation, or write-up of assets, and (iii) any unrealized gain resulting from changes in the value of investment securities.

### **Outstanding Covered Parity Debt of the University; Cross Default**

The University has covenanted and agreed in the Facility Lease that: (a) the University will, in each calendar year, as a general obligation of the University, reserve and allocate funds of the University, and apply such funds, for the payment in each such calendar year, when due, of the principal of and interest on all Covered Parity Debt (as such term is defined in the Facility Lease and described below) on an equal and proportionate basis and parity of lien without preference or priority of any obligation which constitutes a part of Covered Parity Debt over any other such obligation and without discrimination or priority among the Persons entitled to such payments, and (b) the University will undertake, and expressly provide, in each contractual agreement (of any nature or type), the foregoing covenant with respect to the assumption or incurrence of any Covered Parity Debt by the University, and (c) the University will forthwith deliver to the Trustee any notice of default or action to be taken in respect of an event of default, under any document which evidences Covered Parity Debt.

“*Covered Parity Debt*” will mean and include, without duplication: (a) all pecuniary obligations of the University to pay, or cause to be paid, all or any part of the principal of and interest on any revenue bonds issued by the Authority for the benefit of the University, including without limitation (i) all revenue bonds issued under the Restated Trust Indenture dated June 30, 2023 (in restatement of the Trust Indenture dated as of April 1, 1988) by the Authority and The Bank of New York Mellon Trust Company, National Association, as successor trustee, currently



outstanding in the aggregate principal amounts set forth in the first table under the caption entitled “Outstanding Long-Term Debt of the University” in Appendix A-1 hereto, (ii) the Series 2024 Bonds, and (iii) the Series 2024CD Bonds issued concurrently herewith in aggregate principal amount of \$188,800,000\* and (b) all items that would be classified as a liability in conformity with GAAP and which, on any date of determination, would be in excess of \$5,000,000 in principal amount and would constitute indebtedness incurred for the payment of borrowed money or the capitalized value of any liability under any lease of, or installment sale, or other agreement, for the purchase price of property, less and except (i) unsecured obligations incurred in the ordinary course of business, (ii) deferred compensation payables, (iii) any liability classified as a contingent liability in conformity with GAAP, (iv) any liability that matures by its terms (and is not renewable at the option of the University to a date later than) one year from the date of creation, (v) any liability the payment of which is effectively limited to certain assets without recourse to the University, and (vi) any liability which by its terms is effectively subordinated in right of payment to Covered Parity Debt.

Each Indenture of the Authority which provides for the issuance of revenue bonds by the Authority for the benefit of the University will provide that an event of default with respect to any Covered Parity Debt evidenced by any agreement or instrument will constitute an event of default under such Indenture.

The occurrence of an event of default under any of the Covered Parity Debt Documents (as defined in the Indenture) will be an Event of Default under the Indenture with respect the Series 2024 Bonds.

In addition to Covered Parity Debt, the University has other long-term debt obligations (collectively, the “Other Long-Term Debt Obligations”) as set forth in the first table under the caption entitled “Outstanding Long-Term Debt of the University” in Appendix A-1 hereto and as further described under the caption entitled “Outstanding Long-Term Debt of the University—*Other Long-Term Debt Obligations*” in Appendix A-1 hereto. Such Other Long-Term Debt Obligations are not included among Covered Parity Debt but are included as University indebtedness for purposes of calculating certain debt service coverage ratio requirements applicable to the issuance of additional University subsidy supported indebtedness such as the NFRA Payments described in “SHORT STATEMENT—University NFRA Payments for Student Housing & Parking Project Bonds.”

## **Funds Held Under the Indenture**

*Capitalized terms used but not defined in the below summary of certain provisions of the Indenture have the meaning ascribed in the FORM OF THE INDENTURE attached hereto as Appendix B-1.*

**Bond Fund.** Under the Indenture, a Bond Fund (the “Bond Fund”) is created and within the Bond Fund, a separate Account for each series of Bonds simultaneously with the issuance of such Bonds (including the Series 2024 Bonds). The amounts in each Account of the Bond Fund shall be allocated to, and applied only to pay the Debt Service on, the series of Bonds for which such Account was established.

In the Indenture, the Authority authorizes and directs the Trustee to credit to, or deposit in each of the Accounts of the Bond Fund, when and as received, pro-rata in proportion to the amounts available therefor, without preference or priority of any Account or series of Bonds over another, all amounts required to be deposited in the Bond Fund pursuant to the Indenture, Basic Lease Payments required to be deposited therein by the Bond Lease, Base Rent under the Facility Lease, and all amounts delivered to the Trustee from any Person (including without limitation the University) with written instructions to deposit such amounts in a specified Account of the Bond Fund.

The amount on deposit in, or credited to, each Account of the Bond Fund is to never exceed the Bond Fund Account Requirement therefor. Pursuant to the Indenture, the Trustee is authorized to apply the amounts in each Account of the Bond Fund to the payment of the Debt Service becoming due and payable on each Stated Interest Payment Date and each Stated Principal Date on the series of Bonds for which such Account was established, provided, if on any such payment date there are insufficient funds in any Account of the Bond Fund to pay Debt Service then due on the Bonds payable from such Account, the Trustee will transfer to such Account, pro-rata in proportion to the amounts available for such deposits in all Accounts for which such a deficiency exists, without

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\* Preliminary; subject to change.

preference or priority of any Account or series of Bonds over another, an amount equal to such insufficiency from the Indenture Funds in order of priority set forth in the Indenture.

***Special Additional Rent/Lease Payments Fund.*** Under the Indenture, a Special Additional Rent/Lease Payments Fund (the “Special Additional Rent/Lease Payments Fund”) is created and the Authority authorizes and directs the Trustee to credit to, or deposit in, the Special Additional Rent/Lease Payments Fund, when and as received: Additional Lease Payments pursuant to the Lease Agreement and Additional Rent pursuant to the Facility Lease Agreement.

Upon receipt of written direction of an Authorized Borrower Representative, the Trustee is authorized to withdraw funds from the Special Additional Rent/Lease Payments Fund to pay or reimburse the Borrower for the payment of the costs and expenses that the Borrower is obligated to pay under the Bond Lease or that the University is obligated to pay under the Facility Lease. The Trustee may also transfer amounts therein to the Rebate Fund or to the Bond Fund to prevent an Event of Default under the Indenture. The Authority is not, anything in the Bond Documents to the contrary notwithstanding, required to maintain any amount in the Special Additional Rent/Lease Payments Fund for the purposes of payment of Debt Service on any of the Bonds.

***Series 2024A Construction Fund and Series 2024B Construction Fund.*** Under the Series 2024A Supplemental Indenture, a construction fund (the “Series 2024A Construction Fund”) is created to be held and applied by the Trustee as provided in the Series 2024A Supplemental Indenture, and which is to consist of the following accounts created thereby: (a) the Issuance Costs Account; (b) the Capitalized Interest Account; and (c) the Series 2024-A Project Account. Under the Series 2024B Supplemental Indenture, a construction fund (the “Series 2024B Construction Fund”) is created to be held and applied by the Trustee as provided in the Series 2024B Supplemental Indenture, and which is to consist of the following accounts created thereby: (a) the Issuance Costs Account; (b) the Capitalized Interest Account; and (c) the Series 2024-B Project Account.

Pursuant to each Supplemental Indenture, the Trustee is to apply the funds of the applicable Construction Funds Pursuant to each Supplemental Indenture, the Trustee is to apply the funds of the applicable Construction Fund, without further authorization or direction by the Authority, the Borrower or any other Person, upon receipt by the Trustee of the applicable requisition therefor in substantially the forms set forth in the applicable Schedules to each Supplemental Indenture, appropriately completed and properly executed. Moneys in each Capitalized Interest Account shall be used to pay interest on the Series 2024 Bonds on each Stated Interest Payment Date during the period beginning on the Date of Initial Delivery and ending on February 1, 2026.

***Redemption Fund.*** The Redemption Fund is created under the Indenture and the Trustee is authorized, thereunder, to establish therein a separate Account within the Redemption Fund for (a) each series of Bonds simultaneously with the issuance thereof and (b) for any amounts transferred to the Redemption Fund from the Surplus Fund. The Trustee will credit to, or deposit in, each of the Accounts of the Redemption Fund, when and as received, pro-rata in proportion to the amounts available therefor, without preference or priority of any Account or series of Bonds over another, all amounts required to be deposited in the Redemption Fund pursuant to the Indenture. The amounts in each Account of the Redemption Fund are to be allocated and applied to pay the Redemption Price on each date fixed for redemption of any series of Bonds.

***Insurance and Condemnation Funds.*** The Trustee shall create and maintain an Insurance Fund and Condemnation Fund under the Indenture to which funds are required to be deposited as provided in the Bond Lease. Any amounts required to be deposited in the Insurance Fund or in the Condemnation Fund in accordance with the Bond Lease will be deposited in the applicable Account thereof, and, prior to the occurrence of an Event of Default, any amounts in an Account of the Insurance Fund or the Condemnation Fund is to be used only to restore that portion of the Series 2024 Project in respect of which such Account was established, to acquire land and/or improvements in substitution for that portion of the Series 2024 Project in respect of which such Account was established, or to make payments on the series of Bonds in respect of which such Account was established. Upon the receipt of a requisition

executed by an Authorized Borrower Representative, the Trustee shall apply amounts on deposit such Accounts of the Insurance Fund or the Condemnation Fund in accordance with the Bond Lease.

### **Title and Property Insurance**

An ALTA leasehold mortgagee's title insurance policy will be delivered to the Borrower in the amount of not less than the original principal amount of the Series 2024 Bonds. Under such title insurance policy, the Borrower will not be permitted to recover more than the fair market value of any property that is lost as a result of a title defect. The Borrower will be required under the terms of the Bond Lease to keep the Recreation Facility fully insured against fire and other casualties and to maintain certain specified amounts of liability and business interruption insurance. See "FORM OF THE BOND LEASE" in Appendix B-2 hereto.

### **Additional Bonds**

So long as no Event of Default exists under the Indenture and subject to the requirements thereof, Additional Bonds may be issued by the Authority at the written request of the Borrower to provide funds for any one or more of the following: (a) the costs of completing a Project; such modifications, repairs, renewals, improvements, replacements, alterations, additions, enlargements, or expansions in, on, or to the Project, including any and all machinery, furnishings and equipment therefor as the Borrower deems necessary or desirable that will not impair the nature of the Project and will be located on the Property; (b) the costs of refunding (in whole or in part) any Bonds; (c) the costs of the acquisition, equipping, and construction of additional property and housing (including related buildings and ancillary facilities) to be utilized for the benefit of the University, including the acquisition of personal and real property; and (d) in each such case, the costs of the issuance and sale of the Additional Bonds and capitalized or funded interest for such period, the cost of funding a debt service reserve fund and such other costs reasonably related to the financing as shall be agreed upon by the Borrower and the Authority. Such Additional Bonds may be issued at parity with all Bonds Outstanding and thereafter issued, shall be secured by the lien and security interests granted by the Indenture, equally and ratably with all Bonds Outstanding thereafter issued.

Any Additional Bonds shall be secured by the lien and security interests granted by the Borrower Security Agreement, the Bond Lease and the Indenture and shall be equal, without preference or priority, to the lien and security interest provided for the Bonds.

### **Enforceability of Remedies**

The realization of value from the real and personal property comprising the Recreation Facility and from the other security for the Series 2024 Bonds upon any default will depend upon the exercise of various remedies specified by the Bond Documents. These and other remedies may require judicial actions, which are often subject to discretion and delay and which may be difficult to pursue. See "CERTAIN BONDHOLDERS' RISKS—Limitations on Enforceability of Remedies" and "—Pledge and Assignment of, and Grant of Security Interest in, Future Revenues" herein. See also, Article 7 "Events of Default and Remedies" in "APPENDIX B-1—FORM OF TRUST INDENTURE AS SUPPLEMENTED" attached hereto.

**Indebtedness.** Under the terms of the Bond Lease, the Borrower represents and warrants that it has not incurred and will not incur, any Indebtedness (as defined in the Indenture), secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than the Bonds, or as contemplated or permitted in the Bond Documents.

### **Certain Covenants of the Borrower Under the Bond Lease**

*Capitalized terms used but not defined in the below summary of certain provisions of the Lease Agreement under this caption have the meaning ascribed in the FORM OF THE BOND LEASE attached hereto as APPENDIX B-2.*

The Borrower agrees that it will, at all times during the construction of the Recreation Facility, cause the University to maintain in full force and effect builder's risk - completed value form insurance insuring all buildings, structures, boilers, equipment, facilities, fixtures, supplies, and other property constituting the Recreation Facility on an "all risk of loss or damage basis," currently referred to as "special form," including coverage for soft costs and lost rents due to covered damage and destruction prior to completion in an amount not less than the Maximum Annual Debt Service for the Bonds Outstanding for, including perils of fire, lightning, and all other risks covered by the extended coverage endorsement then in use in the State of Alabama to the full replacement cost of the Recreation Facility, subject to policy sublimits. Such policy or policies of insurance will name the Authority, the Borrower, the Trustee, and the University as insureds, as their respective interests may appear, and will name the Trustee as mortgagee under a standard loss payable endorsement providing that no act or omission by the named insured will in any way prejudice the rights of the Trustee thereunder, and all Net Proceeds received under such policy or policies by the Borrower or the Authority will be paid over to the Trustee and deposited into the Insurance Fund to be applied to the restoration or completion of the Recreation Facility or to the redemption of the Series 2024 Bonds in accordance with the provisions of Section 9.01 of the Bond Lease. In addition, the Borrower will cause the University at all times during the construction of the Recreation Facility to maintain or cause to be maintained by the Development Manager, the Construction Manager, and the Architect, as applicable (a) general liability, automobile liability, pollution liability, errors and omissions liability, and umbrella/excess liability insurance, all as required by the Development Management Services Agreement, the Construction Services Agreement, and the Design Services Agreement, and (b) workers' compensation insurance as required by law, including employers' liability coverage. Said insurance policy or policies will contain a provision that such insurance may not be canceled by the insurance provider thereof without at least 30 days' advance written notice (10 days for non-payment of premium). The University will promptly forward any notice of cancellation received from an insurance carrier to the Borrower, the Authority and the Trustee. All such policies or copies thereof or certificates that such insurance is in full force and effect will be delivered to the Trustee at or prior to the delivery of each series of Bonds.

The Borrower agrees that it will cause the University to deliver or require the Contractor to deliver to the Trustee performance and labor and material payment bonds with respect to the Construction Agreement, and in the full amount thereof, made by the Contractor as the principal and a surety company or companies that is or are licensed to do business in the State of Alabama, rated at least "A" by S&P or "Excellent (A/A-)" by A.M. Best Company, Inc., and otherwise satisfactory and acceptable to the University and the Underwriters. The Borrower will cause all Net Proceeds received under said bonds to be deposited in the applicable construction fund for the part of the Recreation Facility for which such bonds were obtained, or if received after the applicable Completion Date therefor, will be used to pay any obligation then owed by the Borrower under the Bond Lease, and if any remaining amount of such Net Proceeds will be deposited into the Revenue Fund.

The Borrower will cause the University not to permit any mechanics' or materialmen's or other Liens to be perfected or remain against the Recreation Facility for labor or materials furnished in connection with the construction of the Recreation Facility, provided that it will not constitute an Event of Default on such Lien's being filed, if the Borrower will promptly notify the Trustee of any such Liens, and the Borrower will in good faith promptly contest such Liens. The Borrower will cause the completion of the acquisition and construction of the Recreation Facility to occur as promptly as practicable, with all reasonable dispatch, in a good and workmanlike manner.

The Authority agrees to grant such utility, access and other easements over, across, and under the real property of the Authority as in the reasonable judgment of the Borrower is necessary for the construction and operation of the Recreation Facility.

***Establishment of a Completion Date.*** The Completion Date will be evidenced to the Trustee by a certificate of substantial completion signed by the Authorized Borrower Representative and the Authorized University Representative stating that, except for amounts retained by the Trustee for Costs of the Project not then due and payable as provided in the Bond Lease, (a) construction of the Recreation Facility has been completed substantially in accordance with the Plans and Specifications and all labor, services, materials, and supplies used in such construction have been paid or provided for, (b) all other facilities necessary in connection with the construction of the Recreation Facility have been constructed, acquired, and installed substantially in accordance with the Plans and Specifications, and all costs and expenses incurred in connection therewith have been paid or provided for, and (c) a certificate of occupancy for the Recreation Facility has been issued by appropriate local governmental authorities, if applicable. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights

against third parties that exist at the date of such certificate or that may subsequently come into being. The Authorized University Representative will certify the matters covered by (a) and (b) above. It will be the duty of the Borrower to cause the certificate contemplated by this section of the Bond Lease to be furnished as soon as the construction of the Recreation Facility is substantially completed.

### **The Borrower's Obligation to Operate**

**Operation of the Recreation Facility.** The Borrower has no employees and the Facility Lease provides that the University will be responsible for the operation of the Recreation Facility.

**Taxes, Maintenance, Insurance and Utility Charges.** Pursuant to the Bond Lease, the Borrower is obligated to maintain the Recreation Facility, as well as pay all taxes, insurance and utility charges.

**Insurance.** The Bond Lease requires that the Borrower maintain insurance at required levels for, among other things, title, property and casualty, flood, business interruption, liability (including automobile liability) and worker's compensation.

## **THE FACILITY LEASE**

*In addition to the description of certain provisions of the Facility Lease contained elsewhere herein, the following is a brief summary of certain provisions of the Facility Lease and does not purport to be comprehensive or definitive. Reference is made to the Facility Lease which is included in Appendix F hereto for the detailed provisions thereof. Capitalized terms used but not defined in the below summary of certain provisions of the Facility Lease have the meaning ascribed in the Facility Lease. The Borrower is referred to as the "Lessor" and the University is referred to as the "Lessee" in the Facility Lease.*

### **Rent**

The University agrees to pay to the Borrower, without previous demand therefor and without right of set-off, abatement, credit or deduction, base rent for the Recreation Facility (the "Base Rent") on March 20 and September 20 of each year, commencing on September 20, 2024 on the dates and in the amounts set forth on the Schedule of Base Rent attached to and made a part of the Facility Lease as Exhibit 2 (the "Schedule of Base Rent"). The obligation to pay Base Rent is an independent covenant, and an unconditional and absolute obligation of the University, regardless of the failure of the Borrower to meet any of its obligations under the Facility Lease. On each September 1 of the Term, if there is any amount remaining in the Accounts of the Bond Fund, the amount of Base Rent due on that next succeeding September 20 is to be reduced by such amount. The Schedule of Base Rent shall be amended in accordance with Section 4(c) of the Facility Lease upon any partial redemption of the Series 2024 Bonds, other than a scheduled sinking fund redemption of the Series 2024A Bonds, if any, pursuant to Section 5.03 of the Indenture and Section 2.02(g) of the Series 2024A Supplemental Indenture.

In addition to Base Rent, the University agrees to pay to the Borrower, without right of set-off, abatement, credit or deduction, as additional rent for the Recreation Facility (the "Additional Rent" and, together with the Base Rent, the "Rent"), all costs incurred by the Borrower in connection with the Recreation Facility or the Series 2024 Bonds, including without limitation the following: costs incurred by the Borrower for its annual audits, accounting services, corporate and bond compliance fees, rating agency fees, the Foundation's annual membership fee, as provided in Section 15 of the Facility Lease, costs of UCC financing statement continuations, the Borrower insurance costs, Authority fees and costs (unless paid by the University directly to the Authority), costs of calculating and paying arbitrage rebate, Trustee fees and costs, obligations of the Borrower under the Bond Lease, including without limitation its indemnity obligations thereunder, and reasonable legal and other expenses incurred by the Borrower in connection with the Recreation Facility, including without limitation the reasonable costs and expenses incurred by the Borrower in complying with its obligations under Section 11 of the Facility Lease.

**Construction Phase.** The parties to the Facility Lease acknowledge that construction of the Recreation Facility was undertaken by the University prior to the execution and delivery of the Facility Lease and will be completed after issuance of the Series 2024 Bonds with proceeds of such bonds. The University is responsible for

completion of the Recreation Facility in accordance with the Development Agreement, Design Services Agreement, and Construction Services Agreement (collectively, the “Construction Documents”). All such construction is to be executed in accordance with the provisions set forth in the “Development Services” Exhibit 4 to the Facility Lease. The University shall Substantially Complete the Recreation Facility, including all Offsite Improvements, at a total cost for the Recreation Facility and Offsite Improvements not to exceed the Total Development Cost as set forth in Schedule C to Exhibit 4 of the Facility Lease, subject to Change Orders, as described below. See “APPENDIX F—FORM OF FACILITY LEASE—Exhibit 4” hereto for further information with respect to the University’s construction obligations with respect to the Recreation Facility and the Offsite Improvements under the Facility Lease, including but not limited to, information on the Total Development Cost for the Recreation Facility and the Offsite Improvements, the University’s obligation to monitor, facilitate and provide oversight of the counterparties to the Construction Documents, the University’s obligation to monitor compliance with the Development Budget and issue written construction progress reports monthly by the 25th of the month to the Borrower, and the University’s obligation to provide all furniture, fixtures, and equipment (“FF&E”) for the Recreation Facility. The Recreation Facility will be deemed Finally Complete when (a) the Recreation Facility is fully completed as required by the Plans and Specifications (including all punch list items) and all required final certificates of occupancy for the Recreation Facility are issued, (b) the Recreation Facility is fully paid for and free from any liens other than the Bond Documents, (c) all governmental authorities with jurisdiction have given their final approval of the Recreation Facility, and (d) all final releases, warranties, manuals, contractor marked as-built drawings, CAD drawings, equipment cuts, operating guides, and any other documents necessary for full operation of the Recreation Facility are delivered to the Borrower. See “THE CONSTRUCTION MANAGER AND THE CONSTRUCTION SERVICES AGREEMENT—The Construction Manager—*Construction Contract*” for the Dates of Substantial Completion of the Recreation Facility.

***Change Orders.*** The University may order, authorize, or perform any change or substitute work or materials in prosecuting the construction of the improvements (a “Change Order”). Notwithstanding the foregoing, any Change Order that will change the Total Development Cost of the Recreation Facility must be approved by the Borrower and the Trustee unless the University undertakes, by written instrument, to pay any additional amount in excess of the Total Development Cost and delivers such undertaking to the Borrower and the Trustee.

***Sales Tax.*** The University agrees to cooperate with Borrower and the Authority with respect to any exemptions from sales or use taxes which may otherwise be assessed or incurred in connection with the purchase of materials which are incorporated into the Recreation Facility or Offsite Improvements (and together with any interest, fees, penalties, or collection costs thereon with respect thereto collectively being referred to in the Facility Lease as, the “Sales Tax”). The University is to obtain and provide to the General Contractor an Owner’s Sales Tax exemption certificate and is to cause the General Contractor to take such actions as are necessary to provide its own properly completed Sales Tax exemption certificate based upon the Owner’s Sales Tax exemption certificate and to take advantage of applicable exemptions, all as may be required under applicable Alabama law and regulations.

***Insurance and Bonds for Construction Phase.*** The University is to obtain or cause the General Contractor to obtain a Performance Bond and a Payment Bond which comply with the requirements for such bonds under the Construction Services Agreement and the Bond Documents. Each such bond shall be in the amount of the “Guaranteed Maximum Price” as defined in the Construction Services Agreement, with the General Contractor as contractor and principal and the Borrower as owner-obligee; together with a multiple obligee rider naming the University and the Trustee as obligees, with direction to the surety that the Trustee shall have priority over any other obligees. Each Performance Bond and Payment Bond surety shall be obligated to perform all obligations of the General Contractor under the bond(s) issued by such surety. The University is also to obtain a Performance Bonds and a Payment Bonds ensuring payment for and performance of certain additional work that is outside the scope of the Construction Services Agreement.

***Construction Delay.*** If the Development Manager fails to cause the Recreation Facility to be completed and available for occupancy by the Completion Date (as defined in the Bond Lease) the University is to nevertheless continue to pay Rent as provided in Section 3 of the Facility Lease and is to be entitled to the benefit of any damages payable by the contractor to the extent and as provided in the Construction Services Agreement.

***After Construction.*** From and after the Completion Date, the University is responsible to pay any and all expenses incurred in connection with the use and operation of the Recreation Facility, including without limitation the following: (a) the University is to pay, as they come due and payable, all insurance premiums, maintenance costs,



Operating Expenses (as defined in the Facility Lease) and all other charges, costs, and expenses of any nature and all penalties and interest thereon that are assessed or imposed upon the Recreation Facility or any of the University's property located thereon; (b) effective as of the date of the Facility Lease, the Base Rent and Additional Rent are to be paid to the Trustee for the account of the Borrower without any diminution, set off, compensation, counterclaim, abatement, suspension of payment, or deduction whatsoever, and the Borrower is to remit the Base Rent and Additional Rent paid to the Trustee, in accordance with the Facility Lease and the terms of the Trust Indenture, the Bond Lease and other documents providing for or securing the Series 2024 Bonds; (c) the University assumes complete responsibility and liability for the upkeep of the entire Recreation Facility, as more particularly provided in the Facility Lease; at the expiration or termination of the Facility Lease, the University is to surrender the Recreation Facility in good condition and repair; and (d) the Borrower is not to be required to furnish to the University any facilities or services of any kind, including, without limitation, water, gas, sewerage, electricity, heat, and telephone or other communication service. The University is to arrange for the furnishing of all such services upon the Recreation Facility and is to indemnify the Borrower against any liability on such account. The Borrower is to cooperate with the University in granting all necessary servitudes as may be necessary to make all necessary utilities available to the Recreation Facility.

### **Redemption of Series 2024 Bonds; Prepayment of Rent**

Upon the written request of the University, the Borrower is to, in the Borrower's capacity as the Borrower under the Bond Lease, at any time that the Series 2024 Bonds are then callable or available for optional redemption, cause the Authority to redeem some or all of the Series 2024 Bonds as provided for in accordance with the applicable provisions of the Bond Lease and the Indenture and upon prepayment of Base Rent in accordance with the Facility Lease. The University is to be entitled to cause the Borrower to cause the Authority to redeem the Series 2024 Bonds in any manner and in any combination of maturities that is permitted under the Bond Lease and the Indenture.

In the event of redemption of the Series 2024 Bonds, in whole or in part, as provided in Section 2.02 of the applicable Supplemental Indenture, the University is to prepay, no later than fifteen (15) days before the redemption date, Base Rent in an amount equal to the principal amount of the Series 2024 Bonds to be redeemed, plus the amount of unpaid interest accrued or to accrue on that principal amount through the redemption date, plus redemption premium (if any). The amount of Base Rent payable is to be reduced by the amounts held by the Trustee and available for the payment of the redemption price as a result of any damage, destruction or condemnation under the Bond Lease. In the event that the Series 2024 Bonds are redeemed in whole, the prepayment of Base Rent shall be applied to the purchase price paid by the University in the exercise of its option to purchase all of the right, title, and interest of the Borrower in and to the Recreation Facility pursuant to the Facility Lease.

Upon any redemption of a portion of the Series 2024 Bonds, the Borrower and the University is to execute and deliver a written amendment to the Facility Lease amending the Schedule of Base Rent based on the amounts owed under the Series 2024 Bonds still outstanding.

In the event that the Series 2024 Bonds are redeemed in whole, the Facility Lease is to terminate on the date that the University has paid the entire amount provided in the Facility Lease and any Additional Rent accrued to such date and has closed its purchase of all of the right, title, and interest of the Borrower (as the University under the Ground Lease) in and to the Premises (as defined in the Ground Lease), thereby terminating the Ground Lease.

### **Default**

If the University is in default in the fulfillment of any of its covenants and agreements set forth in the Facility Lease, and, except for any failure to pay Rent thereunder within five (5) Business Days of the due date thereof (which is not to be subject to any cure period), such failure continues for thirty (30) days after written notice with respect to such default (which thirty (30) day period is to be reasonably extended with respect to any default that cannot reasonably be cured within such thirty (30) day period provided that the University has commenced the cure within such period and is diligently pursuing the same), then the Borrower is to have the right: (a) if such default results in the occurrence of an Event of Default under the Bond Lease, to re-enter and take possession of the Recreation Facility without terminating the Facility Lease, exclude the University from possession thereof, and lease the same for the account of the University, holding the University liable for the Rent and other payments due under the Facility Lease up to the effective date of such leasing, and for the deficiency, if any, of the rent and other amounts payable thereunder

to the extent rent and other amounts collected under such new lease do not cover the Rent and other payments due thereunder; (b) If such default results in the occurrence of an Event of Default under the Bond Lease, to terminate the Facility Lease, exclude the University from possession of the Recreation Facility, and hold the University liable for the balance then due under the Facility Lease (except to the extent damages are mitigated by leasing the same to a third party), in which event the rights of the University in the Recreation Facility and the use and possession thereof is to terminate; (c) If such default results, directly or indirectly, in the acceleration of payments due under the Bond Lease or of the principal of and interest on the Series 2024 Bonds, to declare immediately due and payable all installments of Base Rent thereafter coming due under the Facility Lease to the extent necessary to enable the Borrower to make all payments then required pursuant to the Bond Documents; (d) To take whatever other action at law or in equity may appear necessary or desirable to collect the Rent then due, or to enforce any obligation, covenant, or agreement of the University under the Facility Lease.

## **Insurance**

The University shall, at its sole cost and expense, at all times during the term of the Facility Lease after the Completion Date, maintain in full force and effect the insurance set forth in the Insurance Schedule attached to the Facility Lease as Exhibit 3, including, but not limited to commercial general liability, property, business interruption, workers' compensation, employer's liability, commercial crime, automobile, boiler and machinery or mechanical breakdown insurance, pollution liability, and umbrella or excess liability. Upon the commencement of the Facility Lease and at each policy renewal date, the University is to furnish to the Borrower an insurance certificate or renewal certificate on industry standard ACORD forms evidencing all insurance required to be carried by the University in accordance with the Facility Lease, listing the Borrower as the certificate holder. The insurance certificate must document that the liability insurance coverage purchased by the University includes contractual liability coverage to cover all insurable obligations in the Facility Lease. No such insurance is to be cancelled, allowed to expire, or be reduced in limits or coverages below the amounts stated in the Facility Lease without at least thirty (30) days prior written notice to the Additional Insureds (defined below), with the exception of ten (10) days' notice for non-payment of premium. All insurance referenced in the Facility Lease with the exception of commercial crime and pollution liability insurance is to be written on an Occurrence Form with insurers licensed and authorized to write/issue insurance in the State of Alabama and is to be provided by insurance companies having an AM Best rating of at least an "A-VIII". All required insurance policies, coverages, and limits are primary insurance to any and all other collectible insurance available to the Additional Insureds. "Additional Insureds" include the Borrower, the Authority, the Trustee, and any other parties required to be named as such under the Bond Documents. To the extent permitted by law, the Borrower and the University each waive any right to recover against the other on account of any and all claims the Borrower or the University may have against the other with respect to insurance actually carried, or required to be carried under the Facility Lease (not including worker's compensation insurance), to the extent of the proceeds that are or would have been recoverable from such insurance coverage and all such policies shall be endorsed to recognize such waiver of claims and subrogation.

## **Obligations Unconditional**

The payment and performance of all the University's obligations arising under the Facility Lease are an absolute, irrevocable and unconditional obligation, without regard to any claim of the University to any right of abatement, counterclaim, set-off, recoupment, or other claim or action the University may have against the Borrower, the Authority, or the Trustee and constitutes a general obligation of the University payable from all lawfully available funds and revenues thereof. The University covenants in the Facility Lease that moneys in amounts sufficient to pay all Base Rent and Additional Rent when due will be made available to pay Rent throughout the Term. See "APPENDIX F—FORM OF FACILITY LEASE" hereto.

## **THE DEVELOPMENT MANAGER AND THE DEVELOPMENT AGREEMENT**

### **The Development Manager**

Landmark is a real estate development company based in Madison, Wisconsin which will provide development management services during the design and construction phase of the Recreation Facility. The Development Manager entered into a Development Services Agreement with the University, dated as of March 1, 2023 (the "Development Agreement"), with respect to the Recreation Facility.

Landmark will be responsible for acting as Development Manager in connection with the development, permitting, design, construction, equipping, furnishing, completion and delivery of the Recreation Facility so that the Recreation Facility is delivered on time and on budget in accordance with the terms of the Development Agreement.

For more than 20 years Landmark has experience developing iconic urban destinations built around the landmark places that anchor local communities, from sports and entertainment to academic, health care, transit, mixed-use and other civic projects. Landmark has utilized its status as a full-service real estate firm with experience in every aspect of development, investment, marketing, operation and management of complex real estate assets. Some of the projects where Landmark has acted in capacity as master developer or development manager include, but are not limited to, Destination Medical Center (Rochester Minnesota), Lambeau Field (Green Bay, Wisconsin), US Bank Stadium (Minneapolis, Minnesota), MetLife Stadium (East Rutherford, New Jersey) and Fluno Center for Executive Education (Madison, Wisconsin).

## **Development Agreement**

*In addition to the description of certain provisions of the Development Agreement contained elsewhere herein, the following is a brief summary of certain provisions of the Development Agreement and does not purport to be comprehensive or definitive. Capitalized terms used but not defined in the below summary of certain provisions of the Development Agreement have the meaning ascribed in the Development Agreement.*

The Development Agreement sets forth certain terms and conditions relating to the development of the Recreation Facility. Pursuant to the Development Agreement, the Development Manager is to provide the University with the services as described in “—Development Manager Services” below as they relate to the Recreation Facility. The Development Agreement provides that the Recreation Facility is to be developed, designed, permitted, constructed, furnished and equipped for a not to exceed amount, subject to the terms and conditions of the Development Agreement. For its services as Development Manager, the Development Manager will receive direct personnel expenses, labor rate multiplier, a development management services fee, reimbursable expenses and, to the extent not included in the foregoing, Cost of Work as provided in the Development Agreement.

***Development Manager Services.*** Pursuant to the Development Agreement, the Development Manager’s role is to serve as an extension of the University’s staff for purposes of completing the Recreation Facility, bearing similar responsibility to that of the University’s direct management staff. In this capacity the Development Manager is providing the professional knowledge, experience and management functions of the personnel assigned to the Recreation Facility, to assist the University in managing development of the Recreation Facility in accordance with the terms and conditions of the Development Agreement. Pursuant to the Development Agreement, it is the intent of the parties that the Development Manager shall not assume any risk or liability on the Recreation Facility other than as set forth in the Development Agreement. Pursuant to the Development Agreement, the Development Manager will be responsible for certain duties as described therein (the “Services”) including, but not limited to, the following:

***Administration.*** The Development Manager shall assist the University in the assignment of responsibilities among and between the Project Participants and other service providers involved in the Recreation Facility. The Development Manager will monitor and evaluate the performance of those firms and individuals under contract with the University. The Development Manager will assist in the solicitation of proposals for professional services, negotiation, and the award of primary contracts;

***Master Project Budget.*** The Development Manager will assist the University in establishing, and thereafter periodically updating, the Master Project Budget for the Recreation Facility. The Development Manager will be responsible for monitoring and evaluating the Master Project Budget for the Recreation Facility and providing periodic reports to the University on the Master Project Budget for the Recreation Facility;

***Master Project Schedule(s).*** The Development Manager will assist the University in establishing a Master Project Schedule for the Recreation Facility, based upon schedule information received from the Project Participants under the Development Agreement. The Development Manager will be responsible for monitoring and evaluating the Master Project Schedule for of the Recreation Facility and providing periodic reports to the University on the Master Project Schedule;

*Financial Management, Payment Procedures and Change Requests.* The Development Manager will review and evaluate Applications for Payment submitted to the University for accuracy, clarity, and completeness. The Development Manager will make recommendations to the University for disbursements, retainage and close-out of contracts and purchase orders. The Development Manager will establish and maintain a project financial management and accounting control system for the Recreation Facility. The Development Manager will coordinate the activities required to develop and maintain the financial management systems and procedures required for the Recreation Facility including processing of the Master Application for Payment for the Recreation Facility;

*Limitation on Development Manager's Liability.* Nothing contained in the Development Agreements or any of the Contract Documents, shall impose any liability or responsibility of the Development Manager to guarantee the Master Project Budget, Master Project Schedule, or the performance of any of the Project Participants including the Architect and its Subconsultants, the Contractor and its Subcontractors, JCI and its Subcontractors. Except to the extent the following are directly caused or impacted by the representations, statements, instructions, acts, or omissions of the Development Manager, the Development Manager is not responsible or liable for any aspect of: (a) any work or services provided by any Consultants, (b) the Design Services or the Architect's Work, (c) the Construction Services or Contractor's Work (or any of the Subcontractors Work). The Development Manager shall not be responsible for testing or inspections of any portion of the Work or certifying, approving and/or accepting the testing or inspections by others for purposes of verifying conformity with the Contract Documents. However, the Development Manager must inform the University if it becomes aware of any fault or defect in the Work, any nonconformity of the Contractor's Work with the Contract Documents, or noncompliance with applicable law.

## **THE CONSTRUCTION MANAGER AND THE CONSTRUCTION SERVICES AGREEMENT**

### **The Construction Manager**

**General.** Hoar Construction, LLC (the "Construction Manager") is a privately held construction firm headquartered in Birmingham, Alabama. The Construction Manager is ranked as one of the top 200 contractors in the United States and operates from nine offices across seven states, employing over 800 professionals. The Construction Manager has worked on nearly two dozen projects at the University worth a combined \$116 million over the last decade, commencing with the Brock School of Business in 2014. The firm's other education-related clients include Auburn University, the University of Alabama, Texas A&M University, the University of Houston and Memphis University. The Construction Manager is a general construction contractor and is licensed to do business in Alabama.

**Construction Contract.** *In addition to the description of certain provisions of the Construction Contract (defined below) contained elsewhere herein, the following is a brief summary of certain provisions of the Construction Contract and does not purport to be comprehensive or definitive. Reference is made to the Construction Contract for the detailed provisions thereof. Capitalized terms used but not defined in the below summary of certain provisions of the Construction Contract have the meaning ascribed in the Construction Contract.*

The University entered into a Construction Services Agreement (the "Construction Services Agreement") with the Construction Manager, pursuant to which the Construction Manager has agreed to construct and deliver the Recreation Facility. The Construction Contracts will obligate the Construction Manager to construct and deliver the Recreation Facility for a contract price not to exceed a guaranteed maximum price set forth in the Construction Services Agreement equal to \$56,466,292 (through Contract Revision #7), subject to the clarifications, exclusions, and assumptions related to such guaranteed maximum price and adjustment as provided in the Construction Services Agreement. The University will pay the Construction Manager for the costs of the work under the Construction Contract plus a fee equal to 2.5% of the cost of the work, all subject to the applicable guaranteed maximum price. Each guaranteed maximum price also includes allowances for certain items included in the scope of the construction work and a contingency available to the Construction Manager for unexpected expenses. The guaranteed maximum price may be adjusted for changes in the scope of the work, for costs in excess of stated allowances and for certain unforeseen conditions specified in the Construction Contract. The Development Manager is to be an intended third-party beneficiary of the Construction Contracts and is entitled to directly enforce the terms and conditions thereof subject to certain notice requirements as provided in the Development Agreements.

Pursuant to the Construction Contract for the Recreation Facility, the applicable Dates of Substantial Completion are September 10, 2024 (Siebert Expansion), September 12, 2024 (Siebert Renovation) and October 24, 2024 (Bashinky). The Construction Manager is obligated to pay \$2,500 for days 31-60 beyond the applicable Date of Substantial Completion for each element, increasing to \$5,000 per day, on day 61 and thereafter, until Substantial Completion of the Recreation Facility is achieved.

## **The Architect**

The University has entered into a Design Services Agreements with Davis Architects Inc., an Alabama corporation (the “Davis Architects”) relating to the Recreation Facility. Davis Architects is a nationally recognized architecture, design and planning studio located in Birmingham, Alabama with over 100 years of experience. Davis Architects has served as the architect on a wide mix of projects, including, but not limited to, residential/mixed use projects, athletic & recreation projects (Bryant-Denny Stadium North End Zone Expansion at the University of Alabama), and higher education facilities which include the Ralph W. Beeson University Center Renovation on the campus of the University and the College of Health Sciences (a 79,000 square foot healthcare industry teaching facility).

## **MANAGEMENT OF RECREATION FACILITY**

### **Service Contracts; Management Agreement**

Pursuant to the Facility Lease, the University is to enter into and administer, or is to cause a contract manager to enter into and administer, all service contracts required for the proper maintenance and operational aspects of the Recreation Facility from and after the Completion Date (as defined in the Bond Lease), including, but not limited to, contracts for health and safety systems maintenance, transportation, audio-visual, electricity, gas, telephone, cleaning, elevator, and boiler maintenance, air conditioning maintenance, laundry and dry cleaning, cable and telecommunication, transmission data, electronic communications and distributions, broadband, high-speed internet access and other technological services as they are developed, use of copyrighted materials (such as music and videos). The University may, with prior written notice to the Borrower, enter into agreements for management of the Recreation Facility or portions thereof. The Borrower is to have no liability, personal or otherwise, under any such Management Agreement or service contract. See “APPENDIX F—FORM OF FACILITY LEASE” herein.

### **The Facilities Manager and the Services Agreement**

*In addition to the description of certain provisions of the Services Agreement (defined below) contained elsewhere herein, the following is a brief summary of certain provisions of the Services Agreement and does not purport to be comprehensive or definitive. Reference is made to the Services Agreement for the detailed provisions thereof. Capitalized terms used but not defined in the below summary of certain provisions of the Services Agreement have the meaning ascribed in the Services Agreement.*

Johnson Controls, Inc., a Wisconsin corporation (the “Facilities Manager”) and the University entered into a Services Agreement (the “Services Agreement”) dated as of June 30, 2023 (the “Effective Date”). According to the Services Agreement, the services of the Facilities Manager include, but are not limited to, facilities maintenance and repair, buildings facilities maintenance and operations, infrastructure management, and continuous quality assurance as they relate to certain aspects of the Recreation Facility (the “Services”).

**Performance of the Facilities Manager Duties.** The Facilities Manager is to select, employ, pay, supervise and discharge all employees, independent contractors, and personnel reasonably necessary to perform the Services. All such employees, Subcontractors, and any other personnel engaged pursuant to the Facilities Manager’s authority to perform under the Services Agreement, in whole or in part, Services, shall be collectively referred to in the Services Agreement as “JCI Personnel.” The general scope of the Facilities Manager’s maintenance and repair obligations with respect to the various components and systems of the Recreation Facility are set forth in Schedule 1 (Scope of Services) and Exhibit E (Responsible Matrix) to the Services Agreement.

**Term.** The Services Agreement shall be for an initial term of five years, unless terminated earlier pursuant to the terms of the Services Agreement, with automatic extensions for successive periods of five (5) years unless either Party provides written notice of its intention not to extend the term at least six (6) months prior to the applicable renewal date. In the event the University provides written notice of its intention not to extend the term of the Services Agreement, the University is obligated to pay to the Facilities Manager the value of the Service Fees beginning from the date the Term expires and projecting forward six (6) months, which amount shall be equivalent to the value of the Service Fees that the Facilities Manager would have received over such 6-month period but for University's decision not to extend the term of the Services Agreement.

**Insurance.** The Facilities Manager shall maintain or cause to be maintained, at its sole cost and expense (a) all legally required insurance coverage relating to its employees, including, but not limited to, Workers Compensation and Employers Liability; (b) commercial general liability with a per occurrence limit of \$5,000,000 and \$5,000,000 general aggregate; and (c) business auto liability with a per accident limit of \$5,000,000 covering all owned, non-owned and hired vehicles used in connection with the Services.

**The Installation Contract.** JCI and the University entered into an Installation Contract dated, as of June 30, 2023 (the "Effective Date"). Pursuant to the Installation Contract, JCI is to furnish and install certain technology infrastructure to be used in future operation and maintenance of portions of the Recreation Facility. The technology infrastructure includes fire extinguisher, fire alarm, fire sprinkler, mechanical equipment, telecommunication, security, and project management systems and related equipment. The work shall be considered substantially complete at the point in time at which the University may utilize the work for its intended purpose with only minor elements remaining uncompleted. In consideration of JCI's completion of the work, the University shall pay a contract sum equal to \$7,546,891.

## **THE BORROWER**

### **General**

CHF – Horizons I, L.L.C., is a single member limited liability company duly formed and validly existing under the laws of the State of Alabama. The Borrower was formed, by the filing of a Certificate of Formation with the Alabama Secretary of State on March 5, 2024, specifically for the purpose of the development, financing, construction, ownership, operation and disposition of the Recreation Facility.

The Borrower is not expected to have any assets other than the Facilities and its leasehold interest in the Property pursuant to the Ground Lease. The sole member of the Borrower is the Collegiate Housing Foundation (the "Foundation"). The Borrower is treated as a "disregarded entity" of the Foundation for federal income tax purposes, meaning that its activities are deemed to be those of its sole member for federal income tax purposes. The Foundation, as the Borrower's sole member, has executed a Limited Liability Company Agreement (the "Operating Agreement"), dated March 5, 2024, setting forth the purpose of the Borrower and vesting the management of the Borrower exclusively in the Foundation, as sole member.

### **The Foundation**

The Foundation is a nonprofit corporation formed in 1996 under the laws of the State of Alabama. The Foundation is also an organization that is exempt from federal income tax pursuant to §501(c)(3) of the Federal Tax Code. It was organized and is operated exclusively for charitable and educational purposes including the purpose of assisting colleges and universities in providing housing for their enrolled students and otherwise assisting them in furtherance of their educational missions. The membership of the Foundation is comprised of those colleges and universities so assisted by the Foundation. To date, the Foundation has assisted 50 different colleges and universities with providing housing, including multiple housing facilities on some campuses. In assisting many of those colleges and universities, the Foundation has established other single member limited liability companies for the limited purpose of acquiring and financing student housing projects for such schools, none of which have any assets other than the particular project for which they were established or any obligations beyond the acquisition and financing of such particular project. Neither the Foundation nor any limited liability company established by the Foundation other than the Borrower will have any obligation with respect to the Series 2024 Bonds or under any of the Bond Documents.

The Foundation is governed by a Board of Directors elected by its members. The following individuals constitute the Board of Directors of the Foundation:

| <b>Name</b>         | <b>Business Affiliation</b>   | <b>Term Expires</b> |
|---------------------|---|---------------------|
| William B. Givhan   | President of the Foundation<br>Former General Counsel and Chief<br>Operating<br>Officer of the Foundation   | *                   |
| Leeman H. Covey     | Secretary of the Foundation,<br>Former President of the Foundation,<br>Former Vice President of Finance,<br>Spring Hill College, Mobile,<br>Alabama   | December 2027       |
| John B. Hicks       | Vice President of the Foundation,<br>Senior Consultant, Academic Search, Inc., Former<br>Executive Assistant to the Chancellor and Secretary<br>of the Board of Trustees of the University of<br>Alabama System | December 2025       |
| Thomas M. Daly, Jr. | Director of the Foundation,<br>Former Senior Vice President and Managing<br>Director, Legg Mason Student Housing Public<br>Finance Group  | December 2024       |
| Robert A. Shearer   | Director of the Foundation,<br>Professor Emeritus, University of South Alabama,<br>Former Executive Assistant to the President,<br>University of South Alabama  | December 2027       |

\* Mr. Givhan's term continues for as long as he serves as President of the Foundation.

#### **NO RECOURSE AGAINST THE BORROWER'S MEMBER AND OFFICERS**

No recourse under or upon any obligation, covenant, or agreement contained in the Bond Lease, in any of the Bond Documents, or in any other documents delivered in connection with the issuance of the Series 2024 Bonds, or for any claim based thereon, or under any judgment obtained against the Borrower, or by the enforcement of any assessment or penalty or otherwise or by any legal or equitable proceeding by virtue of any constitution, rule of law or equity, or statute or otherwise or under any other circumstances, under or independent hereof, will be had against any incorporator, director, member, or officer, as such, past, present, or future of the Borrower or the Foundation, or any incorporator, director, member, or officer of any successor entity, as such, either directly or through the Borrower or any successor entity, or otherwise, for the payment for or to the Borrower or any receiver thereof, of any sum that may be due and unpaid by the Borrower under the Bond Lease, any of the Bond Documents, or any other documents delivered in connection with the issuance of the Series 2024 Bonds.

#### **THE UNIVERSITY**

Samford is one of the country's leading Christian universities and offers undergraduate programs grounded in the liberal arts with an array of nationally recognized graduate and professional schools. Founded in 1841, Samford is the 87th-oldest institution of higher learning in the United States. Located in the Birmingham, Alabama suburb of Homewood, the university's campus covers approximately 247 acres and is renowned for its beauty and Georgian-

Colonial style architecture. The University currently enrolls 5,791 students from 49 states, the District of Columbia and 16 countries. The student-to-faculty ratio is 14:1, with an average undergraduate class size of 19 people.

Samford offers undergraduate and graduate degrees across 10 academic schools: arts, arts and sciences, business, divinity, education, health professions, law, nursing, pharmacy, and public health. The University has one of three accredited law schools and one of only two accredited pharmacy schools in Alabama. Samford's Beeson Divinity School is the only fully accredited graduate divinity school based in Alabama. The university is classified by the Carnegie Commission on Higher Education as a national doctoral/professional institution.

Samford's mission to nurture student development intellectually, ethically and spiritually is fostered through an array of opportunities, including 182 student organizations, global engagement in more than 14 different countries and a wide array of courses that incorporate community service. Additionally, undergraduate students complete Samford's core curriculum, providing a well-rounded foundation in the liberal arts. The result is a highly-tailored educational experience that results in 97% of undergraduate alumni employed or in further study within six months of graduation. See "APPENDIX A-1—INFORMATION REGARDING SAMFORD UNIVERSITY" herein for demographic and summary operating and financial information related to the University.

The University's audited Consolidated Financial Statements for the years ended June 30, 2023 and 2022 are included as Appendix A-2 to this Official Statement. Crowe LLP, the University's independent auditor, has not been engaged to perform, and has not performed, since the date of its report set for in Appendix A-2 attached hereto, any procedures on the financial statements addressed in that report. Crowe LLP also has not performed any procedures relating to this Official Statement. No procedures on the financial statements included as Appendix A-2 have been performed since the date thereof, and no auditor has performed any procedures relating to this Official Statement.

## **CERTAIN BONDHOLDERS' RISKS**

### **Introduction**

No person should purchase any of the Series 2024 Bonds without carefully reviewing the following information, which summarizes some, but not all, of the factors that should be carefully considered prior to such a purchase. Each prospective purchaser should also carefully examine this Official Statement and his, her, or its own financial condition (including the diversification of his, her, or its investment portfolio) in order to make a judgment as to whether the Series 2024 Bonds are an appropriate investment.

Identified and summarized below are a number of considerations or risks that could adversely affect the operation of the Recreation Facility and/or the Series 2024 Bonds and that should be considered by prospective purchasers. The following discussion is not intended to be exhaustive, but includes certain major factors that should be considered along with other factors set forth elsewhere in this Official Statement, including the Appendices hereto. The order of inclusion of these risks and other investment considerations is not intended to be representative of the importance or probability of such risks or investment considerations. In order for prospective purchasers of the Series 2024 Bonds to identify risk factors and make an informed investment decision, prospective purchasers should be thoroughly familiar with this entire Official Statement and the appendices hereto so as to make a judgment as to whether the Series 2024 Bonds are an appropriate investment. Prospective investors should obtain such additional information as they deem advisable in connection with their evaluation of the suitability of the Series 2024 Bonds for investment.

### **Economic and Other Factors**

If the Borrower is unable to generate sufficient revenues from the payments to be received under the Facility Lease, an Event of Default may occur under the Bond Documents. Upon an Event of Default, the Series 2024 Bonds may be paid before maturity or on applicable redemption dates and a forfeiture of purchase premiums, if any, may result. Payments under the Facility Lease, and therefore the Borrower's ability to make payments under the Bond Lease, may be adversely affected by a wide variety of future events and conditions including, but not limited to, (a) a decline in the enrollment of the University, (b) increased competition from other schools, (c) loss of accreditation of the University's programs, (d) failure of the University to meet applicable federal guidelines or some other event



which results in students of the University being ineligible for federal financial aid, (e) lessened ability of the University to attract and retain qualified employees and staff; (f) changes in government regulation of the higher education industry; (g) the occurrence of natural disasters, such as floods; and acts of civil unrest and terrorism (h) cost overruns in connection with the Recreation Center or other capital improvements being undertaken by the University, and/or (i) the University's default under the Facility Lease or any of its other payment obligations with respect to Covered Parity Debt. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Outstanding Covered Parity Debt of the University; Cross Default".

### **Limited Obligations of the Authority**

The Series 2024 Bonds constitute limited obligations of the Authority and have two potential sources of payment. The sources of payment are as follows:

(a) *Payments Received by the Trustee from the Borrower Pursuant to the Terms of the Indenture and the Bond Lease.* The Authority has no obligation to pay the Series 2024 Bonds except from the related Trust Estate, including Basic Lease Payments derived from the Bond Lease, all of which are assigned to the Trustee. The Series 2024 Bonds are limited obligations of the Authority payable solely from the Trust Estate and, except from such source, none of the Authority, any Authority Indemnified Person (as defined in the Indenture), the State of Alabama or any political subdivision or agency thereof or any political subdivision approving the issuance of the Series 2024 Bonds is obligated to pay the principal of, premium, if any, or interest thereon or any costs incidental thereto. The Series 2024 Bonds are not general obligations of the Authority but are limited obligations payable solely from the revenues and receipts derived from the Trust Estate granted in the granting clauses at the beginning of the Indenture, which revenues and receipts are thereby specifically pledged to such purposes in the manner and to the extent provided in the Indenture. Neither the directors of the Authority nor any persons executing the Series 2024 Bonds shall be liable personally on the Series 2024 Bonds by reason of the issuance thereof. The Series 2024 Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit of the Authority, the State of Alabama or any political subdivision thereof, including the Authority and the city of Homewood, Alabama. Neither the State of Alabama nor any political subdivision thereof, including the Authority and city of Homewood, Alabama, shall be liable for the Series 2024 Bonds or obligated to pay the principal, premium, if any, or the interest thereon or other costs incident thereto except from the revenues and receipts pledged therefor, and neither the faith and credit nor the taxing power of the State of Alabama or any political subdivision thereof, including the Authority and city of Homewood, Alabama, is pledged to the payment of the principal of or the premium, if any, or the interest on the Series 2024 Bonds or other costs incident thereto. The Authority has no taxing power. The Basic Lease Payments will be derived solely from revenues from the Facility Lease as a general obligation of the University. Furthermore, the Borrower's ability to meet its obligations under the Bond Lease will depend upon substantially on the University throughout the term of the Series 2024 Bonds. However, no assurance can be made that the Borrower will generate sufficient revenues from the Facility Lease to pay Debt Service on the Series 2024 Bonds after payment of Expenses of the Recreation Facility.

(b) *Revenues received from the operation of the Recreation Facility by a Receiver Upon a Default Under the Indenture.* It has been the experience of lenders in recent years that attempts to have a receiver appointed to take charge of properties with respect to which loans have been made are frequently met with defensive measures such as the initiation of protracted litigation and the initiation of bankruptcy proceedings. Such defensive measures can prevent the appointment of a receiver or greatly increase the expense and time involved in having a receiver appointed. See "—Enforceability of Remedies" herein. Accordingly, prospects for uninterrupted payment of principal and interest on the Series 2024 Bonds in accordance with their terms are largely dependent upon Basic Lease Payments from the Borrower described in the preceding paragraph.

### **Risks of Construction**

The cost of construction of the Recreation Facility may be affected by factors beyond the control of the University, including strikes, material shortages, adverse weather conditions, subcontractor defaults, delays, and unknown contingencies.

The Construction Contract between the University and the Construction Manager will obligate the Construction Manager to complete the Recreation Facility within a specified time for a fixed price. The cost of the Recreation Facility may be increased, however, if there are change orders.

To the extent that construction is delayed or halted due to acts of force majeure or eminent domain, none of the Authority, the University, the Borrower, nor the Construction Manager will have any obligation to provide for such completion. While the Indenture permits the Authority to issue Additional Bonds to complete the Recreation Facility, the Authority is not obligated to issue such Additional Bonds and there can be no assurance that a purchaser for such Additional Bonds could be obtained.

### **Limited Resources**

The Borrower has no substantial revenues or assets other than the facilities financed with the proceeds of the Series 2024 Bonds. Furthermore, the Series 2024 Bonds are secured only by the payments due to the Borrower pursuant to the Facility Lease. Therefore, timely payment of Debt Service on the Series 2024 Bonds will be dependent upon the Borrower's ability to receive revenues from the Recreation Facility from Rent payments under the Facility Lease in amounts sufficient to pay administrative expenses and Lease Payments under the Bond Lease. If the Rent payments under the Facility Lease are insufficient to pay the principal of and premium, if any, and interest on the Series 2024 Bonds, the Borrower likely will have no moneys or assets other than the Recreation Facility from which to make such payments, and the Borrower is not obligated to use any such money or assets to make such payments. The Borrower's obligations under the Bond Lease are limited to revenues generated by the Recreation Facility, including specifically pursuant to the Facility Lease thereof.

### **Risks Associated with Leasehold Interest and No Leasehold Mortgage**

The Recreation Facility will be constructed to serve as recreation facilities and is located on the University's campus. The Borrower does not own fee title of the real property on which the Recreation Facility is situated, and such property is ground leased to the Authority pursuant to the Ground Lease and then the Borrower leases the property pursuant to the Bond Lease with the Authority. A default under the Bond Lease or failure of the University's title to any such real property could result in a termination of the Ground Lease and Bond Lease, effectively depriving the Trustee of the real property security for the Series 2024 Bonds. Payment of the Series 2024 Bonds is not secured by a Leasehold Mortgage on the Recreation Facility. The Trustee has no ability to foreclose or exercise other leasehold mortgage remedies with respect to the Recreation Facility in an Event of Default under the Bond Documents. The remedy for an Event of Default under the Facility Lease is for the Borrower to re-enter and take possession of the Recreation Facility, with or without terminating the Facility Lease. For all practical purposes, payment of the Series 2024 Bonds relies upon University revenues and the general obligation of the University to pay Base Rent under the Facility Lease.

### **Reliance on the University; Outstanding Covered Parity Debt of the University**

Timely payment of Debt Service on the Series 2024 Bonds will be dependent upon the Borrower's ability to receive revenues from the Recreation Facility from Rent payments under the Facility Lease in amounts sufficient to pay administrative expenses and Lease Payments under the Bond Lease, and therefor is dependent on the University maintaining (a) adequate matriculation, (b) a good reputation in the educational community and (c) financial stability. If the University encounters difficulties with any of three matters listed in the previous sentence, such difficulties could decrease the desirability of the University to existing or prospective students, which, in turn, could adversely affect the financial success of the University and its ability to pay Rent under the Facility Lease and, in turn, cause a material adverse effect on the ability of the Borrower to pay debt service on the Series 2024 Bonds. In addition, the University is obligated on a parity basis with respect to outstanding Covered Parity Debt (as such term is defined in the Facility Lease), which Covered Parity Debt currently includes debt described in "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Outstanding Covered Parity Debt of the University; Cross Default" herein. The University has covenanted in the Facility Lease to, in each calendar year, reserve and allocate funds of the University, and apply such funds, for the payment in each such calendar year, when due, of the principal of and interest on all Covered Parity Debt on an equal and proportionate basis and parity of lien without preference or priority of any obligation which constitutes a part of Covered Parity Debt over any other such obligation and without discrimination or priority among the Persons entitled to such payments. However, occurrence of an event of default

under any of the Covered Parity Debt Documents (as defined in the Indenture) will be an Event of Default under the Indenture with respect to the Series 2024 Bonds. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Outstanding Covered Parity Debt of the University; Cross Default”.

### **No Debt Service Reserve Fund**

At the time of the execution and delivery of the Series 2024 Bonds, no debt service reserve fund will be established to secure the payment of the principal of and interest on the Series 2024 Bonds. There is no intention of establishing a debt service reserve fund in the future to secure the payment of the principal of and interest on the Series 2024 Bonds.

### **Insurance and Legal Proceedings**

The Borrower will carry or cause the University to carry insurance for the Recreation Facility to insure against such risks as are customarily insured against with respect to the facilities of like size/type. However, there can be no assurance that any current or future claims will be covered by or will not exceed applicable insurance coverage. No casualty will entitle the Borrower to any postponement, abatement, or diminution of the Basic Lease Payments. See “FORM OF THE BOND LEASE” in Appendix B-2 hereto.

Although the Borrower will be required to obtain and maintain certain insurance against damage or destruction as set forth in the Bond Lease, or cause such insurance to be obtained and maintained by the University, there can be no assurance that the University or the Borrower will not suffer losses for which insurance cannot be or has not been obtained or that the amount of any such loss will not exceed the coverage of such insurance policies.

If the Recreation Facility or any portion of the Recreation Facility is damaged or destroyed, or is taken in a condemnation proceeding, funds derived from proceeds of insurance or any such condemnation award for the Recreation Facility must be applied as provided in the Bond Lease to restore or rebuild the Recreation Facility or to redeem the Series 2024 Bonds. There can be no assurance that the amount of funds available to restore or rebuild the Recreation Facility or to redeem the Series 2024 Bonds will be sufficient for that purpose.

The Borrower and the University have arranged for insurance coverage that is customary for projects of a similar nature. In the event of damage or condemnation, the Borrower and the University will rely on insurance proceeds and condemnation awards to pay all or part of the costs of restoring the Recreation Facility. Failure of an insurer to pay a claim could result in a default on the Series 2024 Bonds and redemption of such instruments at par. There are certain types of losses that are not insured or insurable, such as losses relating to certain types of water damage. Should such a catastrophic casualty occur, the Borrower or the University would suffer a loss for which insurance benefits would not be available. Further, there is no assurance that insurance proceeds where available will be sufficient to repay the Series 2024 Bonds.

### **Bankruptcy**

Although the lien on the Pledged Revenues under the Indenture given for the benefit of Owners of the Series 2024 Bonds are superior to the claims of other creditors (subject to the limitations set forth under “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Pledged Revenues; Borrower Security Agreement.” above), bankruptcy and similar proceedings against the Borrower and usual equity principles may affect the enforcement of rights to such security. A court may invoke other equity principles to refuse to enforce specifically rights to such security. If such security is inadequate for payment in full of the Series 2024 Bonds, bankruptcy proceedings and usual equity principles may also limit any attempt by the Trustee to seek payment from other property, if any, of the Borrower.

If the Borrower were to file a petition for relief under the United States Bankruptcy Code, the filing would operate as an automatic stay of the commencement or continuation of any judicial or other proceeding against the Borrower, and any interest it has in property. If the bankruptcy court so orders, the Borrower’s property, including its accounts receivable and proceeds thereof, could be used, at least temporarily, for the benefit of the bankruptcy estate despite the claims of its creditors (including the owners of the Series 2024 Bonds).

In a bankruptcy proceeding, the debtor could file a plan for the adjustment of its debts that modifies the rights of creditors generally or the rights of any class of creditors, secured or unsecured (including the owners of the Series 2024 Bonds). The plan, when confirmed by the court, binds all creditors who had notice or knowledge of the plan and discharges all claims against the debtor provided for in the plan, including claims of the owners of the Series 2024 Bonds.

### **Limitations on Enforceability of Remedies**

Pursuant to the Indenture, the Series 2024 Bonds are secured by the Trust Estate, including the grant of a security interest to the Trustee in the Authority's interest in the Bond Lease. The practical realization of value upon any default will depend upon the exercise of various remedies specified by the Bond Documents. These and other remedies may, in many respects, require judicial actions, which are often subject to discretion and delay. Under existing law (including, particularly, federal bankruptcy law), the remedies specified by the Bond Documents may not be readily available or may be limited. A court may decide not to order the specific performance of the covenants contained in the Bond Documents. The various legal opinions to be delivered concurrently with the delivery of the Series 2024 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings, and decisions affecting remedies, including judicial discretion in the application of the principles of equity, and by bankruptcy, reorganization, or other laws affecting the enforcement of creditors' rights generally.

The realization of any rights upon a default will depend upon the exercise of various remedies specified in the Indenture, the Bond Lease, the Facility Lease and the Borrower Security Agreement. Any attempt by the Trustee to enforce such remedies may require judicial action, which is often subject to discretion and delay. Under existing law (including, without limitation, the United States Bankruptcy Code), certain of the legal and equitable remedies specified in the Indenture, the Bond Lease, the Facility Lease and the Borrower Security Agreement may not be readily available or may be limited.

A court may decide not to order the specific performance of the covenants contained in the Indenture, the Bond Lease, the Facility Lease and the Borrower Security Agreement. The various opinions to be delivered concurrently with the delivery of the Series 2024 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings and decisions affecting remedies, and by bankruptcy, reorganization or other laws affecting the enforcement of creditors' rights generally.

Any default in the performance of most of the covenants set forth in the Indenture, the Bond Lease, the Facility Lease and the Borrower Security Agreement would constitute an Event of Default under such documents only following notice and lapse of time, as further described in the Indenture and the Bond Lease. The Bond Trustee will give notice of an Event of Default under the Indenture within the time required under the Indenture. Events of Default specified by the Indenture can be remedied through enforcement action taken by the Trustee in its discretion or at the request of the Requisite Number of Bondholders (as defined in the Indenture), subject to the right of the Majority of the Bondholders (as defined in the Indenture) to direct all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture or any other proceedings thereunder.

The Indenture permits the issuance of Additional Bonds under the circumstances specified therein. As a result, the proportion of the principal amount of the Series 2024 Bonds to the principal amount of all Bonds at any time outstanding under the Indenture is subject to change. Upon an acceleration of the Series 2024 Bonds, after paying the expenses and other amounts due to the Trustee, amounts available to pay the Series 2024 Bonds will be prorated among all Owners of Bonds without preference or priority of principal or premium over interest or of interest over principal or premium, or of any Series 2024 Bond over any other Series 2024 Bond.

### **Possible Limitations on Security**

The pledge of and assignment by the Borrower of Pledged Revenues may be limited by the following: (a) statutory liens; (b) rights arising in favor of the United States of America or any agency thereof or the State of Alabama or any agency thereof; (c) present or future prohibitions against assignment contained in any federal or state statutes or regulations; (d) constructive trusts, equitable liens or other rights impressed or conferred by any state or federal court in the exercise of its equitable jurisdiction; (e) federal bankruptcy or state insolvency laws affecting

assignments of revenues earned after any effective institution of bankruptcy or insolvency proceedings by or against the Borrower; (f) rights of third parties in any revenues, including revenues converted to cash, not in possession of the Trustee; (g) the requirement that appropriate continuation statements be filed in accordance with the applicable Uniform Commercial Code; and (h) rights of holders of Permitted Encumbrances, as set forth in the Indenture.

### **Additional Bonds**

The Authority has the right to issue Additional Bonds that will be issued on a parity with the Series 2024 Bonds and any Additional Bonds theretofore or thereafter issued. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Additional Bonds and Indebtedness” herein. **Any other Additional Bonds could dilute the security for the Series 2024 Bonds.**

### **Clean-up Costs and Liens Under Environmental Statutes**

The University has obtained on behalf of the Borrower a Phase I Environmental Site Assessment for the Recreation Facility prepared by Bhate Geosciences Corporation. During the initial offering period, potential purchasers of the Series 2024 Bonds can obtain a copy of the Phase I Report from the Underwriters at no cost and are encouraged to review the same before investing in the Series 2024 Bonds. Following the initial offering period, potential purchasers can examine such document at the office of the Trustee. The Phase I Reports found no Recognized Environmental Conditions located at the site where the Recreation Facility is being constructed.

In addition, Bhate Geosciences Corporation prepared for the University a Report of Subsurface Exploration and Geotechnical Engineering Evaluation, dated April 28, 2023, covering the Recreation Facility (the “Geotechnical Report”). The Geotechnical Report summarizes Bhate Geosciences Corporation’s understanding of the proposed construction, describes the exploration and testing procedures, discusses observations, and presents the findings and recommendations as it relates to foundation design and earthwork construction for the planned development.

The Borrower is not aware of any enforcement actions currently in process with respect to any releases of pollutants or contaminants at the Property. However, there can be no assurance that an enforcement action or actions will not be instituted under such statutes at a future date. In the event such enforcement actions were initiated, the Borrower could be liable for the costs of removing or otherwise treating pollutants or contaminants located at the Property. In addition, under applicable environmental statutes, in the event an enforcement action was initiated, a lien superior to the Trustee’s lien on behalf of the Bondholders could attach to the Recreation Facility, which would adversely affect the Trustee’s ability to realize value from the disposition of the Borrower’s interest in the Recreation Facility.

### **Cybersecurity Risks**

The services and systems of the University and the Borrower may be critical to operations or involve the storage, processing and transmission of sensitive data, including valuable intellectual property, other proprietary or confidential data, regulated data, and personal information of employees, students and others. Successful breaches, employee malfeasance, or human or technological error could result in, for example, unauthorized access to, disclosure, modification, misuse, loss, or destruction of the University, the Borrower or other third-party data or systems; theft of sensitive, regulated, or confidential data including personal information and intellectual property; the loss of access to critical data or systems; service or system disruptions or denials of service.

### **COVID-19 and Future Pandemics or Epidemics**

The global outbreak and continued spread of COVID-19 and actions taken by federal, State and local governments in response thereto, have materially adversely affected, and the outbreak of any future pandemics or epidemics and the actions taken in response thereto may further impact, travel, commerce and financial markets globally. Such pandemics or epidemics may have material impact on global, regional and local economic conditions as well as on the higher education landscape in general, and may adversely affect the financial condition and operations of the University.

## **Risk of Early Redemption**

Purchasers of Series 2024 Bonds, including those who purchase Series 2024 Bonds at a price in excess of their principal amount or who hold such bonds trading at a price in excess of par, should consider the fact that the Series 2024 Bonds are subject to optional and mandatory redemption at a redemption price equal to their principal amount plus accrued interest upon the occurrence of certain events. This could occur, for example, in the event the Series 2024 Bonds are prepaid as a result of a casualty or condemnation award affecting the Recreation Facility. See “THE SERIES 2024 BONDS—Redemption.” Under such circumstances, a purchaser of the Series 2024 Bonds whose bonds are called for early redemption may not have the opportunity to hold such bonds for a time period consistent with such purchaser’s original investment intentions and may lose any premium paid for the Series 2024 Bonds.

## **Forward Looking Statements**

When used in this Official Statement and in any continuing disclosure by the Borrower, in any of the Borrower’s press releases and in oral statements made with the approval of an authorized executive officer of the Borrower, the words or phrases “will likely result,” “are expected to,” “will continue,” “is anticipated,” “estimate,” “project,” or similar expressions are intended to identify “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to certain risks and uncertainties that could cause actual results to differ materially from those presently anticipated or forecasted. The Borrower cautions readers not to place undue reliance on any such forward-looking statements. The Borrower advises readers that certain factors could affect the financial performance of the Borrower and/or the Recreation Facility and could cause the actual results of the Borrower or the Recreation Facility for future periods to differ materially from any opinions or statements expressed with respect to future periods in any current statements.

## **Consequences of Changes in the Foundation’s Tax Status**

The Foundation has obtained a determination letter from the Internal Revenue Service stating that it will be treated as an exempt organization as described in §501(c)(3) of the Federal Tax Code and can reasonably be expected to not be classified as a “private foundation.” In order for the Foundation to maintain its exempt status and to not be considered a private foundation, the Foundation and the Borrower will be subject to a number of requirements affecting their operations. The possible modification or repeal of certain existing federal income tax laws, the change of Internal Revenue Service policies or positions, the change of the Foundation’s or the Borrower’s method of operations, purposes or character or other factors could result in loss by the Foundation of its tax-exempt status.

The Borrower will covenant to cause the Foundation to remain eligible for such tax-exempt status and to avoid operating the Recreation Facility as an unrelated trade or business (as determined by applying §512(a) of the Federal Tax Code). Failure of the Recreation Facility to remain so qualified or of the Borrower so to operate the Recreation Facility could affect the funds available to the Borrower for payments under the Bond Lease by subjecting the Foundation and the Borrower to federal income taxation and could result in the loss of the excludability of interest on the Series 2024 Bonds from gross income for purposes of federal income taxation. Continuation of the tax-exempt status of the Series 2024 Bonds may also be dependent upon the continuing tax-exempt status of the Foundation. See “—Effect of Determination of Taxability” below.

## **Effect of Determination of Taxability**

The Borrower, the University and the Authority each will covenant not to take any action that would cause the Series 2024A Bonds to be arbitrage bonds or that would otherwise adversely affect the federal income tax status of interest on the Series 2024A Bonds and have each made representations with respect to certain matters within its knowledge which have been relied on by Bond Counsel and which Bond Counsel has not independently verified. Failure by the parties to the Bond Lease, the Tax Agreement and the Indenture to comply with their respective covenants thereunder could result in interest on the Series 2024A Bonds becoming includible in gross income for federal tax purposes.

It is possible that a period of time may elapse between the occurrence of the event which causes interest to become taxable and the determination that such an event has occurred. In such a case, interest previously paid on the Series 2024A Bonds could become retroactively taxable from the date of their issuance. Additionally, certain owners of Series 2024A Bonds are subject to possible adverse tax consequences. See “TAX MATTERS” herein.

### **Taxation of Series 2024 Bonds**

An opinion of Bond Counsel will be obtained as described under “TAX MATTERS” herein. Such an opinion is not binding on the Internal Revenue Service. Application for a ruling from the Internal Revenue Service regarding the status of the interest on the Series 2024A Bonds has not been made. The opinion of Bond Counsel contains certain exceptions and is based on certain assumptions described herein under the heading “TAX MATTERS.” Failure by the Authority, the Borrower or the University to comply with certain provisions of the Federal Tax Code and covenants contained in the Indenture, the Bond Lease, and the Tax Agreement could result in interest on the Series 2024A Bonds becoming includable in gross income for federal tax purposes.

Bond Counsel has not opined as to whether interest on the Series 2024 Bonds is subject to state or local income taxation other than in the State of Alabama. Each purchaser of the Series 2024 Bonds should consult his or her own tax advisor regarding the taxable status of the Series 2024 Bonds in a particular state or local jurisdiction other than the State of Alabama.

### **Risk of Audit by Internal Revenue Service**

The Internal Revenue Service has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Internal Revenue Service, interest on such tax-exempt obligations is includible in the gross income of the owners thereof for federal income tax purposes.

No assurances can be given as to whether the Internal Revenue Service will commence an audit of the Series 2024A Bonds. If an audit is commenced, under current procedures the Internal Revenue Service is likely to treat the Authority as the taxpayer and the Bondholders may have no right to participate in such procedure. The Underwriters and Bond Counsel will not be obligated to defend the tax-exempt status of the Series 2024A Bonds. The Authority and Bond Counsel will not be responsible to pay or reimburse the cost of any Bondholders with respect to any audit or litigation relating to the Series 2024A Bonds.

### **Market and Prices for the Series 2024 Bonds**

The Underwriters will not be obligated to repurchase any of the Series 2024 Bonds and no representation is made concerning the existence of any secondary market therefor, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Series 2024 Bonds, and no assurance can be given that initial offering prices for the Series 2024 Bonds will continue for any period of time. Any prospective purchaser of the Series 2024 Bonds, therefore, should undertake an independent investigation through its own advisors regarding the desirability and practicality of the investment in the Series 2024 Bonds. Any prospective purchaser should be fully aware of the long-term nature of an investment in the Series 2024 Bonds and should assume that it will have to bear the economic risk of its investment indefinitely. Any prospective purchaser of the Series 2024 Bonds that does not intend or that is not able to hold the Series 2024 Bonds for a substantial period of time is advised against investing in the Series 2024 Bonds.

## **LITIGATION**

### **The Authority**

There is not now pending or threatened any litigation restraining, enjoining, or in any manner questioning or affecting: the creation, existence or organization of the Authority; the title of any members or officers of the Authority to their respective positions or offices; the authority of the Authority to issue the Series 2024 Bonds or execute and deliver the financing documents contemplated by the Recreation Center Project that the Authority is a party to; the

Enabling Law, the Series 2024 Bonds, or any provision of any thereof; or any proceedings or other matters in connection with any of the foregoing.

There are no legal proceedings pending or threatened against the Authority which may materially affect the ability of the Authority to perform its obligations to the Owners of the Series 2024 Bonds.

### **The Borrower**

There is not now pending or threatened any litigation restraining, enjoining, or in any manner questioning or affecting: the creation, existence or organization of the Borrower; the title of any members or officers of the Borrower to their respective positions or offices; the authority of the Borrower to issue the Series 2024 Bonds or execute and deliver the financing documents contemplated by the Recreation Center Project that the Borrower is a party to, or any provision of any thereof; or any proceedings or other matters in connection with any of the foregoing.

There are no legal proceedings pending or threatened against the Borrower which may materially affect the ability of the Borrower to perform its obligations to the Owners of the Series 2024 Bonds.

### **The University**

There is not now pending or threatened any litigation restraining, enjoining, or in any manner questioning or affecting: the creation, existence or organization of the University; the authority of the University to execute and deliver the any financing documents contemplated by the Recreation Center Project that the University is a party to, or any provision of any thereof; or any proceedings or other matters in connection with any of the foregoing.

In the normal course of business, the University is a defendant in various litigation matters. In management's opinion, the ultimate resolution of these matters will not have a material adverse effect on the financial position or results of operations of the University.

There are no legal proceedings pending or threatened against the University which may materially affect the ability of the University to perform its obligations to the Owners of the Series 2024 Bonds.

## **TAX MATTERS**

### **The Tax-Exempt Bonds**

**General.** In the opinion of Maynard Nexsen PC, Bond Counsel, to be delivered on the date of issuance of the Series 2024A Bonds in substantially the form of Appendix D (subject to amendment to comply with facts and law on such date of delivery), under existing law and subject to certain assumptions and qualifications set forth in such opinion, interest on the Series 2024A Bonds is: (i) excludable from gross income for purposes of federal income taxation, subject to continuing compliance by the Authority, the Borrower and the University with the applicable provisions of the Federal Tax Code, therefor; (ii) is not an item of tax preference for purposes of the federal alternative minimum tax, provided, as a result of amendments to the Federal Tax Code, enacted pursuant to the Inflation Reduction Act of 2022, interest on the Series 2024A Bonds may be taken into account for purposes of the alternative minimum tax imposed by Section 55(b)(2) of the Federal Tax Code, on "applicable corporations" as defined in Section 59(k) of the Federal Tax Code; and (iii) exempt from State of Alabama income taxation.

The continued exclusion of interest on the Series 2024A Bonds from gross income for purposes of federal income taxation, and the continued exemption of interest on the Series 2024A Bonds from Alabama income taxation, may be adversely affected, or terminated (in some cases retroactive in effect to the date of issuance of the Series 2024A Bonds ), by events occurring subsequent to the issuance of the Series 2024A Bonds, including without limitation: (i) failure by the Authority, the Borrower and the University to comply with the applicable requirements of the Federal Tax Code that must be satisfied subsequent to the issuance of the Series 2024A Bonds, (ii) the enactment of tax legislation by the United States Congress or the Legislature of Alabama, or (iii) decisions rendered by federal or state courts, or (iv) the amendment, interpretation or enforcement of applicable regulations under the Federal Tax Code.



**IRS Audit Program.** The Internal Revenue Service conducts an audit program to examine compliance with the requirements of the Federal Tax Code for the continued exclusion of interest on governmental obligations, such as the Series 2024A Bonds, from gross income for purposes of federal income taxation. If the Series 2024A Bonds are examined, under current Internal Revenue Service procedures, in the initial stages of an audit with respect to the Series 2024A Bonds the Authority would be treated as the taxpayer, and the owners of the Series 2024A Bonds may have limited rights, if any, to participate in the audit process. The initiation of an audit with respect to the Series 2024A Bonds could adversely affect the market value and liquidity of the Series 2024A Bonds prior to any final determination as to whether interest on the Series 2024A Bonds is subject to federal income taxation. If an audit results in a final determination that the interest on the Series 2024A Bonds is not excludable from gross income for purposes of federal income taxation, such a determination may cause interest on the Series 2024A Bonds to be subject to federal income taxation retroactive in effect to the date of issuance of the Series 2024A Bonds.

**No Redemption or Payment if Series 2024A Bonds are Taxable.** The Indenture does not provide, and the Authority, the Borrower and the University will have no liability, for the redemption of any of the Series 2024A Bonds, or the payment of any additional interest, penalty, or premium, if a determination is made that the interest thereon is subject to federal income taxation, or if a subsequent change in law adversely affects the tax-exempt status of the Series 2024A Bonds or the market value or effect of investing in the Series 2024A Bonds.

**Ancillary Tax Matters.** Under the Federal Tax Code, (i) the exclusion of interest from gross income for purposes of federal income taxation may have certain adverse federal income tax consequences on items of income, deduction or credit for certain taxpayers, including financial institutions, certain insurance companies, recipients of Social Security and Railroad Retirement benefits, those that are deemed to incur or continue indebtedness to acquire or carry tax-exempt obligations, and individuals otherwise eligible for the earned income tax credit, and (ii) interest on the Series 2024A Bonds may be subject to a federal branch profits tax imposed on certain foreign corporations doing business in the United States and to a federal tax imposed on excess net passive income of certain Sub-Chapter S corporations.

**Consultation with Tax Advisors.** Prospective purchasers of the Series 2024A Bonds should consult their own tax advisers regarding the federal and state tax consequences of ownership of the Series 2024A Bonds, including without limitation the determination and treatment of original issue discount and original issue premium for federal income tax purposes.

**Investment Information for Financial Institutions.** The Authority has not designated the Series 2024A Bonds as “qualified tax-exempt obligations” for purposes of paragraph (3) of subsection (b) of Section 265 of the Federal Tax Code regarding interest incurred to carry tax-exempt obligations.

## **The Series 2024B Bonds**

**General.** In the opinion of Bond Counsel, under existing law, interest on the Series 2024B Bonds (a) is not excludable from gross income for purposes of federal income taxation and (b) is exempt from State of Alabama income taxation.

**Collateral Tax Consequences.** Prospective purchasers of the Series 2024B Bonds should consult their own tax advisers regarding the federal and state tax consequences of ownership of the Series 2024B Bonds.

**PROSPECTIVE PURCHASERS OF THE SERIES 2024 BONDS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF THE SERIES 2024 BONDS AS TO THE IMPACT OF THE FEDERAL TAX CODE UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE SERIES 2024 BONDS.**

## **UNDERWRITING**

RBC Capital Markets, LLC and Stifel, Nicolaus & Company, Incorporated (the “Underwriters”) are purchasing the Series 2024 Bonds and intend to offer the Series 2024 Bonds to the original purchasers thereof at the offering prices set forth on the cover page of this Official Statement, which offering price may subsequently be

changed without any requirement of prior notice. The Underwriters will purchase the Series 2024 Bonds at a price equal \$\_\_\_\_\_ (being \$\_\_\_\_\_ the principal amount thereof, plus \$\_\_\_\_\_ of [net] original issue premium, and less \$\_\_\_\_\_ of Underwriters' discount).

The Underwriters may offer and sell Series 2024 Bonds to certain dealers at prices lower than the public offering price or otherwise allow concessions to such dealers who may re-allow concessions to other dealers. Any discounts and/or commissions that may be received by such dealers in connection with the sale of the Series 2024 Bonds will be deducted from the Underwriters' discount.

## **SPECIAL RELATIONSHIPS**

RBC Capital Markets, LLC ("RBCCM") has provided the following information for inclusion in this Official Statement: RBCCM and its affiliates are full-service financial institutions engaged in various activities which may include securities trading, commercial and investment banking, municipal advisory, brokerage, and asset management. In the ordinary course of business, RBCCM and its affiliates may actively trade debt and, if applicable, equity securities (or related derivative securities) and provide financial instruments (which may include bank loans, credit support or interest rate swaps). RBCCM and its affiliates may engage in transactions for their own accounts involving the securities and instruments made the subject of this securities offering or other offering of the Authority. RBCCM and its affiliates may also communicate independent investment recommendations, market color or trading ideas and publish independent research views in respect of this securities offering or other offerings of the Authority. RBCCM does not make a market in credit default swaps with respect to municipal securities at this time but may do so in the future.

Stifel, Nicolaus & Company, Incorporated ("Stifel") has provided the following information for inclusion in this Official Statement: Stifel and its affiliates comprise a full service financial institution engaged in activities which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Stifel and its affiliates may have provided, and may in the future provide, a variety of these services to the Authority or the University, and to persons and entities with relationships with the Authority or the University, for which they received or will receive customary fees and expenses.

In the ordinary course of these business activities, Stifel and its affiliates may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the Authority or the University (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the Authority or the University.

Stifel and its affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire such assets, securities and instruments. Such investment and securities activities may involve securities and instruments of the Authority or the University.

A Managing Director of Stifel, an Underwriter for the Series 2024 Bonds, Mr. Michael P. Dunn, is a member of the Board of Trustees of the University.

Maynard Nexsen PC is acting as bond counsel to the Authority in connection with the issuance of the Bonds. Maynard Nexsen PC has also represented an Underwriter, Stifel, Nicolaus & Company, Incorporated, and the Trustee from time to time in connection with matters unrelated to the Series 2024 Bonds.

## **OPINIONS AND ENGAGEMENT OF BOND COUNSEL**

### **Opinions of Bond Counsel**

Maynard Nexsen PC has acted as Bond Counsel to the Authority in connection with the issuance of the Series 2024 Bonds. Bond Counsel is expected to deliver the opinions thereof in substantially the forms set forth in Appendix

D hereto, subject to amendment to comply with relevant facts and applicable law on such date, on the date of delivery of and payment for the Bonds.

The opinions of Bond Counsel (a) are given, and are effective, on the date thereof in reliance upon the certification by the Authority, the Borrower and the University of certain covenants, expectations and facts as of such date, upon review of state and federal law in effect on such date, and upon the assumption the Authority, the Borrower and the University will comply with the requirements of the Federal Tax Code which are applicable subsequent to the issuance of the Series 2024A Bonds for the continued exclusion of interest on the Series 2024A Bonds from gross income for purposes of federal income taxation, (b) must be read in the entirety thereof for an understanding of the scope thereof and the bases therefor, (c) express the professional judgment of Bond Counsel with respect, and are limited, to the conclusions explicitly stated therein, but do not constitute a guarantee of such conclusions or of the outcome of any audit or legal dispute that may arise with respect to the Series 2024 Bonds, and (d) are not binding upon any Governmental Person, including without limitation the Internal Revenue Service.

#### **Termination of Engagement of Bond Counsel Upon Issuance of Series 2024 Bonds**

The engagement of Bond Counsel with respect to the Series 2024 Bonds and the Authority shall terminate on the date of delivery of the opinions of Bond Counsel set forth on Appendix D hereto and, unless separately engaged, Bond Counsel will not undertake, and shall have no obligation or undertaking with respect to, any of the following subsequent to such date: (a) to advise the Authority or any Owner of any changes in fact or law which may affect such opinion or the tax treatment, under federal or state law, of an Owner as a result of the receipt of interest on a Series 2024 Bond; (b) to determine, monitor, or advise the Authority or any Owner with respect to the compliance by the Authority, the Borrower and the University with the requirements of the Federal Tax Code which are applicable subsequent to the issuance of the Series 2024A Bonds for the continued exclusion of interest on the Series 2024A Bonds from gross income for purposes of federal income taxation; (c) to determine, monitor or advise the Authority or any Owner of the occurrence or nonoccurrence of any action or event that may adversely affect the liquidity or market value of the Series 2024 Bonds; or (d) to defend or represent the Authority or any Owner, or otherwise participate, in any action or audit that may arise under federal or state law with respect to the Series 2024 Bonds.

#### **RATING**

Moody's Investors Service, Inc. ("Moody's") has assigned a rating of "Baa2" to the Series 2024 Bonds. A rating reflects only the views of the rating agency assigning such rating, and an explanation of the significance of such rating may be obtained from such rating agency. There is no assurance that the rating will continue for any given period of time or that the rating will not be revised downward or withdrawn entirely by the rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of the rating may have an adverse effect on the market price of the Series 2024 Bonds.

#### **LEGAL MATTERS AND OTHER ADVISORS**

All legal matters incidental to the authorization and issuance of the Series 2024 Bonds will be subject to the approving opinions of Maynard Nexsen PC, Birmingham, Alabama, Bond Counsel, the forms of which are included as Appendix D hereto. Certain legal matters will be passed upon for the Borrower and the Foundation by Hand Arendall Harrison Sale LLC, Mobile, Alabama; for the University by Dentons Sirote PC, Birmingham, Alabama; for the Development Manager by Michael Best & Friedrich LLP, Madison, Wisconsin; and for the Underwriters by Kutak Rock LLP, Denver, Colorado.

Bond Counsel has been engaged primarily for the purpose of preparing certain legal documents and supporting certificates, reviewing the transcript of proceedings by which the Series 2024 Bonds have been authorized to be issued, and rendering opinions as to the validity and enforceability of the Series 2024 Bonds and to the exemption or lack thereof of interest thereon from income taxation by the United States of America. While Bond Counsel has assisted in the preparation of this Official Statement and is of the opinion that the statements and descriptions made herein under the headings "THE SERIES 2024 BONDS," and "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS," fairly and accurately summarize the provisions purported to be summarized therein, the Indenture and the Bond Lease substantially conform to the forms contained "FORM OF TRUST INDENTURE

AS SUPPLEMENTED” in Appendix B-1 and “FORM OF BOND LEASE” in Appendix B-2, and the statements made herein under the captions “SPECIAL RELATIONSHIPS” (only as they relate to Bond Counsel) and under this caption (only as they relate to Bond Counsel), accurately reflect their engagement as bond counsel in connection with the transaction contemplated herein, such counsel has not been engaged to confirm or verify, has not confirmed or verified, and will express no opinion with respect to the accuracy, completeness, or fairness of any other information contained in this Official Statement (other than the form of legal opinions set forth in Appendix D).

None of the legal counsel referenced in this Official Statement has (a) participated in the underwriting of the Series 2024 Bonds, (b) provided any advice regarding the creditworthiness of the Series 2024 Bonds, or (c) assisted in determining the value of the security for the Series 2024 Bonds upon the occurrence of an event of default. Legal counsel have solely and exclusively opined to those matters which are expressly set forth in their opinions which are attached hereto or which have been delivered in connection herewith and no holder of a Series 2024 Bond shall be authorized or entitled to infer that such legal counsel have rendered opinions beyond those stated in their written opinions or to rely on the participation of counsel in this transaction. Except for negligent errors in their express written opinions, legal counsel shall have no obligations to holders of the Series 2024 Bonds and holders of the Series 2024 Bonds must not rely either expressly or implicitly upon such counsel in determining whether the Series 2024 Bonds represent suitable investments or otherwise meet their creditworthiness and risk tolerance standards.

### **CONTINUING DISCLOSURE**

In accordance with Securities and Exchange Commission Rule 15c2-12 (the “Rule”) and so long as the Series 2024 Bonds are Outstanding, the Borrower has agreed pursuant to a Continuing Disclosure Agreement between the Borrower and the Trustee, as dissemination agent, dated as of June 1, 2024 (the “Borrower Continuing Disclosure Agreement”), to cause certain information about the Borrower and the Recreation Facility to be provided to the Municipal Securities Rulemaking Board for availability to the public on its Electronic Municipal Market Access web site known as EMMA. The form of the Borrower Continuing Disclosure Agreement has been included as Appendix E-1 hereto.

Additionally, in accordance with the Rule, and so long as the Series 2024 Bonds are Outstanding, the University has agreed pursuant to a Continuing Disclosure Agreement, dated as of June 1, 2024 (the “University Continuing Disclosure Agreement” and, together with the Borrower Continuing Disclosure Agreement, the “Continuing Disclosure Agreements”), to cause certain information about the University to be provided to the Municipal Securities Rulemaking Board for availability to the public on its Electronic Municipal Market Access web site known as EMMA. The form of the University Continuing Disclosure Agreement has been included as Appendix E-2 hereto.

The Continuing Disclosure Agreements provide bondholders with certain enforcement rights in the event of a failure by the Borrower or the University to comply with the terms thereof, respectively. However, a default under the Continuing Disclosure Agreements does not constitute a default under the Indenture or the Bond Lease. The Continuing Disclosure Agreements may be amended or terminated under certain circumstances in accordance with the Rule as more fully described therein. Bondholders are advised that the Continuing Disclosure Agreements, copies of which are available at the office of the Trustee, should be read in its entirety for more complete information regarding its contents. The Borrower has not previously entered into a continuing disclosure undertaking pursuant to the Rule. The University has previously entered into certain continuing disclosure undertaking pursuant to the Rule in connection with its outstanding indebtedness. The University failed to file notice of the incurrence of the UFI Term Loan within the periods required by certain of its past continuing disclosure agreements. On March 8, 2024, the Board made a filing with EMMA providing notice of the incurrence of such UFI Term Loan and notice of the failure to timely file notice thereof.

### **MISCELLANEOUS**

The information set forth herein relating to the Borrower and the Foundation has been furnished by the Borrower.

The information set forth herein relating to the University has been furnished by the University.

The Authority has furnished only the information included herein under the headings, “THE AUTHORITY,” and “LITIGATION—The Authority.”

Any statements made in this Official Statement involving estimates or matters of opinion, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates or matters of opinion will be realized. Neither this Official Statement nor any statement that may have been made orally or in writing is to be construed as a contract with the owners of the Series 2024 Bonds.

The Borrower has duly authorized the execution, delivery, and distribution of this Official Statement in connection with the offering of the Series 2024 Bonds.

**CHF – HORIZONS I, L.L.C.**

By: **COLLEGIATE HOUSING FOUNDATION,**  
its sole member

By: \_\_\_\_\_  
William B. Givhan  
President

## APPENDIX A-1

### INFORMATION REGARDING SAMFORD UNIVERSITY

#### GENERAL

##### University Mission, Vision, and Values

**Mission.** Samford University (“Samford” or the “University”) nurtures persons in their development of intellect, creativity, faith and personhood. As a Christian university, the community fosters academic, career and ethical competency while encouraging social and civic responsibility and service to others.

**Vision.** Anchored in Christian understanding, Samford will be a diverse community, stressing vigorous learning and personal faith, in the Baptist tradition. Within that commonality, the community will be innovative in teaching, learning and research; sensitive to global issues; and aggressive in self-assessment and continuous improvement. Faithful to its mission, Samford will be known and acknowledged worldwide by holding to its core values. The world will be better for it.

**Core Values.** The Samford community values lifelong:

- Belief in God, the Creator of heaven and earth, and in Jesus Christ, His only Son, our Lord, and in the Holy Spirit
- Engagement with the life and teachings of Jesus
- Learning and responsible freedom of inquiry
- Personal empowerment, accountability and responsibility
- Vocational success and civic engagement
- Spiritual growth and cultivation of physical well-being
- Integrity, honesty and justice
- Appreciation for diverse cultures and convictions
- Stewardship of all resources
- Service to God, to family, to one another and to the community

##### Institutional Profile

Samford is one of the country’s leading Christian universities and offers undergraduate programs grounded in the liberal arts with an array of nationally recognized graduate and professional schools. Founded in 1841, Samford is the 87th-oldest institution of higher learning in the United States. Located in the Birmingham, Alabama suburb of Homewood, the university’s campus covers approximately 247 acres and is renowned for its beauty and Georgian-Colonial style architecture. The university currently enrolls 5,791 students from 49 states, the District of Columbia and 16 countries. The student-to-faculty ratio is 14:1, with an average undergraduate class size of 19 people.

Samford offers undergraduate and graduate degrees across 10 academic schools: arts, arts and sciences, business, divinity, education, health professions, law, nursing, pharmacy, and public health. The university has one of three accredited law schools and one of only two accredited pharmacy schools in Alabama. Samford’s Beeson Divinity School is the only fully accredited graduate divinity school based in Alabama. The university is classified by the Carnegie Commission on Higher Education as a national doctoral/professional institution.

Samford's mission to nurture student development intellectually, ethically and spiritually is fostered through an array of opportunities, including 182 student organizations, global engagement in more than 14 different countries and a wide array of courses that incorporate community service. Additionally, undergraduate students complete Samford's core curriculum, providing a well-rounded foundation in the liberal arts. The result is a highly tailored educational experience that results in 97% of undergraduate alumni employed or in further study within six months of graduation.

In January 2023, Samford announced its new strategic plan, titled *Fidelitas: Faith and Future*. The new plan emphasizes eight focus areas: Academic Distinction, Student Engagement, Faith Formation, Athletic Success, Global Influence, Financial Stewardship & Strength, Community Celebration and Employee Elevation. To support the continued advancement of new strategic initiatives, the university launched a capital campaign in fall 2016 titled Forever Samford. The six-year, \$300 million campaign provides new financial resources to support student scholarship, academic programs and capital projects. In May 2022, the university announced receipt of a \$100 million dollar gift from the estate of alumnus Marvin Mann, the largest gift to the university from a single donor and the largest single gift ever made to any higher education institution in the state of Alabama. The transformative gift will support student scholarships and the university's Frances Marlin Mann Center for Ethics and Leadership, which was founded in 2008. Samford maintains a strong endowment with investments totaling \$430 million (December 2023) which supports scholarships, study abroad opportunities, general operations and other programs. In addition to the main campus in Homewood, the university owns a house in Marion, Alabama used for cultural study and service, and the Daniel House, a study center located in the heart of London, England near Kensington Park.

Samford's 57,062 alumni have included more than 60 members of the U.S. Congress, eight state governors, two U.S. Supreme Court justices, one U.S. Secretary of State, four Rhodes Scholars, multiple Emmy and Grammy award-winning artists, two national championship football coaches, and recipients of the Pulitzer and Nobel Peace prizes.

The university fields 17 intercollegiate sports—eight men's and nine women's—that participate at the NCAA Division I level. The Samford Bulldogs have won 74 conference championships since joining the Southern Conference in 2008. Samford has a long history of performing among the nation's elite universities for its combination of excellence in academic and athletic performance. In 2023, Samford's athletic teams earned a 98% Graduation Success Rate by the NCAA, ranking sixth among all Division I universities in the nation, along with an impressive group of peer institutions including Duke, Notre Dame, Northwestern and Princeton.

***Rankings and Recognitions.*** Other notable honors and recognitions for Samford include the following:

Ranked #1 in the nation for student engagement by *The Wall Street Journal* (2022).

Ranked #10 in the nation by *The Wall Street Journal* (2024) for career preparation.

Ranked #113 for best value among U.S. schools and #185 overall among all national universities by *U.S. News & World Report* (2024).

Ranked #1 in Alabama according to *The Wall Street Journal* (2016-2021).

A 98% Graduation Success Rate by the NCAA, ranking sixth among all Division I universities in the nation (2023).

Cumberland School of Law is ranked 4th in the nation for trial advocacy by U.S. News & World Report (2024). The law school ranked 6th in the nation for best quality of life and 7th in the nation for best resources for women by the Princeton Review (2023).

## **Institutional History**

Founded by a group of educational, economic and Baptist leaders, Samford was established by a charter issued directly by the Legislature of the State of Alabama on December 29, 1841. The school first opened its doors to



students on January 3, 1842. Originally located in Marion, Alabama, the college was first known as Howard College, named in honor of English social reformer John Howard. The college survived two destructive fires and a partial paralysis of operations during the Civil War and Reconstruction. In 1887, the institution was moved from Marion to the East Lake section of Birmingham to obtain wider exposure and stronger financial support. The institution moved in 1957 to its present location in Homewood.

Howard College gained membership in the Southern Association of Colleges in 1920. The establishment of the Teacher Education Division in 1914 and Division of Pharmacy in 1927 highlighted the school's continuous growth throughout the years. Cumberland School of Law, established in 1847 in Lebanon, Tennessee, was acquired by the university in 1961.

The name of Howard College was changed to Samford University in 1965 to recognize the addition of professional schools and to honor Frank Park Samford, who was chairman of Liberty National Life Insurance Company, a generous benefactor of the institution, and a former chairman of its Board of Trustees.

The Ida Moffett School of Nursing, owned by the Baptist Medical Center of Birmingham, was added to the university in 1973. In 1988, Beeson Divinity School was established and endowed through the generosity of Ralph W. Beeson. In 1996, the Board of Trustees named the School of Pharmacy in honor of alumnus R. Clayton McWhorter to recognize his generous support of that school. In 2007, the business school was named the Brock School of Business in honor of Birmingham banker and longtime trustee and benefactor Harry B. Brock Jr.

On February 26, 2013, Samford announced Board of Trustee approval to create a College of Health Sciences, beginning in the 2013–14 academic year. The multi-disciplinary college includes the Moffett & Sanders School of Nursing and McWhorter School of Pharmacy as well as two new schools founded in 2013, the School of Health Professions and the School of Public Health. On December 31, 2014, the university acquired an adjacent property of 28 acres and three office buildings, two of which have been updated to house the College of Health Sciences.

## **Accreditations**

Samford is accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). The variety of undergraduate and graduate programs provided through 10 schools requires the investment of significant, dedicated resources to ensure full compliance with all accreditation standards. Throughout its history, Samford has maintained accreditation across its many programs and schools.

In addition to SACSCOC institutional accreditation, many of Samford's academic programs have achieved specialized accreditation, recognition, or approval by one or more of the following professional organizations:

- Accreditation Council for Education in Nutrition and Dietetics (ACEND)
- Accreditation Council for Pharmacy Education (ACPE)
- Alabama State Department of Education (ALSDE)
- American Bar Association (ABA)
- Association of Theological Schools (ATS)
- Association to Advance Collegiate Schools of Business (AACSB)
- Commission on Accreditation of Healthcare Management Education (CAHME)
- Commission on Collegiate Nursing Education (CCNE)
- Commission on Accreditation in Physical Therapy Education (CAPTE)
- Council for the Accreditation of Educator Preparation (CAEP)
- Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA)
- Council on Accreditation of Nurse Anesthesia Educational Programs (COA)
- Council for Interior Design Accreditation (CIDA)
- Council on Social Work Education (CSWE)
- National Architectural Accrediting Board (NAAB)
- National Association of Schools of Music (NASM)
- National Association of Schools of Art and Design (NASAD)
- National Association of Schools of Theatre (NAST)

National Council on Family Relations<sup>12</sup>  
Public Relations Society of America (PRSA Certification)

The following professional program will seek accreditation upon graduation of its first student cohort, as required by the respective accrediting organization:

Master of Public Health - Council on Education for Public Health (CEPH)

The following professional program has been granted accreditation-provisional status:

Master of Science in Physician Assistant Studies - Accreditation Review Commission on Education for the Physician Assistant (ARC-PA)

The following professional program has applied for and received approval to be a candidate for certification:

Bachelor of Science in Healthcare Administration - Association of University Programs in Health Administration (AUPHA)

## **BOARD OF TRUSTEES AND ADMINISTRATION**

### **The Board of Trustees**

Samford is governed by a board of trustees. In addition to active trustees who are elected to four-year terms, the board also includes four life trustees and two honorary trustees. Active and life trustees enjoy full voting rights. Active trustees may serve three consecutive four-year terms but are ineligible for re-election for one year following the 12th year of service. Each year the board of trustees has three regularly scheduled meetings. The executive committee of the board of trustees likewise has three regularly scheduled meetings per year. Both the full board and the executive committee may have special meetings as allowed by the university bylaws.

Members of the Samford board of trustees include the following:

| <b>Name and Residence</b>                   | <b>Office Held</b>  | <b>Occupation</b>  |
|---|---------------------|--|
| Hon. Karon O. Bowdre<br>Birmingham, Alabama | Chair               | U.S. District Court Judge (2011-2023)<br>Northern District of Alabama    |
| Andrew B. Cundiff<br>Birmingham, Alabama    | Vice Chair          | Financial Adviser, Wells Fargo Advisors                                  |
| Sherri Foyt<br>Vestavia Hills, Alabama      | Secretary           | Former Elementary School Teacher   |
| Brent Fielder<br>Atlanta, Georgia           | Assistant Secretary | Senior Director of Corporate Social<br>Responsibility, Chick-fil-A, Inc. |
| Amy Allen<br>Birmingham Alabama             | Trustee             | President and CEO of Baptist Health System,<br>Inc.                      |
| Linda H. Bachus<br>Vestavia Hills, Alabama  | Trustee             | Former Lecturer, Samford University                                      |

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<sup>12</sup> The Human Development and Family Science undergraduate program at Samford has been reviewed by the [National Council on Family Relations](#). It has been recognized as an NCFR CFLE-approved program offering coursework covering the content required for the Certified Family Life Educator (CFLE) designation. Graduates of NCFR CFLE-approved programs qualify to apply for the CFLE designation via the CFLE-approved program process.

| <b>Name and Residence</b>                      | <b>Office Held</b> | <b>Occupation</b>   |
|--|--------------------|---|
| John E. Bell Jr<br>Birmingham, Alabama         | Honorary Trustee   | Consultant, Oil Equipment Co., Inc.   |
| Andy D. Birchfield<br>Montgomery, Alabama      | Trustee            | Attorney, Beasley Allen Law Firm  |
| Verne Bragg<br>Windermere, Florida             | Trustee            | India/U.S. (INDUS) Managing Partner, Audit Practice Leader, Grant Thornton                              |
| John L. Cantelow III<br>Birmingham, AL         | Trustee            | Senior Pastor,<br>Sixth Avenue Baptist Church   |
| Charles T. Carter<br>Birmingham, Alabama       | Trustee<br>(Life)  | Retired Senior Pastor, Shades Mountain Baptist Church   |
| Peter J. Clemens IV<br>Franklin Tennessee      | Trustee            | Health Care Executive and Consultant  |
| Julie Collier<br>Birmingham, Alabama           | Trustee            | Attorney and Speaker  |
| S. Earl Dove<br>Vestavia Hills, Alabama        | Trustee<br>(Life)  | Retired Managing Member, The Earl Dove Company, LLC   |
| Michael P. Dunn<br>Montgomery, Alabama         | Trustee            | Managing Director, Stifel/Merchant Capital Division   |
| Rhega Gordon<br>Madison, Alabama               | Trustee            | Financial Management Executive  |
| Randy Gunter<br>Rainbow City, Alabama          | Trustee            | Pastor, Meadow Brook Baptist Church,<br>Gadsden, AL   |
| Terry L. Hales Jr.<br>Clemmons, North Carolina | Trustee            | Vice Dean and Vice President for Academic Administration and Operations, Wake Forest School of Medicine |
| Robert Holmes Jr.<br>Birmingham, Alabama       | Trustee            | Retired Senior Vice President, Alabama Power Company  |
| Julie K. Jenkins<br>Houston, Texas             | Trustee            | Former Marketing Professional   |
| Brian L. Kelly<br>Alexandria, Virginia         | Trustee            | Vice President for Global Policy<br>Sempra  |
| John E. King Jr.<br>Birmingham, Alabama        | Trustee            | Associate Director, Birmingham Baptist Association  |
| Keith Kirkland<br>Roswell, Georgia             | Trustee            | Senior Director, ACAP   |

| <b>Name and Residence</b>                     | <b>Office Held</b> | <b>Occupation</b>   |
|---|--------------------|---|
| Charles W. Lancaster<br>Gadsden, Alabama      | Trustee            | President, Lancaster Management, Inc.   |
| Alan Long<br>Trussville, Alabama              | Trustee            | Physician and Founder<br>Skin Diagnostics Group   |
| Sheri P. McKean<br>Montgomery, Alabama        | Trustee            | Church and Civic Volunteer  |
| Victor E. Nichol Jr.<br>Shoal Creek, Alabama  | Trustee<br>(Life)  | Retired President and CEO, First National<br>Banker's Bank, Alabama                                   |
| Randy Pittman<br>Birmingham, Alabama          | Trustee            | Retired CPA   |
| Marlene M. Reed<br>Crawford, Texas            | Trustee            | Emerita Professor, Samford University<br>Case-writer, Baylor University                               |
| Yvette M. Richardson<br>Fairfield, Alabama    | Trustee            | Dean of General Education<br>Miles College  |
| Zeke W. Smith<br>Trussville, Alabama          | Trustee            | Retired Executive Vice President, Alabama<br>Power Company  |
| William J. Stevens<br>Vestavia Hills, Alabama | Trustee<br>(Life)  | Retired President and CEO,<br>Motion Industries, Inc.   |
| Sharon Stuart<br>Birmingham, Alabama          | Trustee            | Partner, Christian & Small LLP  |
| Beth Thorne Stukes<br>Jasper, Alabama         | Trustee            | Former Public Teacher, Civic Leader, and<br>Philanthropist  |
| Timothy Vines<br>Birmingham, Alabama          | Honorary Trustee   | President & CEO, Blue Cross Blue Shield of<br>Alabama   |
| Steve Vinyard<br>Anniston, Alabama            | Trustee            | Retired President and Partner<br>FabArc Steel, Inc.   |
| Rachel C. Wachter<br>Daphne, Alabama          | Trustee            | Registered Dietitian/Diabetes Educator  |
| Cecelia A. Walker<br>Birmingham, Alabama      | Trustee            | Executive Director of Chaplaincy & Clinical<br>Pastoral Education, Brookwood Baptist<br>Health System |
| Ronald L. Watkins<br>Gadsden, Alabama         | Trustee            | President, Ronnie Watkins Ford  |
| Mechelle Wilder<br>Shoal Creek, Alabama       | Trustee            | Founding Partner, ARC Realty  |

| Name and Residence                 | Office Held | Occupation  |
|------------------------------------|-------------|---|
| Jay L. Wolf<br>Montgomery, Alabama | Trustee     | Retired Pastor, First Baptist Church of<br>Montgomery |
| Danny Wood<br>Birmingham, Alabama  | Trustee     | Pastor-emeritus, Shades Mountain Baptist<br>Church    |

### Administrative Officers

***Beck A. Taylor, President.*** Beck A. Taylor became Samford's nineteenth president on July 1, 2021. Prior to this appointment, Taylor served as president of Whitworth University in Spokane, Washington (2010-2021), a time highlighted by community involvement; new campus infrastructure; the creation of new academic centers and programs; and the university's largest-ever comprehensive fundraising campaign. Before assuming the presidency of Whitworth, Taylor served as dean and professor of economics for Samford's Brock School of Business (2005-2010) and as associate dean for research and faculty development for Baylor University's Hankamer School of Business (1997-2005). After earning his undergraduate degree from Baylor University with majors in economics and finance, Taylor was employed as an analyst for Andersen Consulting (now Accenture) in Houston, Texas. He went on to earn his M.S. and Ph.D. in economics from Purdue University. After returning to the Baylor faculty, Taylor was named the first holder of the W.H. Smith Professorship in Economics. In 2002, he was appointed as a visiting scholar by Harvard University where he spent one year in residence at the Harvard Graduate School of Education. Taylor is a prolific scholar who is widely published and frequently cited in news media. He is a member of numerous professional and academic organizations and has served as a strategic business consultant for dozens of organizations.

***Jason E. Black, Vice President for Enrollment Management.*** In 2022, Mr. Black was named vice president for enrollment management. Mr. Black holds a BS in Education from Samford, and a graduate degree from Samford (M.Ed.). He began serving in the admissions office at Samford in 2004. In his first year he counseled applicants from North Alabama and Louisiana. Over the next 18 years he would go on to serve in various capacities including Director of Orientation and Campus visits, Director of Admission, Dean of Admission and Assistant Vice president of Enrollment Management. Mr. Black has served many roles in the professional community. He is a member of NACAC, SACAC, College Board, AMA, and ALACRAO. He has worked in an advisory role with the College Boards Enrollment Services, Enrollment Leadership Academy, and the Enrollment Leaders Group (ELG). He has served high schools in an advisory role as well as other enrollment organizations. Mr. Black has presented at many conferences on topics including staff retention, college fit, student search, recruitment marketing, data analytics, and the college scholarship process.

***Colin M. Coyne, Vice President for Finance, Business Affairs and Strategy.*** With work spanning 20 countries, 40 years and multiple industry sectors, Dr. Coyne most recently served as Chief Strategy Officer at Samford for nine years prior to his current appointment. Dr. Coyne's career includes extensive experience at the executive level for and within private and public organizations in the areas of corporate strategy, internationalization, finance, marketing, investment structuring, capital formation, operations, real estate, sustainability and turnarounds. Dr. Coyne earned his doctorate in Higher Education Leadership and policy from Vanderbilt University; his Master in Management degree from the Kellogg School of Management at Northwestern University with concentrations in Marketing, Finance and International Business; and his Bachelor of Science in Economics and Business Administration from Vanderbilt University. He has served as a member of the Samford faculty since 2009 and previously served on the faculties of the Kellogg School of Management, Lipscomb University, Birmingham-Southern College, and Auburn University's Economic & Community Development Institute. He has served on a number of civic and industry boards including current appointments to the boards of the American Association of University Administrators and the Japan America Society of Alabama; is a frequent national and regional speaker on finance, global trends and strategy; and serves as a financial reviewer for the Southern Association for Colleges and Schools Commission on Colleges (SACSCOC).

***J. Michael Hardin, Provost and Vice President for Academic Affairs.*** J. Michael Hardin joined the university administration in 2015. He holds B.A. degrees in math and philosophy from the University of West Florida,

a M.S. in research design and statistics from Florida State University, and a M.A. in mathematics from the University of Alabama. He earned a Master of Divinity from New Orleans Baptist Theological Seminary and his Ph.D. in applied statistics from the University of Alabama. His areas of specialty include analytics and knowledge discovery, big data, data visualization, data warehousing, machine learning, statistical classification models, data management and collection methodologies, research design, informatics, and biostatistics. He has authored or co-authored more than 150 papers in various journals, is the author or co-author of more than 250 abstracts presented at national meetings, and has given more than 150 invited lectures or talks. Hardin is a member of numerous professional associations, including the American Statistical Association, the Biometric Society and the Institute of Mathematical Statistics. He is also a fellow of the American Statistical Association. Effective July 1, 2024, Hardin will retire from the position and return to classroom teaching at Samford.

***David Cimbora, Provost and Vice President for Academic Affairs.*** David Cimbora will join Samford University as its next provost and vice president for academic affairs effective July 1, 2024. Cimbora has served as the executive dean of the Wellness Enterprise at George Fox University since 2020. The enterprise oversees all behavioral and health science academic disciplines. His leadership oversaw 13 programs: four undergraduate, six master's and three doctoral, eight of which have national accreditation. Prior to that, Cimbora served as dean of the College of Behavioral and Health Sciences and also served as the interim dean of the College of Business and subsequently the interim dean of the College of Education. Cimbora earned his PhD in Child Clinical Psychology from the University of Denver. Upon receiving his doctorate, he worked for Biola University from 1997 to 2019. While at Biola University, he served as associate dean of doctoral programs and as program chair for the PhD and PsyD programs in clinical psychology. Cimbora assumes the role from J. Michael Hardin who has served as Samford provost since 2015. Effective July 1, 2024, Hardin will retire from the position and return to classroom teaching at Samford.

***Betsy Bugg Holloway, Vice President of Advancement and Marketing.*** Holloway has served on the Samford faculty since 2002 and joined the administrative team as Chief Marketing Officer in 2013. Holloway earned her B.A. from Vanderbilt University, an M.B.A. from Samford and her Ph.D. in marketing from the University of Alabama. She previously served as the Dwight Moody Beeson Chair of Business and Hackney Family Research Fellow in Samford's Brock School of Business. Her research has been honored and widely cited and includes more than 65 peer-reviewed academic publications. Holloway is a member of numerous professional and academic organizations, including leadership roles in the Council on Christian Colleges and Universities (CCCCU) and the national presidency of Omicron Delta Kappa leadership honor society. Prior to her academic career, Holloway was employed by a global pharmaceutical firm, Scandipharm Inc. (now Aptalis), where she served as the company's director of international business development with responsibility for global revenue in 35 foreign markets and four global field offices. Holloway serves on corporate and civic boards, including previous appointments as a fellow of the Aspen Institute, a trustee of Vanderbilt University, and the president of the Rotary Club of Birmingham.

***Joseph H. "Jody" Hunt, General Counsel.*** Mr. Hunt came to Samford as its General Counsel in March 2023. Hunt, who was co-valedictorian of his class at Samford, received his Bachelor of Science in Public Administration from the Howard College of Arts and Sciences. He went on to earn a Master of Arts in International Affairs from Florida State University in 1984 and his Juris Doctor from Columbia University Law School in 1989. Before joining Samford as General Counsel, Hunt served as the Senate-confirmed Assistant Attorney General in charge of the Civil Division at the U.S. Department of Justice. As head of the division, which operates as the government's law firm and is the Department of Justice's largest litigating component, he oversaw a team of more than 1,000 lawyers representing government agencies in federal court litigation across the country. He also served as Chief of Staff to the Attorney General in 2017. Hunt worked for the U.S. Department of Justice for more than two decades, serving under both Republican and Democrat administrations. He served for more than 15 years as Director of the Civil Division's Federal Programs Branch, where he supervised the government's work on high-profile litigation matters involving national security, constitutional challenges, agency rulemaking, government information, congressional oversight, and foreign affairs in federal district courts nationwide. Hunt worked in private practice both before and after his time at the Department of Justice and was a law clerk to U.S. District Judge James H. Hancock of the Northern District of Alabama.

***R. Philip Kimrey, Vice President for Student Affairs.*** R. Philip Kimrey has served in leadership positions at Samford since 1993, including roles as director of admission and dean of admission and financial aid. In June 2009, Kimrey was named vice president for student affairs and enrollment management and in 2022 continued as vice

president for student affairs. Kimrey holds a B.A. from William Carey College and graduate degrees from New Orleans Baptist Theological Seminary (Ed.M.) and the University of Alabama (Ed.D.). Prior to serving at Samford, Kimrey served as assistant to the president, director of admission and financial aid at William Carey College in Hattiesburg, Mississippi, and as director of admission at Houston Baptist University. Kimrey has been actively involved in service to several higher education organizations, including the National Association for College Admission Counseling, the Southern Association of Admission Counseling and the College Board Southern Regional Council. He has served in various leadership positions for Dawson Memorial Baptist Church.

## UNIVERSITY PROGRAMS, STUDENT DEMOGRAPHICS

### University Programs

***Academic Programs.*** Samford offers a wide variety of undergraduate programs grounded in the liberal arts and a distinct blend of graduate and professional schools. Students may choose from 176 undergraduate or 66 graduate majors, minors and concentrations. Academic programs are offered across 10 schools: arts, arts and sciences, business, divinity, education, health professions, law, nursing, pharmacy and public health.

***School of the Arts.*** Since the earliest years of the university's history, music and dramatic arts have been a vital part of campus life. Samford's School of the Arts was established in 1915. Its mission is to prepare artists to shape the world by inspiring artistry, promoting scholarship and realizing professionalism as they serve the community in the spirit of Christ. The school enrolls 491 students, as of fall 2023, across multiple disciplines: Art and Design, Music, Architecture and Interior Design, Theatre and Dance, and Christian Ministry. In fall 2017, the school launched a new curriculum, Catalyst, designed around the principles of personal responsibility, experiential learning, collaboration, professional preparedness and vocational purpose.

New academic programs incorporated in recent years will fuel future growth in the school, including commercial music, game design and 3D animation, and an accelerated five-year Master of Architecture degree. The School of the Arts is also enhancing its facilities with significant updates to Harrison Theatre and a complete interior renovation of Buchanan Hall, home of the Division of Music.

Music, theatre, art, design and dance students benefit from participation in a wide variety of performance ensembles, main-stage productions, studio performances, visiting artists, production experience, and attendance at a diverse array of recitals, gallery exhibits and concerts. The school annually hosts over 150 faculty and student performances and exhibits that bring thousands of visitors to campus.

The School of the Arts also offers a variety of programming for the Birmingham and campus communities. The Center for Worship and the Arts equips congregations to engage in intergenerational and artistic worship practices that glorify God, honor Christ and join the transformative work of the Spirit in the world. The Academy of the Arts enrolls approximately 1,200 students annually in its arts enrichment programs, classes and camps while providing a teaching lab for Samford music students. The Ministry Training Institute equips Christians to be leaders in their churches and communities through theological education and practical ministry training. Ministry Training Institute courses are delivered online and through a vast extension network that dates back to the program's inception in 1947.

The School of the Arts is accredited by the National Association of Schools of Music (NASM), the Council for Interior Design Accreditation (CIDA), the National Association of Schools of Art and Design (NASAD), and the National Association of Schools of Theatre (NAST).

***Howard College of Arts and Sciences.*** Howard College of Arts and Sciences (HCAS) is the oldest and largest of Samford's academic schools. Founded in 1841 and named for eighteenth-century English social reformer John Howard, the college remains the heart of the university, inspiring students to a lifetime of inquiry and service through engaged learning, faculty research and vocational discovery within the liberal arts and the Christian ethical and intellectual traditions. A \$13.8 million renovation project, completed in 2018, provided significant new classroom, faculty and student spaces for the college.

HCAS offers the Bachelor of Arts and Bachelor of Science degrees through 13 departments and a wide array of majors, minors and interdisciplinary concentrations, as well as an online Master of Science in Environmental Management degree, graduate certificates in Environmental Management and Geographic Information Systems, and a B.A.-to-M.Div. fast-track program.

HCAS faculty also touch the lives of every Samford undergraduate through the university's Core Curriculum, introducing issues of justice, law, freedom and the duties of citizenship, and developing essential skills in critical reasoning, creative problem-solving and effective communication. Half of departmental course hours are dedicated to non-majors, so even students who do not remain in the college carry that distinctive intellectual foundation into other academic divisions and their chosen careers.

Faculty and students routinely earn regional, national and international recognition for scholarship and teaching, including multiple Carnegie Professor of the Year, Fulbright, Lilly Graduate Fellows, Phi Kappa Phi and professional association honors.

Enrollment in the college is 944 as of fall 2023.

***Brock School of Business.*** Brock School of Business has a long history of achievements in business education. Samford has offered degrees in business and management since 1922. In 1965, the School of Business was established to offer both bachelor's and master's degrees in business. Today, the school offers the Master of Business Administration (M.B.A.) and the Master of Accountancy (M.Acc.), as well as undergraduate majors in accounting, economics, entrepreneurship, finance, management and marketing. Seven distinct concentrations are offered in data analytics; entrepreneurship and corporate innovation; social entrepreneurship, professional sales; real estate; risk management and insurance; and sports marketing.

The school was named Brock School of Business in 2007 for Birmingham banker and Samford trustee Harry B. Brock Jr., reflecting his long career in business, and his commitment to high-quality business and entrepreneurship education. Brock School of Business holds AACSB International Accreditation, the benchmark of quality worldwide and the most highly sought standard of excellence for U.S. business schools.

The mission of Brock School of Business is to deliver lifelong education to its constituents through quality teaching, meaningful scholarship and servant relationships, imbued by its Christian commitment. Total enrollment in Brock School of Business has risen from 537 in 2011 to 1,005 in fall 2023.

***Beeson Divinity School.*** Beeson Divinity School was founded in 1988 through the generosity of the late Ralph Waldo Beeson, who desired to establish an interdenominational school that would offer quality theological education in a Christian university setting and from an explicitly evangelical perspective. The school enrolls approximately 125 students representing more than 20 Protestant denominations. Divinity students benefit from a rich environment of resources and facilities available in Samford's academic community.

Beeson Divinity School offers programs leading to three degrees: the Master of Divinity (M.Div.), a professional degree for ministry preparation; the Master of Arts in Christian Counseling (M.A.C.C.), a theologically grounded program that prepares students to counsel from a distinctly Christian perspective; and the Master of Arts in Theological Studies (M.A.T.S.), a degree in Bible and theology principally for laypersons. In 2023, the university announced two new programs, the Master in Theology (Th.M.) and the Doctor of Philosophy (Ph.D.) in Theology for the Church, the first research doctoral degree offered by the university in its 182-year history. Certificates in Anglican studies, missions and Wesleyan studies are available to students in the M.Div. program. The divinity school also offers joint degrees with three other schools at Samford: business, law and public health. All degree programs at Beeson Divinity School are accredited by the Association of Theological Schools in the United States and Canada.

The divinity school serves the university and the wider Christian community through a variety of external programs. The Global Center, with its focus on missions and world evangelization, sends divinity students into every part of the world and hosts international speakers on campus. A program of Ministry Leadership Development enhances the ministry skills of divinity students and forges strong bonds with local congregations. The Lay Academy



of Theology, a noncredit adult education program, provides opportunities for laity and ministers desiring continuing education.

Beeson Divinity School's Andrew Gerow Hodges Chapel was consecrated as a hallowed place of worship in 1995 and is dedicated to the glory of the living Triune God for the service of his church and the furtherance of his kingdom. The chapel is spoken of as a "Sermon in Stone" for its gospel witness through sacred art and architecture to the Samford and Birmingham communities and the far-reaching places of the world.

***Orlean Beeson School of Education.*** Samford established a School of Education in 1915. In 1978, the school was named to honor Mrs. Ralph W. (Orlean Bullard) Beeson, a former public school teacher, and her husband, a generous university benefactor.

The mission of Orlean Beeson School of Education is to enrich the community and empower its students to educate, lead and serve. The school offers undergraduate and graduate programs across three departments: teacher education, human development and family science, and educational leadership. Within the teacher education department, nine of its certification programs have earned state recognition status and eight certification programs have received national recognition status from their respective Specialized Professional Associations. Samford's School of Education is one of only two schools in the United States to have earned an A+ ranking from the National Council on Teacher Quality for preparing aspiring teachers in the science of reading.

Undergraduate majors include human development and family science; early childhood, elementary, and special education (ESEC); elementary education with a concentration in Christian education and missions; and secondary education. Samford's School of Education is the only institution in the state of Alabama to offer a four-in-one certification thorough the ESEC degree program. The school offers a traditional Master of Science in Education in instructional leadership and alternative Master of Science in elementary education, K-12 special education, and secondary education. Other graduate programs include an Educational Specialist degree in instructional leadership and a Doctor of Education in educational and organizational leadership.

The school enrolled 474 students in fall 2023. It is accredited by the Council for the Accreditation of Educator Preparation (CAEP) and the National Council on Family Relations (NCFR) as a Certified Family Life Educator-approved program.

***Cumberland School of Law.*** Founded in 1847, Cumberland School of Law is the 11th oldest law school in the United States. Originally a part of Cumberland University in Lebanon, Tennessee, the law school was purchased by Samford (then Howard College) in 1961, and its library, faculty and students were transferred to the Samford campus.

The law school offers three distinct degree programs and eight joint-degree options. The core program is a Juris Doctor (J.D.). The school also delivers online degrees, the Master of Studies in Law (M.S.L.) and Master of Laws (L.L.M.), each with four areas of concentration. A certificate program is also available in each concentration. The law school sponsors an established summer study-abroad program in Cambridge, England, and, in 2024, will launch a second international program in Edinburgh, Scotland. In addition, Cumberland School of Law offers a robust Continuing Legal Education program for alumni and all attorneys in the state of Alabama.

The school enrolled 483 students in fall 2023 from diverse personal, educational and work backgrounds. Approximately one-half of the students are from states outside of Alabama. Graduates practice law in all 50 states and abroad, and have achieved distinction in all branches of government, numerous businesses and throughout the legal profession. The law school includes nationally recognized litigation and skills programs and activities. *U.S. News & World Report* ranks Cumberland 4th nationally for trial advocacy (2024) and Princeton Review ranks the school 6th nationally for best quality of life (2023) and 7th nationally for best resources for women (2023). Students publish two major law journals, the *Cumberland Law Review* and the *American Journal of Trial Advocacy*.

The law school enjoys a strong network of industry and judicial relationships throughout the country. Each year, Cumberland School of Law hosts many events, bringing to campus some of the country's leading lawyers, judges

and academic scholars to share their experiences and ideas with students and faculty. The school supports numerous activities, journals, moot court and trial competitions, and student organizations focused on particular areas of the law or public policy. Additionally, the Center for Children, Law and Ethics and the law school's clinics, externships and public interest programs all help prepare practice ready lawyers.

Cumberland School of Law is accredited by the American Bar Association and the Association of American Law Schools. The health law and compliance concentration in the L.L.M. and M.S.L. programs is accredited by the Compliance Certification Board.

## **College of Health Sciences**

On May 7, 2013, the Board of Trustees of Samford approved the organizational structure of one of the university's most innovative and bold additions, the College of Health Sciences. Four academic schools make up the College of Health Sciences, including the School of Health Professions, Moffett & Sanders School of Nursing, McWhorter School of Pharmacy and the School of Public Health. Under the umbrella of the college, students experience an innovative learning environment intentionally designed to foster interprofessional training and cutting-edge simulation and experiential learning. This approach prepares graduates to practice collaboratively, safely and effectively in the ever-evolving health care environment.

The College of Health Sciences offers an array of baccalaureate, master's and doctoral degrees that make up a major portion of the health care workforce. In August 2016, the four schools within the college relocated to newly acquired facilities on the east side of campus. Spanning more than 223,000 square feet of space across two buildings, the College of Health Sciences facilities offer students and faculty the opportunity to learn and work in an interprofessional environment that mirrors today's collaborative approach to health care delivery. The College of Health Sciences facilities include a state-of-the-art experiential learning and simulation center and numerous technologically advanced classrooms and labs.

***School of Health Professions.*** Established in 2013, the School of Health Professions prepares leaders in a Christian environment who promote health, wellness and quality of life through excellence in professionalism, scholarship and service. The school offers baccalaureate, master's and doctoral programs across four departments: communication sciences and disorders, kinesiology, physical therapy and physician assistant studies.

Health care is increasingly delivered by teams of professionals from a range of specialties and professions working in seamless collaboration. To prepare graduates for this environment, each program's curricula was built to foster interdisciplinary collaboration among departments and with the other schools in the College of Health Sciences.

The success of the school's graduates is evidenced by their post-graduation outcomes. More than 90% of the school's graduates applying to graduate and professional programs are accepted and 95% of all health professions alumni are either employed or in graduate school within six months of graduation.

Fall 2023 enrollment in the School of Health Professions totaled 783. The school is accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) and the Council on Academic Accreditation (CAA) for the Speech Language Pathology program. Accreditation is provisional from the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) and the Council on Academic Accreditation (CAA) for the Doctor of Audiology.

***Moffett & Sanders School of Nursing.*** Rich in tradition, Moffett & Sanders School of Nursing was founded in 1922 by the Birmingham Baptist Association as a hospital-based diploma program. In 1955, it became the first program in Alabama to achieve accreditation by the National League for Nursing, and the school has remained fully accredited throughout its existence. The nursing program moved to Samford in 1973 pursuant to an agreement with Baptist Health System. Exceptional growth and transformation have occurred since the school's inception, yet the school's objective remains unchanged - it seeks to prepare students to provide exceptional, patient-centered care.

Moffett & Sanders School of Nursing is recognized nationally as a premiere nursing school. In 2005, it was designated a Center of Excellence by the National League for Nursing for "creating environments of learning that

promote innovative student learning and professional development.” In 2017 and 2021, the school was again recognized as a Center of Excellence by the National League for Nursing for creating environments that “promote the pedagogical expertise of faculty.” Since 2003, the school has received more than \$25 million in grant funding from HRSA (the U.S. Department of Health and Human Services, Health Resources and Services Administration) in support of nursing education. The graduate employment rate for 2023 was 96%.

Based on the vision and passion of legendary nurse Ida V. Moffett, four major pillars serve as the school’s foundation for the school: academic excellence; compassion; caring; and service. The school is highly regarded for an outstanding program of undergraduate, graduate and doctoral research that involves intensive student-faculty collaboration; innovative and resourceful teaching strategies and program design (i.e., interactive learning strategies, simulation, problem-based learning, computers and technology in the classroom and clinical setting); and faculty engagement in student learning. The school partners nationwide with more than 1,320 clinical agencies in 37 states, providing nursing students with an array of clinical experiences. It also provides students with numerous Christian mission opportunities at home and abroad.

Fall 2023 enrollment for the school was 739 students. The school is accredited by the Commission on Collegiate Nursing Education (CCNE) and the Council of Accreditation of Nurse Anesthesia Education Programs (COA).

**McWhorter School of Pharmacy.** Founded in 1927, McWhorter School of Pharmacy gained its present name in 1996 in recognition of alumnus R. Clayton McWhorter for his generous support of the pharmacy program. The mission of the school is to prepare students in a nurturing, Christian environment to be exemplary pharmacists and improve health worldwide through innovative pharmacy practice, scholarship and service.

McWhorter School of Pharmacy offers a Doctor of Pharmacy, and students also receive a Bachelor of Science in pharmacy studies after completion of the second year of the pharmacy program. Students have the option to complete in combination with the Doctor of Pharmacy one of six joint degree programs with business, health informatics, law, nutrition or public health. Fall enrollment for 2023 was 354 students. The school offers more than 250 affiliated sites for the school’s experiential program including introductory and advanced pharmacy practice experiences. The school is accredited by the Accreditation Council for Pharmacy Education (ACPE).

McWhorter School of Pharmacy has significant global outreach with over a dozen affiliations on five continents. Locally, the school collaborates with the urban Jefferson County Health Department, the urban Christ Health Center and the rural Perry County Health Department to serve the underserved and provide experiential training sites for students. Approximately 50 fourth-year pharmacy students annually complete five-week clinical training experiences in these underserved areas.

The pharmacy school operates two postgraduate pharmacy residency programs, a continuing education program and pharmacy technician training program. In August 2010, the Pharmaceutical Sciences Research Institute (PSRI) was established with the mission to enable McWhorter School of Pharmacy faculty and Samford scientists to enhance their research efforts as well as contribute to the Samford mission of teaching. A state-of-the art laboratory is the cornerstone of the PSRI that generates data for publications in peer-reviewed journals and for funding through grant mechanisms and commercial contract work for the institute’s sustainability and funding of further research projects. The accredited pharmacy residency training program provides a postgraduate year one (PGY1) residency in community pharmacy as well as a postgraduate year two (PGY2) residency in ambulatory care. The school’s continuing education program educates registered pharmacists, and the pharmacy technician training program prepares technicians who wish to seek certification by examination. The pharmacy technician training program is the only pharmacy school-based technician training program in the state.

McWhorter School of Pharmacy was ranked 2nd among private pharmacy schools in the South and 94% of its graduates were employed or in residency in 2023. Graduates have a 92% average first-time pass rate on the North American Pharmacist Licensure Examination (NAPLEX; 15-year average) and a 94% average first-time pass rate on the Multistate Pharmacy Jurisprudence Examination (MPJE; 15-year average).

**School of Public Health.** The mission of Samford’s School of Public Health is to prepare servant leaders who demonstrate the love of God by improving the health and well-being of individuals and communities. The

school's disciplines are focused on the prevention of disease and the promotion of improved health among communities and populations.

Established in 2013, the school is home to four departments: healthcare administration and informatics, nutrition and dietetics, public health and social work. The School of Public Health offers bachelor's, master's and doctoral degrees and a dietetic internship program. In addition, the school offers numerous joint degree programs in partnership with Samford's schools of pharmacy, business, divinity and the Alabama College of Osteopathic Medicine.

The School of Public Health has quickly gained recognition for the success of its programs and graduates. The school's department of Healthcare Administration was named New Program of the Year by the Association for University Programs in Health Administration (AUPHA) in 2018. Graduates of nutrition and dietetics undergraduate programs boast a 3-year pass rate of 100% on the Registered Dietitian certification exam and a 100% placement rate into a supervised program or graduate program (2020-2022). Additionally, graduates of the school's Dietetic Internship have a 3-year pass rate of 82.8% on the Registered Dietitian certification exam and 100% of graduates seeking employment were employed within six months of receiving internship certificates (2020-2022).

The school is accredited by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) and the Council on Social Work Education (CSWE).

## Degrees Granted

The table below reflects the number of degrees granted (August, December and May commencements during stated year):

|                                | 2018-19    | 2019-20    | 2020-21    | 2021-22    | 2022-23    |
|--------------------------------|------------|------------|------------|------------|------------|
| B.S. in Business Admin         | 179        | 202        | 205        | 204        | 197        |
| B.S. in Education              | 36         | 41         | 48         | 31         | 43         |
| B.S. in Nursing                | 117        | 101        | 120        | 122        | 105        |
| Bachelor of Arts               | 228        | 285        | 241        | 234        | 212        |
| Bachelor of Fine Arts          | 22         | 31         | 38         | 42         | 48         |
| Bachelor of Music              | 14         | 9          | 9          | 6          | 4          |
| Bachelor of Music Education    | 2          | 3          | 9          | 2          | 2          |
| Bachelor of Science            | 293        | 347        | 323        | 287        | 288        |
| M.A. in Theological Studies    | 5          | 5          | 10         | 3          | 5          |
| M.S. in Education              | 69         | 62         | 40         | 15         | 20         |
| M.S. in Environmental Mgt      | 6          | 3          | 2          | 6          | 1          |
| M.S. in Health Info/Analytics  | 2          | 4          | 4          | 5          | 6          |
| M.S. in Nursing                | 48         | 26         | 27         | 60         | 47         |
| M.S. in Physician Asst Studies | -          | -          | -          | 36         | 35         |
| Master of Accountancy          | 29         | 29         | 22         | 24         | 24         |
| Master of Athletic Training    | 3          | 5          | 5          | -          | -          |
| Master of Business Admin       | 26         | 57         | 37         | 52         | 63         |
| Master of Comparative Law      | 2          | 2          | 5          | 3          | 3          |
| Master of Divinity             | 36         | 37         | 23         | 26         | 31         |
| Master of Healthcare Admin     | 1          | 2          | 4          | 1          | 4          |
| Master of Laws                 | -          | -          | 7          | 4          | 1          |
| Master of Music                | 5          | 3          | 2          | -          | 6          |
| Master of Music Education      | 1          | 5          | 1          | 1          | 4          |
| Master of Public Health        | 12         | 22         | 27         | 23         | 30         |
| Master of Science              | 46         | 45         | 27         | 35         | 31         |
| Master of Social Work          | 25         | 16         | 19         | 24         | 23         |
| Master of Studies in Law       | -          | -          | 12         | 26         | 15         |
| Educational Specialist         | 18         | 15         | 7          | 9          | 1          |
| Doctor of Education            | 29         | 26         | 46         | 25         | 16         |
| Doctor of Audiology            | -          | -          | -          | 10         | -          |
| Doctor of Ministry             | 7          | 5          | 1          | 9          | 3          |
| Doctor of Nursing Practice     | 54         | 96         | 131        | 89         | 103        |
| Doctor of Pharmacy             | 123        | 89         | 125        | 112        | 117        |
| Doctor of Physical Therapy     | 33         | 30         | 35         | 34         | 37         |
| Doctor of Public Health        | -          | -          | 1          | 5          | 12         |
| Juris Doctor                   | <u>135</u> | <u>138</u> | <u>132</u> | <u>143</u> | <u>138</u> |
| Total                          | 1,606      | 1,741      | 1,745      | 1,708      | 1,675      |

## Admission and Student Applications

Samford maintains a high level of interest from prospective students. The University's recruiting methods establish a lasting relationship with prospective students. The result: 29% of accepted freshman applicants enroll in the university. The following tables show applications received and accepted, and students enrolled in the fall terms of the indicated academic years:

| <b>First Time Freshmen</b> | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|----------------------------|------------------|------------------|------------------|------------------|------------------|
| Applicants                 | 3,912            | 3,868            | 4,217            | 4,337            | 4,541            |
| Acceptances                | 3,259            | 3,249            | 3,537            | 3,611            | 3,734            |
| Enrolled                   | 900              | 971              | 918              | 972              | 1,080            |

| <b>Undergraduate Transfers</b> | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|--------------------------------|------------------|------------------|------------------|------------------|------------------|
| Applicants                     | 249              | 221              | 224              | 219              | 206              |
| Acceptances                    | 192              | 163              | 166              | 157              | 152              |
| Enrolled                       | 85               | 76               | 100              | 89               | 83               |

### **Enrollment**

The following tables reflect the actual number of students enrolled during each of the last five academic years as measured by fall term enrollments; the graduate population is separated to identify those candidates enrolled in professional programs.

| <b>Enrollment</b>                                     | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|---|------------------|------------------|------------------|------------------|------------------|
| Undergraduate   | 3,591            | 3,576            | 3,607            | 3,672            | 3,832            |
| Graduate  | 683              | 776              | 819              | 757              | 765              |
| Doctoral Professional (DNP, JD, D.Pharm, D.Min., DPT) | 1,281            | 1,254            | 1,207            | 1,142            | 1,097            |
| Doctoral Research (EDD)                               | <u>137</u>       | <u>123</u>       | <u>125</u>       | <u>112</u>       | <u>97</u>        |
| Total Head Count                                      | 5,692            | 5,729            | 5,758            | 5,683            | 5,791            |
| Total FTE   | 5,534            | 5,599            | 5,631            | 5,570            | 5,680            |

### **Geographical Distribution Enrollment by Head Count**

The following table reflects the actual number of enrolled undergraduate students from within the state of Alabama, other states and foreign nations for the indicated academic years:

| <b>Undergraduate Geographical<br/>Distribution</b> | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|--|------------------|------------------|------------------|------------------|------------------|
| In State   | 1,145            | 1,059            | 1,038            | 1,014            | 1,008            |
| Out-of-State                                       | 2,394            | 2,469            | 2,524            | 2,618            | 2,800            |
| International                                      | 43               | 39               | 39               | 34               | 20               |
| No information available                           | <u>9</u>         | <u>9</u>         | <u>6</u>         | <u>6</u>         | <u>4</u>         |
| Total Head Count                                   | 3,591            | 3,576            | 3,607            | 3,672            | 3,832            |
| % In State   | 32%              | 30%              | 29%              | 28%              | 26%              |

### **Student Quality**

| <b>Incoming Freshmen</b> | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|--------------------------|------------------|------------------|------------------|------------------|------------------|
| Mean H.S. Average GPA    | 3.8              | 3.8              | 3.8              | 3.9              | 3.9              |
| Mean ACT Composite       | 26               | 26               | 26               | 26               | 26               |

## Retention and Graduation

The following table displays the retention rates of undergraduate students from the first year to the second year of attendance. Included is the percent of undergraduates graduating within four years. Column headings represent the reporting year. For example:

2023: 1st- to 2nd-Year Retention: Percent of the fall 2022 Entering Freshmen Cohort that were retained to fall 2023.

2023: Graduation Rate (4 Years): Percent of the fall 2019 Entering Freshmen Cohort that graduated within four years, or by Aug. 31, 2023.

| <b>Student Retention and<br/>Graduation Rates</b>    | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|--|------------------|------------------|------------------|------------------|------------------|
| 1st to 2nd Year Retention                            | 89%              | 87%              | 89%              | 91%              | 88%              |
| Graduation Rate (4 Years) by<br>08/31 of stated year | 66               | 69               | 71               | 67               | 69               |

## Tuition, Fees, Room and Board

The following table sets forth tuition, fee, room and board charges for the school years shown. Further increases in tuition and fees will be necessary in the future; however, Samford expects that its total charges will remain competitive with those of comparable institutions.

| <b>Undergraduate</b>                         | <b>2019-20</b> | <b>2020-21</b> | <b>2021-22</b> | <b>2022-23</b> | <b>2023-24</b> |
|--|----------------|----------------|----------------|----------------|----------------|
| Tuition                                      | \$32,000       | \$33,248       | \$34,410       | \$35,750       | \$37,144       |
| Mandatory Fees                               | 850            | 950            | 950            | 974            | 1,000          |
| Room   | 5,970          | 6,150          | 6,150          | 6,336          | 6,558          |
| Board  | 5,010          | 5,110          | 5,110          | 5,290          | 5,602          |
| Total  | 43,830         | 45,458         | 46,620         | 48,350         | 50,304         |
| <b>Graduate Tuition</b>                      | <b>2019-20</b> | <b>2020-21</b> | <b>2021-22</b> | <b>2022-23</b> | <b>2023-24</b> |
| Divinity Flat Rate                           | \$15,240       | \$16,002       | \$16,002       | \$16,482       | \$16,976       |
| Pharmacy Flat Rate                           | 38,521         | 39,099         | 39,490         | 39,885         | 41,897         |
| Doctor of Physical Therapy<br>Flat Rate      | 35,145         | 35,847         | 36,204         | 36,567         | 37,116         |
| Nursing tuition @ 30<br>hours/year           | 25,860         | 26,640         | 27,180         | 27,720         | 28,830         |
| Law tuition @ 30 hours/year                  | 40,800         | 41,970         | 42,390         | 43,662         | 44,536         |
| Nurse Anesthesia (3 term/year)               | 31,455         | 32,085         | 32,406         | 33,054         | 33,549         |
| Business @ 30 hours/year                     | 25,860         | 26,640         | 27,180         | 27,720         | 28,410         |
| Speech Language Pathology @<br>30 hours/year | 25,860         | 26,640         | 27,180         | 27,720         | 28,260         |
| Divinity PhD                                 | -              | -              | -              | -              | 9,450          |
| Other Graduate tuition @ 30<br>hours/year    | 25,860         | 26,640         | 27,180         | 27,720         | 28,140         |
| Physician Assistant Flat Rate                | 36,429         | 37,158         | 37,530         | 37,905         | 39,801         |

The university reserves the right to change tuition and fees at any time.

## Student Financial Aid, Loan Market

Samford provides a variety of undergraduate student financial aid options, including loans, scholarships, grants and student employment. The university also participates in many federal student aid grant, work study and loan programs, including the Health Professions and Nursing Student Loan programs, the Supplemental Educational Opportunity Grant program, the Federal Work Study program, the Federal Direct Student Loan program, Direct Parent PLUS Loan program, Direct Grad PLUS Loan program and the Pell Grant program. On the state level, students can participate in the Alabama Student Grant program and the Alabama Student Assistance Program.

Samford reports that student loan volume remains steady. The most recent final default rate was 0.00% for the 2023 cohort (compared to the most recently published national average of 0.00%). These rates are artificially lower than normal due to the COVID19 pause on student loan repayments that began in 2020 and recently ended in late 2023. The average per-undergraduate-borrower cumulative principal borrowed by students receiving a bachelor's degree between July 1, 2022, and June 30, 2023, was \$19,685 from federal loans (compared to a national average of \$37,338). Samford believes, on the basis of the foregoing, that students and parents of Samford students were experiencing no difficulties in obtaining student loans.

The following table provides information concerning the extent to which undergraduate students have accepted financial aid for each of the most recent five aid years:

| Accepted Aid                             | 2018-19      | 2019-20      | 2020-21      | 2021-22      | 2022-23      |
|--|--------------|--------------|--------------|--------------|--------------|
| University Scholarships/Other Awards     | \$50,947,985 | \$55,318,325 | \$60,493,634 | \$65,802,358 | \$71,232,784 |
| AL State Student, Incentive/Other Grants | 772,384      | 1,061,640    | 1,071,060    | 1,489,340    | 1,737,376    |
| Fed. Supp. Education Opportunity Grants  | 408,918      | 428,743      | 327,500      | 339,945      | 385,254      |
| Federal Pell Grants                      | 1,904,176    | 1,885,590    | 1,805,612    | 1,879,089    | 2,095,058    |
| Federal Plus Loans                       | 8,066,931    | 8,250,371    | 7,542,363    | 7,658,418    | 8,201,714    |
| Federal Loans, Other                     | 7,157,790    | 7,077,171    | 6,677,662    | 6,694,370    | 6,713,864    |
| Federal Work Study                       | 1,677,870    | 1,567,129    | 1,066,812    | 1,132,936    | 1,057,387    |
| External Sources                         | 4,896,434    | 5,079,481    | 4,357,779    | 3,969,175    | 4,386,519    |

## Resident Housing

The following table reflects undergraduate students housed on campus in the fall over the years indicated:

| Resident Halls/Student Housing             | Fall 2019 | Fall 2020        | Fall 2021        | Fall 2022 | Fall 2023 |
|--|-----------|------------------|------------------|-----------|-----------|
| Students housed in campus owned buildings  | 2,330     | 2,215            | 2,214            | 2,324     | 2,473     |
| Number of residence halls                  | 31        | 31               | 31               | 32        | 32        |
| Percentage undergraduates living on campus | 66%       | 61% <sup>1</sup> | 61% <sup>1</sup> | 63%       | 65%       |

<sup>1</sup> The decline in students housed and % for fall 2020 and 2021 was directly impacted by COVID-19 as some initial deposits cancelled on campus housing requests and some beds were taken offline for isolation/quarantine purposes. Also, maximum capacity may not be achieved due to gender or required ADA accommodations of residents

## Faculty

The following table displays the number of faculty, tenured faculty, faculty holding terminal degrees, and the faculty-to-student ratio as of the fall semester of the stated year:



| <b>Faculty</b>                          | <b>Fall 2019</b> | <b>Fall 2020</b> | <b>Fall 2021</b> | <b>Fall 2022</b> | <b>Fall 2023</b> |
|---|------------------|------------------|------------------|------------------|------------------|
| Full-time count                         | 368              | 362              | 364              | 362              | 372              |
| Full-time tenured                       | 180              | 180              | 181              | 180              | 189              |
| Student/faculty ratio                   | 13:1             | 14:1             | 13:1             | 14:1             | 14:1             |
| Full-time faculty with terminal degrees | 86%              | 87%              | 88%              | 88%              | 87%              |

## **FINANCIAL MATTERS**

### **Financial Accounting**

The university operates on a fiscal year beginning on July 1 and ending on the next succeeding June 30.

The audited financial statements of the University for the fiscal years June 30, 2023 and June 30, 2022, are included as Appendix A-2 to this Official Statement. The significant accounting practices of the university are described in the notes to those financial statements.

The audited financial statements of the University for each fiscal year shall be available as provided in the Continuing Disclosure Agreement of the university included as Appendix G-2 to this Official Statement.

### **Budget Process**

Samford uses a revenue driven, roll-forward and redeployment system of budgeting. Under this method, expected revenues drive the expense budget. In preparing the budget for the fiscal year (July 1–June 30), tuition and fee revenue is projected based on anticipated enrollment and board of trustees–approved tuition and fee rates for the coming year. Non-tuition revenues are estimated after historical reviews and discussions with key departments such as university advancement, business services and residence life. Revenue for endowed funds is calculated using a trustee-approved “allocation” from endowment earnings. The calculation provides for a steady distribution of earnings through market highs and lows. The annual “allocation” is roughly 5% of endowment value. For non-endowed restricted accounts, revenue is based on the anticipated gift, fee or other revenue (based on past performance), and/or accumulated balances held in the operating fund. The combined information is used to determine the level of funds available to support operations for the coming year.

The current operating expense budget is compared to projected revenues to determine the amount of additional funding available to support new or enhanced activities. Each operating unit reviews its budget and redeploys funds where appropriate. After evaluating additional funding requests from all areas, the president and senior administrators then determine the requests to be incorporated into the operating budget.

The final budget is presented to the trustees for review. The budget is comprised of two main segments: operational and capital. The operational budget reflects annual recurring activities of tuition revenue with instructional and support expenditures. The capital budget consists of those projected expenditures for facility and technology costs that meet the capitalization policy.

### **Fundraising**

The university receives gifts, pledges and bequests in an active and ongoing annual and capital fund campaign.

Cash and property received from gifts, pledges and bequests over the last five fiscal years are shown in the following table:

|   | 2019         | 2020         | 2021         | 2022         | 2023          |
|---|--------------|--------------|--------------|--------------|---------------|
| Gifts   | \$13,100,000 | \$11,700,000 | \$22,100,000 | \$26,600,000 | \$80,100,000* |
| * This includes approximately \$65 million in cash received on an estate pledge recorded in fiscal year 2022. |              |              |              |              |               |

The Office of University Advancement is responsible for development and coordinates financial campaigns. Samford actively seeks gifts for endowment, scholarships and capital improvements as well as annual funds from alumni and friends.

## Endowment

**Management.** The investment committee of the board of trustees was established in 1983 for the specific purpose of managing the university's investment accounts. The committee meets at least quarterly and provides regular reports to the trustees. In performance of its duties, the committee establishes the investment policy and asset allocation of endowment and pension assets, approves investment managers and consultants, and monitors the attainment of investment objectives through the review of performance reports from consultants. The committee is composed of five members of the board of trustees, and meets quarterly with the president, the vice president for finance, business affairs and strategy, and the chief investment officer.

Funds are managed externally. The university's investment consultant regularly attends the meetings of the committee to review reports and performance. In addition, reports are received monthly from the investment consultant.

**Investment Policy.** The university's investment committee seeks to provide a superior, long-term total return consistent with the philosophy of prudent management, stressing diversification, consistency and sensitivity to religious principles. The objective is to create a growing stream of investment income to support a portion of the university's budget while also enjoying significant appreciation. To this end, the committee maintains flexibility, and changes investment holdings and strategy to accommodate economic and market changes.

**Investments-Endowment.** The market value, excluding any pledges, of the university's endowment for the past five fiscal years with the corresponding total return for the fiscal years ended June 30 are presented below:

|              | 2019          | 2020          | 2021          | 2022          | 2023          |
|--------------|---------------|---------------|---------------|---------------|---------------|
| Market Value | \$301,000,000 | \$288,000,000 | \$365,000,000 | \$339,000,000 | \$417,000,000 |
| Total Return | 6.6%          | 0.6%          | 28.1%         | -2.8%         | 7.6%          |

The asset allocation of the endowment fund as of June 30, 2023, was 30.5% domestic equity; 20.0% international equity; 13.3% private capital; 11.2% flexible capital; 12.2% fixed income; 9.9% real assets; and 2.9% cash.

**Spending Policy.** The Board of Trustees has adopted the following spending rate formula to be applied to each prospective budget year:

$(\text{Prior Year Approved Allocation}) \times 75\% + (\text{a board approved spending percentage rate} \times \text{endowment market value at the end of the most recent completed fiscal year}) \times 25\%$ .

In setting the spending rate, consideration is given to preserving the value of endowed funds, reducing the volatility of endowment withdrawals, and providing a predictable, steady flow of funds.

The Board of Trustees may change the spending rate, applying a different donor prescribed rate or calculation methodology to all or any portion of the endowment market value, or approving any other special expenditure, as deemed appropriate by the Board of Trustees.

## **Pensions Plans and Retirement Benefits**

The university established a defined benefit pension plan, which is described in the notes to the audited financial statements of the university included as Appendix A-2 to this Official Statement. On October 31, 2012, the executive committee of the board of trustees approved a resolution to freeze eligibility for participation to new participants in the pension plan after December 31, 2012.

On September 11, 2020, the Board of Trustees approved an amendment to the Pension Plan to effectuate a hard freeze of the pension plan effective as of midnight on December 31, 2020. Active employees, who were eligible to accrue benefits under the pension plan as of December 31, 2020, were immediately eligible on the effective date of the freeze for the university's 403(b) TDA plan and were fully vested in that plan.

On December 4, 2012, the board of trustees approved an amendment to the university's 403(b) TDA Plan to include employer matching and non-elective contributions for qualified employees employed on or after January 1, 2013.

On September 11, 2020, the Board of Trustees approved an amendment to the 403(b) TDA plan. Beginning January 1, 2021, all eligible employees, including active employees who were eligible to accrue benefits under the pension as of December 31, 2020, are automatically enrolled with an election to contribute 3% of his or her Samford compensation, unless the employee instructs Human Resources to stop the automatic contributions, or the employee selects a different contribution percentage. For five years (or earlier employment termination date) beginning with the calendar year commencing on January 1, 2021, Samford will make certain transition contributions to the 403(b) accounts of active employees who were eligible to accrue benefits under the Pension Plan as of December 31, 2020, who (a) work 1,000 hours for Samford during the calendar year, and (b) are employed by the University on the last day of the calendar year. Such amounts will be determined based on the employee's age and Pension Plan Credited Service on December 31, 2020. Transition contributions range from 0% to 7% and will be made based upon the applicable percentage multiplied by the eligible employee's annual compensation. For eligible employees, the University will make a dollar-for-dollar match of all employee deferrals up to 3% of eligible compensation. The University match and contribution are vested at the rate of 20% per year. The University incurred contribution expense of approximately \$5,893,000 and \$6,248,000 during fiscal years 2023 and 2022, respectively.

## **Insurance**

Samford maintains a comprehensive liability, property and casualty insurance program. The university regularly reviews its insurance program in order to maintain, at a reasonable cost, coverages that it considers to be adequate. This review includes assessments of risks, and whether the university should self-insure or purchase insurance through a commercial carrier. If commercial insurance is purchased, the financial stability of the surety is considered before the purchase is made.

The university maintains insurance policies to provide coverage for a wide variety of claims and losses including property damage or destruction, boiler and machinery, professional liability, general liability, automobile, workers' compensation, educators' legal liability, executive risk, multimedia, crime and fiduciary, cyber and intercollegiate athletics. Samford may also purchase from time-to-time other insurance policies of various types and amounts that are considered prudent.

The property policy provides replacement cost coverage with a loss limit of \$677 million. The total insured value for buildings and contents is \$676 million, which includes \$472 million for the university's buildings.

The general liability policy provides coverage of \$1 million per occurrence and aggregate coverage of \$5 million. There is an excess liability umbrella policy of \$25 million. The crime and fiduciary liability insurance has a \$5 million policy limit and the cyber liability has a \$3 million policy limit.

The university maintains various professional liability policies, including a policy covering healthcare organizations with limits of \$1 million each claim and a \$3 million aggregate limit with excess limits of \$5 million;

educator's legal liability with limits of \$10 million per occurrence and aggregate and professional liability policies for internship programs, professional services with limits of \$1 million each claim and \$3 million aggregate.

### Outstanding Long-Term Debt of the University

**General.** The table below shows the outstanding Long-Term Debt of the University as of June 30, 2023.

| Debt                                    | Type of Interest Rate | Outstanding<br>Principal Amount | Maturity Date |
|---|-----------------------|---------------------------------|---------------|
| Series 2017-A Bonds <sup>1</sup>        | Fixed                 | \$46,640,000                    | 12/1/2047     |
| Series 2019-A Bonds <sup>1</sup>        | Fixed                 | 60,020,000                      | 12/1/2049     |
| Series 2019-B Bonds <sup>1</sup>        | Fixed                 | 57,755,000                      | 12/1/2048     |
| Series 2021-A Bonds <sup>1</sup>        | Fixed                 | 20,670,000                      | 12/1/2051     |
| Series 2021-B Bonds <sup>1</sup>        | Fixed                 | 33,910,000                      | 12/1/2043     |
| UFI Term Loan <sup>2</sup>              | Fixed                 | 84,706,399                      | 6/1/2054      |
| SPC – I & II Notes Payable <sup>3</sup> | Fixed                 | 21,491,652                      | 7/1/2035      |
| JCI Infrastructure Debt <sup>3</sup>    | Fixed                 | 27,466,309                      | 2/1/2038      |

<sup>1</sup> The outstanding long-term debt obligations that constitute Covered Parity Debt as described in the Official Statement in "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS—Outstanding Covered Parity Debt of the University; Cross Default".

<sup>2</sup> The UFI Term Loan is being refinanced with proceeds of the Series 2024 Bonds as described in the Official Statement in "SHORT STATEMENT – Plan of Finance."

<sup>3</sup> Not considered Covered Parity Debt. See "Other Long Term Debt Obligations" below.

**Other Long Term Debt Obligations.** Described below are the Other Long Term Debt Obligations of Samford (collectively, the "Other Long-Term Debt Obligations") which are not included among Covered Parity Debt but are included as University indebtedness for purposes of calculating certain debt service coverage ratio requirements applicable to the issuance of additional University subsidy supported indebtedness such as the NFRA Payments described in "SHORT STATEMENT— University NFRA Payments for Student Housing & Parking Project Bonds."

**SPC – I & II Notes Payable.** During 2015, the University purchased property adjacent to the main campus consisting of approximately 27 acres of land and three office buildings. Subsequent to the purchase, the parcel was divided into four separate parcels, three of which each contain one Class A office building. The University established four separate single member LLC entities of which the University is the sole owner and member. The parcels owned by SPCAMPUS I, LLC ("SPC I") and SPCAMPUS II, LLC (SPC II") each include a building to be used by the University to further its mission and are therefore consolidated into the University's consolidated financial statements.

SPC I & SPC II have outstanding mortgages which are nonrecourse notes for the permanent financing of the property purchased adjacent to the University's main campus. The notes bear interest at a rate of 4.125% and are collateralized by an assignment of rents and leases for the respective buildings by each of the entities. The notes mature on July 1, 2035 and can be accelerated only in the event of default. The notes allow partial prepayment on an annual basis without a prepayment penalty.

**JCI Infrastructure Debt.** In September 2016, the University entered into a contingent payment performance contract with JCI to provide capital improvements of approximately \$32,000,000, including capitalized interest. The contract calls for JCI to make the agreed upon improvements, with a guarantee that the energy savings from such improvements would offset the cost of making the improvements over a period of 20 years. Under the current accounting guidelines, the University treats this as a capital asset with a corresponding debt on the University's balance sheet. The University is in preliminary discussions with JCI to finance additional capital improvements of approximately \$5,700,000 for a chiller plant addition to its SPCAMPUS. If approved, the improvements and cost would be added to the existing contingent payment performance contract, with no extension of term. The currently anticipated timing for the financing is fiscal year 2025.

***Other Long-Annual Debt Service Payments.*** The following table presents the annual payments of the principal of and interest on the Other Long-Term Debt Obligations of Samford, which are not included among Covered Parity Debt but are included as University indebtedness for purposes of calculating certain debt service coverage ratio requirements applicable to the issuance of additional University subsidy supported indebtedness such as the NFRA Payments described in “SHORT STATEMENT— University NFRA Payments for Student Housing & Parking Project Bonds.”

| <b>Fiscal Year June 30</b> | <b>JCI<br/>Infrastructure<br/>Debt</b> | <b>SPC – I &amp; II<br/>Notes Payable</b> | <b>Total</b>     |
|----------------------------|--|---|------------------|
| 2024                       | \$ 2,173,377                           | \$ 2,271,112                              | \$ 4,444,489     |
| 2025                       | 2,234,496                              | 2,267,558                                 | 4,502,054        |
| 2026                       | 2,297,358                              | 2,265,795                                 | 4,563,153        |
| 2027                       | 2,362,010                              | 2,266,001                                 | 4,628,011        |
| 2028                       | 2,377,838                              | 2,267,054                                 | 4,644,892        |
| 2029                       | 2,394,061                              | 2,263,147                                 | 4,657,208        |
| 2030                       | 2,461,349                              | 2,262,248                                 | 4,723,597        |
| 2031                       | 2,530,553                              | 2,260,284                                 | 4,790,837        |
| 2032                       | 2,601,730                              | 2,261,268                                 | 4,862,998        |
| 2033                       | 2,617,553                              | 2,258,292                                 | 4,875,845        |
| 2034                       | 2,633,763                              | 2,257,372                                 | 4,891,135        |
| 2035                       | 2,707,739                              | 2,251,593                                 | 4,959,332        |
| 2036                       | 2,783,820                              | 187,816                                   | 2,971,636        |
| 2037                       | 2,862,067                              | -   | 2,862,067        |
| 2038                       | <u>1,727,976</u>                       | <u>-</u>                                  | <u>1,727,976</u> |
| Total                      | \$36,765,690                           | \$27,339,540                              | \$64,105,230     |

***Annual Debt Service Payments.*** The following table presents the annual payments of the principal of and interest on the outstanding Covered Parity Debt obligations of Samford, as well as the Series 2024AB Bonds and the Series 2024CD Bonds; provided, for such purposes the principal amounts of the Bonds which are subject to mandatory redemption are set forth in the respective amounts and years of such mandatory redemptions and not in the respective years of stated maturity.

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| <b>Fiscal<br/>Year<br/>June 30</b> | <b>Series 2024A<br/>Bonds</b> | <b>Series 2024B<br/>Bonds</b> | <b>Series 2024C<br/>Bond</b> | <b>Series 2024D<br/>Bonds</b> | <b>Series 2021-A<br/>Bonds</b> | <b>Series 2021-B<br/>Bonds</b> | <b>Series 2019-A<br/>Bonds</b> | <b>Series 2019-B<br/>Bonds</b> | <b>Series 2017-A<br/>Bonds</b> | <b>Total</b> |
|------------------------------------|-------------------------------|-------------------------------|------------------------------|-------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------|
| 2024                               |                               |                               |                              |                               | \$ 737,100                     | \$ 4,053,070                   | \$ 2,400,800                   | \$ 4,294,425                   | \$ 2,185,300                   | \$           |
| 2025                               |                               |                               |                              |                               | 737,100                        | 4,035,220                      | 2,400,800                      | 4,312,679                      | 2,185,300                      |              |
| 2026                               |                               |                               |                              |                               | 737,100                        | 4,001,620                      | 2,400,800                      | 4,345,996                      | 2,185,300                      |              |
| 2027                               |                               |                               |                              |                               | 737,100                        | 3,972,370                      | 2,400,800                      | 4,378,871                      | 2,185,300                      |              |
| 2028                               |                               |                               |                              |                               | 737,100                        | 3,922,620                      | 2,400,800                      | 4,425,928                      | 2,185,300                      |              |
| 2029                               |                               |                               |                              |                               | 737,100                        | 3,870,940                      | 2,400,800                      | 4,476,515                      | 2,185,300                      |              |
| 2030                               |                               |                               |                              |                               | 737,100                        | 3,043,641                      | 2,400,800                      | 5,306,365                      | 2,185,300                      |              |
| 2031                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 2,400,800                      | 7,753,343                      | 2,185,300                      |              |
| 2032                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 2,400,800                      | 7,746,920                      | 2,185,300                      |              |
| 2033                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 2,400,800                      | 6,749,953                      | 3,184,675                      |              |
| 2034                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 5,027,200                      | 870,208                        | 6,048,675                      |              |
| 2035                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 4,993,500                      | 870,208                        | 6,042,925                      |              |
| 2036                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 4,530,500                      | 870,208                        | 6,044,350                      |              |
| 2037                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 4,062,300                      | 870,208                        | 6,475,550                      |              |
| 2038                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 4,065,000                      | 870,208                        | 6,470,350                      |              |
| 2039                               |                               |                               |                              |                               | 737,100                        | 520,573                        | 9,400,400                      | 870,208                        | 1,135,750                      |              |
| 2040                               |                               |                               |                              |                               | 737,100                        | 3,077,673                      | 6,870,600                      | 870,208                        | 1,135,750                      |              |
| 2041                               |                               |                               |                              |                               | 737,100                        | 3,069,883                      | 6,876,700                      | 870,208                        | 1,135,750                      |              |
| 2042                               |                               |                               |                              |                               | 737,100                        | 3,072,818                      | 6,873,800                      | 870,208                        | 1,135,750                      |              |
| 2043                               |                               |                               |                              |                               | 1,805,350                      | 7,390,321                      | 1,486,600                      | 870,208                        | 1,135,750                      |              |
| 2044                               |                               |                               |                              |                               | 9,196,850                      | -                              | 1,489,100                      | 870,208                        | 1,135,750                      |              |
| 2045                               |                               |                               |                              |                               | 400,100                        | -                              | 4,646,200                      | 1,781,836                      | 6,264,250                      |              |
| 2046                               |                               |                               |                              |                               | 400,100                        | -                              | 749,800                        | 5,680,775                      | 6,264,500                      |              |
| 2047                               |                               |                               |                              |                               | 400,100                        | -                              | 749,800                        | 5,676,546                      | 6,265,875                      |              |
| 2048                               |                               |                               |                              |                               | 400,100                        | -                              | 749,800                        | 5,679,316                      | 6,262,750                      |              |
| 2049                               |                               |                               |                              |                               | 400,100                        | -                              | 6,923,800                      | 5,771,813                      | -                              |              |
| 2050                               |                               |                               |                              |                               | 400,100                        | -                              | 12,693,900                     | -                              | -                              |              |
| 2051                               |                               |                               |                              |                               | 5,671,919                      | -                              | -                              | -                              | -                              |              |
| 2052                               |                               |                               |                              |                               | 5,671,869                      | -                              | -                              | -                              | -                              |              |
| 2053                               |                               |                               |                              |                               | -                              | -                              | -                              | -                              | -                              |              |
| 2054                               |                               |                               |                              |                               | -                              | -                              | -                              | -                              | -                              |              |
| <b>Total</b>                       |                               |                               |                              |                               | <u>\$38,751,488</u>            | <u>\$48,195,328</u>            | <u>\$106,197,000</u>           | <u>\$87,953,569</u>            | <u>\$85,806,100</u>            | <u>\$</u>    |

**APPENDIX A-2**

**AUDITED FINANCIAL STATEMENTS OF THE UNIVERSITY  
FOR THE YEARS ENDED JUNE 30, 2023 AND 2022**

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**SAMFORD UNIVERSITY**

**CONSOLIDATED FINANCIAL STATEMENTS**

June 30, 2023 and 2022

SAMFORD UNIVERSITY  
CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

CONTENTS

|   |   |
|---|---|
| INDEPENDENT AUDITOR'S REPORT .....                                    | 1 |
| CONSOLIDATED FINANCIAL STATEMENTS                                     |   |
| CONSOLIDATED STATEMENTS OF FINANCIAL POSITION.....                    | 3 |
| CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS ..... | 4 |
| CONSOLIDATED STATEMENTS OF CASH FLOWS .....                           | 6 |
| NOTES TO CONSOLIDATED FINANCIAL STATEMENTS.....                       | 7 |

## INDEPENDENT AUDITOR'S REPORT

The Board of Trustees  
Samford University

***Opinion***

We have audited the consolidated financial statements of Samford University (the "University"), which comprise the consolidated statements of financial position as of June 30, 2023 and 2022, and the related consolidated statements of activities and changes in net assets, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the University as of June 30, 2023 and 2022, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

***Basis for Opinion***

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the University and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

***Responsibilities of Management for the Financial Statements***

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

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the University's ability to continue as a going concern for one year from the date the consolidated financial statements are available to be issued.

### ***Auditor's Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the University's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the University's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

  
Crowe LLP

Indianapolis, Indiana  
September 20, 2023

SAMFORD UNIVERSITY  
CONSOLIDATED STATEMENTS OF FINANCIAL POSITION  
June 30, 2023 and 2022

|  | <u>2023</u>           | <u>2022</u>           |
|--|-----------------------|-----------------------|
| <b>Assets</b>  |                       |                       |
| Cash and cash equivalents                                  | \$ 44,349,238         | \$ 44,946,886         |
| Cash held by bond trustee                                  | 19,075,389            | 20,846,672            |
| Cash held in escrow for capital projects                   | 76,543,609            | -                     |
| Accounts and other receivables, net                        | 4,468,189             | 3,466,445             |
| Prepaid and other assets                                   | 916,436               | 773,519               |
| Pledges receivable, net                                    | 30,565,534            | 92,685,485            |
| Marketable securities                                      | 303,131,443           | 212,856,449           |
| Student loans receivable, net                              | 16,833,679            | 15,960,904            |
| Right-of-use assets-operating leases                       | 1,858,319             | 2,069,170             |
| Other investments  | 108,958,578           | 119,086,895           |
| Property, plant, and equipment, net                        | 351,247,759           | 347,388,555           |
| Beneficial interest in perpetual trusts                    | 11,425,025            | 10,886,854            |
| Contributions receivable from trusts held by third parties | <u>413,920</u>        | <u>401,293</u>        |
| Total assets   | <u>\$ 969,787,118</u> | <u>\$ 871,369,127</u> |
| <b>Liabilities and Net Assets</b>                          |                       |                       |
| Accounts payable   | \$ 3,585,318          | \$ 3,543,732          |
| Accrued liabilities  | 9,189,942             | 8,114,107             |
| Deferred revenue   | 8,602,927             | 10,661,352            |
| Other payables and liabilities                             | 5,342,256             | 3,823,441             |
| Capital line of credit                                     | 5,500,000             | -                     |
| Deposits held on behalf of others                          | 3,028,163             | 3,814,288             |
| Lease liability  | 1,858,319             | 2,069,170             |
| Annuities payable  | 2,078,721             | 2,120,681             |
| Pension plan obligation                                    | 47,217,998            | 46,905,673            |
| Notes payable of consolidated subsidiaries                 | 21,491,652            | 22,836,434            |
| Infrastructure debt  | 27,466,309            | 28,459,245            |
| Long-term debt, net  | <u>316,852,891</u>    | <u>237,956,219</u>    |
| Total liabilities  | 452,214,496           | 370,304,342           |
| Net assets   |                       |                       |
| Without donor restrictions                                 | 108,327,526           | 113,541,627           |
| With donor restrictions                                    |                       |                       |
| Time or purpose  | 132,350,384           | 120,573,423           |
| Perpetual  | <u>276,894,712</u>    | <u>266,949,735</u>    |
| Total net assets with donor restrictions                   | <u>409,245,096</u>    | <u>387,523,158</u>    |
| Total net assets   | <u>517,572,622</u>    | <u>501,064,785</u>    |
| Total liabilities and net assets                           | <u>\$ 969,787,118</u> | <u>\$ 871,369,127</u> |

See accompanying notes to consolidated financial statements.

SAMFORD UNIVERSITY  
CONSOLIDATED STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS  
Year ended June 30, 2023

|   | Without<br>Donor<br>Restrictions | With<br>Donor<br>Restrictions | Total                 |
|---|----------------------------------|-------------------------------|-----------------------|
| <b>Revenues, grants and other support</b>                   |                                  |                               |                       |
| Student income  |                                  |                               |                       |
| Net tuition income  | \$ 118,865,914                   | \$ -                          | \$ 118,865,914        |
| Board and lodging   | <u>26,783,890</u>                | <u>-</u>                      | <u>26,783,890</u>     |
| Total student income  | 145,649,804                      | -                             | 145,649,804           |
| Other income  |                                  |                               |                       |
| Contributions and pledges for operations                    | 5,401,250                        | 2,657,715                     | 8,058,965             |
| Grant and contract revenue                                  | 512,325                          | 4,219,844                     | 4,732,169             |
| Other income  | <u>9,665,384</u>                 | <u>820,757</u>                | <u>10,486,141</u>     |
| Total other income  | 15,578,959                       | 7,698,316                     | 23,277,275            |
| Investment income (loss)                                    |                                  |                               |                       |
| Endowment income distributed for operations                 | 9,933,113                        | 11,565,678                    | 21,498,791            |
| Net loss of consolidated subsidiaries                       | (1,383,002)                      | -                             | (1,383,002)           |
| Income on operating investments                             | <u>892,165</u>                   | <u>6,025</u>                  | <u>898,190</u>        |
| Total investment income used in operations                  | 9,442,276                        | 11,571,703                    | 21,013,979            |
| Net assets released from restrictions                       | <u>16,212,642</u>                | <u>(16,212,642)</u>           | <u>-</u>              |
| Total operating revenues, gains and other                   | 186,883,681                      | 3,057,377                     | 189,941,058           |
| <b>Expenses</b>   |                                  |                               |                       |
| Faculty and staff salaries                                  | 81,174,598                       | -                             | 81,174,598            |
| Student wages   | 1,591,225                        | -                             | 1,591,225             |
| Benefits  | 25,162,431                       | -                             | 25,162,431            |
| Facilities, maintenance and utilities                       | 13,072,785                       | -                             | 13,072,785            |
| Interest expense  | 8,258,479                        | -                             | 8,258,479             |
| Auxiliary expenses  | 8,995,762                        | -                             | 8,995,762             |
| Depreciation  | 16,523,745                       | -                             | 16,523,745            |
| Lease expense   | 1,255,128                        | -                             | 1,255,128             |
| Supplies and other operating expenses                       | <u>32,413,318</u>                | <u>-</u>                      | <u>32,413,318</u>     |
| Total expenses  | 188,447,471                      | -                             | 188,447,471           |
| Increase (decrease) in net assets from operating activities | (1,563,790)                      | 3,057,377                     | 1,493,587             |
| <b>Other changes</b>  |                                  |                               |                       |
| Other components of net periodic pension cost               | (411,131)                        | -                             | (411,131)             |
| Pension liability adjustment                                | <u>(3,284,675)</u>               | <u>-</u>                      | <u>(3,284,675)</u>    |
| Total change in operational resources                       | (5,259,596)                      | 3,057,377                     | (2,202,219)           |
| Changes in finance capital                                  |                                  |                               |                       |
| Net investment income                                       | 8,720,097                        | 20,402,447                    | 29,122,544            |
| Draws from endowment for operations                         | (10,079,624)                     | (11,434,771)                  | (21,514,395)          |
| Capital gifts for loan, annuity funds and endowment funds   | 92,509                           | 8,186,911                     | 8,279,420             |
| Change in value of split-interest agreements                | 9,369                            | 593,336                       | 602,705               |
| Changes in loan funds                                       | -                                | 1,664,574                     | 1,664,574             |
| Transfers between operating, endowment and other funds      | 1,691,009                        | (1,691,009)                   | -                     |
| Changes in capital facilities                               |                                  |                               |                       |
| Changes in plant funds, excluding capital gifts             | (836,234)                        | (13,442)                      | (849,676)             |
| Net assets released from restrictions for capital additions | 445,869                          | (445,869)                     | -                     |
| Capital gifts for plant funds                               | <u>2,500</u>                     | <u>1,402,384</u>              | <u>1,404,884</u>      |
| Total capital changes                                       | 45,495                           | 18,664,561                    | 18,710,056            |
| Total change in net assets                                  | (5,214,101)                      | 21,721,938                    | 16,507,837            |
| <b>Net assets</b>   |                                  |                               |                       |
| Beginning of year   | <u>113,541,627</u>               | <u>387,523,158</u>            | <u>501,064,785</u>    |
| End of year   | <u>\$ 108,327,526</u>            | <u>\$ 409,245,096</u>         | <u>\$ 517,572,622</u> |

See accompanying notes to consolidated financial statements.

**SAMFORD UNIVERSITY**  
**CONSOLIDATED STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS**  
Year ended June 30, 2022

|   | Without<br>Donor<br>Restrictions | With<br>Donor<br>Restrictions | Total                 |
|---|----------------------------------|-------------------------------|-----------------------|
| <b>Revenues, grants and other support</b>                   |                                  |                               |                       |
| Student income  |                                  |                               |                       |
| Net tuition income  | \$ 118,939,193                   | \$ -                          | \$ 118,939,193        |
| Board and lodging   | <u>24,890,733</u>                | <u>-</u>                      | <u>24,890,733</u>     |
| Total student income  | 143,829,926                      | -                             | 143,829,926           |
| Other income  |                                  |                               |                       |
| Contributions and pledges for operations                    | 5,056,014                        | 1,665,623                     | 6,721,637             |
| Grant and contract revenue                                  | 6,685,546                        | 2,933,298                     | 9,618,844             |
| Other income  | <u>9,108,432</u>                 | <u>507,076</u>                | <u>9,615,508</u>      |
| Total other income  | 20,849,992                       | 5,105,997                     | 25,955,989            |
| Investment income (loss)                                    |                                  |                               |                       |
| Endowment income distributed for operations                 | 7,356,852                        | 9,193,676                     | 16,550,528            |
| Net loss of consolidated subsidiaries                       | (1,546,279)                      | -                             | (1,546,279)           |
| (Loss) income on operating investments                      | <u>(145,557)</u>                 | <u>6,000</u>                  | <u>(139,557)</u>      |
| Total investment income used in operations                  | 5,665,016                        | 9,199,676                     | 14,864,692            |
| Net assets released from restrictions                       | <u>14,987,494</u>                | <u>(14,987,494)</u>           | <u>-</u>              |
| Total operating revenues, gains and other                   | 185,332,428                      | (681,821)                     | 184,650,607           |
| <b>Expenses</b>   |                                  |                               |                       |
| Faculty and staff salaries                                  | 79,618,812                       | -                             | 79,618,812            |
| Student wages   | 1,560,545                        | -                             | 1,560,545             |
| Benefits  | 24,254,227                       | -                             | 24,254,227            |
| Facilities, maintenance and utilities                       | 12,638,053                       | -                             | 12,638,053            |
| Interest expense  | 8,204,249                        | -                             | 8,204,249             |
| Auxiliary expenses  | 6,319,655                        | -                             | 6,319,655             |
| Depreciation  | 16,250,931                       | -                             | 16,250,931            |
| HEERF scholarships to students                              | 3,073,512                        | -                             | 3,073,512             |
| Lease expense   | 1,141,173                        | -                             | 1,141,173             |
| Supplies and other operating expenses                       | <u>29,631,769</u>                | <u>-</u>                      | <u>29,631,769</u>     |
| Total expenses  | <u>182,692,926</u>               | <u>-</u>                      | <u>182,692,926</u>    |
| Increase (decrease) in net assets from operating activities | 2,639,502                        | (681,821)                     | 1,957,681             |
| <b>Other changes</b>  |                                  |                               |                       |
| Loss on defeasance  | (2,676,316)                      | -                             | (2,676,316)           |
| Other components of net periodic pension cost               | 3,709,138                        | -                             | 3,709,138             |
| Pension liability adjustment                                | <u>31,496,010</u>                | <u>-</u>                      | <u>31,496,010</u>     |
| Total change in operational resources                       | 35,168,334                       | (681,821)                     | 34,486,513            |
| Changes in finance capital                                  |                                  |                               |                       |
| Net investment loss   | (5,097,284)                      | (9,422,175)                   | (14,519,459)          |
| Draws from endowment for operations                         | (7,496,238)                      | (9,068,482)                   | (16,564,720)          |
| Capital gifts for loan, annuity funds and endowment funds   | 72,566                           | 97,296,102                    | 97,368,668            |
| Change in value of split-interest agreements                | (18,968)                         | (2,163,642)                   | (2,182,610)           |
| Changes in loan funds                                       | -                                | 1,020,515                     | 1,020,515             |
| Transfers between operating, endowment and other funds      | 419,056                          | (419,056)                     | -                     |
| Changes in capital facilities                               |                                  |                               |                       |
| Changes in plant funds, excluding capital gifts             | (238,639)                        | (73)                          | (238,712)             |
| Capital gifts for plant funds                               | <u>55,313</u>                    | <u>6,267,543</u>              | <u>6,322,856</u>      |
| Total capital changes                                       | <u>(12,304,194)</u>              | <u>83,510,732</u>             | <u>71,206,538</u>     |
| Total change in net assets                                  | 22,864,140                       | 82,828,911                    | 105,693,051           |
| <b>Net assets</b>   |                                  |                               |                       |
| Beginning of year   | <u>90,677,487</u>                | <u>304,694,247</u>            | <u>395,371,734</u>    |
| End of year   | <u>\$ 113,541,627</u>            | <u>\$ 387,523,158</u>         | <u>\$ 501,064,785</u> |

See accompanying notes to consolidated financial statements.

SAMFORD UNIVERSITY  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
Years ended June 30, 2023 and 2022

|   | <u>2023</u>           | <u>2022</u>          |
|---|-----------------------|----------------------|
| <b>Cash flows from operating activities</b>   |                       |                      |
| Change in net assets  | \$ 16,507,837         | \$ 105,693,051       |
| Adjustments to reconcile change in net assets<br>to net cash provided by operating activities |                       |                      |
| Depreciation  | 16,523,745            | 16,250,931           |
| Depreciation of consolidated subsidiaries   | 529,380               | 529,380              |
| Net unrealized and realized losses (gains) on investments                                     | (23,489,521)          | 18,380,028           |
| Pension liability adjustment  | 3,284,675             | (31,496,010)         |
| Change in value of split-interest agreements  | (602,705)             | 2,182,610            |
| Decrease (increase) in the carrying amount of the right-of-use assets<br>operating leases     | 210,851               | (574,210)            |
| Cash contributions restricted for long-term purposes  | (71,330,193)          | (10,380,308)         |
| Disbursement from trusts  | 186,243               | 426,914              |
| Bond issue costs written off in refinancing   | -                     | 335,698              |
| Changes in operating assets and liabilities   |                       |                      |
| Accounts and other receivables  | (1,545,428)           | 2,390,129            |
| Pledges receivable  | 62,119,952            | (85,457,326)         |
| Prepaid and other assets  | (142,917)             | (34,598)             |
| Accounts payable  | (481,138)             | (4,775,298)          |
| Accrued liabilities and other payables and liabilities  | 2,946,104             | (3,199,857)          |
| Lease liability   | (210,851)             | 574,210              |
| Pension plan obligation   | (2,972,350)           | (4,789,288)          |
| Deposits held on behalf of others   | (786,126)             | (62,688)             |
| Deferred revenue  | (2,058,425)           | 404,766              |
| Net cash (used in) provided by operating activities   | (1,310,867)           | 6,398,134            |
| <b>Cash flows from investing activities</b>   |                       |                      |
| Purchases of property, plant, and equipment   | (20,389,603)          | (25,002,401)         |
| Purchases of investments  | (115,725,473)         | (24,066,444)         |
| Proceeds from sales of investments  | 50,049,305            | 29,054,062           |
| Student direct lending receipts   | 63,587,551            | 64,851,351           |
| Student direct lending disbursements  | (63,617,328)          | (64,819,844)         |
| Disbursements of loans to students  | (3,201,200)           | (4,359,252)          |
| Repayments of loans from students   | 2,328,425             | 2,452,924            |
| Contributions to limited partnership interests  | (10,123,538)          | (13,704,431)         |
| Distributions from limited partnership interests  | 19,391,109            | 18,797,191           |
| Net cash used in investing activities   | (77,700,752)          | (16,796,844)         |
| <b>Cash flows from financing activities</b>   |                       |                      |
| Cash contributions restricted for long-term purposes  | 71,330,193            | 10,380,308           |
| Payments of annuity obligations   | (202,850)             | (510,700)            |
| Repayments of notes payable of consolidated subsidiaries                                      | (1,344,782)           | (1,290,530)          |
| Repayments of infrastructure debt   | (992,936)             | (897,092)            |
| Issuance of long-term debt  | 84,706,399            | 24,847,613           |
| Repayments of long-term debt  | (5,809,727)           | (4,047,795)          |
| Retirement of long-term debt  | -                     | (12,916,674)         |
| Proceeds from lines of credit   | 9,500,118             | 2,169,549            |
| Repayments of lines of credit   | (4,000,118)           | (2,169,549)          |
| Net cash provided by financing activities   | 153,186,297           | 15,565,130           |
| Net change in cash and cash equivalents   | 74,174,678            | 5,166,420            |
| Cash and cash equivalents, beginning of year  | 65,793,558            | 60,627,138           |
| Cash and cash equivalents, end of year  | <u>\$ 139,968,236</u> | <u>\$ 65,793,558</u> |
| <b>Supplemental cash flow data</b>  |                       |                      |
| Cash paid for interest  | \$ 9,181,612          | \$ 9,212,291         |
| Repayments of debt by bond trustee  | \$ -                  | \$ 37,225,000        |
| Operating cash flows from operating leases  | \$ 1,255,128          | \$ 1,141,173         |
| <b>Supplemental noncash investing and financing activity</b>                                  |                       |                      |
| Capital expenditures incurred, but not paid   | \$ 1,099,425          | \$ 1,622,152         |

See accompanying notes to consolidated financial statements.



SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 1 - GENERAL**

Samford University (the "University") is comprised of the School of the Arts, Howard College of Arts and Sciences, Brock School of Business, Beeson Divinity School, Orlean Beeson School of Education, School of Health Professions, Cumberland School of Law, Moffett & Sanders School of Nursing, McWhorter School of Pharmacy and the School of Public Health.

During 2015, the University, purchased property adjacent to the main campus consisting of approximately 27 acres of land and three office buildings. Subsequent to the purchase, the parcel was divided into four separate parcels, three of which each contain one Class A office building. The University established four separate single member LLC entities of which the University is the sole owner and member. Three of the single member entities, SPCAMPUS I LLC ("SPC I"), SPCAMPUS II LLC ("SPC II") and SPCAMPUS III LLC ("SPC III"), each own a parcel of land with one building and Samford Properties East ("SPE") owns an outparcel of land consisting of approximately 8 acres. SPC III has a single third-party tenant in its building with a long-term lease. The real estate held by SPC III is held for investment as part of the University's endowment. The parcels owned by SPC I and SPC II each include a building to be used by the University to further its mission and are therefore consolidated into the University's consolidated financial statements. There are long-term leases in place between the University and these entities for the use of the buildings. SPE is also consolidated into the University's consolidated financial statements.

**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Basis of Presentation: The accompanying consolidated financial statements include the accounts of the University and its wholly owned subsidiaries SPC I, SPC II and SPE, after the elimination of intercompany balances and transactions and have been prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP"). Management has chosen to separately reflect on the consolidated statements of financial position the balances of notes payable related to its consolidated subsidiaries and the activities are reflected in the consolidated statement of activities and changes in net assets as a net loss of consolidated subsidiaries. Total revenues of the entities were approximately \$3,900,000 and \$3,600,000 during the 2023 and 2022 fiscal years, respectively. Revenue is primarily from rentals paid by the University under the lease agreements, plus interest income. The rental income is eliminated during the consolidation. Total equity of these entities was \$16,200,000 and \$13,900,000 at June 30, 2023 and 2022, respectively. Expenses consist primarily of interest on the mortgages payable and depreciation on the purchase of the facilities.

Financial Statement Presentation: The consolidated financial statements report the changes in and totals of each net asset class based on the absence or the existence of donor restrictions. Net assets are classified as without donor restrictions or with donor restrictions as described below:

Net assets without donor restrictions are net assets that are not subject to donor-imposed restrictions and may be expended for any purpose in performing the primary objectives of the University. Net assets without donor restrictions include undesignated net assets and net assets that are Board designated for endowment.

Net assets with donor restrictions are net assets subject to stipulations imposed by donors, and grantors. Some donor restrictions are temporary in nature while others are perpetual in nature.

The University presents its consolidated statement of activities and changes in net assets in order to provide an intermediate measure of operational performance. Management and the Board believe this presentation provides enhanced information for both internal and external users to measure and compare the operating performance of the University.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

The change in net assets from operating activities is intended to present all income and expenses used in current operations. Operating activities include providing instruction, academic support, libraries, and other supporting services, such as room and board, to undergraduate and graduate students of the University. Net assets released from restrictions represent net assets with donor restrictions available and used in the current period. Descriptions of other changes follow.

Investment income in the operating statement includes endowment income distributed for operations, net loss from consolidated subsidiaries after elimination of intercompany transactions, and income or loss from operating investments.

***Other Changes***

Other Components of Net Periodic Pension Cost: This adjustment represents the components of net periodic pension cost including interest cost on the obligation, changes due to expected return on plan net assets, and amortization of various amounts deferred from previous periods. As a result of the full freeze on the defined benefit pension plan as of December 31, 2020, the net periodic pension cost is now reflected in the Other Changes section of the consolidated statements of activities and changes in net assets.

Pension Liability Adjustment: This adjustment, determined annually, increases or decreases the pension plan obligation reported within the consolidated statements of financial position and represents the net change in the University's obligation to pay projected pension benefits and the assets held to meet that obligation.

***Changes in Finance Capital***

Net Investment Income (Loss): These amounts include the investment returns (losses) on financial assets held in endowed funds and are reported net of investment expense.

Draws From Endowment for Operations: These amounts reflect the transfer of investment earnings or accumulated earnings from endowed funds for current operations based on the Board approved spending policy. This amount may also include additional Board approved transfers to operations for the pension or other exceptional obligations.

Capital Gifts for Loan, Annuity and Endowment Funds: To provide a complete picture of the level of contributions and gifts, these amounts are separately identified from other revenue sources within the finance capital category and represent specified donor gifts, generally of long-term duration.

Change in Value of Split-Interest Agreements: These amounts include changes in three categories of contributed assets as follows: the change in contributions receivable from trusts held by third parties, the change in beneficial interest in perpetual trusts, and the change in gift annuities and split-interest agreements. Changes in these assets annually include the net earnings on investments held by the University, related interest expense on amounts owed to specified beneficiaries, and annual adjustments of any outstanding obligations to specified beneficiaries.

Changes in Loan Funds: These amounts represent receipt of additional institutional loan funds from third parties and various federal loan programs, such as nurse faculty loans, plus the net activities of previously received funds. In addition, required paybacks of federal loan funds, such as Perkins, would also be reflected in this category.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Transfers Between Operating, Endowment and Other Funds: These amounts represent the movement of funds between categories for various purposes and, where applicable in accordance with donor restrictions.

***Changes in Capital Facilities***

Changes in Plant Funds, Excluding Capital Gifts: These amounts include revenue within the plant funds, such as gain on sale of assets and current plant fund expenditures.

Capital Gifts for Plant: These amounts represent contributions restricted for the purchase of capital items.

Net Assets Released from Restrictions for Capital Additions: These amounts represent the release from restrictions for gifts received for capital projects. The University reports expirations of donor restrictions on net assets to be expended for specific capital projects when the acquired or constructed long-lived asset(s) are placed in service.

***Net Assets and Revenues, Expenses, Gains, and Losses***

Net assets and revenue, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the University and changes therein are classified and reported as follows:

Net Assets Without Donor Restrictions: These amounts represent net assets not subject to donor-imposed restrictions, including Board or management designated appropriations.

Net Assets With Donor Restrictions: These amounts represent net assets subject to donor-imposed stipulations that may or will be met either by actions of the University and/or the passage of time. These amounts also represent net assets subject to donor-imposed stipulations that require the assets to be maintained in perpetuity by the University. Generally, the donors of these assets permit the University to use all or part of the income earned on related investments for general or specific purposes.

The University reports gifts of cash and other assets as restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, net assets with donor restrictions are reclassified to net assets without donor restrictions and reported in the statement of activities and changes in net assets as net assets released from restrictions (Note 11).

The University reports gifts of property, plant, and equipment as support without donor restrictions unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets designated by the donor to acquire long-lived assets are reported as support with donor restrictions. Absent explicit donor stipulations regarding how long those long-lived assets must be maintained, the University reports expirations of donor restrictions when the donated or acquired long-lived assets are placed in service.

Cash and Cash Equivalents: The University considers all highly liquid financial instruments purchased with an original maturity of three months or less to be cash equivalents. The University maintains a sweep account with a financial institution in which the account balance is associated with both an operating line of credit and an institutional liquidity fund, primarily invested in government securities and repurchase agreements. On a nightly basis, any excess cash is invested in the institutional liquidity fund in the University's name. In the event of a cash shortfall in the operating account, the bank will automatically pull cash from the institutional fund if funds are available or use the line of credit to cover amounts paid from the disbursement account. Any excess cash in the operating account automatically reduces the amount outstanding on the line of credit first, and then any remaining amount is invested in the institutional fund.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

As of June 30, 2023 and 2022, the balance in cash and cash equivalents included \$13,200,000 and \$14,200,000, respectively, of cash managed by external investment managers as part of the endowment.

Accounts and Other Receivables: Included in accounts receivable are student receivables derived from the University's billing of tuition and fees. The amount of student receivables included in accounts receivable totaled approximately \$3,036,185 and \$1,312,000 at June 30, 2023 and 2022, respectively, which are presented net of an allowance for doubtful accounts of approximately \$396,000 and \$382,000 at June 30, 2023 and 2022, respectively.

In addition, the United States Department of Education requires all Title IV loans to be handled directly through the government ("Direct Lending"). As loans are processed through the Direct Lending program, the amounts are credited to each student's account. Subsequently, the University then draws from the Direct Lending pool funded by the government. The timing difference of disbursements to the student accounts and the draw from the government creates a temporary receivable which is included in this category.

Marketable Securities and Other Investments: Investments in equity securities, mutual funds, commingled funds, real asset funds and debt securities are reported at fair value. Fair value for these investments is based on quoted market prices or dealer quotes, where available.

The University also invests in alternative investments such as hedge funds, real estate funds, limited partnerships, and other investments which are reported at fair value. The University has adopted the authoritative guidance in GAAP, for estimating the fair value of investments in investment funds that have calculated Net Asset Value ("NAV") per share (or its equivalent). According to GAAP, a reporting entity is permitted to estimate the fair value of an investment in an investment fund using the NAV per share of the investment (or its equivalent) without further adjustment, if the NAV per share of the investment is determined as of the reporting entity's measurement date.

Accordingly, the University uses the NAV as reported by the fund managers as a practical expedient, to determine the fair value of investments in investment funds which (a) do not have a readily determinable fair value and (b) either have the attributes of an investment fund or prepare their financial statements consistent with the measurement principles of an investment fund. At June 30, 2023 and 2022, the fair value of these alternative investments has been determined by using NAV as a practical expedient.

The University also considers authoritative investment guidance specific to not-for-profit organizations. For certain other investments, the University carries investments in entities in which the University is the sole member of a limited liability corporation that is the functional equivalent of a limited partnership at fair value.

Both realized and unrealized gains and losses are reflected in the consolidated statements of activities and changes in net assets as changes in net assets without donor restrictions or with donor restrictions, in accordance with the donor's stipulations concerning the purposes for which ordinary income may be used.

Pledges Receivable: Unconditional promises to give are recognized as revenues at their fair values in the period the unconditional promise is made. Unconditional promises to give with payments due in future periods are discounted using a rate commensurate with the risks involved (Note 3).

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Student Loans Receivable: Student loans receivable represents financial aid awarded to students primarily under the Perkins Title IV federal program and under Title VIII of the Public Health Service Act. The Perkins loans are self-perpetuating funds, and the Federal contributions to the University's loan programs are considered refundable advances and are presented as a liability in deposits held on behalf of others in the consolidated statement of financial position (Note 4). The Title VIII loans are received through an annual notice of award from the United State Department of Health and Human Services. The Perkins Title IV federal program has been discontinued by the federal government and therefore, there are no new Perkins loans being made as of June 30, 2023 and 2022. The University has begun returning cash on hand from the Perkins Fund as requested by the Department of Education and is working with a third-party vendor to wind down the program.

Property, Plant, and Equipment: Property, plant and equipment are stated at cost at date of acquisition or fair value at date of donation in the case of gifts, less accumulated depreciation computed on a straight-line basis over the estimated useful lives of the assets. Gain or loss on disposition of assets is reflected in the statement of activities and changes in net assets, and the related asset cost and accumulated depreciation are removed from the respective accounts. Useful lives by major asset class are as follows:

|  |             |
|--|-------------|
| Land improvements                          | 10-20 years |
| Buildings                                  | 15-50 years |
| Furniture, fixtures and computer equipment | 3-10 years  |
| Library books                              | 7-10 years  |

Beneficial Interest in Perpetual Trusts: Perpetual trusts are trusts under which the University will receive income distributions in perpetuity, but will never receive the corpus of the trust assets (principal). Perpetual trusts are initially recorded as contribution revenue with donor restrictions at the fair value of the University's interest in the trust assets at the date of gift. Subsequent changes to the trust's fair value are recorded as a change in value of split interest agreements in the statements of activities and changes in net assets. Income received from perpetual trusts is recognized as investment income without donor restrictions or with donor restrictions, depending on donor-imposed purpose restrictions. The University's interest in these trusts was approximately \$11,425,000 and \$10,887,000 at June 30, 2023 and 2022, respectively.

Contributions Receivable From Trusts Held by Third Parties: The University is the beneficiary of various charitable remainder trust funds administered by unaffiliated organizations. Under the terms of the agreements, the University has the irrevocable right to receive the remaining assets of the trusts upon the death of a specified beneficiary or beneficiaries. The fair value of the remainder interest expected to be received from the trusts, net of the present value of expected beneficiary payments, is approximately \$414,000 and \$401,000 at June 30, 2023 and 2022, respectively, and is reflected in the consolidated statement of financial position as contributions receivable from trusts held by third parties. Any change in value related to these trusts is recorded as a change in value of split-interest agreements in the statement of activities and changes in net assets.

Long-Lived Assets: The University recognizes impairment losses on long-lived assets used in operations when indicators of impairment are present and the carrying values of the assets exceed the asset's fair value. There were no such losses recognized during fiscal 2023 or 2022.

Lines of Credit: The University maintains a Master Note Agreement for a \$25,000,000 revolving operating line of credit with Regions Bank. The line of credit bears interest at a variable rate based upon the Bloomberg Short-Term Bank Yield (BSBY) Index. The Master Note Agreement has a current expiration date of November 30, 2023. The outstanding balance was \$0 at June 30, 2023 and 2022.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

The University also maintains a Capital Line of Credit Agreement and related Capital Credit Note (the "Note") for a \$30,000,000 taxable revolving line of credit with Regions Commercial Equipment Finance, LLC. The Note bears interest at a variable rate based on the BSBY Index and has a maturity date of November 30, 2023. The outstanding balance was \$5,500,000 and \$0 at June 30, 2023 and 2022, respectively.

Gift Annuities and Split-Interest Agreements: The University enters into gift annuity agreements and other split-interest agreements that require an annuity to be paid to the donor or the donor's beneficiary, funded by the donated assets, over a designated period of time or the beneficiary's lifetime, with the remainder becoming a gift to the University.

The difference between the present value of the estimated liability and the fair value of the gift is recognized as contribution revenue without donor restrictions or with donor restrictions at the date of gift, depending on donor-imposed purpose restrictions. The discount rate assumptions used to estimate the present value of the annuity liabilities range between .6% and 9.6% and do not change over the term of the agreement. During the term of the agreement, the actuarially determined liability is adjusted for revaluations of expected future payments to the beneficiaries based on changes in the life expectancy of the beneficiary. Any change in value related to actuarial adjustments of the annuity and split-interest obligations is recorded as a change in value of split-interest agreements in the statements of activities and change in net assets. Annuities payable were approximately \$2,079,000 and \$2,121,000 at June 30, 2023 and 2022, respectively.

Revenue Recognition: Net tuition revenues consisted primarily of tuition, net of scholarships, and fees derived from courses taught by the University, as well as from related educational resources that the University provided to its students, such as access to online materials. Tuition revenue was recognized pro-rata over the applicable period of instruction. For the years ended June 30, 2023 and 2022, the University's revenue was reduced by approximately \$79,317,000 and \$73,986,000, respectively, as a result of scholarships that the University offered to students. A contract was entered into with a student and covered a course or semester. Revenue recognition occurs over the applicable academic term. The University had no costs that were capitalized to obtain or to fulfill a contract with a customer.

Auxiliary revenues include primarily the following operations: food service and student housing. The food service and student housing revenues are included within board and lodging in the consolidated statements of activities and changes in net assets. Charges to students for board and lodging are substantially billed and collected prior to the end of each semester. Associated revenues are earned and recognized over the course of each semester as these services are delivered.

The following table presents our revenues disaggregated by the nature of transfer of services for the years ended June 30, 2023 and 2022:

|  | <u>2023</u>           | <u>2022</u>           |
|--|-----------------------|-----------------------|
| Undergraduate programs                       | \$ 134,328,354        | \$ 126,729,825        |
| Graduate programs                            | 63,854,399            | 66,195,247            |
| Less: scholarships and fellowships           | <u>(79,316,839)</u>   | <u>(73,985,879)</u>   |
| Net tuition revenues                         | 118,865,914           | 118,939,193           |
| Board and lodging                            | <u>26,783,890</u>     | <u>24,890,733</u>     |
| Total revenues from contracts with customers | <u>\$ 145,649,804</u> | <u>\$ 143,829,926</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

The University presents amounts expended for scholarships and fellowships as a reduction of tuition and fees revenue in the statement of activities and changes in net assets. Scholarships and fellowships are funded from both net assets without donor restrictions and with donor restrictions of the University. During fiscal 2023, approximately \$79,317,000 was expended for scholarships and fellowships, of which approximately \$6,360,000 was funded from net assets with donor restrictions. During fiscal 2022, approximately \$73,986,000 was expended for scholarships and fellowships, of which approximately \$5,969,000 was funded from net assets with donor restrictions.

The University's receivables represented unconditional rights to consideration from its contracts with students. Once a student is invoiced, payment is due prior to the start of classes. Included in each invoice to the student were all educational related items including tuition, net of scholarships, housing, fees, etc. The University did not have any contract assets. The University's contract liabilities were reported as deferred revenue and student deposits in the consolidated statement of financial position. Deferred revenue and student deposits in any period represented the excess of tuition, fees, and other student payments received as compared to amounts recognized as revenue on the consolidated statement of activities and were reflected as liabilities in the accompanying consolidated statement of financial position. Some of the University's education programs had starting and ending dates that differ from its fiscal year end. Therefore, at the end of the fiscal year end, a portion of revenue from these programs was not yet earned.

The University had identified a performance obligation associated with the provision of its educational instruction and other educational services, housing services, and other academic related services and used the output measure for recognition as the period of time over which the services were provided to our students. The University had identified performance obligations related to its dining services and student housing and recognized revenue at the point in time services were provided to its customers. The University maintained an institutional tuition refund policy, which provided for all or a portion of tuition to be refunded if a student withdrew during stated refund periods. If a student withdrew at a time when only a portion, or none of the tuition was refundable, then in accordance with its revenue recognition policy, the University continued to recognize the tuition that was not refunded pro-rata over the applicable period of instruction. The University did not record revenue on amounts that were refunded.

However, for students that had taken out financial aid to pay their tuition and for which a return of such money to the Department of Education under Title IV was required as a result of his or her withdrawal, the University reassessed collectability for these students each quarter for the estimated revenue that will be returned and recognized the revenue in future periods when payment was received. The University had elected the short-term contract exemption with respect to its performance obligations under its contracts with students as all such contracts had original terms of less than one year.

Deferred Revenue from Contracts with Customers: Deferred revenue from contracts with customers represents payments received in advance for which services have not been performed as of June 30. The following table represents activities for deferred revenue related to tuition.

| Balance at<br>July 1,<br><u>2022</u> | Revenue<br>Recognized<br><u>2023</u> | Cash Received<br>in Advance of<br><u>Performance</u> | Balance at<br>June 30,<br><u>2023</u> |
|--------------------------------------|--------------------------------------|--|---------------------------------------|
| \$ 6,392,956                         | \$ 6,392,956                         | \$ 5,787,736   | \$ 5,787,736                          |
| Balance at<br>July 1,<br><u>2021</u> | Revenue<br>Recognized<br><u>2022</u> | Cash Received<br>in Advance of<br><u>Performance</u> | Balance at<br>June 30,<br><u>2022</u> |
| \$ 6,557,708                         | \$ 6,557,708                         | \$ 6,392,956   | \$ 6,392,956                          |

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

The balance of deferred revenue at June 30, 2023, less any refunds issued, will be recognized as revenue over the academic term beginning July 1, 2023, as services are rendered.

***Other Significant Policies***

Gifts are recorded at fair value at date of donation. Private gifts and government grants that are not considered exchange transactions, including pledges, are recognized in the period received. Conditional gifts, with a barrier and right of return, are not recognized until the conditions on which they depend are substantially met. Contributions of assets other than cash are recorded at estimated fair value. Amortization of discount is recorded as additional contribution revenue in accordance with donor-imposed restrictions, if any, on the contributions. An allowance for uncollectible pledges receivable is provided based upon management's judgment, including such factors as prior collection history, type of contribution, and nature of fund-raising activity.

Contributions received with donor-imposed restrictions that are met in the same year as the gifts are received are reported as revenue of the net asset without donor restrictions class. Contributions of land, building, and equipment without donor-imposed restrictions concerning the use of such long-lived assets are reported as revenue of the net asset without donor restrictions class. Contributions of cash or other assets to be used to acquire land, building, and equipment with such donor restrictions are reported as revenue of the net asset with donor restrictions class; the restrictions are considered to be released at the time the long-lived assets are placed in service.

Deferred revenue consists primarily of student tuition and fees that relate to future fiscal years and grant funds received for which the grant term extends beyond the current fiscal year.

The University is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code, except for income taxes on any unrelated business income, if applicable. There was no provision for income taxes due on unrelated business income in fiscal years 2023 and 2022, and there are no uncertain tax positions considered to be material.

Real estate to be used by the University is stated at cost at the date of acquisition or appraised value at the date of donation in the case of gifts. Real estate held for investment is carried at its fair value.

Use of Estimates: The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates.

Concentration of Credit Risk: The University maintains cash and cash equivalents with various major financial institutions. Cash equivalents include investments in commercial paper of companies with high credit ratings, investments in money market securities, investments in securities backed by the U.S. government, and repurchase agreements with major financial institutions. At times, such amounts may exceed the Federal Deposit Insurance Corporation insured limit of \$250,000 per bank. The University believes no significant concentration of credit risk exists with respect to these cash investments.

Subsequent Events: The University has evaluated its subsequent events through September 20, 2023, the date the consolidated financial statements were issued.

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(Continued)



SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 3 - PLEDGES RECEIVABLE**

Pledges receivable, consisting of unconditional promises to give, were as follows at June 30, 2023 and 2022:

|   | <u>2023</u>          | <u>2022</u>          |
|---|----------------------|----------------------|
| Estimated future cash flows from unconditional promises to give before unamortized discount | \$ 32,084,126        | \$ 94,019,413        |
| Less: Unamortized discount  | (1,347,059)          | (1,174,665)          |
| Less: Allowance for doubtful pledges  | <u>(171,533)</u>     | <u>(159,263)</u>     |
| Pledges receivable, net   | <u>\$ 30,565,534</u> | <u>\$ 92,685,485</u> |
| Amounts due in  |                      |                      |
| Less than one year  | \$ 23,100,518        | \$ 81,510,107        |
| One year to five years  | 8,588,008            | 11,970,306           |
| More than five years  | <u>395,600</u>       | <u>539,000</u>       |
|   | <u>\$ 32,084,126</u> | <u>\$ 94,019,413</u> |

Estimated future cash flows to be received are discounted at the pledge date using rates ranging from 4.51% to 5.45%, based on risk-adjusted United States Treasury rates commensurate with the various terms of the outstanding pledges and terms which would be demanded by market participants. The remaining gift to be received from the estate of Marvin Mann in fiscal year 2023 represents 67% of the outstanding pledge balance. The majority of assets supporting this pledge are currently held in highly liquid investments.

**NOTE 4 - STUDENT LOANS RECEIVABLE AND DEPOSITS HELD ON BEHALF OF OTHERS**

Student Loans Receivable: Student loans receivable represents financial aid awarded to students primarily under the Perkins Title IV federal program and under Title VIII of the Public Health Service Act. The Perkins loans are self-perpetuating funds, and the Federal contributions to the University's loan programs are considered refundable advances and are presented as a liability in deposits held on behalf of others in the consolidated statements of financial position. The Title VIII loans are received through an annual notice of award from the United State Department of Health and Human Services. During fiscal year 2022, the government required the University to return approximately \$490,923 of excess Perkins funds as no new loans are being made under the program. The government will continue to wind down the Perkins program and the University will work with a third-party provider to assign loans back to the government.

For the long-term student loans receivable, the University records an allowance for uncollectible loans (credit losses) as follows:

|                          | <u>2023</u>                        |                              | <u>2022</u>                        |                              |
|--------------------------|------------------------------------|------------------------------|------------------------------------|------------------------------|
|                          | <u>Receivable<br/>Balance, Net</u> | <u>Related<br/>Allowance</u> | <u>Receivable<br/>Balance, Net</u> | <u>Related<br/>Allowance</u> |
| Perkins, net             | \$ 1,169,058                       | \$ 452,871                   | \$ 1,765,140                       | \$ 196,701                   |
| Other student loans, net | <u>15,664,621</u>                  | <u>433,053</u>               | <u>14,195,764</u>                  | <u>433,053</u>               |
|                          | <u>\$ 16,833,679</u>               | <u>\$ 885,924</u>            | <u>\$ 15,960,904</u>               | <u>\$ 629,754</u>            |

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 4 - STUDENT LOANS RECEIVABLE AND DEPOSITS HELD ON BEHALF OF OTHERS**  
(Continued)

Management regularly assesses the adequacy of the allowance for uncollectible loans by performing ongoing evaluations of the student loan portfolio, including such factors as the differing economic risks associated with each loan category, the financial condition of specific borrowers, the economic environment in which the borrowers operate, the level of delinquent loans, the value of any collateral and, where applicable, the existence of any guarantees or indemnifications. Management also reviews loans in default compared to prior years. The University's Perkins receivable represents the amounts due from current and former students under the Federal Perkins Loan Program. Loans disbursed under the Federal Perkins Loan Program are able to be assigned to the Federal Government in certain nonrepayment situations. In these situations, the Federal portion of the loan balance is guaranteed.

It is the University's general practice to send loans to a collection agency when they are delinquent 120 days or more, and appropriate notification has been made to the student that the loan is considered in default. Loans less than 120 days delinquent are deemed to have a minimal delay in payment and are generally not sent to collections. No allowance is made for loans not in collection. Considering the factors already discussed herein, management considers the allowance for credit losses to be prudent and reasonable. The total past due amounts at June 30, 2023 and 2022, were \$297,955 and \$686,000, respectively.

Deposits Held on Behalf of Others: Deposits held on behalf of others at June 30, 2023 and 2022, which includes student loans receivable for financial aid awarded to students primarily under Title IV federal programs are comprised of the following:

|                  | <u>2023</u>         | <u>2022</u>         |
|------------------|---------------------|---------------------|
| Agency funds     | \$ 579,421          | \$ 526,277          |
| Student deposits | 506,176             | 450,246             |
| Federal funds    | <u>1,942,566</u>    | <u>2,837,765</u>    |
|                  | <u>\$ 3,028,163</u> | <u>\$ 3,814,288</u> |

**NOTE 5 - MARKETABLE SECURITIES AND OTHER INVESTMENTS**

The University reviews the investments in marketable securities and other investments to determine the appropriate fair value of each class of assets. The assumptions used by the University are disclosed in Note 14.

Marketable Securities: Marketable securities at June 30, 2023 and 2022 consist of the following:

|               | <u>2023</u>           | <u>2022</u>           |
|---------------|-----------------------|-----------------------|
| Public equity | \$ 190,645,583        | \$ 128,495,598        |
| Fixed income  | 52,766,621            | 38,373,177            |
| Hedge funds   | 41,758,313            | 30,803,157            |
| Real assets   | <u>17,960,926</u>     | <u>15,184,517</u>     |
|               | <u>\$ 303,131,443</u> | <u>\$ 212,856,449</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 5 - MARKETABLE SECURITIES AND OTHER INVESTMENTS** (Continued)

The University's investments in public equity investments consists of publicly traded equity, mutual funds, and other commingled investment funds. The investments in fixed income funds includes investments such as U.S. government securities and corporate and asset-backed securities.

The University's hedge fund investments include (i) investments in hedge funds that invest both long and short primarily in U.S. and non-U.S. common stocks, as well as (ii) investments in hedge funds that pursue multiple strategies to diversify risks and reduce volatility, such as investments in credit-oriented securities and merger arbitrage investments. The University's hedge fund investments contain various redemption restrictions with required notice periods. Redemption terms for these funds typically restrict withdrawals of capital for a defined "lock-up" period after investment, and thereafter allow withdrawals on a quarterly, semi-annual or annual basis with notice periods ranging from 30 to 90 days. Lock-up periods for such funds generally expire within one year after the measurement date. Real assets include public investments in natural resources.

Other Investments: Other investments consist of the following at June 30, 2023 and 2022:

|                                    | <u>2023</u>           | <u>2022</u>           |
|------------------------------------|-----------------------|-----------------------|
| Limited partnership interests      | \$ 68,664,131         | \$ 81,285,040         |
| Real estate held                   | 40,187,580            | 37,694,988            |
| Life insurance contracts and other | <u>106,867</u>        | <u>106,867</u>        |
|                                    | <u>\$ 108,958,578</u> | <u>\$ 119,086,895</u> |

During fiscal year ending June 30, 2014, the University formed a single member LLC, University Park Holdings, LLC "UPH", for the purpose of buying, selling, owning, operating and otherwise dealing in real estate. Samford University is the sole member of UPH. UPH purchased a 5-story Class A 122,654 square foot office property built in 1999 for the purpose of long-term investment. The property sits on approximately 12 acres across from the University's main campus.

During fiscal year ending June 30, 2015, the University formed SPCAMPUS III LLC as a single member LLC for the purpose of owning a 5-story Class A 156,000 square foot office building built in 2004 for the purpose of long-term investment. The property sits on approximately 6 acres adjacent to the University's main campus.

These directly held real estate investments of the endowment are classified in the real estate held category of other investments and are currently held at fair value based on appraised value adjusted for changes in assets and liabilities of the entities. Changes in the investment value and distributions of earnings are recorded as part of the investment income of the endowment. Both properties were purchased using cash of the endowment, plus permanent nonrecourse financing over a 20-year term.

The University also owns limited partnership interests in several nonregistered investment partnerships managed by a general partner. These investments represent illiquid investments in venture capital, private equity, energy funds and real estate funds. The University's commitments and contributions to these funds are set forth in Note 13. The University makes initial investments in each partnership and is required to make additional contributions, not to exceed the original commitment amount, upon notice from the general partners. The fair value of these investments is calculated from the University's ownership in these funds. The nature of investments in this category is such that distributions are received from income and through liquidation of the underlying assets of the funds. These funds have terms that range from 7 to 12 years.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 6 - PROPERTY, PLANT, AND EQUIPMENT**

Property, plant, and equipment of the University, excluding that held by SPC I, SPC II and SPE, consisted of the following at June 30, 2023 and 2022:

|   | <u>2023</u>           | <u>2022</u>           |
|---|-----------------------|-----------------------|
| Land  | \$ 23,785,312         | \$ 23,535,312         |
| Land improvements                           | 58,949,994            | 58,825,103            |
| Buildings                                   | 457,127,187           | 438,942,944           |
| Furniture, fixtures, and computer equipment | 67,305,726            | 62,789,949            |
| Library books                               | 37,214,136            | 37,099,354            |
| Construction in progress                    | <u>11,933,442</u>     | <u>14,286,639</u>     |
|   | 656,315,797           | 635,479,301           |
| Accumulated depreciation                    | <u>(331,198,308)</u>  | <u>(314,750,396)</u>  |
|   | <u>\$ 325,117,489</u> | <u>\$ 320,728,905</u> |

Depreciation expense of the University was approximately \$16,524,000 and \$16,251,000 in fiscal 2023 and 2022, respectively. At June 30, 2023, there were significant outstanding commitments on Construction in progress. At June 30, 2023, Construction in progress included approximately \$113,000 of capitalized interest. At June 30, 2023, the University's remaining commitment to Construction in progress was approximately \$77,000,000.

Included in property, plant and equipment is property financed under finance leases disclosed in Note 7, of which the following is a summary:

|                                | <u>2023</u>           | <u>2022</u>           |
|--------------------------------|-----------------------|-----------------------|
| Buildings and improvements     | \$ 218,622,717        | \$ 215,124,738        |
| Less: Accumulated depreciation | <u>(89,430,725)</u>   | <u>(82,326,630)</u>   |
| Net                            | <u>\$ 129,191,992</u> | <u>\$ 132,798,108</u> |

Property, plant, and equipment held by the University's subsidiaries SPC I, SPC II and SPE, consisted of the following at June 30, 2023 and 2022:

|                          | <u>2023</u>          | <u>2022</u>          |
|--------------------------|----------------------|----------------------|
| Land                     | \$ 7,980,000         | \$ 7,980,000         |
| Land improvements        | 1,556,000            | 1,556,000            |
| Buildings                | <u>21,094,000</u>    | <u>21,094,000</u>    |
|                          | 30,630,000           | 30,630,000           |
| Accumulated depreciation | <u>(4,499,730)</u>   | <u>(3,970,350)</u>   |
|                          | <u>\$ 26,130,270</u> | <u>\$ 26,659,650</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 7 - LONG-TERM DEBT**

Long-term debt, excluding the Notes Payable of SPC I, SPC II and infrastructure debt consists of the following at June 30, 2023 and 2022:

|   | <u>2023</u>           | <u>2022</u>           |
|---|-----------------------|-----------------------|
| Fixed Rate Educational Facilities Revenue Bonds, Samford University Series 2017-A, maturing serially through December 2047 with interest rates ranging from 4.00% to 5.00%.         | \$ 46,640,000         | \$ 46,640,000         |
| Fixed Rate Educational Facilities Revenue Bonds, Samford University Series 2019-A, maturing serially through December 2049 with an interest rate of 4.00%.                          | 60,020,000            | 60,020,000            |
| Fixed Rate Educational Facilities Revenue Bonds, Samford University Series 2019-B, maturing serially through December 2048 with interest rates ranging from 2.17% to 3.95%.         | 60,100,000            | 62,370,000            |
| Fixed Rate Educational Facilities Revenue Bonds, Samford University Series 2021-A, maturing at various terms through December 2051 with interest rates ranging from 2.50% to 4.00%. | 20,670,000            | 20,670,000            |
| Fixed Rate Educational Facilities Revenue Bonds, Samford University Series 2021-B, maturing serially through December 2042 with interest rates ranging from 2.00% to 3.45%.         | 37,030,000            | 40,110,000            |
| Fixed Rate Term Loan with United Financial of Illinois, Inc., maturing quarterly through June 2054 with an interest rate of 6.08%.  | 84,706,399            | -                     |
|   | <u>309,166,399</u>    | <u>229,810,000</u>    |
| Unamortized premium (discount)  |                       |                       |
| Unamortized premium on Series 2017-A bonds  | 3,213,420             | 3,347,313             |
| Unamortized discount on Series 2017-A bonds   | (219,033)             | (228,128)             |
| Unamortized premium and cost on Series 2019-A bonds   | 4,005,106             | 4,238,440             |
| Unamortized discount and cost on Series 2019-B bonds  | (360,608)             | (395,805)             |
| Unamortized premium and cost on Series 2021-A bonds   | 1,179,553             | 1,229,479             |
| Unamortized discount and cost on Series 2021-B bonds  | <u>(131,946)</u>      | <u>(45,080)</u>       |
|   | <u>\$ 316,852,891</u> | <u>\$ 237,956,219</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 7 - LONG-TERM DEBT** (Continued)

Fixed Rate Term Loan: On June 30, 2023, the University closed on a term loan (the "Loan") with United Financial of Illinois to finance the design and construction of the University's campus recreation and wellness complex. The Loan is interest only until September 1, 2024 and the interest payments through June 2024 are being paid from the Loan proceeds and are capitalized to the project. The loan has a fixed interest rate of 6.08% and payments will be made quarterly beginning September 1, 2024, through maturity on June 1, 2054. The Loan is an unsecured loan that is subject to certain financial covenants as defined in the Loan. The University may refinance the loan without defeasance or other yield-maintenance penalty with a one-time payment ranging from 2.5% to 1.0% of the outstanding loan balance. Upon closing the Loan, all proceeds were transferred to an escrow account that the University may draw upon through the construction period. Approximately \$8 million was immediately paid from the escrow account to the University as reimbursement of costs incurred prior to closing the Loan.

Educational Facilities Revenue Bonds, Samford University, Series 2021-A: In November 2021, the Educational Building Authority of the City of Homewood (the "Authority") issued its "Educational Facilities Revenue Bonds, Samford University, Series 2021-A" (the "Series 2021-A Bonds") to provide approximately \$21 million in new money proceeds for the renovation of certain academic and other spaces. In conjunction with the issuance of the Series 2021-A Bonds, the University entered into a supplemental lease agreement dated November 1, 2021, pursuant to which the University will lease certain real property and facilities under the provision of the campus lease of April 1, 1988, as supplemented on November 1, 2021. Rental payments due under the lease agreement are to be in amounts sufficient to pay the principal and interest on the Series 2021-A Bonds when due. The lease will terminate when all required payments have been made. The Series 2021-A Bonds are collateralized by the assignment of the Authority's interest in the supplemental lease and a pledge by the Authority of revenues received under lease. The bond agreement places certain general restrictions on the University. Maturity installments begin on December 1, 2042 through December 1, 2043 and begin again on December 1, 2050 with the final payment on December 1, 2051.

Payments range from \$425,000 to \$8,645,000. Interest rates are fixed and range from 2.50% to 4.00%. The Series 2021-A Bonds have stated maturities beginning on December 1, 2042, but are subject to optional redemption (in whole or in part) at the option of the Authority (exercised upon written direction of the University) on June 1, 2031 and on any date thereafter at a redemption price for each bond (or principal portion thereof) to be redeemed equal to the principal amount thereof, plus interest accrued thereon to the redemption date, without premium or penalty. Interest will be payable semiannually on December 1 and June 1. Accrued interest relating to the Series 2021-A Bonds was approximately \$61,000 at June 30, 2023 and 2022 and is included in accrued liabilities in the respective consolidated statements of financial position.

Educational Facilities Revenue Bonds, (Federally Taxable) Samford University, Series 2021-B: In November 2021, the Educational Building Authority of the City of Homewood (the "Authority") issued its "Educational Facilities Revenue Bonds (Federally Taxable), Samford University, Series 2021-B" (the "Series 2021-B Bonds") to refund and defease the remaining portion of its 2013-A bonds. In conjunction with the issuance of the Series 2021-B Bonds, the University entered into a supplemental lease agreement dated November 1, 2021, pursuant to which the University will lease certain real property and facilities under the provision of the campus lease of April 1, 1988, as supplemented on November 1, 2021. Rental payments due under the lease agreement are to be in amounts sufficient to pay the principal and interest on the Series 2021-B Bonds when due. The lease will terminate when all required payments have been made. The Series 2021-B Bonds are collateralized by the assignment of the Authority's interest in the supplemental lease and a pledge by the Authority of revenues received under lease. The bond agreement places certain general restrictions on the University. Maturity installments begin on December 1, 2022 through December 1, 2042.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 7 - LONG-TERM DEBT** (Continued)

Payments range from \$2,495,000 to \$7,265,000. Interest rates are fixed and range from 2.00% to 3.45%. The Series 2021-B Bonds have stated maturities beginning on December 1, 2039, but are subject to optional redemption (in whole or in part) at the option of the Authority (exercised upon written direction of the University) on June 1, 2031 and on any date thereafter at a redemption price for each bond (or principal portion thereof) to be redeemed equal to the principal amount thereof, plus interest accrued thereon to the redemption date, without premium or penalty. Interest will be payable semiannually on December 1 and June 1. Accrued interest relating to the Series 2021-B Bonds was approximately \$80,000 and \$85,000 at June 30, 2023 and 2022, respectively, and is included in accrued liabilities in the respective consolidated statements of financial position.

Educational Facilities Revenue Bonds, Samford University, Series 2019-A: In December 2019, the Educational Building Authority of the City of Homewood (the "Authority") issued its "Educational Facilities Revenue Bonds, Samford University, Series 2019-A" (the "Series 2019-A Bonds") to provide approximately \$20 million in new money proceeds for the renovation of certain academic space, and to redeem the Educational Facilities Revenue Bonds, Samford University Series 2009-A, Series 2012-A and a portion of the Series 2014-A bonds. In conjunction with the issuance of the Series 2019-A Bonds, the University entered into a supplemental lease agreement dated December 1, 2019, pursuant to which the University will lease certain real property and facilities under the provision of the campus lease of April 1, 1988, as supplemented on December 1, 2019. Rental payments due under the lease agreement are to be in amounts sufficient to pay the principal and interest on the Series 2019-A Bonds when due. The lease will terminate when all required payments have been made. The Series 2019-A Bonds are collateralized by the assignment of the Authority's interest in the supplemental lease and a pledge by the Authority of revenues received under lease. The bond agreement places certain general restrictions on the University. Annual maturity installments begin on December 1, 2033 through December 1, 2044 and begin again on December 1, 2048 with the final payment on December 1, 2049.

Annual payments range from \$550,000 to \$12,445,000. Interest is fixed at a 4.00% rate. The Series 2019-A Bonds having stated maturities in 2030 and thereafter are subject to optional redemption (in whole or in part) at the option of the Authority (exercised upon written direction of the University) on December 1, 2029 and on any date thereafter at a redemption price for each bond (or principal portion thereof) to be redeemed equal to the principal amount thereof, plus interest accrued thereon to the redemption date, without premium or penalty. Interest will be payable semiannually on December 1 and June 1. Accrued interest relating to the Series 2019-A Bonds was approximately \$200,000 at June 30, 2023 and 2022 and is included in accrued liabilities in the respective consolidated statements of financial position.

Educational Facilities Revenue Bonds, (Federally Taxable) Samford University, Series 2019-B: In December 2019, the Authority issued its "Educational Facilities Revenue Bonds (Federally Taxable), Samford University, Series 2019-B" (the "Series 2019-B Bonds") to reimburse the University for operating cash spent on projects that wouldn't qualify for tax-exempt status, pay off the Taxable Capital Line of Credit obtained from Regions Bank in June 2019 and to refund and defease a portion of its 2013-A bonds. In conjunction with the issuance of the Series 2019-B Bonds, the University entered into a supplemental lease agreement dated December 1, 2019, pursuant to which the University will lease certain real property and facilities under the provision of the campus lease of April 1, 1988, as supplemented on December 1, 2019. Rental payments due under the lease agreement are to be in amounts sufficient to pay the principal and interest on the Series 2019-B Bonds when due. The lease will terminate when all required payments have been made. The Series 2019-B Bonds are collateralized by the assignment of the Authority's interest in the supplemental lease and a pledge by the Authority of revenues received under lease. The bond agreement places certain general restrictions on the University. Annual maturity installments begin at \$2,150,000 on December 1, 2020 through December 1, 2032 and begin again on December 1, 2044 with the final payment on December 1, 2048.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 7 - LONG-TERM DEBT** (Continued)

Annual payments for these years range from \$930,000 to \$6,595,000. Interest is at fixed rates ranging from 2.17%-3.95%. The Series 2019-A Bonds having stated maturities in 2030 and thereafter are subject to optional redemption (in whole or in part) at the option of the Authority (exercised upon written direction of the University) on December 1, 2029 and on any date thereafter at a redemption price for each bond (or principal portion thereof) to be redeemed equal to the principal amount thereof, plus interest accrued thereon to the redemption date, without premium or penalty. Interest will be payable semiannually on December 1 and June 1. The University made principal payments of approximately \$2,210,000 during 2022. Accrued interest relating to the Series 2019-B Bonds was approximately \$165,000 and \$169,000 at June 30, 2023 and 2022, respectively, and is included in accrued liabilities in the respective consolidated statements of financial position.

Educational Facilities Revenue Bonds, Samford University, Series 2017-A: In June 2017, the Authority issued its "Educational Facilities Revenue Bonds, Samford University, Series 2017-A" (the "Series 2017-A Bonds") to reimburse the University for its new College of Health Sciences capital project paid from current operating funds, provide proceeds for the renovation of certain academic space, and to refund the Educational Facilities Revenue Bonds, Samford University Series 2007-A. In conjunction with the issuance of the Series 2017-A Bonds, the University entered into a supplemental lease agreement dated June 1, 2017, pursuant to which the University will lease certain real property and facilities under the provision of the campus lease of April 1, 1988, as supplemented on June 1, 2017. Rental payments due under the lease agreement are to be in amounts sufficient to pay the principal and interest on the Series 2017-A Bonds when due. The lease will terminate when all required payments have been made. The Series 2017-A Bonds are collateralized by the assignment of the Authority's interest in the supplemental lease and a pledge by the Authority of revenues received under lease. The bond agreement places certain general restrictions on the University. Annual maturity installments begin at \$1,025,000 on December 1, 2032 and range to \$6,110,000 on December 1, 2047. Interest is at fixed rates ranging from 4.00%-5.00%. The Series 2017-A Bonds that have a stated maturity of 2027 or beyond are callable at the option of the Authority, exercised upon the direction of the University, on June 1, 2027 or any date thereafter.

Redemption price will include principal and interest up to the date fixed for redemption, without premium or penalty. The University will gain title to the facilities and equipment from the Authority when the lease expires in 2047. Interest will be payable semiannually on December 1 and June 1. Accrued interest relating to the Series 2017-A Bonds was approximately \$182,000 at June 30, 2023 and 2022 and is included in accrued liabilities in the respective consolidated statements of financial position.

As of June 30, 2023, annual principal maturities of long-term debt of the University are as follows:

| Years Ending |                       |
|--------------|-----------------------|
| 2024         | \$ 6,073,592          |
| 2025         | 6,606,332             |
| 2026         | 6,777,451             |
| 2027         | 6,979,982             |
| 2028         | 7,186,785             |
| Thereafter   | <u>275,542,257</u>    |
|              | <u>\$ 309,166,399</u> |

The University's long-term debt is subject to certain financial and non-financial covenants. The University reported compliance with all covenants at June 30, 2023.

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(Continued)



SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 7 - LONG-TERM DEBT** (Continued)

Infrastructure Debt: In September 2016, the University entered into a Contingent Payment Performance Contract ("CPCC") with Johnson Controls, Inc. ("JCI") to provide capital improvements of approximately \$32,000,000, including capitalized interest. The contract calls for JCI to make the agreed upon improvements with a guarantee that the energy savings from such improvements would offset the cost of making the improvements over a period of 20 years. Under the current accounting guidelines, the University will treat this as a capital asset with corresponding debt on the University's balance sheet.

As of June 30, 2023, annual principal maturities of the infrastructure debt of the University are as follows:

|              |                      |
|--------------|----------------------|
| Years Ending |                      |
| 2024         | \$ 1,094,396         |
| 2025         | 1,201,747            |
| 2026         | 1,315,283            |
| 2027         | 1,435,306            |
| 2028         | 1,510,869            |
| Thereafter   | <u>20,908,708</u>    |
|              | <u>\$ 27,466,309</u> |

Notes Payable of Consolidated Subsidiaries: SPC I and SPC II have outstanding mortgages which are nonrecourse notes for the permanent financing of the property purchased adjacent to the University's main campus. The notes bear interest at a rate of 4.125% and are collateralized by an assignment of rents and leases for the respective buildings owned by each of the entities. The notes mature on July 1, 2035 and can be accelerated only in the event of default. The notes allow partial prepayment on an annual basis without a prepayment penalty.

As of June 30, 2023, annual principal maturities of long-term debt of the SPC I and SPC II are as follows:

|              |                      |
|--------------|----------------------|
| Years Ending |                      |
| 2024         | \$ 1,401,316         |
| 2025         | 1,460,225            |
| 2026         | 1,521,611            |
| 2027         | 1,585,578            |
| 2028         | 1,652,234            |
| Thereafter   | <u>13,870,688</u>    |
|              | <u>\$ 21,491,652</u> |

**NOTE 8 - GRANT AND CONTRACT REVENUE**

Grant and contract revenue is comprised of the following for fiscal 2023 and 2022:

|                          | <u>2023</u>         | <u>2022</u>         |
|--------------------------|---------------------|---------------------|
| Private and other grants | \$ 1,773,734        | \$ 1,319,236        |
| Federal and state grants | 2,816,170           | 8,020,935           |
| Contracts                | <u>142,265</u>      | <u>278,673</u>      |
| Net                      | <u>\$ 4,732,169</u> | <u>\$ 9,618,844</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 8 - GRANT AND CONTRACT REVENUE** (Continued)

In addition to the above grant revenue, the University received federal awards of approximately \$2,321,000 and \$2,654,000 in student financial aid awards during fiscal 2023 and 2022, respectively, which are not reflected in the consolidated statements of activities and changes in net assets. These federal awards represent agency transactions.

On March 11, 2021, the American Rescue Plan Act (ARP) was enacted providing the Higher Education Emergency Relief Fund III (HEERF III) funding. There were no funds available to the University during fiscal year 2023 from this program as all the funds allocated to the University were received prior to June 30, 2022.

During fiscal year 2022, the University recorded approximately \$3,039,000 of revenue for the institutional portion of and \$3,073,000 of revenue related to student funding available from the ARP. To the extent available, the institutional funds were used to offset costs and lost revenue directly related to the COVID-19 pandemic. The resulting revenue was recorded and recognized and there were no deferred revenues related to this funding source as of June 30, 2022, as all conditions were met for revenue recognition.

**NOTE 9 - RETIREMENT BENEFITS**

The University has established a defined benefit pension plan (the "Pension Plan") covering all full-time employees hired before December 31, 2012, who have attained the age of 21 and have completed one year of service. The Pension Plan provides pension benefits that are based on the average monthly earnings for the highest five full consecutive calendar years within the last ten years of benefit service and upon a multiple of years of benefit service (maximum of 25 years). Employees do not contribute to the Pension Plan. The University froze the Pension Plan to new entrants effective after December 31, 2012. Effective as of January 1, 2017, the Pension Plan was amended to modify the benefit formula for certain employees on a prospective basis. The University put in place a full freeze of the Pension Plan as of December 31, 2020. Therefore, no new benefits have accrued to any current participants in the Pension Plan after that date.

The following information pertains to the Pension Plan:

|  | <u>2023</u>            | <u>2022</u>            |
|--|------------------------|------------------------|
| Change in benefit obligation                   |                        |                        |
| Benefit obligation at beginning of year        | \$ 234,627,338         | \$ 299,059,099         |
| Interest cost                                  | 11,299,945             | 8,838,356              |
| Actuarial gain                                 | (597,023)              | (61,750,519)           |
| Benefit payments                               | <u>(12,561,990)</u>    | <u>(11,519,598)</u>    |
| Benefit obligation at end of year              | <u>232,768,270</u>     | <u>234,627,338</u>     |
| Change in plan assets                          |                        |                        |
| Fair value of plan assets at beginning of year | 187,721,665            | 215,868,128            |
| Actual return on plan assets                   | 7,007,116              | (17,707,015)           |
| Employer contributions                         | 3,383,481              | 1,080,150              |
| Benefit payments                               | <u>(12,561,990)</u>    | <u>(11,519,598)</u>    |
| Fair value of plan assets at end of year       | <u>185,550,272</u>     | <u>187,721,665</u>     |
| Funded status at end of year                   | <u>\$ (47,217,998)</u> | <u>\$ (46,905,673)</u> |

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 9 - RETIREMENT BENEFITS** (Continued)

Amounts recognized in the consolidated statement of financial position consist of:

|                         | <u>2023</u>   | <u>2022</u>   |
|-------------------------|---------------|---------------|
| Pension plan obligation | \$ 47,217,998 | \$ 46,905,673 |

Amounts recognized in net assets without donor restrictions, but not yet recognized in net periodic benefit cost consist of:

|          | <u>2023</u>          | <u>2022</u>          |
|----------|----------------------|----------------------|
| Net loss | \$ 61,130,314        | \$ 57,845,639        |
|          | <u>\$ 61,130,314</u> | <u>\$ 57,845,639</u> |

The projected and accumulated benefit obligations and the fair value of plan assets as of June 30 were:

|  | <u>2023</u>         | <u>2022</u>            |
|--|---------------------|------------------------|
| Projected benefit obligation   | \$ 232,768,270      | \$ 234,627,338         |
| Accumulated benefit obligation   | 230,703,049         | 232,569,428            |
| Fair value of plan assets  | 185,550,272         | 187,721,665            |
| Net periodic benefit cost  |                     |                        |
| Interest cost  | 11,299,945          | 8,838,356              |
| Expected return on plan assets   | (12,335,906)        | (14,980,394)           |
| Amortization of actuarial loss   | <u>1,447,092</u>    | <u>2,432,900</u>       |
| Net periodic benefit cost  | <u>411,131</u>      | <u>(3,709,138)</u>     |
| Other changes in plan assets and benefit obligations recognized in net assets without donor restrictions |                     |                        |
| Net gain during the year   | 4,731,767           | (29,063,110)           |
| Amortization during the year   | <u>(1,447,092)</u>  | <u>(2,432,900)</u>     |
| Total recognized in net assets without donor restrictions  | <u>3,284,675</u>    | <u>(31,496,010)</u>    |
| Total recognized in net period benefit cost and net assets without donor restrictions                    | <u>\$ 3,695,806</u> | <u>\$ (35,205,148)</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 9 - RETIREMENT BENEFITS** (Continued)

Plan Assets: The Pension Plan's weighted-average asset allocations at June 30, 2023 and 2022, by asset category are as follows:

| Asset category            | Plan Assets |             |
|---------------------------|-------------|-------------|
|                           | <u>2023</u> | <u>2022</u> |
| Cash and cash equivalents | 6%          | 5%          |
| Public equity             | 34          | 43          |
| Fixed income              | 28          | 16          |
| Hedge funds               | 11          | 11          |
| Private equity            | 11          | 11          |
| Real assets               | <u>10</u>   | <u>14</u>   |
|                           | <u>100%</u> | <u>100%</u> |

The University's Investment Committee of the Board of Trustees sets the investment policies for the Pension Plan's assets. These policies include requirements to (1) invest Pension Plan assets consistent with fiduciary standards; (2) fund benefit payments and expenses; (3) evaluate the performance of investment managers; (4) manage the volatility of the Pension Plan's funded status while seeking to achieve the Pension Plan's target funded status and (5) monitor the Pension Plan's asset allocation. Each month the Investment Committee is presented with an asset allocation report that compares the actual allocation of Pension Plan assets with the approved target allocation.

The report includes target ranges, which allow for price movements within the asset classes. The middle of the range is the actual target, but the range allows for some movement above or below this target based on market movement. The report gives the Investment Committee the opportunity to modify the allocation so that the actual allocation remains consistent with the approved target. Set forth below is information regarding the Pension Plan's asset allocation.

|                           | <u>2023</u>           | <u>2022</u>           |
|---------------------------|-----------------------|-----------------------|
| Cash and cash equivalents | \$ 11,257,565         | \$ 8,908,686          |
| Public equity             | 63,025,319            | 80,033,111            |
| Fixed income              | 51,899,291            | 29,395,759            |
| Hedge funds               | 19,329,050            | 20,634,440            |
| Private equity            | 20,759,587            | 21,608,958            |
| Real assets               | <u>19,279,460</u>     | <u>27,140,711</u>     |
| Total plan assets         | <u>\$ 185,550,272</u> | <u>\$ 187,721,665</u> |

Equity funds invest in the common stock of companies located in the U.S. and abroad. The goal of equities is to provide a growing stream of current income and appreciation of principal that more than offsets inflation over time.

Fixed income primarily consists of investment grade fixed income securities. The goal of fixed income is to generate income and help to protect assets during periods of economic contraction.

Hedge funds offer the plan exposure to long/short equity, event-driven and special situation investments.

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 9 - RETIREMENT BENEFITS** (Continued)

Real asset investments offer the potential for capital appreciation and serve as a hedge against inflation. The Plan invests in assets that offer strong relative performance in rising inflation environments, such as energy and metals equities, commodities and REITs.

The University uses a June 30 measurement date for valuing assets and estimating the obligations of the Pension Plan. Consistent with prior years, the University has elected to use the market smoothing approach to amortize unrecognized gains or losses associated with the Pension Plan. The University uses the PRI-2012 Total Dataset Mortality Table with the 2023 (the most recent available as of the measurement date) Social Security Administration projection scale to estimate the mortality rates associated with the Pension Plan participants.

The fair value disclosures of the Pension Plan assets and related roll-forward of investments are included in Note 14 of these consolidated financial statements.

Weighted-average assumptions used to determine benefit obligations at June 30, 2023 and 2022:

|                               | <u>2023</u> | <u>2022</u> |
|-------------------------------|-------------|-------------|
| Discount rate                 | 4.99%       | 4.94%       |
| Rate of compensation increase | N/A         | N/A         |

Weighted-average assumptions used to determine net periodic benefit cost for years ended June 30, 2023 and 2022:

|  | <u>2023</u> | <u>2022</u> |
|--|-------------|-------------|
| Discount rate                            | 4.94%       | 3.00%       |
| Expected long-term return on plan assets | 7.45        | 7.75        |
| Rate of compensation increase            | N/A         | N/A         |

The expected long-term return on Pension Plan asset assumption at June 30, 2023 and 2022 was 7.45% and 7.75%, respectively. This assumption represents the average rate that the University expects to earn over the long-term on the assets of the Pension Plan, including those from dividends, interest income and capital appreciation. The expected return on Pension Plan assets is based on the market-related value of Pension Plan assets and takes into account contributions, benefit payments and investment manager fees. This assumption has been determined based on expectations regarding future rates of return for the Pension Plan's investment portfolio, with consideration given to the allocation of investments by asset class and historical rates of return for each individual asset class. In determining the appropriate discount rate, the University uses a spot rate yield curve of diversified high quality corporate bonds.

Additional information for the years ended June 30, 2023 and 2022:

|               | <u>2023</u>   | <u>2022</u>   |
|---------------|---------------|---------------|
| Benefits paid | \$ 12,561,990 | \$ 11,519,598 |
| Contributions | 3,383,481     | 1,080,150     |

For the fiscal year ending June 30, 2024, the University expects to contribute approximately \$3,282,000 to the Pension Plan.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 9 - RETIREMENT BENEFITS** (Continued)

Future benefit payments from the Pension Plan are expected to be as follows for the fiscal years ending:

| Years Ending |               |
|--------------|---------------|
| 2024         | \$ 13,373,644 |
| 2025         | 13,885,672    |
| 2026         | 14,275,667    |
| 2027         | 14,570,579    |
| 2028         | 14,824,021    |
| 2029-2033    | 76,763,109    |

In addition to the Pension Plan, the University maintains the Samford University 403(b) TDA Plan (the "403(b) Plan"), which has historically been exclusively a defined contribution plan subject to the provisions of the Employee Retirement Income Security Act of 1974. The 403(b) Plan has historically only been funded through employee contributions. With the freeze of the Pension Plan, active employees who were eligible to accrue benefits under the Pension Plan as of December 31, 2020 and new non student employees hired after December 31, 2012 are eligible to participate in an amended 403(b) Plan that provides contributions and matching funds by the University into individual annuities or accounts. Employees may make voluntary deferrals based on annual maximums established by the Internal Revenue Code for 403(b) plans. Employees can begin deferring immediately after employment and a participant with over 1,000 hours worked per year will be eligible for a Samford contribution on the first January 1 or July 1 following the one-year service requirement and attainment of age 21.

The contribution rate by the University is tied to years of service pursuant to the following schedule:

| <u>Years of Participation</u> | <u>Contribution Rate</u> |
|-------------------------------|--------------------------|
| 1-3                           | 2.00%                    |
| 4-6                           | 3.50                     |
| 7+                            | 5.00                     |

Also, for participants with at least 1,000 hours worked per year, the University will make a \$1 for \$1 match of all employee deferrals up to 3% of eligible compensation. The University match and contribution are vested at the rate of 20% per year. The University incurred contribution expense of approximately \$5,893,000 and \$6,248,000 during fiscal years 2023 and 2022, respectively. The expense has been recognized as a benefit cost.

For five years (or earlier employment termination date) beginning with the calendar year commencing on January 1, 2021, Samford will make certain transition contributions to the 403(b) accounts of active employees who were eligible to accrue benefits under the Pension Plan as of December 31, 2020, who (i) works 1,000 hours for Samford during the calendar year and (ii) are employed by Samford on the last day of the calendar year. Such amounts will be determined based on the employee's age and Pension Plan Credited Service on December 31, 2020. Transition contributions range from 0% to 7% and will be made based upon the applicable percentage multiplied by the employee's annual compensation.

Beginning January 1, 2021, all eligible employees, including active employees who were eligible to accrue benefits under the Pension Plan as of December 31, 2020, are automatically enrolled with an election to contribute 3% of his or her Samford compensation, unless the employee instructs Human Resources to stop the automatic contributions or the employee selects a different contribution percentage.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 10 - NET ASSETS**

Net assets without donor restrictions and those with donor restrictions restricted by purpose, passage of time, or perpetuity at June 30, 2023 are available for the following purposes:

|                               | Year ended June 30, 2023      |                            |                       |
|-------------------------------|-------------------------------|----------------------------|-----------------------|
|                               | Without Donor<br>Restrictions | With Donor<br>Restrictions | Total<br>Net Assets   |
| Operating and other           | \$ 42,005,424                 | \$ 10,117,483              | \$ 52,122,907         |
| Pledges receivable            | -                             | 30,565,534                 | 30,565,534            |
| Student loan funds            | 724,330                       | 16,732,562                 | 17,456,892            |
| Unexpended endowment income   | 378,640                       | 9,155,729                  | 9,534,369             |
| Endowment funds               | 112,545,106                   | 330,925,925                | 443,471,031           |
| Pension plan obligation       | (47,217,998)                  | -                          | (47,217,998)          |
| Annuity and life income funds | (107,976)                     | 11,747,863                 | 11,639,887            |
| Total                         | <u>\$ 108,327,526</u>         | <u>\$ 409,245,096</u>      | <u>\$ 517,572,622</u> |

Net assets without donor restrictions and those with donor restrictions restricted by purpose, passage of time, or perpetuity at June 30, 2022 are available for the following purposes:

|                               | Year ended June 30, 2022      |                            |                       |
|-------------------------------|-------------------------------|----------------------------|-----------------------|
|                               | Without Donor<br>Restrictions | With Donor<br>Restrictions | Total<br>Net Assets   |
| Operating and other           | \$ 44,875,033                 | \$ 29,883,896              | \$ 74,758,929         |
| Pledges receivable            | -                             | 92,685,485                 | 92,685,485            |
| Student loan funds            | 2,173,355                     | 16,309,906                 | 18,483,261            |
| Unexpended endowment income   | 70,495                        | 10,120,583                 | 10,191,078            |
| Endowment funds               | 113,634,564                   | 226,110,135                | 339,744,699           |
| Pension plan obligation       | (46,905,673)                  | -                          | (46,905,673)          |
| Annuity and life income funds | (306,147)                     | 12,413,153                 | 12,107,006            |
| Total                         | <u>\$ 113,541,627</u>         | <u>\$ 387,523,158</u>      | <u>\$ 501,064,785</u> |

**NOTE 11 - NET ASSETS RELEASED FROM RESTRICTIONS**

Net assets with donor restrictions released from donor restrictions by incurring expenses satisfying the restricted purpose or by occurrence of the passage of time or other events as specified by the donors as follows for the years ended June 30, 2023 and 2022:

|  | <u>2023</u>          | <u>2022</u>          |
|--|----------------------|----------------------|
| Operating and other                      | \$ 6,471,808         | \$ 6,993,504         |
| Expended endowment income                | <u>9,740,834</u>     | <u>7,993,990</u>     |
| Total net assets with donor restrictions | <u>\$ 16,212,642</u> | <u>\$ 14,987,494</u> |

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 12 - LIQUIDITY AND AVAILABILITY**

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use, within one year of the balance sheet date, comprise the following:

|  | <u>2023</u>          | <u>2022</u>          |
|--|----------------------|----------------------|
| Cash and cash equivalents                      | \$ 23,218,741        | \$ 22,563,251        |
| Accounts receivable                            | 4,468,189            | 3,466,445            |
| Pledges receivable                             | 1,474,667            | 1,011,861            |
| Operating investments (short-term investments) | 6,413,277            | 5,883,159            |
| Endowment spending rate distribution           | <u>22,057,892</u>    | <u>21,392,505</u>    |
|  | <u>\$ 57,632,766</u> | <u>\$ 54,317,221</u> |

Our endowment funds consist of donor-restricted endowments and funds designed by the board as endowments. Income from donor-restricted endowments is restricted for specific purposes, with the exception of the amounts available for general use. Donor-restricted endowment funds are not available for general expenditure.

Our board-designated endowment of \$112,545,000 and \$113,635,000 at June 30, 2023 and 2022, is subject to an annual spending rate as described in Note 15. Although we do not intend to spend from this board-designated endowment (other than amounts appropriated for general expenditures as part of our Board's annual budget approval and appropriation), these amounts could be made available if necessary.

The University's cash flows have seasonal variations during the year attributable to tuition billing and a concentration of contributions received at calendar and fiscal year-end.

As part of our liquidity management plan, we structure financial assets to be available as the general expenditures, liabilities and other obligations become due. In addition, we invest cash in excess of daily requirements in short-term investments, repurchase agreements, and money market funds.

To help manage unanticipated liquidity needs, the University maintains a committed operating line of credit of \$25,000,000 that can be drawn upon (see Note 2) and an additional \$30,000,000 on the capital line of credit available until November 30, 2023.

**NOTE 13 - COMMITMENTS AND CONTINGENCIES**

The University periodically enters into operating leases for office equipment. The minimum future rentals on these non-cancelable leases are as follows:

|                              |                     |
|------------------------------|---------------------|
| Years Ending                 |                     |
| 2024                         | \$ 1,053,244        |
| 2025                         | 641,959             |
| 2026                         | 251,773             |
| 2027                         | <u>18,291</u>       |
|                              | 1,965,267           |
| Lease present value discount | <u>(106,948)</u>    |
| Lease liability              | <u>\$ 1,858,319</u> |

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(Continued)



SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 13 - COMMITMENTS AND CONTINGENCIES (Continued)**

Weighted average for operating leases:

|                              |       |
|------------------------------|-------|
| Discount rate                | 4.98% |
| Remaining lease term (years) | 2.10  |

Lease expense for operating leases for the years ended June 30, 2023 and 2022 was approximately \$1,255,000 and \$1,141,000, respectively.

As discussed in Note 5, the University owns interests in nonregistered investment partnerships at June 30, 2023 and 2022. The University entered into separate subscription agreements with a capital commitment to each limited partnership that expire periodically in the future. The following information pertains to each limited partnership capital commitment at June 30, 2023:

|   | 2023                   |                          |                        |                          |
|---|------------------------|--------------------------|------------------------|--------------------------|
|   | Original<br>Commitment | Capital<br>Contributions | Unfunded<br>Commitment | Commitment<br>Expiration |
| Wellspring Capital Partners VI, LP          | \$ 3,000,000           | \$ 2,688,637             | \$ 311,363             | 05/01/2028               |
| Riverside Capital Appreciation VII, LP      | 3,500,000              | 2,862,538                | 637,462                | 05/31/2031               |
| Audax Private Equity Fund VI, LP            | 2,500,000              | 2,335,431                | 164,569                | 10/01/2031               |
| Audax Private Equity Fund VII, LP           | 3,000,000              | -                        | 3,000,000              | 12/01/2035               |
| Genstar Fund XI, LP                         | 4,000,000              | -                        | 4,000,000              | 02/01/2035               |
| The Resolute Fund VI, LP                    | 4,000,000              | -                        | 4,000,000              | 05/01/2037               |
| Davidson Kempner LT Distressed OPP Intl. V  | 3,500,000              | 3,140,259                | 359,741                | 05/01/2027               |
| Davidson Kempner LT Distressed OPP Intl. VI | 3,000,000              | 194,144                  | 2,805,856              | 12/01/2029               |
| OHA Strategic Credit Fund II (Offshore,) LP | 3,500,000              | 2,275,000                | 1,225,000              | 07/01/2026               |
| Farallon Special Situations Fund LP         | 3,000,000              | 2,401,730                | 598,270                | 09/28/2028               |
| Silver Point Specialty Credit Fund II       | 2,000,000              | 1,652,946                | 347,054                | 05/01/2028               |
| Apax Digital                                | 2,300,000              | 87,625                   | 2,212,375              | 03/01/2034               |
| Landmark Equity Partners XV                 | 4,000,000              | 3,210,928                | 789,072                | 12/31/2024               |
| NB Secondary Opportunities Fund IV, LP      | 3,500,000              | 2,544,597                | 955,403                | 09/01/2025               |
| Newbury Equity Partners IV, LP              | 3,000,000              | 2,400,000                | 600,000                | 09/30/2029               |
| Stepstone Secondaries Fund IV, LP           | 2,660,300              | 2,607,094                | 53,206                 | 01/01/2033               |
| Newbury Equity Partners V, LP               | 2,500,000              | 1,712,500                | 787,500                | 06/01/2032               |
| NB Secondary Opportunities Fund V, LP       | 2,000,000              | 512,275                  | 1,487,725              | 05/01/2033               |
| Stepstone Secondaries Fund V, LP            | 2,000,000              | 1,018,674                | 981,326                | 05/01/2034               |
| Stepstone Opportunities V, LP               | 2,775,000              | 2,636,250                | 138,750                | 09/30/2027               |
| Stepstone Opportunities VI, LP              | 3,500,000              | 3,150,000                | 350,000                | 01/01/2030               |
| Natural Resources Partners VIII             | 8,000,000              | 7,900,000                | 100,000                | 08/19/2023               |
| Harbert Real Estate Fund VII, LLC           | 2,500,000              | 2,464,680                | 35,320                 | 04/01/2034               |
| Harbert Real Estate Fund VIII, LLC          | 3,000,000              | 245,434                  | 2,754,566              | 02/01/2035               |
| Wheelock Real Estate Fund V, LP             | 3,500,000              | 2,562,143                | 937,857                | 10/01/2030               |
| Wheelock Real Estate Fund VI, LP            | 3,500,000              | 2,106,084                | 1,393,916              | 03/01/2034               |
| Wheelock Real Estate Fund VII, LP           | 3,500,000              | 633,361                  | 2,866,639              | 12/01/2036               |
| WHI Real Estate Partners IV, LP             | 3,000,000              | 2,443,259                | 556,741                | 11/30/2027               |
| Energy Spectrum Partners VIII, LP           | 3,000,000              | 1,642,162                | 1,357,838              | 10/31/2031               |
|   | <u>\$ 93,235,300</u>   | <u>\$ 57,427,751</u>     | <u>\$ 35,807,549</u>   |                          |

The University is the subject of various legal actions in the ordinary course of business. Management does not believe the ultimate outcome of these actions will have a material adverse effect on the financial position of the University.

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**NOTE 13 - COMMITMENTS AND CONTINGENCIES (Continued)**

The University is primarily self-insured for health and dental insurance claims. Stop loss insurance agreements are utilized to limit the liability on both a specific and aggregate basis for the period of coverage. The liability for unpaid claims included in accrued liabilities in the consolidated statements of financial position includes an accrual for an estimate of claims incurred but not reported. At June 30, 2023 and 2022, the University has accrued approximately \$1,636,000 and \$1,514,000, respectively, related to these self-insurance plans.

**NOTE 14 - FAIR VALUE OF FINANCIAL INSTRUMENTS**

The University follows the authoritative guidance required for assets and liabilities held at fair value, which establishes a framework for measuring fair value under generally accepted accounting principles and enhanced disclosures about fair value measurements. The guidance states that fair value is the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

The guidance establishes a hierarchy of valuation inputs based on the extent to which the inputs are observable in the marketplace. Observable inputs reflect market data obtained from sources independent of the reporting entity and unobservable inputs reflect the entity's own assumptions about how market participants would value an asset or liability based on the best information available.

Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The authoritative guidance describes a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value.

The following describes the hierarchy of inputs used to measure fair value and the primary valuation methodologies used by the University for financial instruments measured at fair value on a recurring basis. The three levels of inputs are as follows:

- Level 1 Quoted prices in active markets for identical assets or liabilities.
- Level 2 Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the same term of the assets or liabilities.
- Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

A financial instrument's categorization within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 14 - FAIR VALUE OF FINANCIAL INSTRUMENTS (Continued)**

The following tables present the financial instruments carried at fair value as of June 30, 2023 and 2022, respectively, by caption on the consolidated statements of financial position by the valuation hierarchy defined above:

| 2023   |                       |                       |                      |                       | Valuation<br>Technique |
|--|-----------------------|-----------------------|----------------------|-----------------------|------------------------|
|  | Level 1               | Level 2               | Level 3              | Total                 |                        |
| Investments  |                       |                       |                      |                       |                        |
| Cash and cash equivalents  | \$ 13,227,975         | \$ -                  | \$ -                 | \$ 13,227,975         | Market                 |
| Public equity securities   | 155,235,681           | 35,409,902            | -                    | 190,645,583           | Market                 |
| Fixed income   | -                     | 52,766,621            | -                    | 52,766,621            | Market                 |
| Real assets  | -                     | 17,960,926            | -                    | 17,960,926            | Market                 |
| Beneficial interest in perpetual trusts                                      | 51,268                | 1,928,646             | 9,445,111            | 11,425,025            | Market                 |
| Contributions receivable from trusts held by third parties                   | 20,753                | 393,167               | -                    | 413,920               | Market                 |
| Real estate held for investment  | -                     | -                     | 40,187,580           | 40,187,580            | Income                 |
| Other investments  | <u>70,585</u>         | <u>36,282</u>         | <u>-</u>             | <u>106,867</u>        | Income                 |
| Total marketable securities, split interest agreements and other investments | <u>\$ 168,606,262</u> | <u>\$ 108,495,544</u> | <u>\$ 49,632,691</u> | <u>\$ 326,734,497</u> |                        |

Investments measured at net asset value using the practical expedient:

|   |                       |
|---|-----------------------|
| Hedge funds   | \$ 41,758,313         |
| Other investments, excluding real estate                                    | <u>68,664,131</u>     |
| Total investments measured at net asset value using the practical expedient | <u>\$ 110,422,444</u> |
| Total investments at fair value   | <u>\$ 437,156,941</u> |

| 2022   |                       |                      |                      |                       | Valuation<br>Technique |
|--|-----------------------|----------------------|----------------------|-----------------------|------------------------|
|  | Level 1               | Level 2              | Level 3              | Total                 |                        |
| Investments  |                       |                      |                      |                       |                        |
| Cash and cash equivalents  | \$ 14,211,940         | \$ -                 | \$ -                 | \$ 14,211,940         | Market                 |
| Public equity securities   | 116,034,224           | 12,461,374           | -                    | 128,495,598           | Market                 |
| Fixed income   | -                     | 38,373,177           | -                    | 38,373,177            | Market                 |
| Real assets  | -                     | 15,184,517           | -                    | 15,184,517            | Market                 |
| Beneficial interest in perpetual trusts                                      | 76,301                | 1,716,909            | 9,093,644            | 10,886,854            | Market                 |
| Contributions receivable from trusts held by third parties                   | 10,153                | 391,140              | -                    | 401,293               | Market                 |
| Real estate held for investment  | -                     | -                    | 37,694,988           | 37,694,988            | Income                 |
| Other investments  | <u>70,585</u>         | <u>36,282</u>        | <u>-</u>             | <u>106,867</u>        | Income                 |
| Total marketable securities, split interest agreements and other investments | <u>\$ 130,403,203</u> | <u>\$ 68,163,399</u> | <u>\$ 46,788,632</u> | <u>\$ 245,355,234</u> |                        |

Investments measured at net asset value using the practical expedient:

|   |                       |
|---|-----------------------|
| Hedge funds   | \$ 30,803,157         |
| Other investments, excluding real estate                                    | <u>81,285,040</u>     |
| Total investments measured at net asset value using the practical expedient | <u>\$ 112,088,197</u> |
| Total investments at fair value   | <u>\$ 357,443,431</u> |

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 14 - FAIR VALUE OF FINANCIAL INSTRUMENTS** (Continued)

Following is a description of the University's valuation methodologies for assets and liabilities measured at fair value.

Fair value for Level 1 securities is based upon quoted prices in active markets which the University has the ability to access for identical assets and liabilities. Market price data is generally obtained from exchange or dealer markets. The University does not adjust the quoted price for such assets and liabilities.

Fair value for Level 2 securities is based on quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active and model-based valuation techniques for which all significant assumptions are observable in the market or can be corroborated by observable market data for substantially the full term of the assets. Inputs are obtained from various sources including market participants, dealers, and brokers.

Fair value for Level 3 securities is based on valuation techniques that use significant inputs that are unobservable as these securities trade infrequently or not at all.

Investments included in Level 3 consists of the University's investments in real estate. The values are determined through periodic appraisals using the income approach and are currently held at fair value based on appraised value adjusted for changes in assets and liabilities of the entities.

The University performs additional procedures including due diligence reviews on its investments in real estate and other procedures with respect to the capital account or NAV provided to ensure conformity with GAAP. The University has assessed factors including, but not limited to, managers' compliance with Fair Value Measurement standard, price transparency and valuation procedures in place, the ability to redeem at NAV at the measurement date, and existence of certain redemption restrictions at the measurement date.

The guidance also requires additional disclosures to enable users of the consolidated financial statements to understand the nature and risk of the University's investments. Furthermore, investments which can be redeemed by the University on the measurement date or in the near term are classified as Level 2. Investments which cannot be redeemed on the measurement date or in the near term are classified as Level 3.

The following table is a roll-forward of the consolidated statement of financial position amounts for financial instruments classified by the University within Level 3 of the fair value hierarchy defined above for the years ended June 30, 2023 and 2022:

|                                    | <u>Level 3</u>              |
|------------------------------------|-----------------------------|
| <b>Fair value at June 30, 2021</b> | <b>\$ 41,306,795</b>        |
| Realized/unrealized gains          | 5,481,837                   |
| Purchases                          | -                           |
| Sales/returns of capital           | -                           |
| <b>Fair value at June 30, 2022</b> | <b>46,788,632</b>           |
| Realized/unrealized gains          | 2,844,059                   |
| Purchases                          | -                           |
| Sales/returns of capital           | -                           |
| <b>Fair value at June 30, 2023</b> | <b><u>\$ 49,632,691</u></b> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 14 - FAIR VALUE OF FINANCIAL INSTRUMENTS** (Continued)

All net realized and unrealized gains in the table above are reflected in the accompanying consolidated statement of activities and changes in net assets. Net unrealized gains relate to those financial instruments held by the University at June 30, 2023 and 2022.

Pension Plan Fair Value: The following tables represent the plan assets as of June 30, 2023 and 2022 categorized by the levels described above.

|                                      | 2023                 |                      |             |                       | Valuation<br>Technique |
|--------------------------------------|----------------------|----------------------|-------------|-----------------------|------------------------|
|                                      | Level 1              | Level 2              | Level 3     | Total                 |                        |
| Investments                          |                      |                      |             |                       |                        |
| Cash and cash equivalents            | \$ 11,257,565        | \$ -                 | \$ -        | \$ 11,257,565         | Market                 |
| Public equity                        | 36,709,000           | 26,316,319           | -           | 63,025,319            | Market                 |
| Fixed income                         | -                    | 51,899,291           | -           | 51,899,291            | Market                 |
| Total cash and marketable securities | <u>\$ 47,966,565</u> | <u>\$ 78,215,610</u> | <u>\$ -</u> | <u>\$ 126,182,175</u> |                        |

Investments measured at net asset value using the practical expedient:

|                |                   |
|----------------|-------------------|
| Hedge funds    | \$ 19,329,050     |
| Private equity | 20,759,587        |
| Real assets    | <u>19,279,460</u> |

Total investments measured at net asset value using the practical expedient \$ 59,368,097

Total investments at fair value \$ 185,550,272

|                                      | 2022                 |                      |             |                       | Valuation<br>Technique |
|--------------------------------------|----------------------|----------------------|-------------|-----------------------|------------------------|
|                                      | Level 1              | Level 2              | Level 3     | Total                 |                        |
| Investments                          |                      |                      |             |                       |                        |
| Cash and cash equivalents            | \$ 8,908,686         | \$ -                 | \$ -        | \$ 8,908,686          | Market                 |
| Public equity                        | 47,683,936           | 32,349,175           | -           | 80,033,111            | Market                 |
| Fixed income                         | -                    | 29,395,759           | -           | 29,395,759            | Market                 |
| Total cash and marketable securities | <u>\$ 56,592,622</u> | <u>\$ 61,744,934</u> | <u>\$ -</u> | <u>\$ 118,337,556</u> |                        |

Investments measured at net asset value using the practical expedient:

|                |                   |
|----------------|-------------------|
| Hedge funds    | \$ 20,634,440     |
| Private equity | 21,608,958        |
| Real assets    | <u>27,140,711</u> |

Total investments measured at net asset value using the practical expedient \$ 69,384,109

Total investments at fair value \$ 187,721,665

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 15 - ENDOWMENTS**

The University has interpreted Alabama's adoption of the Uniform Prudent Management of Institutional Funds Act ("UPMIFA") to allow the preservation of the fair value of the original gift as of the gift date of the donor-restricted endowment fund absent explicit donor stipulations to the contrary. As a result of this interpretation, the University continues to classify as net assets with donor restrictions held in perpetuity (a) the original value of gifts donated to the permanent endowment, (b) the original value of subsequent gifts to the permanent endowment, and (c) accumulations to the permanent endowment made in accordance with the direction of the applicable donor gift instrument at the time the accumulation is added to the fund.

This is consistent with historic dollar value preservation prior to UPMIFA guidelines. The remaining portion of donor-restricted endowment that is not classified in net assets with donor restrictions held in perpetuity, is classified as net assets with donor restrictions restricted by purpose or passage of time or net assets without donor restrictions based on donor restriction and Board appropriation. Appropriations for spending on donor-restricted endowment funds are also classified as net assets with donor restrictions within the operating segment of accounts and are reported as funds released from restriction in the period expended for the purpose specified. The Board maintains a standing authorization for expenditure of the accumulation on funds that are unrestricted or Board-designated quasi-endowment and views these balances as having been appropriated. The original source of these funds is gifts or operating surplus without donor restrictions. Consequently, these amounts, which total approximately \$112,545,000 and \$113,635,000 for 2023 and 2022, respectively, in the aggregate, are classified within net assets without donor restrictions. Board designated funds are primarily used for scholarships, building maintenance and general operations.

The University considers the following factors in determining appropriation for expenditure:

- (1) The duration and preservation of the fund
- (2) The purposes of the University and the function of the endowment fund
- (3) General economic conditions
- (4) The effect of possible inflation or deflation
- (5) The expected total return from income and the appreciation of investments
- (6) Other resources of the University
- (7) Investment policies as set by the Board

The University had the following endowment activities during the years ended June 30, 2023 and 2022, delineated by net asset class and donor-restricted versus Board-designated funds:

Endowment Net Asset Composition by Type of Fund: Samford's composition of endowment assets for the years ended June 30 is as follows:

|                  | Year ended June 30, 2023      |                            |                       |
|------------------|-------------------------------|----------------------------|-----------------------|
|                  | Without Donor<br>Restrictions | With Donor<br>Restrictions | Total<br>Net Assets   |
| Donor-restricted | \$ -                          | \$ 330,925,925             | \$ 330,925,925        |
| Board-designated | 112,545,106                   | -                          | 112,545,106           |
|                  | <u>\$ 112,545,106</u>         | <u>\$ 330,925,925</u>      | <u>\$ 443,471,031</u> |

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(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 15 - ENDOWMENTS** (Continued)

|                  | Year ended June 30, 2022      |                            |                       |
|------------------|-------------------------------|----------------------------|-----------------------|
|                  | Without Donor<br>Restrictions | With Donor<br>Restrictions | Total<br>Net Assets   |
| Donor-restricted | \$ -                          | \$ 312,711,124             | \$ 312,711,124        |
| Board-designated | <u>113,634,565</u>            | <u>-</u>                   | <u>113,634,565</u>    |
|                  | <u>\$ 113,634,565</u>         | <u>\$ 312,711,124</u>      | <u>\$ 426,345,689</u> |

Change in Endowment Net Assets: The University's change in endowment net assets, by net asset composition, for the years ended June 30, 2023 and 2022 is as follows:

|  | Year ended June 30, 2023      |                            |                       |
|--|-------------------------------|----------------------------|-----------------------|
|  | Without Donor<br>Restrictions | With Donor<br>Restrictions | Total<br>Net Assets   |
| Beginning balance                              | \$ 113,634,565                | \$ 312,711,124             | \$ 426,345,689        |
| Investment return, net                         | 8,720,097                     | 20,402,447                 | 29,122,544            |
| Contributions                                  | 92,509                        | 8,443,645                  | 8,536,154             |
| Draws from endowment<br>for operations         | (10,079,624)                  | (11,434,771)               | (21,514,395)          |
| Transfers between endowment<br>and other funds | <u>177,559</u>                | <u>803,480</u>             | <u>981,039</u>        |
| Ending balance                                 | <u>\$ 112,545,106</u>         | <u>\$ 330,925,925</u>      | <u>\$ 443,471,031</u> |

|  | Year ended June 30, 2022      |                            |                       |
|--|-------------------------------|----------------------------|-----------------------|
|  | Without Donor<br>Restrictions | With Donor<br>Restrictions | Total<br>Net Assets   |
| Beginning balance                              | \$ 133,734,658                | \$ 234,702,914             | \$ 368,437,572        |
| Investment return, net                         | (5,097,284)                   | (9,422,175)                | (14,519,459)          |
| Contributions                                  | 72,563                        | 96,496,102                 | 96,568,665            |
| Draws from endowment<br>for operations         | (7,496,238)                   | (9,068,482)                | (16,564,720)          |
| Transfers between endowment<br>and other funds | <u>(7,579,134)</u>            | <u>2,765</u>               | <u>(7,576,369)</u>    |
| Ending balance                                 | <u>\$ 113,634,565</u>         | <u>\$ 312,711,124</u>      | <u>\$ 426,345,689</u> |

Funds With Deficiencies: From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level the donor or UPMIFA, as interpreted, specifies must be retained as a fund of perpetual duration. These negative balances are identified and are commonly referred to as "underwater" funds grouped within endowment net assets with donor restrictions. Deficiencies of this nature exist in 27 donor-restricted endowment funds, which together have an original gift value of \$5,637,000, a current fair value of \$5,546,000 and a deficiency of \$92,000 as of June 30, 2023. Deficiencies of \$568,000 existed at June 30, 2022.

(Continued)

SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

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**NOTE 15 - ENDOWMENTS** (Continued)

The University has a policy that all spending shall be suspended for funds that are reduced to 85% or less of the historic dollar value. This is applied on a fund-by-fund basis.

Return Objectives and Risk Parameters: The University has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding for programs supported by its endowment while seeking to maintain the purchasing power of endowment assets. The University's policy objective is to maximize total, risk adjusted returns while reducing downside risk through asset allocation and diversification. Investment performance is compared with recognized measures of performance for similar instruments. The target is to meet or exceed a blended index and benchmark based on the endowment target allocation.

Strategies Employed for Achieving Objectives: To satisfy its long-term rate of return objectives, the University relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The University targets a diversified asset allocation that places greater emphasis on equity-based investments to achieve its long-term return objectives within prudent risk constraints.

Spending Policy and Relationship to Investment Objectives: The University has a policy of appropriating for operations each year an amount equal to 75% of the prior year's approved allocation plus, at present, 5% on the endowment balance of the most recently completed year times 25%. This practice has resulted in a steady, predictable amount of distribution from endowment regardless of market volatility. In establishing this policy, the University considered the long-term expected return on its endowment. This policy is consistent with the University's objective to maintain the purchasing power of the endowment assets as well as provide additional growth through new contributions. The Board of Trustees is not precluded from changing the spending rate, applying a different donor prescribed rate or calculation methodology to all or any portion of the endowment market value, or approving any other special expenditure, as deemed appropriate by the Board of Trustees.

For the years ending June 30, 2023 and 2022, the University used Board approved additional spending of \$4,200,000 and \$3,000,000 per year, respectively to meet the additional funding required for retirement plan payments and to supplement scholarship funding.

**NOTE 16 - EXPENSES BY BOTH NATURE AND FUNCTION**

Expenses are presented below by functional classification in accordance with the overall service mission of the University. Each functional classification displays all expenses related to the underlying operations by natural classification. Certain categories of expenses are attributable to one or more functions of the University. These expenses include depreciation, interest, and facilities maintenance and utilities. Depreciation expense is allocated based on square footage occupancy. Interest expense is allocated to the functional categories that have benefited from the proceeds of the related debt. Facilities maintenance and utilities represents space related costs which are allocated to the functional categories directly and/or based on the square footage occupancy.

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(Continued)



SAMFORD UNIVERSITY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
June 30, 2023 and 2022

**NOTE 16 - EXPENSES BY BOTH NATURE AND FUNCTION** (Continued)

Expenses categorized by their functional classification for the years ended June 30 are as follows:

|  | 2023                          |                        |                     |                                      |                       |
|--|-------------------------------|------------------------|---------------------|--------------------------------------|-----------------------|
|  | Program Activities            | Supporting Activities  |                     |                                      | Total Expense         |
|  | Academic and Student Services | Administrative Support | Fundraising         | Facilities Operation and Maintenance |                       |
| Salary and wages                       | \$ 69,536,509                 | \$ 8,590,150           | \$ 2,307,172        | \$ 2,331,992                         | \$ 82,765,823         |
| Benefits                               | 21,140,461                    | 2,611,574              | 701,425             | 708,971                              | 25,162,431            |
| Facilities, utilities, and maintenance | 521,739                       | 1,046,104              | -                   | 11,504,942                           | 13,072,785            |
| Interest                               | 7,265,886                     | 570,715                | 1,344               | 420,534                              | 8,258,479             |
| Auxiliary expenses                     | 8,995,762                     | -                      | -                   | -                                    | 8,995,762             |
| Depreciation                           | 15,296,705                    | 975,172                | 28,898              | 222,970                              | 16,523,745            |
| Lease expense                          | 83,530                        | 1,149,018              | 18,103              | 4,477                                | 1,255,128             |
| Supplies and other operating expenses  | 23,369,364                    | 7,488,168              | 804,290             | 751,496                              | 32,413,318            |
|  | <u>146,209,956</u>            | <u>22,430,901</u>      | <u>3,861,232</u>    | <u>15,945,382</u>                    | <u>188,447,471</u>    |
| Facilities operation and maintenance   | <u>13,515,045</u>             | <u>2,073,420</u>       | <u>356,917</u>      | <u>(15,945,382)</u>                  | <u>-</u>              |
| Total expenses                         | <u>\$ 159,725,001</u>         | <u>\$ 24,504,321</u>   | <u>\$ 4,218,149</u> | <u>\$ -</u>                          | <u>\$ 188,447,471</u> |

|  | 2022                          |                        |                     |                                      |                       |
|--|-------------------------------|------------------------|---------------------|--------------------------------------|-----------------------|
|  | Program Activities            | Supporting Activities  |                     |                                      | Total Expense         |
|  | Academic and Student Services | Administrative Support | Fundraising         | Facilities Operation and Maintenance |                       |
| Salary and wages                       | \$ 66,877,928                 | \$ 10,390,510          | \$ 1,889,375        | \$ 2,021,544                         | \$ 81,179,357         |
| Benefits                               | 19,981,342                    | 3,104,407              | 564,495             | 603,983                              | 24,254,227            |
| Facilities, utilities, and maintenance | 455,563                       | 984,690                | 233                 | 11,197,567                           | 12,638,053            |
| Interest                               | 7,229,379                     | 548,947                | 1,357               | 424,566                              | 8,204,249             |
| Auxiliary expenses                     | 6,319,655                     | -                      | -                   | -                                    | 6,319,655             |
| Depreciation                           | 15,044,150                    | 959,071                | 28,421              | 219,289                              | 16,250,931            |
| HEERF scholarships                     | 3,073,512                     | -                      | -                   | -                                    | 3,073,512             |
| Lease expense                          | 87,609                        | 1,053,564              | -                   | -                                    | 1,141,173             |
| Supplies and other operating expenses  | 21,761,100                    | 6,442,719              | 715,706             | 712,244                              | 29,631,769            |
|  | <u>140,830,238</u>            | <u>23,483,908</u>      | <u>3,199,587</u>    | <u>15,179,193</u>                    | <u>182,692,926</u>    |
| Facilities operation and maintenance   | <u>12,761,278</u>             | <u>2,127,986</u>       | <u>289,929</u>      | <u>(15,179,193)</u>                  | <u>-</u>              |
| Total expenses                         | <u>\$ 153,591,516</u>         | <u>\$ 25,611,894</u>   | <u>\$ 3,489,516</u> | <u>\$ -</u>                          | <u>\$ 182,692,926</u> |

**NOTE 17 - RELATED PARTY TRANSACTIONS**

On an annual basis, the University distributes a questionnaire to trustees, officers and key employees for the purpose of determining if there are any possible conflicts of interest. In the ordinary course of business, the University has business relationships with certain vendors, such as utility companies, health providers and financial institutions at which trustees may be employed or Samford personnel may have involvement. Related party transactions are monitored by the Board of Trustees pursuant to the University's conflict of interest policy. Included in pledges receivable (Note 3) are pledges from trustees and officers totaling \$954,074 and \$823,818 at June 30, 2023 and 2022, respectively.

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**APPENDIX B-1**

**FORM OF THE TRUST INDENTURE AS SUPPLEMENTED**

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## ARTICLE 1

### Definitions

#### Section 1.01 Incorporation of Defined Terms from Lease Agreement

The Authority and the Trustee incorporate and use herein, without definition, certain capitalized terms as such terms are defined in the Lease Agreement.

#### Section 1.02 Defined Terms

**1988 Bond Documents** means and includes the following as at any time amended, restated or supplemented: (i) the Restated Trust Indenture dated June 30, 2023 by the Authority and the Bank of New York Mellon Trust Company, National Association, as trustee; and (ii) the Restated Lease Agreement dated June 30, 2023 by the Authority and the University.

**2024-A/B Bond Documents** means and includes the following as at any time amended, restated or supplemented (i) this Indenture and (ii) the Lease Agreement and (iii) the Facility Lease Agreement.

**2024-C/D Bond Documents** means and includes the following as at any time amended, restated or supplemented (i) the Trust Indenture (Series 2024-C/D Bonds) dated [Month] 1, 2024 by the Authority and Regions Bank, as trustee; and (ii) the Bond Lease Agreement (CHF - Horizons II, L.L.C. Student/Housing/Parking Project at Samford University) dated [Month] 1, 2024 by the Authority and CHF - Horizons II, L.L.C.; and (iii) Affiliation Agreement dated \_\_\_\_\_ 1, 2024, by CHF - Horizons II, L.L.C. and the University.

**Accountant** means an independent certified public accountant or firm of independent certified public accountants (which may be the accountant or firm of accountants retained by the Borrower)

**Accounts** means, collectively, all of the accounts and subaccounts within the Indenture Funds, or the Rebate Fund, created pursuant hereto (each an "Account").

**Act**, when used with respect to any Owner, shall have the meaning assigned in Section 11.05.

**Additional Bonds** means, collectively, all Bonds issued pursuant to this Indenture subsequent to the issuance of the Series 2024 Bonds.

**Additional Lease Payments** shall have the meaning assigned in the Lease Agreement.

**Additional Rent** the Additional Rent payable by the University to the Trustee for the account of the Borrower pursuant to Section 3(b) of the Facility Lease Agreement.

**Affiliate** means any Person (i) directly or indirectly controlling, controlled by, or under common control with the Borrower or (ii) a majority of the members of the within-referenced Directing Body of which are members of the Directing Body of the Borrower. For purposes of this definition, control means for: (a) a corporation having stock, the ownership, directly or indirectly, of more than fifty percent (50%) of the securities (as defined in §2(1) of the Securities Act) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the directors of such corporation; (b) a non-profit corporation not having stock, having the power to elect or appoint, directly or indirectly, a majority of the members of the Directing Body of such corporation; or (c) any other entity, the power to direct the management of such entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its Directing Body, by contract or otherwise. For the purposes of this definition, "Directing Body" means for: (x) a corporation having stock, such corporation's board of directors and owners, directly or indirectly, of more than fifty percent (50%) of the securities (as defined in §2(1) of the Securities Act) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the directors of such corporation (both of which groups will be considered a Directing Body); (y) a non-profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; or (z) any other entity, its governing body or board. For the purposes of this definition, all references to directors and members will be deemed to include all entities performing the function of directors or members however denominated, and individuals who are members of a Directing Body are not deemed to be an Affiliate.

**Applicable Law** means (i) the applicable provisions of all constitutions, statutes, rules, regulations, orders, judgments and decrees of any Governmental Authority and (ii) all laws and rules of law which provide legal or equitable rights and remedies for creditors.

**Architect Agreement** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Architect Consent and Agreement to Perform** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Audit Report** means an unqualified audit report resulting from an audit conducted by an Accountant in conformity with generally accepted auditing standards prepared in accordance with GAAP.

**Authority** means The Educational Building Authority of the City of Homewood, and its successors and assigns.

**Authority Additional Payments** means, collectively (and each, an "Authority Additional Payment"):

(a) all taxes and assessments of any type or character charged to the Authority or to the Trustee affecting the amount available to the Authority or to the Trustee from payments to be received under the Lease Agreement or in any way arising due to the transactions contemplated hereby or by the Lease Agreement (including taxes and assessments assessed or levied by any Governmental Authority provided, however, the Borrower will have the right to protest any such taxes or assessments and to require the Authority, at the Borrower's expense, to protest and contest any such taxes or assessments levied on them and that the Borrower will have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest, or contest would adversely affect the rights or interests of the Authority or the Trustee;

(b) the fees and expenses of such accountants, consultants, attorneys, rebate analysts, and other experts as may be engaged by the Authority to prepare any audits, financial statements, reports, and/or opinions or to provide such other services required to be provided by the Authority under the Lease Agreement, this Indenture, or any of the other Bond Documents, including, but not limited to, any audit or inquiry by the IRS or any other Governmental Authority

**Authority Documents** means collectively, this Indenture, the Lease Agreement, the Tax Agreement, and the Bond Purchase Agreement.

**Authority Indemnified Person** means each of the Authority's past, present, and future directors, board members, governing members, trustees, commissioners, elected or appointed officials, officers, employees, Authorized Signatories, attorneys (other than attorneys who render a legal opinion to the Authority), agents, and advisers (including financial advisers), and each and all of their respective heirs, successors, and assigns.

**Authority Pledged Property** shall have the meaning assigned in Section 3.03.

**Authorized Borrower Representative** means any person at the time designated to act on behalf of the Borrower by written certificate furnished to the Authority and the Trustee, containing the specimen signature of such person and signed on behalf of the Borrower by the Chief Executive Officer or President of the Borrower. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

**Authorized Denominations** means, for each series of Bonds, the authorized denomination established therefor in the Supplemental Indenture for such series of Bonds.

**Authorized Developer Representative** means any Person at the time designated to act on behalf of the Developer by written certificate furnished to the Borrower, the Authority, and the Trustee, containing the specimen signature of such person and signed on behalf of the Developer by its President. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

**Authorized Signatory** means any officer designated by resolution of the Authority (whether such resolution is adopted in connection with the issuance of Bonds or otherwise) as an 'Authorized Signatory' empowered to, among other things, execute and deliver on behalf of the Authority, the Authority Documents and the Bonds (collectively, the "Authorized Signatories").

**Authorized University Representative** means the President of the University, the Vice-President for Finance, Business Affairs and Strategy of the University, and any officer of the University designated to act as "Authorized University Representative", for purposes of the Bond Documents, by written certificate delivered to the Trustee by the Vice-President for Finance, Business Affairs and Strategy of the University.

**Authorizing Act** means Chapter 17 of Title 16 of the Code of Alabama 1975.

**Base Rent** means the Base Rent payable by the University to the Trustee for the account of the Borrower pursuant to Section 3(a) of the Facility Lease Agreement.

**Basic Lease Payments** shall have the meaning assigned in the Lease Agreement.

**Beneficial Owners** if the Bonds are not held under the Book-Entry System, means, collectively, the Owners and, if the Bonds are held under a Book-Entry System, means, collectively, the Persons in whose names Bonds are recorded as beneficial owners of such Bonds with the Securities Depository (and while DTC is the Securities Depository, in the name of its nominee, Cede & Co.) or a Participant or an Indirect Participant, as the case may be, as established in writing by letter of such persons or entities to the Trustee (each, a "Beneficial Owner").

**Bond Counsel** means Maynard Nexsen PC or other Independent Counsel nationally recognized as experienced in matters relating to Tax-Exempt Bonds and the issuance of obligations by states and their political subdivisions and reasonably acceptable to the Authority, the Borrower, and the Trustee.

**Bond Documents** means collectively the Bonds, the Security Documents, the Tax Agreement, the Developer Indemnity Letter, and any document specified in a Supplemental Indenture as a "Bond Document".

**Bond Fund** means the Indenture Fund of that name created in Section 6.03.

**Bond Fund Account Requirement** means, on the twentieth (20th) calendar day of each month (or the next preceding Business Day) for each series of Bonds, an amount equal to the Debt Service scheduled to become due and payable on such series of Bonds during the Bond Year in which such date occurs.

**Bond Payment Dates** means, collectively, each Stated Interest Payment Date and each Stated Principal Payment Date and all dates on which Debt Service will be payable on or in respect of any of the Bonds according to their terms and the terms of this Indenture, including without limitation, scheduled mandatory sinking fund redemption dates, dates of acceleration of the Bonds, optional redemption dates, extraordinary optional redemption dates, and stated maturity dates, so long as any Bonds are Outstanding (each a "Bond Payment Date").

**Bond Purchase Agreement** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Bond Register** means the books for the registration of the Bonds and for the registration of the transfer of the Bonds kept and maintained by the Trustee as bond registrar.

**Bond Year** means the 12-month period beginning on October 1 of each calendar year and ending on September 30 of the immediately succeeding calendar year.

**Bonds** means, collectively, on any date of determination, all Bonds issued and Outstanding under this Indenture.

**Book-Entry System** means the system of evidence and transfer of ownership of the Bonds maintained by the Securities Depository described in Section 213.

**Borrower** means CHF - Horizons I, L.L.C., an Alabama limited liability company, and its successors and assigns.

**Borrower Security Agreement** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Borrower Documents** means collectively the Lease Agreement, the Facility Lease Agreement, the Tax Agreement, the Borrower Security Agreement, the Bond Purchase Agreement, and the Borrower Financing Statements, and for any series of Additional Bonds, has the meaning set forth in a Supplemental Indenture relating to that series of Additional Bonds.

**Borrower Financing Statements** means the UCC-1 financing statements filed by the Borrower with respect to security interests in property of the Borrower created for the benefit of any series of Bonds.

**Business Day** means any day other than a Saturday, a Sunday, or a day on which banking institutions or trust companies in the State of Alabama, the State of New York, or in the state where the Office of the Trustee is located are authorized or obligated by law, regulation or executive order to close or a day on which the payment system of the Federal Reserve System is not operational.

**Calculation Date** means the last day of each Bond Year, commencing with the last day of the second Bond Year, and the date on which a series of Bonds are Discharged.

**Capital Expenditures** shall have the meaning assigned in Section 1.150-1(b) of the Treasury Regulations.

**Closing Date** means, for any series of Bonds, the date of delivery thereof and payment therefor.

**Completion Date** means, with respect to any part of the Project, the date on which such part of the Project was placed in service for the purpose thereof.

**Condemnation Fund** means the Indenture Fund of that name created in Section 6.05.

**Construction Agreement** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Construction Costs** means all Costs of the Project that are properly payable to the appropriate contractors under the applicable Project Acquisition Contracts

**Costs of the Project** means:

- (a) the cost of acquiring property and interests in property that are or will become part of the Project,
- (b) the cost of labor, materials, machinery, furniture, fixtures, and equipment as payable to contractors, builders and materialmen in connection with the construction, renovation and equipping of the Project;
- (c) governmental charges levied or assessed during construction of the Project, or on any property acquired therefor, and premiums on insurance in connection with the Project during construction;
- (d) expenses necessary or incident to determining the feasibility or practicability of undertaking the Project (excluding, however, the expense of determining the feasibility of the issuance of Bonds to finance or refinance the Project), the fees and expenses of architects, engineers and management consultants for making studies, surveys and estimates of costs and of revenues and other estimates, and fees and expenses of architects and engineers for preparation of plans, drawings and specifications and for administration of the construction contract or contracts for the Project, as well as for the performance of all other duties of architects and engineers in relation to the acquisition, construction, renovation and equipping of the Project (but not the issuance of the Bonds);

(e) expenses of administration, supervision and inspection properly chargeable to the Project, fees and costs of development and marketing of the Project, legal expenses and fees of the Borrower in connection with the acquisition, construction, renovation or equipping of the Project (but not the issuance of the Bonds), cost of abstracts and reports on titles to real estate and owners title insurance premiums, cost of managing investments of moneys deposited in the Indenture Funds created hereunder and all other items of expense, not elsewhere specified in this section incident to the construction, renovation and placing in operation of the Project;

(f) interest on the Bonds and interest on obligations of the Borrower incurred to finance the Cost of the Project prior to, during and for up to one year after the completion of the Project (or any component thereof);

(g) bond insurance premiums, if any, and related fees and expenses;

(h) working capital in connection with the construction and operation of the Project;

(i) Issuance Costs for any series of Bonds in an aggregate amount not exceeding 2% of the proceeds thereof;

(j) any other cost relating to the Project that is set forth in or permitted by the Authorizing Act; and

(k) reimbursement to the Borrower and the University for any of such costs paid by it whether before or after the execution of this Indenture; provided, however, that reimbursement to any expenditures made prior to the execution of this Indenture shall only be permitted for expenditures meeting the requirements of applicable Treasury Regulations, including but not limited to 26 CFR Section 1.150-2 or any successor Treasury Regulations.

**Covered Parity Debt Documents** means and includes all contractual agreements pursuant to which the University shall have assumed or incurred any Covered Parity Debt, including without limitation (i) the 1988 Bond Documents, (ii) the 2024-A/B Bond Documents, and (iii) the 2024-C/D Bond Documents.

**Debt Service** means, for any Bond on any date of determination or for any period, the principal of, premium (if any) and interest payable on such Bond.

**Default Rate** means the prime rate charged corporate borrowers by the commercial lending department of the Trustee, if any, or in the absence of such commercial lending department or rate, the rate designated the “Prime Rate” as published each Business Day in *The Wall Street Journal*, plus 2% per annum.

**Defeasance Fund** means an independent and irrevocable Account or Fund established by the Authority pursuant to Section 5.01 for the benefit of any Bond or any portion of the principal amount thereof.

**Defeasance Obligations** means (i) cash deposits of U.S. Currency (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in item (ii) below), (ii) to the extent the same are non-callable and non-pre-payable, U. S. Government Obligations , (iii) evidences of ownership of a proportionate interest in specified U. S. Government Obligations , which U. S. Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, and (iv) Defeased Municipal Obligations.



**Defeased Municipal Obligations** means obligations of state or local government municipal bond issuers that are rated in the highest rating category by S&P and Moody's, respectively, provision for the payment of the principal of and interest on which will have been made by deposit with a trustee or escrow agent of (i) non-callable U. S. Government Obligations or (ii) evidences of ownership of a proportionate interest in specified non-callable U. S. Government Obligations, which U. S. Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, the maturing principal of and interest on such U. S. Government Obligations or evidences of ownership, when due and payable, will provide sufficient money to pay the principal of, redemption premium, if any, and interest on such obligations of state or local government municipal bond issuer.

**Developer** means Landmark Development Services Company, LLC, a limited liability company organized under the laws of the State of Wisconsin, and its successors and assigns.

**Development Agreement** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Direct Participant** means brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among such brokers, dealers, banks, trust companies, clearing corporations, and other organizations.

**Discharged** means, on any date of determination for any Bond, that on such date interest on such Bond shall have ceased to accrue as provided in Section 4.04.

**Dissemination Agent** means the Trustee and any successor as dissemination agent appointed by the Borrower

**DTC** means The Depository Trust Company, New York, New York, or any successor Securities Depository.

**Electronic Means** includes and means facsimile transmission, email transmission, or other similar electronic means of communication providing evidence of transmission, including a telephone communication confirmed by another method set forth in this definition; provided, that for purposes of this Indenture or the Lease Agreement, an email does not constitute a notice, request or other communication hereunder but rather the portable document format or similar attachment attached to such email shall constitute notice, request or other communication.

**Equipment** has the meaning as described in the Lease Agreement, which, by this reference thereto, is incorporated herein, and all replacements, substitutions and additions thereto.

**Event of Default** means, for this Indenture, each of the events specified in Section 7.01.

**Exchange Act** means the Securities Exchange Act of 1934, as amended.

**Expenses** for the Project, means, for any period, the aggregate of all expenses and expenditures relating thereto, including, without limitation, expenses or expenditures relating to the performance of any obligation of the Borrower under the Bond Documents or to the enforcement of the obligations of other parties to documents executed in connection with the Bond Documents; Membership Fee; expenses incurred by the Borrower in connection with the inspection of the Project or the calculation, collection, and payment of the Rebate Amount relating to any Tax-Exempt Bonds as required by federal law; but excluding (i) any expense or expenditure paid with the proceeds of the Bonds or the Net Proceeds of insurance other than business interruption, business income or loss of rents insurance, (ii) interest on any Indebtedness to the extent that such interest is payable from the proceeds of such Indebtedness, (iii) any expenses resulting from forgiveness of or the establishment of reserves against Indebtedness of an Affiliate that do not constitute extraordinary expense, (iv) losses resulting from any reappraisal, revaluation, or write-down of assets, and (v) any unrealized loss resulting from changes in the value of investment securities.

**Extraordinary Services of the Trustee** and **Extraordinary Expenses of the Trustee** mean all services rendered and all reasonable expenses incurred by the Trustee under the Bond Documents, including, without limitation, reasonable counsel fees and expenses, other than Ordinary Services of the Trustee and Ordinary Expenses of the Trustee.

**Facility Lease Agreement** means that certain Facility Lease Agreement dated [Month] 1, 2024, as at any time amended, restated or supplemented, by the Borrower and the University.

**Facility Lease Payments** means collectively the Base Rent and the Additional Rent.

**Favorable Opinion of Bond Counsel** means an opinion of Bond Counsel or Tax Counsel, addressed to the Authority, the Borrower, and the Trustee to the effect that the action proposed to be taken is authorized or permitted by the Authorizing Act, this Indenture, and the Lease Agreement and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bonds.

**Federal Tax Code** means the Internal Revenue Code of 1986, as amended. Reference herein to any specific provision of the Federal Tax Code will be deemed to include a reference to any successor provision or provisions to such provision and to any Treasury Regulations issued or proposed under or with respect to such provision or under or with respect to any predecessor provision of the Internal Revenue Code of 1954, as amended, to the extent any of the foregoing is applicable to the Bonds.

**Fitch** means Fitch Ratings, Inc., its successors and assigns, and if such corporation for any reason no longer performs the functions of a securities rating agency, "Fitch" is deemed to refer to any other nationally recognized securities rating agency designated by the Borrower. Whenever rating categories of Fitch are specified in this Indenture, such categories will be irrespective of gradations within a category.

**Foundation** means Collegiate Housing Foundation and the successors and assigns thereof.

**GAAP** means those principles of accounting set forth in pronouncements of the Financial Accounting Standards Board and its predecessors or pronouncements of the American Institute of Certified Public Accountants or those principles of accounting that have other substantial authoritative support and are applicable in the circumstances as of the date of application, as such principles are from time to time supplemented and amended.

**Governing Law** means (i) the Constitution of Alabama of 2022, (ii) the general laws of the State of Alabama, and (iii) the Authorizing Act.

**Governmental Authority** means (i) the United States of America, (ii) the State of Alabama and any political subdivision (within the meaning of 26 CFR Section 1.103-1) thereof other than the Authority, and (iii) any agency, authority, board, bureau, commission, court, department, division, instrumentality, tribunal thereof or other organization of competent jurisdiction established by the United States of America or the State of Alabama.

**Ground Lease** means the Ground Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), dated [Month] 1, 2024, as at any time amended, restated or supplemented, by the University, as lessor, and the Authority, as lessee.

**Indebtedness** means, but only to the extent incurred in connection with the Project or secured by a Lien on the Project or the Pledged Revenues, (i) all indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (ii) all deferred indebtedness for the payment of the purchase price of properties or assets purchased, (iii) all guaranties, endorsements (other than endorsements in the ordinary course of business), assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, (iv) all indebtedness secured by mortgage, pledge, security interest, or Lien existing on property owned that is subject to such mortgage, pledge, security interest, or Lien, whether or not the indebtedness secured thereby has been assumed, (v) swap or hedging obligations or other similar derivative or investment agreements that, under certain circumstances, require a payment on termination and (vi) all financing lease obligations; provided, however, that for the purpose of computing Indebtedness, there will be excluded any particular Indebtedness if, on or prior to the maturity thereof, there is irrevocably deposited with the proper depository in trust the necessary funds (or direct, nonredeemable obligations of the United States of America) for the payment, redemption, or satisfaction of such Indebtedness, and thereafter such funds and such direct obligations of the United States of America so deposited will not be included in any computation of the assets of the Borrower and the income derived from such funds and such direct obligations of the United States of America so deposited will not be included in any computation of the income of the Borrower.

**Indenture** means this Indenture, as at any time amended or supplemented by a Supplemental Indenture, and as at any time restated.

**Indenture Funds** means collectively all of the funds created pursuant to Article 6 of this Indenture and pursuant to any Supplemental Indenture (each, an "Indenture Fund"), less and except the Rebate Fund.

**Independent Counsel** means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state of the United States or the District of Columbia and not in the full-time employment of the Authority or the Borrower.

**Independent Engineer** means any architect, engineer, or firm of architects or engineers that is independent of the Authority, the Borrower, the Developer and the University and that is selected by the Borrower and is reasonably acceptable to the University, at the expense of the Borrower, to report and be accountable solely to the Trustee for the benefit of the Owners and that has all licenses and certifications necessary for the performance of such services, and that has a favorable reputation for skill and experience in performing similar services in respect of facilities of a comparable size and nature.

**Indirect Participants** means those broker-dealers, banks, and other financial institutions from time to time for which the Securities Depository holds Bonds as a securities depository through a Participant (each an "Indirect Participant").

**Insurance Fund** means the Indenture Fund of that name created in Section 6.05.

**Irrevocable Deposit** means the irrevocable deposit with the Trustee in trust of Defeasance Obligations in a Defeasance Fund in accordance with the provisions of Section 5.01.

**IRS** means the United States Internal Revenue Service or any successor agency or department.

**Issuance Costs** shall have the meaning assigned in 26 CFR Section 1.150-1(b).

**Lease Agreement** means the Bond Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), dated [Month] 1, 2024, as at any time amended, restated or supplemented, by the Authority, as lessor and the Borrower, as lessee.

**Lease Payments** means collectively the Basic Lease Payments and the Additional Lease Payments.

**Lien** means any mortgage, chattel mortgage, lien, pledge, charge, security interest or encumbrance of any kind.

**Majority of the Owners** means the Owners of more than 50% in aggregate principal amount of the Bonds then Outstanding.

**Membership Fee** means the annual membership fee described in the Facility Lease Agreement.

**Moody's** means Moody's Investors Service, Inc., its successors and assigns, and if such corporation for any reason no longer performs the functions of a securities rating agency, "Moody's" is deemed to refer to any other nationally recognized securities rating agency designated by the Borrower. Whenever rating categories of Moody's are specified in this Indenture, such categories will be irrespective of gradations within a category.

**Net Proceeds** when used for any insurance or condemnation award, for the sale or other disposition of a portion of the Project, or for any other recovery on a contractual claim or claim for damage to or for taking of property, means the gross proceeds from the insurance or condemnation award, sale, or other disposition, or recovery remaining after payment of (i) all reasonable expenses (including reasonable attorneys' fees and any Extraordinary Expenses of the Trustee) incurred in the collection of such gross proceeds, and (ii) solely with respect to the builder's risk policy procured by contractor under the Construction Agreement and absent an event of default by contractor under the Construction Agreement, payments to the contractor from available builder's risk insurance proceeds for Costs of the Project which have already been paid by contractor under the Construction Agreement and for which contractor has not been reimbursed under a prior draw request made by Borrower.

**Non-Construction Costs** means all Costs of the project other than costs and fees that are properly payable to the appropriate contractors under the Project Acquisition Contracts.

**Office of the Trustee** means the designated trust office of the Trustee for the performance of this Indenture, as advised to the Authority and the Borrower in writing.

**Opinion of Counsel** means an opinion in writing of Independent Counsel who or that is reasonably acceptable to all recipients thereof and who or that may be counsel to the Authority, the Trustee, or the Borrower.

**Ordinary Services of the Trustee and Ordinary Expenses of the Trustee** mean those reasonable services rendered and those reasonable expenses incurred by the Trustee as Trustee, Dissemination Agent, paying agent, and registrar, as applicable, in the performance of its duties hereunder and under the other Bond Documents of the type ordinarily performed by corporate trustees under like indentures, including, without limitation, reasonable fees and expenses of independent appraisers, accountants, consultants, counsel, agents, and attorneys or other experts employed by the Trustee in the exercise and performance of its powers and duties hereunder.

**Outstanding Bonds or Bonds Outstanding or Outstanding** means, on any date of determination for any Bond, that on such date such Bond shall have been duly authenticated and delivered by the Trustee under this Indenture, except:

- (i) a Bond which is not subject to the accrual of interest under Section 4.04; or
- (ii) a Bond for which is payable solely from a Defeasance Fund.

**Outstanding Principal Amount** means, with respect to any Bond on any date of determination, the principal amount of such Bond which on such date shall not have been discharged and shall be payable by the Authority in accordance with the terms of such Bond and this Indenture.

**Owner** when used with respect to any Bond means the Person in whose name such Bond is registered in the Bond Register, including without limitation the Securities Depository or Securities Depository Nominee with respect to any Bond held pursuant to the Book-Entry System.

**Participants** means those broker-dealers, banks, and other financial institutions from time to time for which the Securities Depository holds Bonds as a securities depository (each, a "Participant").

**Permitted Encumbrances** means, as of any particular time:

- (a) Liens for ad valorem taxes, special assessments, and other charges not then delinquent or for taxes, assessments, and other charges being contested in accordance with Section 8.03(b) of the Lease Agreement;
- (b) the Bond Documents and Liens or encumbrances securing Additional Bonds;
- (c) currently existing utility, access, and other easements and rights of way, restrictions, and exceptions described in the title policy required by Section 4.05 of the Lease Agreement;
- (d) utility, access, and other easements and rights of way, restrictions, and exceptions that do not materially impair the use of the Project for its intended purpose or materially and adversely affect the value thereof;
- (e) rights reserved to or vested in any Governmental Authority by the terms of any right, power, franchise, grant, license, or permit, or provision of law, affecting the Project, to (a) terminate such right, power, franchise, grant, license or permit, provided that the exercise of such right does not materially impair the use of the Project for its intended purpose or materially and adversely affect the value thereof, or (b) purchase, condemn, appropriate, or recapture, or designate a purchaser of, the Project;
- (f) rights reserved to or vested in any municipality or public authority to control or regulate the Project or to use the Project in any manner that does not materially impair the use of the Project for its intended purpose or materially and adversely affect the value thereof;

(g) inchoate mechanics' and materialmen's Liens that arise by operation of law, but that have not been perfected by the required filing of record, for work done or materials delivered after the date of recording the Facility Lease Agreement in connection with the Project;

(h) the mechanics' and materialmen's Liens permitted by Section 8.01(c) of the Lease Agreement;

(i) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance, or other forms of governmental insurance or benefits;

(j) Liens to secure the performance of letters of credit, bids, tenders, statutory obligations, leases, and contracts (other than for borrowed funds) entered into in the ordinary course of business to secure obligations on or appeal bonds;

(k) statutory restrictions imposed on the use of real property owned by or for the benefit of the University;

(l) judgment Liens against the Borrower so long as such judgment is being contested in good faith and execution thereon is stayed or while the period for responsive pleading has not lapsed; and

(m) Liens arising by reason of an Irrevocable Deposit.

**Permitted Investments** means any one or more of the following investments, if and to the extent the same are then legal investments under Applicable Law (such legality to be determined by an Authorized Borrower Representative and not the Trustee):

- (a) U. S. Government Obligations;
- (b) debt obligations, participations or other instruments issued or fully guaranteed by any U.S. Federal agency, instrumentality, corporation, or government-sponsored enterprise (GSE), including but not limited to: Fannie Mae, Freddie Mac, the Federal Home Loan Banks, the Federal Farm Credit System, Alabama Valley Authority, and REFCORP principal strips;
- (c) direct and general obligations of any state of the United States of America or any municipality or political subdivision of such state, or obligations of any corporations, if such obligations are rated in one of the two highest rating categories by S&P or Moody's, or on the discontinuance of either or both of such rating services, any other nationally recognized rating service;
- (d) negotiable or nonnegotiable certificates of deposit, time deposits, or other similar banking arrangements, issued by any nationally or state-chartered bank or trust company (including the Trustee) or any savings and loan association, domiciled in the State of Alabama, if either (i) the long-term obligations of such bank or trust company are rated in one of the two highest rating categories by S&P or Moody's, or, on the discontinuance of either or both of such rating services, any other nationally recognized rating service or (ii) the deposits are continuously secured as to principal, but only to the extent not insured by the Federal Deposit Insurance Corporation, or similar corporation chartered by the United States of America, (1) by lodging with a bank or trust company, as collateral security, obligations described in paragraph (a), (b) or (c) above or other marketable securities eligible as security for the deposit of trust funds under applicable regulations of the Comptroller of the Currency of the United States of America or applicable state law or regulations, having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (2) if the furnishing of security as provided in clause (1) of this paragraph is not permitted by applicable law, in such manner as may then be required or permitted by applicable state or federal laws and regulations regarding the security for the deposit of trust funds;

(e) repurchase agreements for obligations listed in paragraphs (a), (b) or (c) above (or any combination thereof) entered into with a nationally or state-chartered bank, trust company or a “broker” or “dealer” (as defined by the Securities Exchange Act of 1934 as amended) which is a member of the Securities Investors Protection Corporation if (i) such obligations that are the subject of such repurchase agreement are delivered to the Trustee or are supported by a safekeeping receipt issued by depository that is a regular market participant in such transactions, provided that such repurchase agreement must provide that the value of the underlying obligations will be not less than 103% of the repurchase price, (ii) a prior perfected security interest in the obligations which are the subject of such repurchase agreement has been granted to the Trustee, and (iii) such obligations are free and clear of any adverse third-party claims;

(f) commercial paper maturing in 270 days or less and rated in the highest rating category by two nationally recognized rating services;

(g) money market mutual funds invested solely in obligations listed in paragraphs (a) through (d) above;

(h) investment agreements, including guaranteed investment contracts and forward delivery agreements, with any nationally or state-chartered bank, financial institution, insurance company or other entity that is rated or guaranteed by an entity that is rated in one of the three highest rating categories (without regarding to gradations or modifiers within such category) by S&P, Moody’s, or Fitch; provided however, that if an investment agreement is guaranteed by a third-party, then the rating requirement shall apply to the guarantor only;

(i) certificates or receipts issued by any nationally or state-chartered bank, trust company or “broker” or “dealer” (as defined by the Securities Exchange Act of 1934, as amended) which is a member of the Securities Investors Protection Corporation, organized and existing under the laws of the United States of America or any state thereof, the outstanding unsecured long-term debt of which is rated in either of the two highest rating categories by S&P or Moody’s, or, on the discontinuance of either rating service, any other nationally recognized ratings service, in the capacity of custodian, which certificates or receipts evidence ownership or a portion of the principal of or interest on U. S. Government Obligations held (which may be in book entry form) by such bank, trust company or broker or dealer (as defined by the Securities Exchange Act of 1934, as amended) as custodian;

(j) tax-exempt obligations (as defined in Section 150(a)(6) of the Federal Tax Code and which are not “investment property” as defined in Section 148(b)(2) of the Federal Tax Code ) rated in one of the two highest rating categories by S&P or Moody’s, or on the discontinuance of such ratings service, any other nationally recognized ratings service; or

(k) any other obligation or security, or combination thereof, permitted under the laws of the State of Alabama;

provided, however, **Permitted Investments** does not include a financial instrument, commonly known as a “derivative,” whose performance is derived, at least in part, from the performance of any underlying asset, including, without limitations, futures, options on securities, options on futures, forward contracts, swap agreements, structured notes and participations in pools of mortgages or other assets. References to particular ratings and rating categories in this definition are applicable only at the time of purchase of the Permitted Investments.

**Person** means any natural person, corporation, general or limited partnership, limited liability company or partnership, joint venture, association, trust, unincorporated organization and Governmental Authority.

**Pledged Revenues** for any period, means (i) the sum of the (a) the gross receipts and operating and non-operating revenues derived by the Borrower from the operation or ownership of the Project (other than contributions), including without limitation the Lease Payments and the Facility Lease Payments, all as pledged to the Trustee pursuant to this Indenture and the Borrower Security Agreement **and** (ii) Net Proceeds of insurance, **and** (iii) Unrestricted Contributions, **but excluding** in any event (ii) the sum of (a) earnings on amounts that are irrevocably deposited in escrow to pay the principal of or interest on Indebtedness, **and** (b) earnings or gains resulting from any reappraisal, revaluation, or write-up of assets, **and** (c) any unrealized gain resulting from changes in the value of investment securities.

**Project** means collectively all "ancillary improvements" (as defined in the Authorizing Act) financed by the Authority from the proceeds of Bonds issued for the benefit of the Borrower and the University, as more particularly defined or described in the Supplemental Indenture for each series of such Bonds.

**Project Acquisition Contracts** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Property** means the real property described in Exhibit A attached hereto which, by this reference thereto, is incorporated herein.

**Rating Agency** means any nationally recognized securities rating agency or service then rating a series of Bonds (collectively, the “Rating Agencies”). When used in the definition of “Permitted Investments,” the term Rating Agencies includes either of Moody’s, S&P or Fitch, whether or not either of them then rates a series of Bonds, or such other nationally recognized securities rating agency or service designated by the Borrower.

**Rebate Amount** means, as of any Calculation Date, the amount that would have been required to be paid to the United States of America under §148(f) of the Federal Tax Code for all Outstanding Tax-Exempt Bonds had all of such Tax-Exempt Bonds been Discharged on and as of such Calculation Date.

**Rebate Analyst** means any independent certified public accountant, financial analyst, Bond Counsel, Tax Counsel or any firm of the foregoing, or financial institution, experienced in making the arbitrage and rebate calculations required pursuant to Section 148(f) of the Federal Tax Code, selected and retained and compensated by the Borrower pursuant to the Lease Agreement to make the computations and give the directions required under Section 12.02.

**Rebate Fund** shall have the meaning set forth in Section 12.02.

**Redemption Fund** means the Indenture Fund of that name created in Section 6.04.

**Record Date** means the 15th calendar day (whether or not a Business Day) of a month next preceding a Stated Interest Payment Date.

**Redemption Price** means, on any date of determination for any Bond (or principal amount thereof) to be called for redemption, the principal amount thereof to be redeemed, plus interest accrued on such principal amount to (but not including) the date fixed for such redemption, and the premium, if any, payable upon redemption of such Bond (or portion thereof).

**Remedy Proceeds** means all amounts received and realized by the Trustee from the exercise of remedies pursuant to the Security Documents (including without limitation the Facility Lease Agreement) and Applicable Law upon an Event of Default.

**Responsible Officer** means, when used for the Trustee, any officer within the Corporate Trust Department (or any successor group of the Trustee) including, without limitation, any vice president, assistant vice president, assistant secretary, or any other officer or assistant officer of the Trustee designated by the Trustee (collectively, the “**Responsible Officers**”).

**S&P** means S&P Global Ratings, a business unit of Standard & Poor’s Financial Services LLC, its successors and assigns, and if such corporation for any reason no longer performs the functions of a securities rating agency, “**S&P**” will be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower. Whenever rating categories of S&P are specified in this Indenture, such categories will be irrespective of gradations within a category.

**Securities Act** means the Securities Act of 1933, as amended.

**Securities Depository** means DTC or other recognized securities depository selected by the Authority at the request of the Borrower that maintains the Book-Entry System in respect of such Bonds and agrees to follow the procedures required to be followed hereunder by a securities depository and includes any substitute for or successor to the securities depository initially acting as securities depository and for any series of Additional Bonds, has the meaning set forth in a Supplemental Indenture relating to that series of Additional Bonds.

**Securities Depository Nominee** means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there is registered on the Bond Register the Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in the Book-Entry System.

**Security** means any of the property subject to the operation of the granting clauses contained in the Security Documents (including, without limitation, the Trust Estate).

**Security Documents** means collectively this Indenture, the Lease Agreement, the Facility Lease Agreement, the Borrower Security Agreement and the University Collateral Assignment and the Project Acquisition Contracts (each, a “**Security Document**”).

**Series 2024 Bonds** means the Revenue Bonds (CHF - Horizons I, L.L.C. Recreation/Wellness/ Athletic Project at Samford University) of the Authority of the following series:

- (i) Tax-Exempt Series 2024-A;
- (ii) Federally Taxable Series 2024-B.

**Special Additional Rent/Lease Payments Fund** means the Indenture Fund created by that name in Section 6.06.

**Stated Interest Payment Date** means the first day of each April and October, or, if any such date is not a Business Day, then the next succeeding Business Day.

**Stated Principal Payment Date** means, the first day of each October, or, if such date is not a Business Day, then the next succeeding Business Day.

**Super-Majority of the Owners** means the Owners of not less than sixty-seven percent (67%) in aggregate principal amount of the Bonds then Outstanding.

**Supplemental Indenture** means any indenture or other instrument delivered by the Authority and the Trustee in compliance with the provisions of this Indenture for the amendment or supplement hereof.

**Tax Agreement** shall have the meaning, if any, set forth in the Supplemental Indenture for each series of Bonds.

**Tax Counsel** means Maynard Nexsen PC or other Independent Counsel nationally recognized as experienced in matters relating to Tax-Exempt Bonds and reasonably acceptable to the Authority, the Borrower, and the Trustee.

**Taxable** means, on any date of determination for any Tax-Exempt Bond that is a "tax-exempt bond" as defined in 26 CFR Section 1.150-1(b), that interest on such Bond is not excludable from gross income for purposes of federal income taxation and for any Tax-Exempt Bond that is a "tax-advantaged bond" as defined in 26 CFR Section 1.150-1(b), that such Bond does not qualify for the federal tax benefit applicable to such Bond.

**Taxable Bonds** means any Bonds that are not Tax-Exempt Bonds.

**Tax-Exempt Bonds** means (i) any Bonds the interest on which is intended to be excludable from gross income under Section 103(a) of the Federal Tax Code and (ii) any Bond that is a "tax-advantaged bond" as defined in 26 CFR Section 1.150-1(b).

**Treasury Regulations** means the applicable treasury regulations promulgated under the Federal Tax Code or under §103 of the Internal Revenue Code of 1954, as amended, whether at the time proposed, temporary, final, or otherwise. Reference herein to any specific provision of the Treasury Regulations is deemed to include a reference to any successor provision or provisions to such provision.

**Trust Estate** shall have the meaning assigned in Section 3.01.

**Trustee** means the trustee and any co-trustee at the time serving as such under this Indenture.

**Underwriter** means collectively (i) RBC Capital Markets, LLC, and its successors and assigns and (ii) Stifel, Nicolaus & Company, Incorporated, and its successors and assigns.

**University** means Samford University, an Alabama nonprofit corporation.

**University Collateral Assignment** shall have the meaning set forth in the Supplemental Indenture for each series of Bonds.

**Unassigned Rights** shall have the meaning assigned in the Lease Agreement.

**Unrestricted Contributions** means contributions to the Borrower with respect to the Project which are not restricted in any way that would prevent their application to the payment of debt service on Indebtedness thereof.

**U.S. Currency** means lawful currency of the United States of America.

**U. S. Government Obligations** means and includes pecuniary obligations which are (i) direct general obligations of the United States of America, (ii) obligations with respect to which the full and punctual payment of the principal thereof and interest thereon is unconditionally guaranteed by the United States of America, and (iii) money-market funds consisting solely of obligations described in (i) or (ii) of this definition or repurchase agreements with respect to obligations described in (i) or (ii) of this definition.

**Valuation Dates** means, collectively, the dates on which the Trustee is required to determine the Value of the cash and investments in any Account of the Bond Fund, which dates will be (i) the date on which any portion of a series of Bonds is defeased in accordance with the provisions of Section 5.01 and (ii) prior to a determination that such Value is less than the Bond Fund Account Requirement for an Account (a “Deficiency Determination”), June 30 and December 31 of each year and, after a Deficiency Determination, the last day of each month until the Value of the cash and investments in each Account of the Bond Fund equals or exceeds the Bond Fund Account Requirement therefor provided, if any such day is not a Business Day the Trustee will make such determination as of the immediately preceding Business Day (each, a “Valuation Date”).

**Value** for Permitted Investments, means (i) as to investments the value of which is established by the pricing service utilized by Trustee in its ordinary course of business, the value most recently listed for such investments by such pricing service; (ii) as to investments the value of which is not established by the pricing service utilized by Trustee, 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 investment so published on or most recently prior to such time of determination; (iii) as to investments (A) the value of which is not established by the pricing service utilized by Trustee and (B) 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 investment by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; (iv) for certificates of deposit and bankers’ acceptances, means the face amount thereof, plus accrued interest; (v) for agreements described in the definition of Permitted Investments that permit the Borrower to withdraw amounts invested thereunder at any time without penalty, the amount available to be withdrawn therefrom; and (vi) for any investment not specified above, means the value thereof established by prior agreement between the Trustee and the Borrower.

## ARTICLE 2

### Representations of Authority

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The Authority represents that, pursuant to Section 16-17-3(f) of the Authorizing Act, the Judge of Probate of Jefferson County, Alabama, has accepted, and has recorded in the office thereof in Book 344 at pages 58-65, inclusive, as amended by instrument recorded in said office in Book 1051 at pages 491-497, inclusive, the Certificate of Incorporation of the Authority whereupon the Authority has all corporate powers provided by the Authorizing Act, and vested in corporations generally under the Governing Law, and pursuant to the authority thereof has duly authorized, executed and delivered this Indenture in compliance with the Governing Law and the applicable requirements of each Governmental Authority of competent jurisdiction.

## ARTICLE 3

### Trust Estate; Limited Source of Payment of Bonds

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#### Section 3.01 Constitution of Trust Estate

For the benefit and security of the Owners, the following properties and interests in properties, as assigned and pledged to the Trustee, shall constitute the "Trust Estate" for all purposes of the Bond Documents:

- (1) all right, title and interest of the Authority in and to the Authority Pledged Property, as pledged to the Trustee pursuant to Section 3.03 of this Indenture; and
- (2) all right, title and interest of the Borrower in and to the Pledged Revenues, as pledged to the Trustee pursuant to the Borrower Security Agreement; and
- (3) all right, title and interest of the Borrower in and to the Collateral, as pledged to the Trustee pursuant to the Borrower Security Agreement; and
- (4) all right, title and interest of the Authority, the Borrower and the University in and to any Net Proceeds of insurance or condemnation, subject to the provisions of the Lease Agreement and this Indenture with respect to the application thereof; and
- (5) the all right, title and interest of the Borrower and the University in and to Facility Lease Agreement; and
- (6) all Remedy Proceeds.

#### Section 3.02 Administration and Enforcement of Security Documents

The Trustee shall administer and enforce the Security Documents in accordance with the terms thereof for the benefit of the Owners and the preservation of the Trust Estate.

#### Section 3.03 Authority Pledged Property

The Authority, to secure the payment of the Bonds and the performance of the covenants contained in this Indenture and in the Bonds, and to declare the terms and conditions on which the Bonds are secured, and in consideration of the premises and of the purchase of the Bonds by the Owners thereof, grants, bargains, sells, aliens, remises, releases, conveys, assigns, transfers, mortgages, hypothecates, pledges, sets over and confirms unto the Trustee, and grants to the Trustee security title to and a continuing security interest in, all and singular, the following described property and all proceeds and products thereof all without recourse and irrevocably in trust:

- (1) all the right, title, and interest of the Authority in and to the Pledged Revenues; and
- (2) all right, title and interest of the Authority in and to the money and Permitted Investments on deposit in, or forming a part of, the Indenture Funds, subject to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions of this Indenture; and
- (3) all right, title and interest of the Authority in and to the Lease Agreement (except for Unassigned Rights), and all Lease Payments to be made, and all powers, privileges, options and other benefits of the Authority, pursuant thereto; provided, however, that nothing contained in this Section will impair or diminish any obligation of the Authority under the Lease Agreement or impair or diminish the right of the Authority to enforce compliance with the obligations of the Borrower under the Lease Agreement; and
- (4) all the right, title, and interest of the Authority in and to all money, securities and interest earnings thereon from time to time delivered to and held by the Trustee under the terms of any of the Security Documents (excluding money on deposit in the Rebate Fund) and all other rights of every name and nature and any and all other property, rights and privileges from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, delivered, assigned, hypothecated or transferred as and for additional security hereunder by the Authority or by any Person or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof; and

**TO HAVE AND TO HOLD** all said property, rights and privileges of every kind and description, real, personal or mixed, and hereafter granted, bargained, sold, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, set over or confirmed as aforesaid, or intended, agreed or covenanted so to be, together with all the appurtenances thereto appertaining (said property, rights and privileges being in this Indenture called the "Authority Pledged Property") unto the Trustee and its successors and assigns forever;

**IN TRUST NEVERTHELESS**, on the terms and trusts herein set forth for the benefit, security, and protection of all present and future Owners of the Bonds from time to time issued under and secured by this Indenture without privilege, priority, or distinction as to the Lien or otherwise of any of the Bonds over any of the other Bonds, subject at all times to the rights of the Trustee pursuant to Article 9 hereof;

#### **Section 3.04 Title to; Preservation of; Authority Pledged Property**

- (a) The Authority has title to, and the beneficial interest in, and is lawfully possessed of, the properties, rights and interests in properties that comprise the Authority Pledged Property free and clear of any Lien.
- (b) The Authority covenants and agrees to warrant and defend the title to the Authority Pledged Property and every part thereof to the Trustee, its successors and assigns, against the claims and demands of all Persons.
- (c) Except as provided in this Indenture, the Authority will not (i) pledge, sell, transfer or convey the Authority Pledged Property or any part thereof, or (ii) create or incur or suffer or permit to be created or incurred or to exist any Lien on the Authority Pledged Property or any part thereof; or (iii) incur any indebtedness (whether direct, indirect or contingent) payable from or secured by the Authority Pledged Property.
- (d) The Authority agrees to execute, acknowledge and deliver such additional instruments as the Trustee may deem necessary in order to preserve, protect, continue, extend or maintain the pledge and Lien created hereby as a Lien on the Authority Pledged Property.
- (e) To the extent permitted by Applicable Law, the Authority (and all who claim under it) waives the application, and will not claim or take the benefit, of any appraisal, marshalling, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture.

#### **Section 3.05 Limitations of Liability and Recourse for Payment of Bonds**

The Authority, the Trustee and the Owners (by acquisition of an interest in a Bond) covenant and agree:

- (1) The Authority will pay the Bonds solely from the Trust Estate as provided in this Indenture. The Authority shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims, or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Indenture, the Bonds, or the Lease Agreement, except only to the extent amounts are received for the payment thereof from the Borrower.
- (2) The covenants and agreements contained in this Indenture do not, and shall never, constitute or give rise to a personal or pecuniary liability or charge against the general credit of the Authority and in the event of a breach of any such covenant or agreement, no personal or pecuniary liability or charge payable directly or indirectly from the general assets or revenues of the Authority (other than the Trust Estate) shall arise therefrom.
- (3) The Bonds do not, and shall never, constitute or create an indebtedness or pecuniary liability payable from, or a charge against, the revenues, assets, general credit, or taxing powers of any Governmental Authority within the meaning of any constitutional provision or statutory limitation whatsoever.
- (4) No recourse under or upon any covenant or agreement of this Indenture, or of any Bonds, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future Authority Indemnified Person either directly or through the Authority, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the Bonds issued under this Indenture are solely corporate obligations, and that no personal liability whatever shall attach to, or is or shall be incurred by, Authority Indemnified Person or any successor corporation, or any of them, because of the issuance of the Bonds, or under or by reason of the covenants or agreements contained in this Indenture or in any Bonds or implied therefrom, and all such liability of any Authority Indemnified Person as such is expressly and irrevocably waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of the Bonds.
- (5) The Trustee hereby acknowledges that the Authority's sole source of money to repay the Bonds is provided by the Trust Estate, and hereby agrees that if such amounts ever prove insufficient to pay all principal of, premium, if any, and interest on the Bonds as the same become due (whether by maturity, redemption, acceleration, or otherwise) or any costs incidental thereto, then the Trustee shall give notice to the Borrower to pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal, premium, if any, Redemption Price, interest, or costs incidental thereto including, but not limited to, any deficiency caused by acts, omissions, nonfeasance, or malfeasance on the part of the Trustee, the Borrower, the Authority, or any third party, subject to any right of reimbursement from the Trustee, the Authority, or any such third party, as the case may be, therefor.



(6) None of the provisions of this Indenture shall require the Authority to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless payable from the Trust Estate, or unless the Authority shall first have been adequately indemnified to its satisfaction against the cost, expense, and liability which may be incurred thereby. The Authority shall not be under any obligation hereunder to perform any administrative service for the Bonds or the Project (including, without limitation, record keeping and legal services), it being understood that such services will be performed or provided by the Trustee or the Borrower. The Authority covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions expressly contained in the Lease Agreement, this Indenture, and any and every Bond executed, authenticated, and delivered under this Indenture; provided, however, that the Authority shall not be obligated to take any action or execute any instrument under any provision hereof unless and until it has (a) been requested to do so in writing by the Borrower, the Trustee, or a Majority of the Owners, having the authority to so direct, (b) received from the party requesting such action or execution assurance satisfactory to the Authority that the Authority's expenses incurred or to be incurred in connection with taking such action or executing such instrument have been paid or will be paid or reimbursed to the Authority and (c) if applicable, received in a timely manner the instrument or document to be executed, in form and substance satisfactory to the Authority. In complying with any provision in the Lease Agreement or herein, including, but not limited to, any provision requiring the Authority to "cause" another Person to take or omit any action, the Authority shall be entitled to rely conclusively (and without independent investigation or verification) (i) on the faithful performance by the Trustee or the Borrower, as the case may be, of their respective obligations under the Lease Agreement and hereunder, and (ii) upon any written certification or opinion furnished to the Authority by the Trustee or the Borrower, as the case may be. In acting, or in refraining from acting under this Agreement, the Authority may conclusively rely on the advice of its counsel. The Authority shall not be required to take any action hereunder or under the Lease Agreement that it reasonably believes to be unlawful or in contravention hereof or thereof.

(7) Nothing in this Indenture shall be deemed or construed to limit, impair, or affect in any way the Authority's (or any Authority Indemnified Person's) right to enforce the Unassigned Rights, regardless of whether there is then existing an Event of Default (including, without limitation, a payment default), or any action based thereon or occasioned by an Event of Default or alleged Event of Default, and regardless of any waiver or forbearance granted by the Trustee or any Owner in respect thereof. Any default or Event of Default in respect of the Unassigned Rights may only be waived with the Authority's written consent.

## ARTICLE 4

### The Bonds

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#### Section 4.01 Authorization of Bonds

(a) The Authority may, pursuant to and in accordance with the Governing Law and this Indenture, authorize and issue "bonds" (within the meaning of the Authorizing Act) in series, from time to time and at any time, for any lawful purpose and without limit as to aggregate principal amount, payable solely from, and secured by a pledge of, the Trust Estate on an equal and proportionate basis and parity of Lien with all Bonds.

(b) The general title of Bonds of all series shall be "Revenue Bonds (CHF - Horizons I, L.L.C. Recreation\Wellness\Athletic Center Project at Samford University)" provided the Authority shall incorporate in or add to the general title of any particular series of the Bonds any words, letters, or figures to distinguish that series.

(c) The several series of Bonds may differ as between separate series in any respect not in conflict with this Indenture and as may be prescribed in the Supplemental Indenture creating each such series of Bonds; provided, all Bonds of the same series shall be substantially identical except that any series may have serial maturities and different interest rates for different maturities.

(d) Each series of Bonds shall be issued on the terms provided therefor in a Supplemental Indenture; provided, however:

(1) interest on all Bond shall become due and payable on a Stated Interest Payment Date;

(2) principal of all Bonds shall become due and payable (by stated maturity or mandatory redemption) on a Stated Principal Payment Date; and

(3) any Bond having a stated maturity more than ten (10) years after its date shall be made subject to redemption at the option of the Authority at the expiration of ten (10) years from its date and on any Stated Interest Payment Date thereafter.

(e) The Authority may, at the time of authorization of any series of Bonds, or at any later time thereafter, make provisions for the Bonds of such series to be held pursuant to a Book-Entry System.

#### Section 4.02 Authorization of Series 2024 Bonds

The Authority authorizes the issuance of the Series 2024 Bonds pursuant to Supplemental Indentures delivered simultaneously with the delivery of this Indenture without compliance Section 4.03.

### Section 4.03 Issuance and Delivery of Additional Bonds

(a) So long as no Event of Default hereunder is then existing (or so long as such Event of Default is cured on the issuance of Additional Bonds), the Authority may, but is not obligated to, issue Additional Bonds on the written request of the Borrower to provide funds to pay any one or more of the following:

- (1) the costs of completing a Project;
- (2) the costs of making such modifications, repairs, renewals, improvements, replacements, alterations, additions, enlargements, or expansions in, on, or to the Project, including any and all machinery, furnishings and equipment therefor as the Borrower deems necessary or desirable that will not impair the nature of the Project and will be located on the Property;
- (3) the costs of refunding (in whole or in part) any Bonds;
- (4) the costs of the acquisition, equipping, and construction of additional property and housing (including related buildings and ancillary facilities) to be utilized for the benefit of the University, including the acquisition of personal and real property;
- (5) in each of the foregoing cases, the costs of the issuance and sale of the Additional Bonds, capitalized or funded interest, the cost of funding a debt service reserve fund and such other costs reasonably related to the financing as agreed on by the Borrower and the Authority.

(b) Each series of Additional Bonds may be issued on a parity with all Bonds Outstanding and thereafter issued, and will be secured by the Lien and security interests granted by this Indenture equally and ratably with all Bond Outstanding and thereafter issued.

(c) Except in the case of clause (a)(1) above relating to the completion bonds (including, in each case, the costs of issuance and sale of the Additional Bonds, capitalized or funded interest, the cost of funding a debt service reserve fund and such other costs reasonably related to the financing as agreed on by the Borrower and the Authority), no Additional Bonds will be issued under this Indenture unless and until there is furnished to the Trustee written confirmation from each Rating Agency then rating any series of Outstanding Bonds that subsequent to the issuance of such Additional Bonds, the existing underlying rating or ratings on any series of Outstanding Bonds will not be lowered, suspended or withdrawn.

(d) Notwithstanding anything else contained herein or in the Lease Agreement, the Borrower is authorized to incur additional Indebtedness in the form of financing leases for the acquisition of equipment.

(e) On the execution and delivery in each instance of an appropriate indenture supplemental hereto, the Authority will execute and deliver to the Trustee, and the Trustee will register and authenticate, Additional Bonds and deliver them to the purchaser or purchasers as may be directed by the Authority, provided, prior to the delivery by the Trustee of any such Additional Bonds, there will be filed with the Trustee:

- (1) if, and to the extent, necessary, a valid and effective amendment to the Lease Agreement providing for the inclusion within the Project of any real estate and interests therein and any buildings, structures, facilities, machinery, equipment, and related property to be acquired by purchase or construction from the proceeds of the Additional Bonds and providing for an increase in the Basic Lease Payment obligations of the Borrower;

(2) if, and to the extent, necessary, a valid and effective amendment to the Facility Lease Agreement providing for the inclusion within the Project of any real estate and interests therein and any buildings, structures, facilities, machinery, equipment, and related property to be acquired by purchase or construction from the proceeds of the Additional Bonds and providing for an increase in the Base Rent obligations of the University;

(3) a valid and effective Supplemental Indenture providing for the issuance of such new series of Additional Bonds and subjecting to the Lien hereof, the amendments to the Lease Agreement, amendments to the Facility Lease Agreement, and the Borrower Security Agreement;

(4) a valid and effective amendment to the Borrower Security Agreement, granting a security interest to the Trustee in the Borrower's interest in any contract documents and/or agreements entered into in connection with the use of proceeds of such Additional Bonds and assigning and pledging to the Trustee the Borrower's interest, rights, and benefits thereof and therefrom;

(5) a copy, duly certified by an Authorized Signatory, of a resolution of the Authority theretofore adopted and approved authorizing the execution and delivery of such Supplemental Indenture, such amendment to the Lease Agreement, and the issuance of such Additional Bonds;

(6) a request and authorization to the Trustee on behalf of the Authority, signed by an Authorized Signatory, to authenticate and deliver such Additional Bonds to the purchaser or purchasers therein identified on payment to the Trustee, for the account of the Authority, of a specified sum plus any accrued interest; the proceeds of such Additional Bonds will be paid over to the Trustee and deposited to the credit of the Bond Fund or to such other Indenture Fund as are provided and created by the Supplemental Indenture;

(7) a certificate signed by an Authorized Borrower Representative to the effect that no Event of Default under this Indenture or the Lease Agreement is then existing or will result from the issuance of such Additional Bonds;

(8) a Favorable Opinion of Bond Counsel and an Opinion of Counsel to the effect that the Additional Bonds are secured on parity to the Bonds and that the Additional Bonds have been validly issued;

(9) if required, an endorsement of the mortgagee's title insurance policy or a separate policy required by the Lease Agreement in an amount sufficient to make the face amount of the policy equal to the sum of the then Outstanding Principal Amount of the Bonds;

(10) such other documents as the Trustee or the underwriter of such Additional Bonds may require.

#### **Section 4.04 Accrual of Interest on Bonds**

The Outstanding Principal Amount of each Bond shall accrue interest at the per annum rate of interest thereof calculated on the basis of a 360-day year of 12 consecutive 30-day months for the period beginning on (and including) the date of delivery of and payment for such Bond and continuing thereafter until (but not including) the date on which the principal of such Bond is paid in full and retired; provided that, anything in this Indenture or in the Bonds to the contrary notwithstanding, interest on the principal amount (or portion thereof called for redemption) of any Bond will cease to accrue from and after the date on which:

- (1) such Bond shall have been replaced pursuant to Section 4.09; or
- (2) such Bond shall have been delivered to the Trustee for cancellation pursuant to Article 13; or
- (3) the principal (or a stated portion thereof) of such Bond shall have become due and payable by stated maturity or redemption and on such maturity date or redemption date the Trustee holds, pursuant to Section 6.01(d), trust funds in an aggregate amount sufficient to pay in full the principal (or portion thereof called for redemption) of, and interest on, such Bond becoming due and payable on such date.

#### **Section 4.05 Execution of Bonds**

(a) The Authority authorizes and directs the Chair and Secretary of the Authority to execute, seal and attest the Bonds presented for issuance and delivery pursuant to this Indenture on each of the following dates:

- (1) the initial date of delivery of, and payment for, a Bond; and
- (2) the date of partial redemption of a Bond; and
- (3) the date of transfer, exchange or replacement of a Bond.

(b) The Authority and the Trustee will treat as valid for all purposes of this Indenture all Bonds executed by the natural person who on the date of such execution thereof validly holds and exercises the office of Chair of the Authority without regard to whether at any time prior to, or after, the date of delivery of such Bond such person shall have ceased to hold and exercise such office.

#### **Section 4.06 Authentication of Bonds**

(a) The Trustee will, by duly authorized officer thereof, authenticate, register and deliver all executed Bonds delivered by the Authority to the Trustee for such purpose in accordance with (i) the written instructions of the Authority with respect thereto and (ii) the procedures and rules of the Securities Depository to the extent applicable thereto.

(b) The authentication of a Bond by a duly authorized officer of the Trustee shall be effective for all purposes of this Indenture.

#### **Section 4.07 Registration of Bonds**

(a) The Authority shall cause the Bond Register to be kept at the Office of the Trustee in which, subject to such reasonable regulations as it may prescribe, the Authority shall provide for the registration of Bonds.

(b) The Bond Registrar will register the ownership of each of the Bonds on the Bond Register in the name of the Person who shall have acquired such Bond.

#### **Section 4.08 Transfer and Exchange of Bonds**

(a) The Owner of any Bond may, except as provided in Section 4.07(c), transfer such Bond upon the Bond Register by surrender of such Bond to the Trustee with endorsement for transfer thereon, or with a written instrument of transfer acceptable to the Trustee, executed by such Owner or the attorney thereof authorized in writing therefor and by payment in advance in immediately available funds of all expenses and governmental charges to be incurred by the Authority and the Trustee in connection with such transfer, whereupon pursuant to this Indenture the Authority will execute, and the Trustee will authenticate, register and deliver to such transferee as directed in writing by such Owner a new Bond of the same series, dated the date of transfer, and of like tenor, Stated Principal Payment Date, interest rate, and in a principal amount in Authorized Denominations equal to the Outstanding Principal Amount, of the Bond so surrendered.

(b) The Owner of any Bond in a face amount of more than the smallest Authorized Denomination may, except as provided in Section 4.07(c), surrender the same in exchange for more than one Bond, each in a principal amount which is an integral multiple of an Authorized Denomination and each having the same stated maturity, interest rate, and principal amount as the Bond so surrendered, whereupon pursuant to this Indenture the Authority will execute, and the Trustee will authenticate, register and deliver to such transferee as directed in writing by such Owner a new Bond of the same series, dated the date of transfer, and of like tenor, Stated Principal Payment Date, interest rate, and in a principal amount in Authorized Denominations equal to the Outstanding Principal Amount, of the Bond so surrendered.

(c) Anything in this Indenture or in the Bonds to the contrary notwithstanding, the Trustee is not required to transfer or exchange any Bond during the period beginning on a Record Date and ending on the then next succeeding Stated Interest Payment Date, or during the period of forty-five days next preceding any date established for optional redemption, mandatory redemption, or extraordinary mandatory redemption of such Bond.

**Section 4.09 Replacement of Bonds Upon Request or for Conformance to Supplemental Indenture**

(a) An Owner may by written instrument request the Authority and the Trustee to issue a new Bond in replacement of any Bond which such Owner proves to the satisfaction of the Authority and the Trustee to have been lost, destroyed, or mutilated (so the same is not held by the Owner as the property thereof) and shall not have been acquired by a bona-fide purchaser, by delivery to the Office of the Trustee of such indemnity and security as the Authority and the Trustee shall require to save harmless the Authority and the Trustee from any claim whatsoever by reason of compliance with this Section, and the payment of any governmental charges and expenses of the Authority in connection therewith, then, in the absence of actual notice to the Authority or a Responsible Officer that such Bond has been acquired by a bona fide purchaser, pursuant to this Indenture the Authority shall execute and the Trustee shall thereupon authenticate, register and deliver, in exchange for or in replacement of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same series dated the date of replacement and of like tenor, Stated Principal Payment Date, interest rate, and in a principal amount in Authorized Denominations equal to the Outstanding Principal Amount, of the Bond so replaced.

(b) The Authority may, and shall if required by the Trustee, upon the delivery of any Supplemental Indenture, execute and deliver, and the Trustee shall thereupon authenticate, register and deliver, new Bonds modified as to conform, in the determination of the Trustee and the Authority, to such Supplemental Indenture, in exchange for or in replacement of the Bonds; provided each such new Bond shall be dated the date of replacement and of the same series, like tenor, stated maturity date, interest rate, and in a principal amount in Authorized Denominations equal to the Outstanding Principal Amount, of the Bond so replaced thereby.

**ARTICLE 5**

**Defeasance and Redemption of Bonds**

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**Section 5.01 Defeasance of Bonds; Defeasance Fund**

(a) The Authority may provide for the payment of all or any of the Bonds in advance of, or on, the stated maturity date thereof, by establishing a separate, irrevocable, trust fund (a "Defeasance Fund") for such purpose with the Trustee, for the exclusive and sole benefit of the Owners of the Bonds to be paid therefrom, and depositing therein Defeasance Obligations which (assuming the due and punctual payment thereof) will provide funds sufficient to pay in full when due the Debt Service with respect to such Bonds to and including the date of redemption, in whole, or maturity thereof; provided:

(1) if any of such Bonds are to be redeemed prior to their respective maturities, the Authority shall confer on the Trustee irrevocable authority to effect such redemption in accordance with this Indenture;

(2) the Trustee shall have received (i) a Favorable Opinion of Bond Counsel to the effect that the establishment of, and the investment of amounts on deposit in, a Defeasance Fund for such Bonds will not cause interest on any of such Bonds which was issued as a Tax-Exempt Bond to be or become Taxable and (ii) a Certificate of an Independent Auditor to the effect that the aggregate principal amount of the Defeasance Obligations on deposit in the Defeasance Fund, and the income therefrom, without reinvestment, shall be sufficient to pay in full when due the Debt Service on such Bonds; provided, anything in this Indenture to the contrary notwithstanding, the Certificate of an Independent Auditor shall not be required with respect to a Defeasance Fund if (A) only U.S. Currency in an amount not less than the total Debt Service to be paid therefrom is deposited in such Fund and (B) all amounts in such Fund are to expended for the purposes thereof within 90 days from the date such Fund was established.

(b) The Trustee shall apply all amounts in a Defeasance Fund solely for the payment when due of the Debt Service with respect to the Bonds for which such fund was established.

(c) Anything in this Indenture to the contrary notwithstanding, the Owner of each Bond for the benefit of which a Defeasance Fund shall have been created and funded shall have the right to consent, by Act thereof, to any amendment to the provisions of this Section as long as such Bond shall be subject to the accrual of interest thereon.

#### **Section 5.02 Special Provisions for Optional Redemption of Bonds**

- (a) The Authority shall effect the optional redemption of the Bonds at the Redemption Price thereof on each applicable Business Day established therefor pursuant to the terms thereof and the provisions of this Section.
- (b) The Authority may provide for the optional redemption, in whole or in part, of one or more series of such Bonds without the redemption, in whole or in part, of any other series of Bonds.
- (c) The Authority may redeem less than all of the Bonds of any series upon written notice thereof to the Trustee, by such date in advance of the proposed redemption date as shall enable the Trustee to comply with this Indenture with respect thereto, which notice shall designate the order, and the aggregate principal amount, by stated maturity and in Authorized Denominations, of the Bonds of such series to be redeemed. The Trustee or the Securities Depository, as applicable, will determine the principal amount of a Bond or Bonds to be redeemed within a maturity.
- (d) The Authority may, anything in this Indenture to the contrary notwithstanding, provide for the conditional optional redemption of any Bond (or portion or portions thereof) contingent upon specified conditions, such as deposit or receipt of funds necessary for such redemption or the occurrence of specified events, provided, if the conditions for such optional redemption are not satisfied prior to the proposed date established for redemption, such Bonds shall not be subject to redemption on such date and the Authority shall not be required to redeem such Bonds (or portions thereof) subject to such conditional redemption. The Authority shall return any Bonds surrendered upon such call for conditional optional redemption to the Owners thereof. The failure of the Authority to redeem any Bond called for conditional optional redemption as provided in this Section shall not constitute an Event of Default.
- (e) The Trustee shall give notice of optional redemption of any Bonds in form and manner as set forth Section 5.05 not less than 30 days prior to the proposed date established for such redemption.
- (f) The Authority will establish, pursuant to separate agreement with the Trustee, a Defeasance Fund for all Bonds called, in whole or in part, for optional redemption.
- (g) The Authority agrees to pay the Redemption Price of each Bond (or principal amount thereof) called for optional redemption on the Business Day established for such redemption solely from the Defeasance Fund established therefor in the manner and as provided in this Indenture for the payment of the Bonds.

#### **Section 5.03 Special Provisions for Mandatory Redemption of Bonds**

- (a) The Authority shall effect the mandatory redemption of any Bonds at the Redemption Price thereof on each applicable Stated Principal Payment Date pursuant to the terms thereof and the provisions of this Section.
- (b) The Trustee shall give notice of such mandatory redemption in form and manner as set forth in Section 5.05 not less than 30 days prior to the proposed date established for such redemption.
- (c) The Trustee or the Securities Depository, as appropriate, will determine, on the basis of the smallest Authorized Denomination:
  - (1) by random selection the particular Bonds of each series to be redeemed by mandatory redemption; and
  - (2) the principal amount of a Bond to be redeemed within a maturity.
- (d) The Authority agrees to pay the Redemption Price thereof on each Bond (or principal amount thereof) on the Stated Principal Payment Date on which such Bond shall have been called for mandatory redemption solely from the Bond Fund in the manner and as provided in this Indenture for the payment of the Bonds.

#### **Section 5.04 Special Provisions for Extraordinary Redemption of Bonds**

- (a) The Bonds of each series are subject to extraordinary redemption by the Trustee at the applicable Redemption Price therefor as provided in Section 6.02 and in the respective Supplemental Indenture providing in such series of Bonds.
- (b) The Trustee shall give notice of extraordinary mandatory redemption of any Bonds in form and manner as set forth Section 5.05 not less than 30 days prior to the proposed date established for such redemption.
- (c) The Trustee or the Securities Depository, as appropriate, will determine, on the basis of the smallest Authorized Denomination:
  - (1) the aggregate principal amount of the Bonds of each series to be redeemed by extraordinary redemption on a proportionate basis, without preference or priority, according to the aggregate principal amount of the Bonds of each series and the aggregate amount on deposit in the Extraordinary Redemption Fund (rounded down to the highest Authorized Denomination) on the date on which the Trustee must give the required notice of redemption pursuant to Section 5.05(b); and
  - (2) by random selection the particular Bonds of each series to be redeemed by extraordinary redemption; and
  - (3) the principal amount of a Bond to be redeemed within a maturity.
- (d) The Authority authorizes and directs the Trustee to pay the Redemption Price of all Bonds called for extraordinary redemption, in whole or in part, solely from the Redemption Fund in the manner and as provided in this Indenture for the payment of the Bonds.

#### Section 5.05 Notice of Redemption

(a) The Authority authorizes and directs the Trustee to give notice of redemption, in the name and at the expense of the Authority, to the Owner of each Bond to be redeemed (in whole or in part), subject to waiver by any Owner of notice of redemption of the Bonds thereof, by United States registered or certified mail or, if the Securities Depository is the Owner, at the times and in the manner as provided in the rules and procedures of the Securities Depository, at the address of such Owner in the Bond Register, by the date in advance of the proposed date of redemption as specified in the Section of this Indenture which provides for such redemption.

(b) All notices of redemption shall state: (i) the principal amount and CUSIP numbers of the Bonds to be redeemed, in whole or in part; (ii) the Business Day, or Stated Interest Payment Date, established for such redemption; (iii) the applicable Redemption Price; (iv) whether such redemption is mandatory, optional or extraordinary; (v) that the Redemption Price of each of the Bonds (or principal portion thereof) to be redeemed will become due and payable on the stated redemption date and that interest thereon shall cease to accrue from and after said date; (vi) to the extent required for Bonds in certificated form, the place or places where the Bonds to be redeemed are to be surrendered for payment of such Redemption Price; (vii) if applicable, the terms upon which optional redemption is contingent upon specified conditions; and (viii) such additional terms or provisions which the Trustee may determine to be necessary or desirable or required by Applicable Law or the internal procedures of the Trustee.

(c) The Authority and the Trustee shall, to the extent practical under the circumstances, comply with the standards set forth in Securities and Exchange Commission's Exchange Act Release No. 23856 regarding redemption notices, provided that their failure to do so shall not in any manner defeat the effectiveness of call for redemption if notice thereof is given as prescribed in this Section.

#### ARTICLE 6

##### Payment of Bonds; Indenture Funds

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#### Section 6.01 Payment of Bonds

(a) The Trustee shall, for the account of the Authority, pay Debt Service on the Bonds in U.S. Currency immediately available, as follows:

(1) the Trustee will pay to the Owners in whose names the Bonds are registered in the Bond Register: (i) at the close of business on the Record Date, the interest on the Bonds due on each Stated Interest Payment Date, and (ii) the principal of the Bonds due (by maturity or mandatory redemption) on each Stated Principal Payment Date only upon presentation and surrender thereof at the Principal Office of the Trustee, and (iii) the Debt Service on the Bonds due on each date established for optional redemption, extraordinary redemption, or payment in full upon acceleration, of any Bond only upon presentation and surrender thereof at the Office of the Trustee; and

(2) the Trustee will, upon the written request of the Owner of any Bond in a principal amount of not less than \$1,000,000, make payment of Debt Service on such Bond when due by wire transfer to an account of such Owner maintained at a bank in the continental United States or by any other method providing for payment in same-day funds that is acceptable to the Trustee, if such written request contains adequate instructions for the method of payment and final payment of principal is made upon such surrender of the Bond or Bonds.

(b) If any payment on the Bonds is due on a day which is not a Business Day, such payment shall be made, in the same amount, on the first succeeding day which is a Business Day, with the same effect as if made on the date on which such payment was due.

(c) All payments to the Owners of Debt Service on the Bonds on behalf of the Authority or the Trustee shall be valid and effectual to discharge, satisfy and terminate the liability of the Authority, the Borrower, and the Trustee to the extent of the amounts so paid.

(d) If an Owner fails to present or surrender the Bond or Bonds thereof on any date established for payment of principal thereof, the Trustee shall transfer amounts held in the Bond Fund, or in a Defeasance Fund, as applicable, sufficient for the payment of Debt Service on such Bond or Bonds to a separate trust fund created by the Trustee for such purpose and hold such amounts in trust for the sole benefit of the Person or Persons entitled thereto, which amounts shall not be invested and shall not constitute part of the Trust Estate. Any amounts held in trust by the Trustee pursuant to this Section which are unclaimed for three (3) years after the date on which payment thereof was due to have been made shall, subject to Applicable Law, be paid to the Authority upon written request of an Authorized Signatory and the Owner of any such Bond or Bonds to be paid from such amounts shall thereafter, as an unsecured general creditor, have recourse only to the University for payment thereof, and all liability of the Trustee with respect to such trust money shall cease; provided, however, the Trustee may, prior to payment of such amounts to the University and at the written direction and expense of the University, publish notice once, by financial newspaper of national circulation or by Electronic Means as the Trustee determines is appropriate, that such amounts remain unclaimed and that, after a date specified in such notice (which shall be not less than 30 days after publication of such notice), such amounts will be paid to the University.

## **Section 6.02 Establishment of, and General Provisions for, the Indenture Funds**

### **(a) Establishment of Funds**

The Authority creates and establishes the following funds each as an Indenture Fund under this Indenture subject to the Lien of this Indenture pursuant to Section 3.01(2) for the application and purposes set forth therefor in this Article:

- (1) Bond Fund;
- (2) Redemption Fund;
- (3) Insurance and Condemnation Fund;
- (4) Special Additional Rent/Lease Payments Fund.

### **(b) Trustee as Depository of Funds**

- (1) The Authority authorizes and directs the Trustee to:
  - (i) hold each of the Indenture Funds, in trust, as custodian, depository and disbursing agent for each such Fund subject to the Lien of this Indenture for the benefit of the Owners;
  - (ii) deposit, invest, value and apply the funds in each of the Indenture Funds as provided therefor in this Article.
- (2) The Authority agrees the Trustee shall not be liable for any misapplication of amounts in an Indenture Fund if disbursed pursuant to this Indenture and without actual knowledge that such disbursement constitutes a misapplication of funds.

### **(c) Application of Funds from Borrower For Prepayment of Lease Agreement**

The Authority authorizes and directs the Trustee to transfer all amounts delivered to the Trustee by the Borrower pursuant to Article 13 of the Lease Agreement to the Redemption Fund, and thereupon effect the redemption of Bonds Outstanding in an aggregate principal amount for which such amounts are sufficient to pay the Redemption Price thereof, on the first redemption date for which the required notice may be given, 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.

### **(d) Application of Indenture Funds to Redeem All Bonds Outstanding**

The Authority authorizes and directs the Trustee to transfer all amounts in each of the Indenture Funds to the Redemption Fund, and effect the redemption of all Bonds Outstanding on the first redemption date for which the required notice may be given, upon (i) receipt by the Trustee of written instruction therefor by an Authorized Borrower Representative accompanied by the written consent of an Authorized University Representative and (ii) verification by the Trustee that the aggregate amount of funds in the Indenture Funds is sufficient to pay on such redemption date the Redemption Price of all Bonds Outstanding and all other amounts necessary to be paid under the Bond Documents, on or before such redemption date, to effect the discharge and termination of this Indenture pursuant to Section 13.03.

### **(e) Application of Indenture Funds and Remedy Proceeds Upon Event of Default**

The Authority authorizes and directs the Trustee, upon the occurrence of an Event of Default and the consequent declaration by the Trustee that the principal of all Bonds Outstanding are due and payable, to transfer all Remedy Proceeds, and all amounts in the Indenture Funds, after payment of all amounts which are due and owing to the Trustee under Section 9.02, to the Redemption Fund and thereupon effect the redemption of Bonds Outstanding in an aggregate principal amount for which such amounts are sufficient to pay the Redemption Price thereof, on the first redemption date for which the required notice may be given, 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.

### **(f) Application of Indenture Funds Upon Discharge of Indenture**

The Authority authorizes and directs the Trustee to apply the funds in the Indenture Funds as provided in Section 13.04 upon the discharge and termination of this Indenture.

#### **Section 6.03 Bond Fund.**

(a) The Authority authorizes and directs the Trustee to establish in the Bond Fund a separate Account for each series of Bonds simultaneously with the issuance of such Bonds. The amounts in each Account of the Bond Fund shall be allocated to, and applied only to pay the Debt Service on, the series of Bonds for which such Account was established.

(b) The Authority authorizes and directs the Trustee to credit to, or deposit in, each of the Accounts of the Bond Fund, when and as received, pro-rata in proportion to the amounts available therefor, without preference or priority of any Account or series of Bonds over another:

(1) all amounts required to be deposited in the Bond Fund pursuant to this Indenture, including without limitation from (i) the Indenture Funds described in Section 6.02 and (ii) Section 6.07, and;

(2) the amount required to be deposited therein by any of the other Bond Documents, including without limitation Sections 7.02 (Basic Lease Payments) and 8.05 of the Lease Agreement, and Section 3(a) (Base Rent) and (c) of the Facility Lease Agreement, and

(3) all amounts delivered to the Trustee from any Person (including without limitation the University) with written instructions to deposit such amounts in a specified Account of the Bond Fund.

(c) The amount on deposit in, or credited to, each Account of the Bond Fund shall never exceed the Bond Fund Account Requirement therefor. The Trustee shall, on each date of deposit of any amount in an Account of the Bond Fund, determine the Value of the funds and investments credited thereto and transfer the amount therein, if any, by which the Value of such funds and investments in such Account on such date exceeds the Bond Fund Account Requirement for such Account, to the extent of any remaining excess amount, to the Redemption Fund.

(d) The Authority authorizes and directs the Trustee to apply the amounts in each Account of the Bond Fund to the payment of Debt Service becoming due and payable on each Stated Interest Payment Date and each Stated Principal Payment Date on the series of Bonds for which such Account was established, provided, if on any such payment date there are insufficient funds in any Account of the Bond Fund to pay Debt Service then due on the Bonds payable from such Account, the Authority authorizes and directs the Trustee to apply the amounts in such Account first to the payment of the interest component of such Debt Service (or if available amounts are insufficient, to the proportionate payment thereof without preference or priority) and second to the payment of the principal component of such Debt Service (or if available amounts are insufficient, to the proportionate payment thereof without preference or priority).

(e) The Authority authorizes and directs the Trustee to apply, anything in this Indenture to the contrary notwithstanding, (i) all amounts transferred to, or deposited in, each Account of the Bond Fund to the payment of the Bonds for which such Account was established within 13 months of the date of such deposit or transfer and (ii) all income and profits received from the investment of amounts in such Account to the payment of the Bonds for which such Account was established within 12 months of the date of receipt thereof.

(f) The Authority authorizes and directs the Trustee to transfer funds from the Bond Fund to:

(1) the Redemption Fund pursuant to Section 6.02; and

(2) the Rebate Fund as provided, and in the order of transfers, in Section 12.02(h).

#### **Section 6.04 Redemption Fund.**

(a) The Authority authorizes and directs the Trustee to establish a separate Account within the Redemption Fund for each series of Bonds simultaneously with the issuance thereof.

(b) The Authority authorizes and directs the Trustee to credit to, or deposit in, each of the Accounts of the Redemption Fund, when and as received, pro-rata in proportion to the amounts available therefor, without preference or priority of any Account or series of Bonds over another:

(1) all amounts required to be deposited in the Redemption Fund pursuant to this Indenture, including without limitation from (i) Section 6.02, (ii) the Bond Fund (Section 6.03(c)), and (iii) Section 6.07; and

(2) all amounts required to be deposited in the Redemption Fund pursuant to any of the other Bond Documents, including without limitation Sections 4.05, 7.02(b)(1)(iii), 8.02, 9.01, 9.02, and Article 13 of the Lease Agreement; and

(3) all amounts delivered to the Trustee by any Person with written directions to deposit such amounts in a specified Account of the Redemption Fund.

(c) The amounts in each Account of the Redemption Fund shall be allocated and applied to pay the Redemption Price on each date fixed for redemption of:

(1) for any series of Tax-Exempt Bonds, the series of Bonds for which such Account was established and

(2) for any series of Taxable Bonds, such series of Taxable Bonds and such other series of Bonds as may be provided in the Supplemental Indenture which shall have created such Taxable Bonds.



**Section 6.05 Insurance Fund and Condemnation Fund.**

- (a) The Authority authorizes and directs the Trustee to establish the Insurance Fund and Condemnation Fund the funds are required to be deposited therein as provided in the Lease Agreement, including without limitation Sections 4.05, 6.01, 9.01, and 9.02 thereof, and Section 6.07 of this Indenture.
- (b) The Trustee will establish within the Insurance Fund, and within the Condemnation Fund, a separate Account for each series of Bonds Outstanding.
- (c) The Authority authorizes and directs the Trustee to disburse funds held in the Insurance Fund or in the Condemnation Fund in accordance with the Lease Agreement on receipt of a requisition for payment substantially in the form attached hereto as Schedule 6.05 which, by this reference thereto, is incorporated herein, executed by an Authorized Borrower Representative.
- (d) All amounts required to be deposited in the Insurance Fund or in the Condemnation Fund in accordance with the Lease Agreement will, anything in the Bond Documents to the contrary notwithstanding, be deposited in the applicable Account thereof, and, prior to the occurrence of an Event of Default, any amounts in an Account of the Insurance Fund or the Condemnation Fund shall be used only to restore that portion of the Project in respect of which such Account was established, to acquire land and/or improvements in substitution for that portion of the Project in respect of which such Account was established, or to make payments on the series of Bonds in respect of which such Account was established.
- (e) The Authority authorizes and directs the Trustee to transfer funds from the Insurance Fund and the Condemnation Fund to the Redemption Fund pursuant to Section 6.02.
- (f) The amounts in the Insurance Fund and the Condemnation Fund are for the purposes described in this Section and the Authority is not, anything in the Bond Documents to the contrary notwithstanding, required to maintain any amount in the Insurance Fund or the Condemnation Fund for the purposes of payment of Debt Service on any of the Bonds.

**Section 6.06 Special Additional Rent/Lease Payments Fund**

- (a) The Authority authorizes and directs the Trustee to credit to, or deposit in, the Special Additional Rent/Lease Payments Fund, when and as received:
- (1) all amounts required to be deposited in such Fund pursuant to this Indenture, including without limitation Section 6.07; and
  - (2) the amount required to be deposited therein by any of the other Bond Documents, including without limitation Sections 7.02(b) (Additional Lease Payments) of the Lease Agreement, and Section 3(b) (Additional Rent) and (c) of the Facility Lease Agreement, and
  - (3) all amounts delivered to the Trustee from any Person with written instructions to deposit such amounts in the Special Additional Rent/Lease Payments Fund.
- (b) The Authority hereby authorizes and directs the Trustee to withdraw funds from the Special Additional Rent/Lease Payments Fund:
- (1) to pay directly, or to reimburse the Borrower for the payment of, the costs and expenses that the Borrower is obligated to pay under Section 7.02(b) of the Lease Agreement, or the University is obligated to pay under Section 3(b) of the Facility Lease Agreement, forthwith upon receipt of written direction of an Authorized Borrower Representative accompanied by documentation that such costs and expenses are due and payable or have been theretofore paid by the Borrower;
  - (2) to transfer funds from the Special Additional Rent/Lease Payments Fund to the Rebate Fund upon receipt of written direction from an Authorized Borrower Representative; and
  - (3) if, and to the extent, necessary to prevent an Event of Default under Section 7.01(1), to transfer funds from the Special Additional Rent/Lease Payments Fund to the Bond Fund without requisition or instruction from any Person.
- (c) The amounts in the Special Additional Rent/Lease Payments Fund are for the purposes described in Section 6.06(b) and the Authority is not, anything in the Bond Documents to the contrary notwithstanding, required to maintain any amount in the Special Additional Rent/Lease Payments Fund for the purposes of payment of Debt Service on any of the Bonds.

#### **Section 6.07 Investment of and Security for the Indenture Funds**

(a) The amounts in the Indenture Funds are public funds impressed with a trust for the purposes thereof. The Trustee shall keep the amounts in each of the Indenture Funds continuously secured by such investments or collateral, or in such manner, as permitted or required by Applicable Law for the security of public trust funds; provided, the Trustee shall not be required to secure any amount in any Indenture Fund (i) to the extent such amount is insured by the Federal Deposit Insurance Corporation (or any instrumentality of the United States of America that may succeed to the functions thereof) or (ii) invested in Permitted Investments.

(b) The Authority authorizes and directs the Trustee to invest the amounts in the Indenture Funds in accordance with this Indenture and the written instructions of the Borrower, in Permitted Investments to the extent consistent with the purposes of each such Indenture Fund and subject to the provisions of Section 6.07 (c); provided:

- (1) amounts in the Bond Fund shall be invested only in U. S. Government Obligations; and
- (2) amounts in the Special Additional Rent/Lease Payment Fund shall be invested only in U. S. Government Obligations; and
- (3) amounts in any Account of the Redemption Fund for the benefit of Tax-Exempt Bonds shall be invested only in U. S. Government Obligations at a yield less than the yield on such Bonds; and
- (4) amounts in any Account of the Insurance Fund for the benefit of Tax-Exempt Bonds shall be invested only in U. S. Government Obligations at a yield less than the yield on such Bonds; and
- (5) amounts in any Account of the Condemnation Fund for the benefit of Tax-Exempt Bonds shall be invested only in U. S. Government Obligations at a yield less than the yield on such Bonds;
- (6) the Authority may provide in any Supplemental Indenture that any amounts in any Account of the Bond Fund may not be invested or may be invested subject to stated limitations or restrictions.

(c) All Permitted Investments shall be under the control of the Trustee and shall be credited solely to the Indenture Fund from which funds were used to acquire such investments; provided all income and profits from Permitted Investments credited to an Indenture Fund shall be deposited in, or credited to, such fund and all losses resulting therefrom shall be charged to such fund.

(d) The Trustee may conclusively rely upon the written instructions of an Authorized Borrower Representative as to the legality and feasibility of all directed investments. Ratings of investments shall be determined at the time of purchase of such investments and without regard to ratings subcategories. The Trustee shall not be required to monitor the ratings of investments after the initial purchase thereof. The Trustee may make any and all investments through its investment department at customary charges therefor. The Trustee shall not be liable for the investment of amounts in the Indenture Funds in the absence of written instructions from the Borrower. The Authority agrees that broker confirmations are not required to be issued by the Trustee for each month in which a monthly statement is issued by the Trustee. The Trustee shall not be liable or responsible for any loss resulting from any such investment or for failure to make an investment (except failure to make an investment in accordance with the written direction of an Authorized Borrower Representative) except to the extent such loss is attributable to the Trustee's gross negligence, willful misconduct or violation of

Applicable Law. The Trustee shall not be liable or responsible for any consequence or loss which may occur as a result of an investment made pursuant to Section 6.07(b)(2) through (4), inclusive, at a yield greater than the yield on any Bonds which are Tax-Exempt Bonds.

(e) The Authority authorizes and directs the Trustee to liquidate the investments in any Account or Indenture Fund when and to the extent necessary for the purposes thereof.

#### **Section 6.08 Valuation of Indenture Funds**

The Trustee shall make a valuation of the Permitted Investments in the Indenture Funds on each Valuation Date. The value of each Authorized Investment shall be determined at the fair market value thereof (exclusive of accrued interest) and marked to market.

## ARTICLE 7

### Events of Default and Remedies

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#### Section 7.01 Events of Default.

The occurrence of any one or more of the following events constitutes an “Event of Default” under this Indenture (whatever the reason for such event and whether it shall be voluntary or involuntary or effected by operation of law or pursuant to action:

- (1) the failure to pay in full when due any amount of the Debt Service becoming due and payable on any Bond on:
  - (i) any Stated Interest Payment Date; or
  - (ii) any Stated Principal Payment Date (by maturity or mandatory redemption); or
  - (iii) any date established for extraordinary redemption; or
- (2) the failure to perform in a punctual manner any other of the covenants, conditions, agreements, or provisions contained in this Indenture or any agreement supplemental hereto and the continuation of such failure for 30 days after receipt by the Authority of a written notice from the Trustee specifying such failure and requiring the same to be remedied; provided, however, that if such performance requires work to be done, action to be taken, or conditions to be remedied that by their nature cannot reasonably be done, taken, or remedied, as the case may be, within such 30 day period, no Event of Default will be deemed to have occurred or to exist if, and so long as, the Authority begins such performance within such period and diligently and continuously prosecutes the same to completion; or
- (3) the occurrence under any of the Security Documents of any event of default (as defined therein); or
- (4) the occurrence under any of the Covered Parity Debt Documents of an event of default (as defined therein).

#### Section 7.02 Remedies

(a) On the occurrence and continuance of any Event of Default under subsection (1) of Section 7.01, the Trustee may, and, on the written request of the Majority of the Owners, will, by notice in writing to the Authority, the Borrower, and, the Dissemination Agent, declare the principal of all Outstanding Bonds (if not then due and payable) to be due and payable immediately, and on such declaration, the same will become and be immediately due and payable, whereupon interest on the Bonds will cease to accrue, and the Trustee will promptly notify the Owners of the Bonds and each Rating Agency of such declaration and that interest on the Bonds has ceased to accrue on and as of the date of such declaration, provided, however, if at any time after the principal of the Bonds is so declared to be due and payable, and before the entry of final judgment or decree in any suit, action, or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Indenture, money has accumulated in the Bond Fund sufficient to pay the principal of all matured Bonds and all arrearages of interest, if any, on all Bonds then Outstanding (except the principal of any Bonds not then due and payable by their terms and the interest accrued on such Bonds since the last Interest Payment Date), and the charges, compensations, expenses, disbursements, advances, and liabilities of the Trustee and all other amounts then payable by the Authority hereunder are paid or a sum sufficient to pay the same is deposited with the Trustee, and every other failure known to the Trustee in the observance or performance of any covenant, condition, or agreement contained in the Bonds, in this Indenture (other than a failure to pay the principal of such Bonds then due only because of a declaration under this Section), and in the other Bond Documents is remedied to the satisfaction of the Trustee, then and in every such case, the Trustee may, and on the written request of the Majority of the Owners of the Outstanding Bonds not then due and payable by their terms (Bonds then due and payable only because of a declaration under this Section will not be deemed to be due and payable by their terms) will, by written notice to the Authority, the Borrower, the Owners of the Bonds, each Rating Agency, and, rescind and annul such declaration and its consequences, but no such rescission or annulment will extend to or affect any subsequent Event of Default or impair any right consequent thereon.

(b) The Trustee shall have the right in the name of the Authority to declare an event of default, and exercise any remedies, under the Lease Agreement, including without limitation the acceleration of Lease Payments, and institute and maintain any available proceedings against the Borrower and any other Person liable for the payment thereof.

(c) The Trustee shall have and may exercise all rights and remedies available under Applicable Law for the enforcement of the Bond Documents and the protection of the interests of the Owners.

(d) The Trustee may, subject to the terms of this Indenture, proceed to protect and enforce its rights and the rights of the Owners by any suit, action or proceeding at law or in equity, including but not limited to an action for mandamus, or for specific performance of any agreement or covenant in this Indenture, or for enforcing payment and collection of any revenues due under the Bond Documents, or for making a demand for payment from the Authority or the Borrower, or for taking action pursuant to any other document to which the Trustee is a party by signature, assignment, operation of law, or otherwise, or in execution or aid of any power granted in this Indenture or for the enforcement of any other proper, legal or equitable remedy, as the Trustee, being advised by Independent Counsel, shall deem most effectual to protect and enforce its rights and the rights of the Owners under this Indenture.

(e) The Trustee may institute and maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Indenture and to protect its interests and the interests of the Owners in the Trust Estate and in the issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security under this Indenture or be prejudicial to the interests of the Owners or the Trustee.

### **Section 7.03 Application of Remedy Proceeds and Indenture Funds Upon Event of Default**

#### **(a) Application of Funds Upon Event of Default Before Acceleration of Bonds**

The Authority authorizes and directs the Trustee, upon the occurrence of an Event of Default and if the principal of all Bonds Outstanding shall not have become, or shall not have been declared, due and payable, to apply all Remedy Proceeds and all amounts in the Bond Fund, after payment of all amounts which are due and owing to the Trustee under Section 9.02, in the following order for the payment, as provided in this Indenture, of the Bonds Outstanding:

First to the payment to the persons entitled thereto of all installments of interest on Bonds then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds;

Second to the payment to the persons entitled thereto of the unpaid principal of any Bonds that shall have become due and payable in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the principal of Bonds due and payable on any particular date, then to the payment ratably according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference;

Third to the payment of the interest on and the principal of Bonds, to the purchase and retirement of Bonds, and to the redemption of Bonds, all in accordance with this Indenture; and

#### **(b) Application of Remedy Proceeds Upon Event of Default After Acceleration of Bonds**

The Authority authorizes and directs the Trustee, upon the occurrence of an Event of Default and the consequent declaration by the Trustee that the principal of all Bonds Outstanding are due and payable, to apply all Remedy Proceeds as provided in Section 6.02(e).

#### **(c) General**

Whenever money is to be applied by the Trustee under this Section, the Trustee will apply such money at such times as the Trustee in its sole discretion determines, having due regard for the amount of such money available for such application and the likelihood of additional money becoming available for such application in the future; the setting aside of such money, in trust for the proper purpose, constitutes proper application by the Trustee, and the Trustee will incur no liability whatsoever to the Authority, the Borrower, the University and any Owner or to any other Person for any delay in applying any such money so long as the Trustee acts with reasonable diligence, and ultimately applies the same in accordance with this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee exercises such discretion in applying such money, it will set the date (which must be as Stated Interest Payment Date unless the Trustee deems another date more suitable) on which such application is to be made. The Trustee will give notice by first class mail, postage prepaid, to all Owners of the setting of any such date, and will not be required to make payment to the Owner of any Bonds until such Bonds are surrendered to the Trustee for cancellation if fully paid.

### **Section 7.04 Effect of Discontinuance of Proceedings**

If the Trustee or any Owner shall have instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or to such Owner, then and in every such case the Authority, the Trustee and the Owners shall, subject to any determination in such proceeding, be restored to their former positions under this Indenture, and thereafter all rights and remedies of the Trustee and the Owners shall continue as though no such proceeding had been instituted.

### **Section 7.05 Enforcement of Rights of Action.**

All rights of action (including the right to file proof of claim) under this Indenture or under any Bonds may be enforced by the Trustee without the possession of any Bonds or the production thereof in any proceedings relating thereto, and any such suit or proceedings instituted by the Trustee must be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Owners hereby secured, and any recovery of judgment will be for the equal benefit of the Owners.

### **Section 7.06 Waivers of Past Defaults under this Indenture**

(a) The Majority Owners may waive any Event of Default under this Indenture and its consequence except a default (i) in the payment of Debt Service on any Bond or (ii) in respect of any covenant or provision of this Indenture which under Article 8 cannot be modified or amended without the consent, by Act, of the Owner of each Bond affected.

(b) Upon any such waiver, such default shall cease to exist, and an Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

#### Section 7.07 General Availability of Remedies

(a) No right or remedy in this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other right or remedy, and every such right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given under this Indenture or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy under this Indenture, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

(b) No delay or omission of the Trustee or of any Owner of any Bond to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence in this Indenture. Every right and remedy given by this Article or by law to the Trustee or to the Owners may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Owners.

#### ARTICLE 8

##### Amendment of Documents

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#### Section 8.01 Amendments to Indenture and Supplemental Indentures Not Requiring Consent of the Owners.

(a) The Authority and the Trustee may, without the consent of or notice to any of the Owners, enter into an amendment to this Indenture or an indenture supplemental to this Indenture for any one or more of the following purposes:

- (1) to provide for the issuance of any Bond or series of Bonds pursuant to this Indenture; or
- (2) to cure any error, ambiguity, or formal defect or omission in, or to correct or any supplement any defective provision of, this Indenture,
- (3) to add to the covenants of the Authority for the benefit of the Owners and to make the occurrence, or the occurrence and continuance, of a default in any of such additional covenants an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture; provided, however, that with respect to any such covenant, such Supplemental Indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such default or may limit the remedies available to the Trustee upon such default; or
- (4) to evidence the succession of another Person to the Authority or the Trustee and the assumption by any such successor of the agreements thereof under the Bond Documents; or
- (5) to grant to or confer on the Trustee for the benefit of the Owners any additional rights, remedies, powers, benefits, security, liabilities, duties, or authority that may lawfully be granted to or conferred or imposed on the Owners or the Trustee or either of them,
- (6) to subject to the Lien of this Indenture or any of the Bond Documents additional revenues, properties, or collateral,
- (7) 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, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any state, 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 the Trust Indenture Act of 1939, as amended, or any similar federal statute,
- (8) to modify, amend, or supplement this Indenture in such manner as to assure the continued exclusion of the interest on any Tax-Exempt Bonds from the gross income of the Owners thereof for federal income tax purposes,

(9) to modify, amend, or supplement this Indenture in such a manner as necessary in connection with the appointment of a successor Securities Depository hereunder,

(10) to secure or maintain ratings from a Rating Agency, provided that (i) the changes necessary to obtain or secure such ratings shall not have a material adverse effect upon the interests of the Owners of the Bonds and (ii) the Trustee receives an opinion of Independent Counsel to the effect that such changes are permitted by Applicable Law and will not cause the interest on any of the Tax-Exempt Bonds to be or become Taxable; or

(11) to comply with any provisions of the Securities Act, the Exchange Act, or any rules or regulations promulgated thereunder; or

(12) to reflect a change in Applicable Law provided that the Trustee determines that such amendment or Supplemental Indenture does not materially adversely affect the Owners; or

(13) to make any other change herein that, in the judgment of the Trustee does not prejudice the Trustee or materially adversely affect the Owners; or

(14) to modify or delete any provisions of this Indenture provided such modification or deletion shall be, and shall be expressed to be, effective only after all Outstanding Bonds the Owners of which shall not have consented to such change shall have ceased to accrue interest; or

(15) to make further provisions with respect to the administration and operation of a Book-Entry System.

(b) The Authority and the Trustee will, without the consent of or notice to any of the Owners, enter into an amendment to this Indenture or an indenture supplemental to this Indenture (i) in connection with the issuance of any Additional Bonds and the inclusion of additional Security in connection therewith, (ii) to the extent necessary for the land and interests in land, buildings, furnishings, machinery, equipment, and all other real and personal property that may form a part of the Project, so as to identify the same more precisely or to substitute or add additional land or interests in land, buildings, furnishings, machinery, equipment, or real or personal property as Security or (iii) for any changes required to be made in the description of the Security to conform with similar changes made in the Lease Agreement.

(c) In making any judgment or determination under this Section, the Trustee may, as to matters of law, conclusively rely on an Opinion of Counsel.

#### **Section 8.02 Amendments to Indenture and Supplemental Indentures Requiring Consent of the Owners.**

(a) Exclusive of amendments and indentures supplemental hereto governed by Section 8.01 and subject to the terms and provisions contained in this Section and not otherwise, a Super-Majority of the Owners has the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Authority and the Trustee of an amendment to this Indenture or such indenture supplemental hereto as deemed necessary and desirable by the Authority for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in this Indenture, in any amendment to this Indenture, or in any Supplemental Indenture; provided, however, that nothing contained in this Section will permit, or be construed as permitting:

(1) change or consent to the extension of the stated maturity of the principal of, or any installment of interest on, any Bond, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption or prepayment thereof, or change the coin or currency in which any Bond, or the interest thereon is payable, or change the mandatory redemption schedule applicable to any Bonds, or impair the right to institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption or prepayment, on or after the redemption or prepayment date); or

(2) permit the creation of any Lien ranking prior to or on a parity with the Lien of this Indenture with respect to the Trust Estate or any part thereof or terminate the Lien of this Indenture on any property at any time subject hereto or deprive the Owner of any Bond of the security afforded by the Lien of this Indenture; or

(3) the modification of the trusts, powers, obligations, remedies, privileges, rights, duties, or immunities of the Trustee, without the written consent of the Trustee, or

(4) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, without the consent of the Owners of all of the Bonds Outstanding, or

(5) the release hereof or requirements for the release hereof, without the consent of the Owners of all of Bonds Outstanding; or

(6) modify or alter any of the provisions of this Section except to increase any percentage provided or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Owner of each Bond affected thereby.

(b) If the Authority requests the Trustee to enter into any such amendment or Supplemental Indenture for any of the purposes allowed by this Section, the Trustee will, on being reasonably indemnified for expenses, cause notice of the proposed execution of such amendment or Supplemental Indenture to be given in substantially the manner provided in Section 5.05. Such notice will briefly set forth the nature of the proposed amendment or Supplemental Indenture and will state that copies thereof are on file at the Office of the Trustee for inspection by all Owners. If, within 60 days, or such longer period as reasonably prescribed by the Authority following the giving of such notice, a Super-Majority of the Owners shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein or to the operation thereof or in any manner to question the propriety of the execution thereof or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action under the provisions thereof. On the execution of any such amendment or Supplemental Indenture as in this Section permitted and provided, this Indenture will be and is deemed to be modified and amended in accordance therewith. The Trustee may rely on an Opinion of Counsel as conclusive evidence that execution and delivery of an amendment or Supplemental Indenture has been effected in compliance with the provisions of this Article.

(c) Anything herein to the contrary notwithstanding, if the Borrower is not in default under the Lease Agreement at such time, an amendment hereto or Supplemental Indenture under this Article that affects any rights or obligations of the Borrower or that changes the priority or use of money under this Indenture will not become effective unless and until the Borrower shall have consented to the execution and delivery of such amendment or Supplemental Indenture. In this regard, the Trustee will cause notice of the proposed execution and delivery of any such amendment or Supplemental Indenture, together with a copy of such amendment or Supplemental Indenture, to be mailed by certified or registered mail or personally delivered to the Borrower at least 15 days prior to the proposed date of execution and delivery of any such amendment or Supplemental Indenture. Under such circumstances, the Borrower is deemed to have consented to the execution and delivery of any such amendment or Supplemental Indenture if the Trustee has not received a letter of protest or objection thereto signed by or on behalf of the Borrower on or before the 15th day after the mailing of such notice and a copy of the proposed amendment or Supplemental Indenture.

(d) The Trustee is not obligated to sign any amendment or supplement to this Indenture or the Bonds as authorized by this Article if such amendment or supplement, in the judgment of the Trustee, might adversely affect the rights, duties, liabilities, protections, indemnities, or immunities of the Trustee. In signing any such amendment or supplement, the Trustee is entitled to receive, and is fully protected in relying on, an Opinion of Counsel.

#### **Section 8.03 Amendments to Other Bond Documents Not Requiring Consent of the Owners.**

(a) The Authority and the Trustee will, without the consent of or notice to the Owners, consent to any amendment, change, or modification of the Bond Documents other than this Indenture for any one or more of the following purposes: (i) as may be required by the provisions of the Lease Agreement or this Indenture, (ii) to provide for the issuance of Additional Bonds (iii) to cure any error, ambiguity, or formal defect or omission therein, or to correct or supplement any defective provision thereof, (iv) to add to the covenants and agreements of, and the limitations and restrictions on, the Borrower therein other covenants, agreements, limitations, and/or restrictions to be observed by the Borrower for the protection of the Owners or to surrender or limit any right or power herein reserved or conferred on the Borrower, (v) in connection with the land and interests in land, buildings, machinery, equipment, and other real or personal property described in Exhibits "A" and "B" to the Lease Agreement and the Facility Lease Agreement so as to identify more precisely the same or to substitute or add additional land or interests in land, buildings, machinery, equipment, or other real or personal property, (vi) to reflect a change in Applicable Law provided that the Trustee determines that such amendment, change, or modification does not materially adversely affect the Owners (vii) to amend, change, or modify such Bond Documents in such manner as to assure the interest on any Tax-Exempt Bonds will not be or become Taxable, (viii) to modify, amend, or change such Bond Documents in such a manner necessary in connection with the appointment of a successor Securities Depository under this Indenture, (ix) to modify, amend, or change such Bond Documents for the purpose of obtaining or retaining a rating on the Bonds or series of Bonds from a Rating Agency, (x) to substitute a new "Borrower" under the Lease Agreement as provided therein, (xi) to comply with any provisions of the Securities Act, the Exchange Act, or any rules or regulations promulgated thereunder, (xii) to provide for "ancillary improvements" (as defined in the Authorizing Act), (xiii) to provide for the respective duties, obligations and responsibilities of the Borrower and the University with respect to the acquisition and construction of any part of the Project, (xiv) to make any other change therein that, in the judgment of the Trustee and does not prejudice the Trustee or materially adversely affect the Owners or (xv) to modify or delete any provision provided such modification or deletion shall be, and shall be expressed to be, effective only after all Bonds Outstanding at the time such amendment is made shall have been Discharged.

(b) In making any judgment or determination under this Section, the Trustee may, as to matters of law, conclusively rely on an Opinion of Counsel.

#### Section 8.04 Amendments to Other Bond Documents Requiring Consent of the Owners.

(a) Except for the amendments, changes, or modifications as provided in Section 8.03, neither the Authority nor the Trustee will consent to any other amendment, change, or modification of the Bond Documents or any of them other than this Indenture without giving notice to and obtaining the written approval or consent of a Super-Majority of the Owners given and procured as in this Section provided; provided, however, that nothing in this Section or Section 8.03 will permit or be construed as permitting, (i) an extension of the time for payment of any amounts payable under the Lease Agreement or a reduction in the amount of any payment or in the total amount due under the Lease Agreement, without the consent of the Owners of all of Bonds Outstanding or (ii) a reduction in the aforesaid aggregate principal amount of Bonds the Owners of which are required to consent to any such amendment, change, or modification of such other Bond Documents, without the consent of the Owners of all of the Bonds at the time Outstanding. If at any time the Authority and the Borrower requests the consent of the Trustee to any such proposed amendment, change, or modification of such other Bond Documents, the Trustee will, on being satisfactorily indemnified for expenses, cause notice of such proposed amendment, change, or modification to be given in the same manner as provided by Section 5.05. Such notice will briefly set forth the nature of such proposed amendment, change, or modification and will state that copies of the instrument embodying the same are on file at the Office of the Trustee for inspection by all Owners. If, within 60 days, or such longer period prescribed by the Authority following the giving of such notice, the Trustee and a Super-Majority of the Owners shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond has any right to object to any of the terms and provisions contained therein or to the operation thereof or in any manner to question the propriety of the execution thereof or to enjoin or restrain the Trustee from consenting to the execution thereof or to enjoin or restrain the Authority or the Borrower from executing the same or from taking any action under the provisions thereof. On the execution of any such amendment, change, or modification as in this Section permitted and provided, such other Bond Documents will be and are deemed to be modified, changed, and amended in accordance therewith.

(b) The Trustee is not obligated to sign any amendment or supplement to the Bond Documents if such amendment or supplement, in the judgment of the Trustee, might adversely affect the rights, duties, liabilities, protections, indemnities, or immunities of the Trustee. In signing any such amendment or supplement, the Trustee is entitled to receive, and is fully protected in relying on, an Opinion of Counsel.

(c) Notwithstanding anything contained in the Section to the contrary, no consent of any Bondholder or the Trustee is required (i) in connection with any amendment or modification of the Tax Agreement that is necessary, in the opinion of Tax Counsel, to provide the interest on any Tax-Exempt Bonds will not be or become Taxable, (ii) in connection with any amendment or modification of the Development Agreement or the Construction Agreement if such amendment or modification does not affect the obligation of the Developer or the contractor under the Project Acquisition Contracts to pay liquidated damages thereunder (including, without limitation, a delay of the commencement date or a decrease in the amount thereof) or (iii) in connection with any amendment or modification of the Development Agreement or the Construction Contract that either will not increase the Costs of the Project or, to the extent that the Costs of the Project will be increased by such modification or amendment, the Authorized Developer Representative has certified in writing to the Trustee that such increase is not in excess of the amount deposited into the Construction Fund in connection with such amendment or modification.

#### ARTICLE 9

##### The Trustee

#### Section 9.01 Acceptance of the Trusts

(a) The Trustee hereby accepts the trusts and obligations imposed on it by this Indenture and by the other Security Documents, represents and covenants that it is fully empowered under applicable laws and regulations to accept said trusts and obligations, and agrees to perform said trusts and obligations, but only on and subject to the following express terms and conditions, and no implied covenants or obligations will be read into this Indenture or any of the other Bond Documents against the Trustee:

(b) The Trustee, prior to the occurrence of an Event of Default and after the waiving or curing of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth herein and in the other Bond Documents. In case an Event of Default of which the Trustee is notified or of which it is deemed to have knowledge has occurred (that has not been cured or waived), the Trustee will exercise such of the rights and powers vested in it by this Indenture and by the other Bond Documents, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) The Trustee may execute any of the trusts or powers hereof and of the other Bond Documents and perform any of its duties by or through attorneys, accountants, agents, receivers, or employees, and is not responsible for the acts or omissions of any attorneys, accountants, agents, or receivers appointed by it or any of its officers, employees or agents with due care in good faith and without negligence, and is entitled to advice of counsel concerning all matters of trusts hereof and of the other Bond Documents and the duties hereunder and thereunder and may in all cases pay such reasonable compensation, subject to reimbursement, to all such attorneys, accountants, agents, receivers, and employees as may be reasonably employed in connection with the trusts hereof. As to matters of law, the Trustee may conclusively rely and act on the opinion or advice of any attorneys (who may be the attorney or attorneys for the Authority or the Borrower) or other professionals retained or consulted by the Trustee, approved by the Trustee in the exercise of reasonable care. The Trustee is not responsible for any loss or damage resulting from any action or non-action taken in good faith in reliance on such opinion or advice.

(d) The Trustee is not responsible for any recital contained herein, in the Bonds (except in respect to the authentication certificate of the Trustee endorsed on the Bonds), or in the other Bond Documents or for insuring the property conveyed hereby or thereby or for collecting any insurance money or for the validity of the execution by the Authority hereof or any Supplemental Indentures hereto or instruments of further assurance or for the sufficiency of the Security for the Bonds issued hereunder or intended to be secured hereby or for the value or title of the property conveyed hereby or otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property conveyed hereby under any provision hereof, it will use the same degree of care and skill in the performance of its duties as a prudent person would exercise under the circumstances in preserving such property. The Trustee shall have no duty to verify or investigate the accuracy of the recitations or monetary amounts provided in any requisition. The Trustee is not bound to ascertain or inquire as to the performance or observance of any covenants, conditions, or agreements on



the part of the Authority or on the part of the Borrower under this Indenture, the Lease Agreement, or the other Bond Documents except as herein expressly set forth. The Trustee will perform all of the duties or obligations set forth for it under the other Bond Documents, but is not answerable for the performance of any such duty or obligation for other than its gross negligence or willful misconduct. Neither the Trustee nor any of its directors, officers, employees, agents or affiliates is responsible for nor have any duty to monitor the performance of, or have any other obligation to see that any duties herein imposed on the Authority, the Borrower, or any party to any Bond Document other than itself or any of its directors, members, officers, agents, affiliates or employees, or any covenants herein or therein contained on the part of any party to any Bond Document other than itself, to be done or performed, are done or performed, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party. The Trustee may assume performance by all such Persons of their respective obligations. The Trustee shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other Person, except when the Trustee has actual knowledge thereof, and the Trustee is under no obligation for failure to see that any such duties or covenants are so done or performed.

(e) The Trustee is not accountable for the use of the proceeds from the sale of the Bonds disbursed in accordance with the provisions hereof or of the Lease Agreement. The Trustee may become the Owner of Bonds secured hereby with the same rights that it would have if not Trustee.

(f) The Trustee may conclusively rely on and is protected in acting on any notice, request, resolution, consent, certificate, order, judgment, decree, affidavit, letter, telegram, facsimile transmission, electronic mail, instrument, bond, debenture, evidence of indebtedness, or other paper or electronic document or any oral communication or direction Person or Persons in accordance with the provisions of any of the Bond Documents, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein. The Trustee will not unreasonably withhold its consent to, approval of, or action regarding any reasonable request of the Borrower. Any action taken by the Trustee under this Indenture or any of the other Bond Documents on 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 is conclusive and binding on all future Owners of the same Bond and of any Bond or Bonds issued in exchange therefor or on transfer of or in place thereof.

(g) The Trustee may, at the expense of the Borrower, request, rely on and act in accordance with officer's certificates and opinions of counsel, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance with such officer's certificates and opinions of counsel, except when the Trustee is grossly negligent or willful in its misconduct or failure to act. As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper, or proceedings, the Trustee is entitled to rely on a certificate signed on behalf of the Authority by an Authorized Signatory and on a certificate signed on behalf of the Borrower by the Authorized Borrower Representative as sufficient evidence of the facts therein contained. Prior to the occurrence of an Event of Default of which the Trustee is notified or of which it is deemed to have notice as provided in this Section, the Trustee is also 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 will in no case be bound to secure the same. The Trustee may accept a certificate of an Authorized Signatory under its seal to the effect that a resolution in the form therein set forth has been adopted by the Authority as conclusive evidence that such a resolution has been duly adopted and is in full force and effect.

(h) The permissive right of the Trustee to do things enumerated in this Indenture and the other Bond Documents will not be construed as a duty, and the Trustee is not answerable for any such permissive right for other than its gross negligence or willful misconduct. In no event shall the Trustee be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; quarantine restrictions; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

(i) The Trustee is not required to take notice or deemed to have notice of any failure on the part of the Authority to comply with the terms hereof or any other Authority Document or the Borrower to comply with the terms of the Lease Agreement or any other Borrower Document except failure by the Authority to cause to be made any of the payments to the Trustee required to be made by this Indenture and failure by the Borrower to make any of the Lease Payments to the Trustee required to be made by Section 7.02 of the Lease Agreement, unless the Trustee is specifically notified in writing of such failure by the Authority or by the Majority of the Owners. All notices or other instruments required by this Indenture to be delivered to the Trustee must, to be effective, be delivered to a Responsible Officer at the Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no such failure to comply except as aforesaid. Notwithstanding from responsibility for making Debt Service on the Bonds when due from money available to it or accelerating the Bonds as required under Section 7.02.

(j) The Trustee is not liable for any debts contracted or for damages to Persons or to personal property injured or damaged or for salaries or nonfulfillment of contracts during any period in which it may be in the possession of or managing the Project as in this Indenture or the other Bond Documents provided, other than for its gross negligence or willful misconduct.

(k) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants, and representatives have the right, but are not required, to inspect any and all of the Project, including all books, papers, and records of the Authority pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired, subject to the limitations imposed on such rights of inspection pursuant to the Lease Agreement.

(l) The Trustee is not required to give any indemnity, bond or surety in respect of the execution of its trusts and powers hereunder or under the other Bond Documents or otherwise in respect of the premises hereof or file any returns or reports to any court in the execution of its trusts.

(m) Notwithstanding anything elsewhere in this Indenture contained, the Trustee has the right, but is not required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking of any action whatsoever within the purview hereof, the delivery of 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 any such action by the Trustee, deemed reasonably necessary for the purpose of establishing the right of the Authority to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking or omitting of any other action by the Trustee.

(n) All money received by the Trustee or any paying agent will, 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 or by this Indenture. Neither the Trustee nor any paying agent will be under any liability for interest on any money received hereunder except such as may be agreed on.

(o) The Trustee may construe any provision hereof or of any of the other Bond Documents insofar as such may appear to it to be ambiguous or inconsistent with any other provision hereof or of any of the other Bond Documents, and any construction of any such provision by the Trustee is binding on the Owners and the Authority.

(p) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of the Authority, the Borrower or any Bondholder, pursuant to the provisions of this Indenture, unless such party shall have offered to the Trustee security or indemnity (satisfactory to the Trustee in its sole and absolute discretion) against the costs, expenses and liabilities which may be incurred by it in compliance with such request or direction. The Trustee is not liable and is fully protected regarding any action taken or omitted to be taken by it in good faith in accordance with the direction of the Majority of the Owners relating to the time, method, and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee under this Indenture.

(q) No provisions hereof or of any of the other Bond Documents required the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(r) The Trustee shall be entitled to request and receive written instructions in connection with its duties hereunder and under the Bond Documents and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with any such written direction unless the Trustee is grossly negligent or acting willfully in its misconduct or failure to act. The Trustee agrees to accept and act on instructions or directions under this Indenture sent by unsecured email, facsimile transmission, or other similar unsecured Electronic Means, provided, however, that the instructions or directions are signed by a person as may be designated and authorized to sign for the Borrower or in the name of the Borrower by an Authorized Borrower Representative. If the Borrower elects to give the Trustee electronic mail or facsimile instructions (or instructions by a similar Electronic Means) and the Trustee acts on such instructions, the Trustee's understanding of such instructions will be controlling. The Trustee is not liable for any losses, costs, or expenses arising directly or indirectly from the Trustee's reliance on and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees to assume all risks arising out of the use of such Electronic Means to submit instructions and directions to the Trustee, including, without limitation, the risk of the Trustee's acting on unauthorized instructions and the risk of interception and misuse by third parties. The Trustee is not required to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may deem necessary or desirable.

(s) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Owners, each representing less than a Majority of the Owners, under the provisions of this Indenture, the Trustee, in its sole discretion, may determine what action, if any, will be taken hereunder or under any of the other Bond Documents.

(t) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Indenture and the other Bond Documents extend to the Trustee's officers, directors, agents, attorneys, and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, will survive the Trustee's resignation or removal, the defeasance or discharge of this Indenture, and final payment of the Bonds.

(u) The Trustee has no responsibility for any information, statement, or recital in any official statement, offering circular, offering memorandum, or any other disclosure material prepared or distributed for the Bonds, except for any information provided by the Trustee, and the Trustee has no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(v) The Trustee is under no obligation to analyze or make any review of any certificates, documents, information, certifications, financial statements, or reports received by it hereunder or under the Lease Agreement or other Borrower Documents, but will hold the same delivered to it solely for the benefit of, and review by, the Authority and the Owners of the Bonds. The Trustee has no duty to request copies of any such documents, information, certifications, financial statements, or reports that are required to be furnished to it.

(w) The Trustee makes no representations as to the value, condition, or sufficiency of any assets pledged or assigned as security for the Bonds; the right, title, or interest of the Authority or the Borrower therein; the security provided thereby or by this Indenture or the other Bond Documents; the technical or financial feasibility of the Project; the compliance of the Project with the Authorizing Act; or the tax-exempt status of any Tax-Exempt Bonds. The Trustee is not accountable for the use or application by the Borrower of any of the Bonds or the proceeds of the Bonds, or for the use or application of any money paid over by the Trustee in accordance with any provision of this Indenture or the other Bond Documents.

(x) Any term of this Indenture, the Lease Agreement, any Borrower Document, or any related document to the contrary notwithstanding, and notwithstanding an agreement of indemnity, the Trustee has no responsibility, obligation, or duty to enter on, or otherwise take possession or control of the Property, or take any other action that could constitute taking possession or control of, the Property, unless and until the Trustee is satisfied, in its sole discretion and determination, that neither it nor the trusts created hereby will incur, by reason of such action, any liability under Applicable Law for hazardous wastes, hazardous materials, or other environmental liabilities. If the Trustee believes it prudent or appropriate prior to taking any action for possession or control of the Property, the Trustee may contract for, at the expense of the trusts created hereby, an environmental inspection of the Property.

(y) Whether or not expressly so provided, every provision of this Indenture and the other Bond Documents relating to the conduct or affecting the liability of or affording protection of the Trustee is subject to the provisions of this Section.

#### **Section 9.02 Fees, Charges, and Expenses of the Trustee**

The Trustee is entitled to payment and reimbursement for reasonable fees for Ordinary Services of the Trustee rendered hereunder or under any of the other Bond Documents, and all advances, reasonable attorneys' fees with proper substantiation, and other Ordinary Expenses of the Trustee reasonably made or incurred by the Trustee in connection with such Ordinary Services of the Trustee, and in the event that the Trustee performs Extraordinary Services of the Trustee, it is entitled to reasonable extra compensation therefor and to reimbursement for reasonable Extraordinary Expenses of the Trustee in connection therewith; provided, that if such Extraordinary Services of the Trustee or Extraordinary Expenses of the Trustee are the result of the gross negligence or willful misconduct of the Trustee, the Trustee is not entitled to compensation or reimbursement therefor. The Trustee is entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as bond registrar and paying agent for the Bonds as hereinabove provided. Notwithstanding any other provision hereof or of the Lease Agreement to the contrary, at all times while any Bonds are Outstanding, payments to the Trustee for services hereunder are superior to the payment of Debt Service on the Bonds, and the Trustee has a first and prior Lien on the Trust Estate for payment of its reasonable fees and expenses.

#### **Section 9.03 Indenture Funds to be Held in Trust**

The Trustee hereby covenants that all money held in any Indenture Fund under this Indenture and any collateral securing such funds are a part of the Trust Estate, and that the rights and interests of the Owners in and to such money and collateral are and, subject to the provisions of this Indenture for the payment of the reasonable fees and expenses of the Trustee, will be superior to the claims of the creditors and depositors of the Trustee.

#### **Section 9.04 Right of the Trustee to Pay Insurance, Taxes, and Other Charges.**

In case any tax, assessment, or governmental or other charge on, or insurance premium for, any part of the property herein conveyed is not paid as required herein or in the Lease Agreement and is not being contested under the Lease Agreement, the Trustee may, but is not obligated to, pay such tax, assessment, or governmental or other charge, or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure, and any amount at any time so paid under this Section or under the Lease Agreement, with interest thereon from the date of payment at the Default Rate, will become an additional obligation secured by this Indenture and the same will be given a preference in payment over any of the Bonds and will be paid out of the revenues herein pledged to the payment of the Bonds if not otherwise caused to be paid, but the Trustee is under no obligation to make any such payment unless it is requested to do so by the Majority of the Owners and is provided with adequate funds for the purpose of such payment.

#### **Section 9.05 Trustee Protected in Relying On Resolutions**

The resolutions, opinions, certificates, and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and are full warrant, protection, and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

#### **Section 9.06 Authority Additional Payments**

The Trustee will transfer all Authority Additional Payments promptly on receipt thereof from the Borrower, to the Authority at the address specified herein for notice to the Authority or as otherwise directed by the Authority.

#### **Section 9.07 Trustee May Own Bonds**

The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold, and deal in any of the Bonds and may join in any action which any Bondholder may be entitled to take with like effect as if it were not Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the Authority or the Borrower and may act as depository, trustee, or agent for any committee of Owners secured hereby or other obligations of the Authority as freely as if it were not Trustee. The provisions of this Section extend to affiliates of the Trustee.

#### **Section 9.08 List of Owners**

The Trustee will keep on file a list of names and addresses of all Owners of Bonds as may from time to time be shown on the Bond Register in the hands of the Trustee together with the principal amount and numbers of such Bonds. The Trustee will be under no responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Trustee and provided that said list may be available for inspection under applicable law, said list may be inspected and copied by the Authority, the Borrower, the Underwriter, or the Owners (or a designated representative thereof) of 15% or more in aggregate principal amount of Bonds Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

#### **Section 9.09 Borrower's Financial Statements**

On the written request of any Owner, the Trustee, at the expense of such Owner, will deliver to such Owner a copy of any of the financial statements of the Borrower that are delivered to the Trustee by the Borrower under the Lease Agreement.

#### **Section 9.10 Information from the Trustee**

(a) It is the duty of the Trustee, on or before the twentieth (20th) calendar day of each month (or the next preceding Business Day) to deliver to the Borrower a statement (which can be an electronic snapshot of existing trust account balances sent by Electronic Means) setting forth the following in respect of the preceding calendar month:

- (1) the amount withdrawn or transferred by it and the amount deposited with it on account of each Fund or Account held by it under the provisions of this Indenture,
- (2) the amount on deposit with it at the end of such month in each such Fund or Account,
- (3) a brief description of all Permitted Investments held by it as an investment of money in each such Fund or Account,
- (4) the amount applied to the purchase or redemption of Bonds and a description of the Bonds or portions thereof so purchased or redeemed, and
- (5) any other information regarding the administration of any Fund or Account administered hereunder that the Authority or the Borrower may reasonably request.

(b) In addition, on the fifth anniversary date of the issuance of any Tax-Exempt Bonds, and on each fifth anniversary thereafter, on written request of the Borrower and at the Borrower's expense, the Trustee will deliver to the Borrower such information in its possession as the Borrower may deem reasonably necessary to determine the Rebate Amount and the amount subject to rebate as set forth in Section 12.02.

(c) All records and files pertaining to the Bonds, the Project or the Borrower in the custody of the Trustee will be open at all reasonable times and on reasonable prior notice to the inspection of the Authority or the Borrower and its agents and representatives.

(d) The Trustee shall promptly provide to the Authority and the Borrower any other information in its possession that the Authority or the Borrower may reasonably request.

#### **Section 9.11 Notice of Payment Default**

If a failure to comply occurs of which the Trustee is required by Section 9.01 to take notice or if notice of a failure to comply is given as provided in such Section, provided, the Trustee will give such notice to the Authority as is specified herein and such notice to the Borrower as is specified in the Lease Agreement and will give written notice thereof by first-class mail, within 15 days (unless such failure to comply is cured or waived), to all Owners, provided that, except in the case of a failure to make due and punctual payment of the Debt Service on the Bonds, the Trustee may withhold such notice to the Owners if and so long as the board of directors, the executive committee, or a trust committee of directors or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Owners.

#### **Section 9.12 Intervention by the Trustee**

The Trustee may intervene on behalf of Owners in any judicial proceeding to which the Borrower is a party and which, in the reasonable opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of the Bonds and will do so if requested in writing by the Majority of the Owners and the indemnity required by Section 9.13 is provided. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

#### **Section 9.13 Indemnification of Trustee**

Before taking any action, or forbearance from taking any action, under this Indenture at the direction or request of the Owners, the Trustee may require that security or indemnity satisfactory to the Trustee in its sole and absolute discretion be furnished for reimbursement of all reasonable expenses it may incur and to protect it against all liabilities, except for liability that is finally adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee by reason of any action so taken.

#### **Section 9.14 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, lease, or transfer its corporate 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, will, *ipso facto*, be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, rights, obligations, duties, remedies, discretions, immunities, privileges, and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

#### **Section 9.15 Resignation by the Trustee**

The Trustee and any successor Trustee may at any time resign and be discharged of its duties and obligations hereunder from the trusts hereby created by giving 30 calendar days' written notice to the Authority, to the Borrower, to each Rating Agency, and, by first-class (postage prepaid) mail, to each Bondholder, and such resignation will take effect at the appointment of a successor Trustee under the provisions of Section 1108 and acceptance by the successor Trustee of such trusts. Such notice to the Authority, the Borrower, and each Rating Agency may be served personally or sent by registered or certified mail. If no successor Trustee is so appointed by the Authorized Borrower Representative or the Owners under Section 9.17 within 30 calendar days after delivery of such notices, a temporary Trustee may be appointed by the Authority under this Indenture. In the event that no successor Trustee is appointed and has accepted appointment within 30 calendar days of the giving of written notice by the resigning Trustee as aforesaid, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

#### **Section 9.16 Removal of the Trustee**

(a) The Trustee may be removed at any time on 30 calendar days' written notice (i) by the Authority for any breach of the trusts set forth herein or for any failure or refusal to act as Trustee, (ii) by an instrument or concurrent instruments in writing delivered to the Trustee and to the Authority and signed by a Majority of the Owners or (iii) by an instrument in writing delivered to the Trustee and to the Authority signed by the Authorized Borrower Representative, provided no Event of Default under this Indenture or the Lease Agreement has occurred and is continuing. Removal of the Trustee will not be effective until a successor or temporary Trustee is appointed under Section 9.17 and the Trustee is paid for all Ordinary Services of the Trustee and Extraordinary Services of the Trustee rendered hereunder and for all Ordinary Expenses of the Trustee and Extraordinary Expenses of the Trustee incurred hereunder.

(b) The Authority or the Borrower, on behalf of the Authority, will give written notice of removal of the Trustee in accordance with the provisions of subsection (a) to each Rating Agency.

#### **Section 9.17 Appointment of Successor Trustee; Temporary Trustee**

(a) In case the Trustee (i) resigns or is removed or (ii) is dissolved or in the course of dissolution or liquidation, or in case it is taken under the control of any public officer or officers or of a receiver appointed by a court or otherwise become incapable of acting hereunder, a successor may be appointed by an instrument executed and signed by an Authorized Signatory under seal and executed by the Authorized Borrower Representative; provided, that if a successor Trustee is not so appointed within 10 days after notice of resignation is mailed or an instrument of removal is delivered as provided under Sections 9.15 and 9.16, respectively, or within 10 days of the Authority's knowledge of any of the events specified in (ii) hereinabove, then a Majority of the Owners, by an instrument or concurrent instruments in writing signed by or on behalf of such Owners, delivered personally or sent by certified or registered mail to the Authority and the Borrower, may designate a successor Trustee. Until a successor Trustee is appointed by the Owners in the manner above provided, the Authority, by resolution and on written notice to the Borrower, will appoint a temporary Trustee to fill such vacancy, and any such temporary Trustee so appointed by the Authority will immediately and without further act be superseded by the successor Trustee so appointed by the Owners. Notice of the appointment of a successor Trustee will be given in the same manner as provided by Section 9.15 hereof for the resignation of the Trustee.

(b) Every such successor Trustee appointed under the provisions of this Section will be a trust company or bank organized under the laws of the United States of America or any state thereof that is in good standing within or outside the State of Alabama; will be eligible to serve as trustee, bond registrar, and paying agent under applicable law; will be duly authorized to exercise trust powers and subject to examination by federal or state authority; shall be an institution willing, qualified, and able to accept the trusteeship on the terms and conditions hereof, and shall meet the qualifications of Section 9.17(d).

(c) In case at any time the Trustee resigns and no appointment of a successor Trustee is made under the foregoing provisions of this Article prior to the date specified in the notice of resignation as the date when such resignation takes effect, the Owner of any Bond or the resigning Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereon, after such notice, if any, as it may deem proper, appoint a successor Trustee.

(d) Any Trustee must be (i) a national banking association that is supervised by the Office of the Comptroller of the Currency and has assets not less than \$250,000,000, (ii) a state-chartered commercial bank that is a member of the Federal Reserve System and has assets not less than \$1,000,000,000.

#### **Section 9.18 Concerning Any Successor Trustee**

Every successor Trustee appointed hereunder will execute, acknowledge, and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder, and thereon such successor, without any further act, deed, or conveyance, will become fully vested with all the estates, properties, rights, powers, trusts, remedies, immunities, privileges, duties, and obligations of its predecessor, but such predecessor will, nevertheless, on the written request of the Authority, or of its successor, and on payment of all amounts due such predecessor under Section 9.02, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, obligations, duties, remedies, immunities, privileges, rights, powers, and trusts of such predecessor hereunder, and every predecessor Trustee will deliver all securities and money held by it as Trustee hereunder to its successors, and every predecessor Trustee will deliver the Bond Register to its successors. Should any instrument in writing from the Authority be required by a successor Trustee for more fully and certainly vesting in such successor the estates, trusts, rights, obligations, remedies, immunities, privileges, rights, powers, and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing will, on request, be executed, acknowledged, and delivered by the Authority. 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, will be filed or recorded by the successor Trustee in each recording office where this Indenture or a financing statement relating hereto is filed or recorded, if any.

#### **Section 9.19 Successor Trustee as Trustee of Indenture Funds and Accounts, as Paying Agent, and as Bond Registrar**

In the event of a change in the Office of the Trustee, the predecessor Trustee that has resigned or has been removed will cease to be Trustee or depository of the Indenture Funds (including any special trust funds created pursuant to a Supplemental Indenture ) and the Rebate Fund, and will cease to be paying agent for the payment of the Debt Service on the Bonds and will cease to be bond registrar, and the successor Trustee as qualified under Section 9.17 will become such Trustee or depository, paying agent, and bond registrar.

#### Section 9.20 Trust Estate May Be Vested in Separate Trustee or Co-Trustee

(a) It is the purpose hereof that there will be no violation of any law of any jurisdiction 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 or the Bond Documents and in particular in case of the enforcement of either on an Event of 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 may not hold title to the Trust Estate, in trust, as herein granted, or may not take any other action that may be necessary or desirable in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate trustee or co-trustee. The following provisions of this Section are adopted to these ends.

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

(c) If any deed, conveyance, or instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly investing in and confirming to such Person such properties, rights, powers, trusts duties and obligations, any and all such deeds, conveyances and instruments in writing will, on request, be executed, acknowledged and delivered by the Authority. If any separate trustee or co-trustee, or a successor thereof, dies, becomes incapable of acting, resigns, or is removed, all the estates, properties, rights, powers, trusts, duties, and obligations of such separate trustee or co-trustee, to the extent permitted by Applicable Law, will vest in the and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate trustee or co-trustee.

#### ARTICLE 10

##### Covenants of the Authority

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#### Section 10.01 Corporate Existence

(a) The Authority will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence subject to Section 10.01(b).

(b) The Authority shall not consolidate with or merge into any other corporation or transfer its property constituting the Trust Estate substantially as an entirety to any Person unless: (i) such consolidation, merger, conveyance or transfer shall be on such terms as shall fully preserve the Lien of this Indenture and the rights and powers of the Trustee and the Owners of the Bonds; (ii) the corporation formed by such consolidation or into which the Authority is merged or the Person which acquires by conveyance or transfer the Authority's said property substantially as an entirety (the "Successor") shall be a municipal corporation or public corporation organized under the laws of the State of Alabama; (iii) the Successor will execute and deliver to the Trustee (A) a written instrument in form recordable and acceptable to the Trustee containing an assumption by such Successor of the due and punctual payment of the Debt Service on the Bonds and the performance and observance of every covenant and condition of the Bond Documents to be performed or observed by the Authority and (B) an Opinion of Counsel to the effect the Bonds, and the obligations of the Authority under the Bond Documents, are the legal, valid and binding obligations of the Successor and are enforceable against the Successor in accordance with the terms thereof (subject to appropriate qualifications); (iv) immediately after giving effect to such transaction, no Event of Default or any event which, upon notice or lapse of time (or both), would constitute such an Event of Default shall have occurred and be continuing; and (v) the Authority shall have delivered to the Trustee an Opinion of Bond Counsel which shall state that such consolidation, merger, conveyance or transfer complies with this Section and will not cause interest on any Tax-Exempt Bond to be or become Taxable.

(c) Upon any consolidation or merger or any conveyance or transfer of the Authority's property substantially as an entirety in accordance with this Section, the Successor shall succeed to, and be substituted for, and may exercise every right and power of, the Authority under this Indenture with the same effect as if such Successor had been named as the Authority in this Indenture, and shall be legally bound by the obligations of the Authority under the Bonds and the Bond Documents.

#### Section 10.02 Designation of Additional Paying Agents and Co-Bond Registrar.

The Authority may, and on the written request of the Borrower and payment of any expenses incurred in connection therewith under the Lease Agreement, will cause the necessary arrangements to be made through the Trustee for the designation of additional paying agents as specified by the Borrower for purposes of making funds available for the payment of such of the Bonds as are presented when due at the designated office of said additional paying agents. The Trustee may designate a co-bond registrar that may perform the duties of bond registrar on behalf of the Trustee, and all references herein to bond registrar will include any such co-bond registrar.

**Section 10.03 Instruments of Further Assurance.**

The Authority agrees that the Trustee may defend its rights to the payments and other amounts due under the Authority Documents for the benefit of the Owners against the claims and demands of all Persons. Subject to the provisions of Article 12, the Authority covenants that it will 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 reasonably requires for the better assuring, transferring, conveying, pledging, assigning, and confirming to the Trustee the Trust Estate. Any and all property hereafter acquired that is of the kind or nature provided herein to be and become subject to the Lien and security interest hereof will, without any further conveyance, assignment, or act on the part of the Authority or the Trustee, be and become subject to the Lien and security interest hereof as fully and completely as though specifically described herein, but nothing in this sentence contained will be deemed to modify or change the obligations of the Authority under this Section. The Authority covenants and agrees that, except as herein and in the Lease Agreement provided, it has not and will not sell, convey, assign, pledge, mortgage, encumber, grant a security interest in, or otherwise dispose of, or create or suffer to be created any Lien, encumbrance, security interest, or charge on, any part of the Trust Estate or of its rights under any of the Authority Documents, or enter into any contract or take any action by which the rights of the Trustee or the Owners may be impaired.

**Section 10.04 Rights Under Certain Documents.**

(a) The Trustee may enforce all rights of the Authority, except the Unassigned Rights, and all obligations of the Borrower under and under the Bond Documents for and on behalf of the Owners, whether or not an Event of Default has occurred hereunder.

(b) So long as any of the Bonds remain Outstanding and for such longer period when required by the Lease Agreement, the Authority will faithfully and punctually perform and observe all obligations and undertakings on its part to be performed and observed under the Authority Documents. The Authority covenants to maintain, at all times, the validity and effectiveness, as to the Authority, of the Authority Documents and (except as expressly permitted by the Lease Agreement) will not knowingly take any action, will not knowingly permit any action to be taken by others under its control, and will not knowingly omit to take any action or knowingly permit others under its control to omit to take any action, which action or omission might release the Borrower from its liabilities or obligations thereunder or result in the surrender, termination, amendment, or modification thereof or impair the validity thereof.

(c) The Trustee will retain possession of executed originals or counterparts of the Borrower Documents to which the Authority is a party or in respect of which it is a beneficiary and will release the same only in accordance with the provisions thereof. The Borrower Documents to which the Authority is a party or in respect of which it is a beneficiary will be available for inspection at the Office of the Trustee at reasonable times and under reasonable conditions by the Authority, the Borrower, and any Owner of any Bond.

**ARTICLE 11**

**Construction and Operation of Indenture; Entitlement of Bonds to Indenture; Rights of Owners**

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**Section 11.01 Indenture Constitutes Contractual Agreement; Governing Law; Interests under Indenture**

The Authority, the Trustee, and each of the Owners, by the acquisition of a Bond or a beneficial interest therein, covenant and agree:

- (1) this Indenture constitutes a legal contract made by the Authority, the Trustee and the Owners, by acquisition of a Bond or an interest therein, and shall be construed in accordance with and governed by the Governing Law without regard to principles of conflicts of laws; and
- (2) the provisions of this Indenture are severable; if any one or more of the provisions of this Indenture shall be held illegal or unenforceable, such illegality or unenforceability shall not affect the other provisions of this Indenture and this Indenture shall be construed and enforced without regard to such illegal or unenforceable provisions; and
- (3) all legal and equitable interests and rights under this Indenture are vested exclusively and solely in the following Persons and each respective successor or assignee thereof:
  - (i) the Authority, and the successors and assigns thereof;
  - (ii) the Trustee, and any successor trustee under this Indenture;
  - (iii) the Borrower, and the successors and assigns, thereof, as third-party beneficiaries hereof;
  - (iv) the University, and the successors and assigns thereof, as third-party beneficiaries hereof; and
  - (v) the Owner of each Bond, to the extent provided in this Indenture.

#### Section 11.02 General Construction of Indenture

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms “agree”, “shall”, and “will” when used in this Indenture with respect to the observance or performance of any agreement, duty or requirement to take, or forbear from taking, any action by the Authority, the Trustee the Securities Depository, or an Owner, means that such agreement, duty or requirement is imperative and enforceable by available remedies at law or in equity against the Person charged therewith.
- (2) all references in this Indenture to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this Indenture as originally executed.
- (3) the terms “in this Indenture,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.
- (4) the Article and Section headings in this Indenture are for convenience only and shall not affect the construction of this Indenture.

#### Section 11.03 Entitlement of Bonds to Benefits of Indenture and Trust Estate

The Authority, the Trustee, and each of the Owners, by the acquisition of a Bond or a beneficial interest therein, covenant and agree that:

- (1) each Bond which shall have been authenticated by the Trustee and delivered by the Authority pursuant to this Indenture shall be conclusively and legally entitled to the equal and proportionate benefit of the agreements and covenants, and the Lien upon the Trust Estate, of this Indenture from and after the date of delivery of and payment for such Bond until (but not including) the first to occur of the date on which:
  - (i) the Outstanding Principal Amount of such Bond shall have ceased to be subject to the accrual of interest pursuant to Section 4.04; or
  - (ii) the Debt Service on such Bond ( or any portion thereof) shall have become payable solely from a Defeasance Fund; and
- (2) the Owner of each Bond which shall have ceased to accrue interest or shall have become payable solely from a Defeasance Fund, shall thereupon have only the rights and interests (if any) specifically established by this Indenture therefor and shall have no further recourse to the Trust Estate and no further entitlement to any benefit, protection or rights provided by this Indenture to the Owners.

#### Section 11.04 Determination of Ownership of Bonds

- (a) The ownership of the Bonds shall be proven by the Bond Register.
- (b) The Authority, the Trustee and any agent of Authority or the Trustee shall treat the Person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of Debt Service on such Bond and for all other purposes whatsoever whether or not such Bond is overdue, and, to the extent permitted by Applicable Law, neither the Authority, the Trustee nor any such agent shall be affected by notice to the contrary.
- (c) During a period in which the Bonds are held pursuant to a Book-Entry System, the Authority and the Trustee shall treat the Securities Depository or the Securities Depository Nominee as the only Owner of the Bonds for all purposes of this Indenture; provided, in the event the Securities Depository or the Securities Depository Nominee assigns its rights to consent or vote under this Indenture to any Direct Participant or Indirect Participant, the Authority, the Trustee and the Borrower shall treat such assignee or assignees as the only Owner or Owners of the Bonds for the purpose of exercising such rights so assigned.

#### Section 11.05 Acts of Owners; Binding Effect of Acts

- (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given, made or taken by Owners may be embodied in and evidenced by one or more substantially concurrent instruments of substantially similar tenor signed by such Owners in person or by an attorney or legal representative duly appointed in writing; and, except as in this Indenture otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is expressly required, to the Authority. Such instrument or instruments (and the action embodied in this Indenture and evidenced thereby) are in this Indenture sometimes referred to as the “Act” of the Owners signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such legal representative, or of the holding by any Person of Bonds, shall be sufficient for any purpose of this Indenture and conclusive in favor of the Authority and (subject to Section 9.01) in favor of the Trustee, if made in the manner provided in this Section.
- (b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the Certificate of any notary public or other officers authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Whenever such execution is by an officer of a corporation or a member of a partnership, or limited liability company or partnership, on behalf of any thereof, such Certificate or affidavit shall also constitute sufficient proof of the authority thereof.
- (c) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in reliance thereon, whether or not notation of such action is made upon such Bond.



(d) For the purpose of determining whether the Owners of the requisite principal amount of Bonds have given any request, demand, authorization, direction, notice, consent, waiver or other action under this Indenture:

(i) Bonds owned by the Borrower, the Authority or any other obligor with respect to the Bonds or any Affiliate of the Borrower, the Authority or of such other obligor shall be disregarded 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 a Responsible Officer actually knows to be so owned shall be disregarded, and (ii) Bonds so owned which have been pledged in good faith may be regarded for such purposes 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 Borrower, the Authority or any other obligor with respect to the Bonds or any Affiliate of the Authority, the Borrower, or of such other obligor.

#### **Section 11.06 Respective Rights of Trustee and Owners Regarding Actions and Remedies**

(a) All rights of action (including the right to file proofs of claims) under this Indenture or under any of the Bonds may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as trustee of an express trust without the necessity of joining as plaintiffs or defendants any Owners, and any recovery shall (after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) be for the proportionate benefit of the Owners of the Bonds in respect of which such judgment shall have been recorded.

(b) The Majority Owners shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture, provided that:

- (1) such direction shall not be in conflict with any rule of law or this Indenture;
- (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction;
- (3) if such direction is given by the Majority Owners, the Trustee shall have determined that the action so directed would not be unjustly prejudicial to the Owners not taking part in such direction;
- (4) the provisions of Section 7.02(a) which require the Trustee to declare an acceleration, shall not be modified or waived without the prior written consent by Act of the Owners of all of the Bonds.

(c) No Owner of any Bond shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy under this Indenture unless (1) such Owner shall have previously given written notice to the Trustee of a continuing Event of Default; (2) the Majority of the Owners shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee under this Indenture; (3) such Owners have offered to the Trustee indemnity in the manner provided in Section 9.01(p) of this Indenture; (4) the Trustee for 30 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such proceeding; and (5) no direction inconsistent with such written request shall have been given to the Trustee during such 30-day period by the Majority Owners, it being understood and intended that no one or more Owners shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Owners, or to obtain or to seek to obtain priority or preference any other Owners, or to enforce any right under this Indenture, except in the manner in this provided and for the equal and proportionate benefit of the Owners of all Bonds.

(d) Notwithstanding any other provision of this Indenture, the right of the Owners of the Bonds, which is absolute and unconditional, to receive payment of the Debt Service on the Bonds on or after the Stated Maturity Date (or, in the case of redemption, on or after the Redemption Date) thereof, and to institute suit for the enforcement of such payment, or the obligation of the Authority, which is also absolute and unconditional, to pay the principal of, premium (if any) and interest on the Bonds to the Owners thereof at the time and place in this Indenture expressed, shall not be impaired or affected without the consent of such Owner; provided, however, that no Owner shall be entitled to take any action or institute any such suit to enforce the payment of the Bond or Bonds thereof, whether for principal or interest, if and to the extent that the taking of such action or the institution or prosecution of any such suit or the entry of judgment in this Indenture would under Applicable Law result in a surrender, impairment, waiver or loss of the Lien of this Indenture upon the Trust Estate, or any part thereof, as security for the Bonds held by any other Owner.

#### **Section 11.07 Operation of Indenture for Bonds Held in Book-Entry System**

(a) General.

The Authority and the Trustee will administer and construe the provisions of this Indenture to effect full compliance with the procedures and rules of the Securities Depository with respect to all Bonds held pursuant to a Book-Entry System, including without limitation:

- (1) payment and redemption (in whole or in part) of Bonds;
- (2) transfers of beneficial interests in Bonds;
- (3) delivery of notices pursuant to this Indenture; and
- (4) grant of consent or waiver with respect to any action or inaction.

(b) Special Agreements.

As a condition of, and as a consideration for, the issuance of the Bonds, each Owner and Beneficial Owner agrees, by acquisition of a Bond or a beneficial interest therein, the Authority and the Trustee have not undertaken, directly or indirectly, to provide, and therefore shall have no liability, obligation, or responsibility to any Person (including without limitation Beneficial Owners, Direct Participants, and Indirect Participants) for (i) the accuracy of any records maintained by the Securities Depository or any Direct Participant or Indirect Participant, or (ii) the payment by the Securities Depository or any Direct Participant or Indirect Participant of any amount due to any Beneficial Owner in respect of the Debt Service for any of the Bonds, or (iii) the delivery, or timeliness of delivery by the Securities Depository or any Direct Participant or Indirect Participant of any notice due to any Beneficial Owner which is required or permitted under this Indenture to be given to such Beneficial Owner, or (iv) any act (including without limitation any consent to, or waiver of, any action or inaction) of whatever nature or type by the Securities Depository or Securities Depository Nominee, as Owner.

**Section 11.08 Notices to Owners; Waiver**

(a) Where this Indenture provides for publication of notice to Owners of any event, such notice shall be sufficiently given (unless otherwise in this Indenture expressly provided) if in writing and mailed, first-class postage prepaid, or sent by Electronic Means, to each Owner of such Bonds, at the address of such Owner as it appears in the Bond Register, not later than the latest date, and not earlier than the earliest date, prescribed for the first publication of such notice.

(b) In any case where notice to Owners is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Owner shall affect the sufficiency of such notice with respect to other Owners. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**Section 11.09 Counterparts; Date of Indenture**

(a) 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.

(b) The date of this Indenture is intended as and for a date for the convenient identification of this Indenture and is not intended to indicate that this Indenture was executed and delivered on said date.

**Section 11.10 Jurisdiction**

(a) All claims of whatever character arising out of this Indenture, or under any statute or common law relating in any way, directly or indirectly, to the subject matter hereof or to the dealings between the Authority and any other party hereto, if and to the extent that such claim potentially could or actually does involve the Authority, will be brought in any state or federal court of competent jurisdiction located in Jefferson County, Alabama.

(b) By executing and delivering this Indenture, each party hereto irrevocably: (i) accepts generally and unconditionally the exclusive jurisdiction and venue of such courts; (ii) waives any defense of forum *non conveniens*; (iii) agrees not to seek removal of such proceedings to any court or forum other than as specified above.

**Section 11.11 Authority of Authorized Borrower Representative.**

Whenever under the provisions of this Indenture or the Lease Agreement the approval of the Borrower is required, or the Authority or the Trustee is required to take some action at the request of the Borrower, such approval or such request will be made by an Authorized Borrower Representative unless otherwise specified herein or in the Lease Agreement. The Authority or the Trustee is authorized to act on any such approval or request and the Borrower has no complaint against the Authority or the Trustee as a result of any such action taken in accordance with such approval or request. The execution of any document or certificate required under the provisions hereof or of the Lease Agreement by an Authorized Borrower Representative will be on behalf of the Borrower and will not result in any personal liability of such Authorized Borrower Representative.

**Section 11.12 Authority of Authorized Signatory.**

(a) Whenever under the provisions of this Indenture or the Lease Agreement the approval of the Authority is required, or the Borrower or the Trustee is required to take some action at the request of the Authority, such approval or such request will be made by an Authorized Signatory. The Borrower or the Trustee will be authorized to act on any such approval or request and the Authority has no complaint against the Borrower or the Trustee as a result of any such action taken in accordance with such approval or request. The execution of any document or certificate required under the provisions hereof or of the Lease Agreement by an Authorized Signatory will be on behalf of the Authority and will not result in any personal liability of such Authorized Signatory.

(b) Notwithstanding the foregoing or any other provision hereof to the contrary, whenever any certificate or opinion is required by the terms of this Indenture to be given by the Authority on its own behalf, any such certificate or opinion may be made or given by an Authorized Signatory (and in no event individually) and may be based (i) insofar as it relates to factual matters, upon a certificate of or representation by the Trustee or the Borrowers; and (ii) insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, in each case under clause (i) and (ii) without further investigation or inquiry by such Authorized Signatory or otherwise on behalf of the Authority.

#### **Section 11.13 Survival of Provisions.**

The provisions of the Lease Agreement and this Indenture and any other document in connection with the issuance of the Bonds to which the Authority is a party concerning (i) the tax-exempt status of Tax-Exempt Bonds (including, but not limited to provisions concerning rebate); (ii) the interpretation of this Indenture; (iii) Governing Law, jurisdiction, and venue; (iv) the Authority's right to rely on written representations of others contained herein or in any other document or instrument issued or entered into in respect of the Bonds, regardless of whether the Authority is a party thereto; (v) the indemnification rights and exculpation from liability of the Authority Indemnified Persons and (vi) any other provision of this Indenture not described or enumerated above that expressly provides for its survival, will survive and remain in full force and effect notwithstanding the payment or redemption in full, or defeasance of the Bonds, the discharge of this Indenture, and the termination or expiration of the Lease Agreement.

#### **Section 11.14 Subordination of Rights of the Borrower.**

The Lease Agreement and the rights and privileges thereunder of the Borrower are expressly made subject and subordinate to the rights and privileges of the Trustee and the Owners of the Bonds set forth in this Indenture.

#### **Section 11.15 Notices to Authority and Trustee**

(a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or shall be sufficiently given and deemed given when sent by Electronic Means, or sent by private delivery service as set forth on IRS.gov/PDS, addressed as follows:

(i) if to the Authority:

Homewood City Hall  
2850 19th Street South  
Homewood, Alabama 35209  
Attn. City Attorney

(ii) if to the Trustee:

Regions Bank  
1900 5th Avenue North  
26th Floor  
Birmingham, Alabama 35203  
Attn: Corporate Trust Department  
Electronic Means:  
carmen.kilgore@regions.com

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or by Electronic Means, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by private delivery service.

(c) The Authority and the Trustee may, from time to time, change the address thereof by written notice to the other party, whereupon such notice shall constitute an effective amendment of this Section and the address set forth in such notice shall become the current address for such party for all purposes of this Indenture.

## ARTICLE 12

### Covenants and Provisions for Tax-Exempt Bonds

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#### Section 12.01 Covenants of the Authority

- (a) The Authority covenants and agrees to duly and punctually observe and perform all agreements and covenants thereof under each Tax Agreement.
- (b) The Authority covenants and agrees that it will not take or permit any action, fail to take, or require to be taken, any action, permit any action to be taken, which would cause interest on any of the Tax-Exempt Bonds to be or become Taxable.

#### Section 12.02 Rebate Fund

- (a) The Authority creates and establishes with the Trustee a special fund to be designated the “Rebate Fund.” There will be established with the Trustee for each series of Tax-Exempt Bonds a separate Account within the Rebate Fund related to such series of Tax-Exempt Bonds. The Rebate Fund is for the sole benefit of the United States of America, is not an Indenture Fund or part of the Trust Estate, is not subject to the claim of any other Person, including, without limitation, the Owners, and will not be available or used for the payment of Debt Service on any of the Bonds upon an Event of Default. The Rebate Fund is established for the purpose of complying with §148 of the Federal Tax Code and the Treasury Regulations thereunder. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, will be held in trust and applied solely as provided in this Section.
- (b) The Rebate Fund is not a portion of the Trust Estate and is not subject to the Lien of this Indenture. Amounts in the Rebate Fund will not be used to make Debt Service.
- (c) There will be deposited in each Account of the Rebate Fund as and when received (i) money required to be paid by the Borrower under Section 7.02(b) of the Lease Agreement, (ii) money transferred from the Indenture Funds under the provisions of subsection (h) and (iii) all other money received by the Trustee when accompanied by directions not inconsistent with the Lease Agreement or this Indenture that such money are to be paid into the Account of the Rebate Fund designated therein.
- (d) For each series of Tax-Exempt Bonds, promptly after each Calculation Date, and not later than 30 days after all Bonds of such series are Discharged, the Borrower will engage, and furnish information to, the Rebate Analyst and cause the Rebate Analyst to calculate the Rebate Amount for such series of Tax-Exempt Bonds. The Borrower will provide, or cause the Rebate Analyst to provide, to the Authority and the Trustee a copy of the report of the Rebate Analyst. The Trustee will determine if the amount in the applicable Account(s) of the Rebate Fund is then equal to the calculated Rebate Amount. If the amount in such Account(s) of the Rebate Fund is in excess of the amount required to be therein in accordance with the report of the Rebate Analyst then such excess will be transferred to the Bond Fund. If the amount in such Account(s) of the Rebate Fund is less than the amount required to be deposited therein the Trustee will advise the Borrower in writing of such amounts necessary to reserve for the anticipated Rebate Amount payment to the United States Treasury.

- (e) If at any time the Borrower is required to retain the Rebate Analyst, but fails to do so, then the Trustee shall notify the University and the Authority, but neither the University nor the Authority shall have any obligation to take further action.

- (f) The Trustee has the right, but is not obligated, to seek written instructions from any Rebate Analyst as it deems necessary concerning any payments to be made by it from the Rebate Fund and will be free from any liability for acting in accordance with such reasonable instructions.

- (g) The Trustee, on behalf of the Authority, is hereby directed to pay to the United States Treasury such amounts at such times as required by the report of the Rebate Analyst and the applicable Treasury Regulations.

- (h) If, at any time when the Trustee is required to withdraw money from any Account(s) of the Rebate Fund, the amount on deposit in such Account(s) of the Rebate Fund is insufficient for the purposes thereof, notwithstanding any investment of money requirements in this Indenture, the Trustee, after first delivering a demand for such deficiency to the Borrower and no money for such purpose having been provided by the Borrower, will transfer money to such Account(s) of the Rebate Fund from the following Indenture Funds in the following order of priority: first, any construction fund established under a Supplemental Indenture, and second, the Bond Fund.

- (i) The Trustee will comply with the instructions contained in this Indenture and in the Tax Agreement provided that computations and payments may be made on other bases, at other times, and in other amounts, or omitted altogether, all as will be set forth in a Favorable Opinion of Bond Counsel (the “Subsequent Rebate Instructions”), even if such Subsequent Rebate Instructions are different from or inconsistent with this Section. The Trustee is entitled to rely conclusively on the calculations made under this Section and any Subsequent Rebate Instructions and is not responsible for any loss or damage resulting from any action taken or omitted to be taken in reliance on those calculations.

- (j) The provisions of this Section supersede the provisions of all other Sections of this Indenture, to the end that the excludability from gross income for the purposes of federal income taxation of interest on series of Tax-Exempt Bonds is not adversely affected as a result of the inadequacy at any time of the Rebate Fund, unless the total amount held by the Trustee under all Indenture Funds established hereunder is insufficient.

- (k) If all of the Bonds are Discharged, any amount remaining in any of the Indenture Funds, or Accounts created hereunder, will be transferred to the Rebate Fund to the extent that the amount therein is less than the Rebate Amount calculated as of the final Calculation Date.

- (l) The Authority hereby authorizes and directs an Authorized Signatory to execute any documents, certificates, or reports required by the Federal Tax Code and to make such elections on behalf of the Authority that may be permitted by the Federal Tax Code and that are requested by the Borrower.

- (m) On the date that is 90 days after all of the Bonds are Discharged, the Trustee will pay all amounts remaining in the Rebate Fund to the University.

- (n) The Trustee will retain records of the determination of the amount required to be deposited in the Rebate Fund, of the proceeds of any investments of money in the Rebate Fund and of the amounts paid to the United States Treasury until the date six years after all of the Bonds are Discharged.

ARTICLE 13

Cancellation of Bonds and Discharge of Indenture

Section 13.01 Surrender of Bonds by Authority

The Authority may at any time surrender to the Trustee for cancellation any Bond which the Authority may have acquired in any manner.

Section 13.02 Cancellation of Surrendered Bonds

The Trustee will promptly cancel and destroy all Bonds delivered or surrendered for payment, redemption, transfer, exchange, or pursuant to Section 13.01.

Section 13.03 Satisfaction and Discharge of Indenture

This Indenture, and the Lien hereof upon the Trust Estate, shall cease, determine and become null and void on the date on which all of the following shall have occurred, whereupon the Trustee shall execute and deliver such instruments of satisfaction and discharge as may be requested by the Authority in writing or required by Applicable Law:

- (1) all of the Bonds shall have ceased to accrue interest (i) pursuant to Section 4.04 or (ii) shall be payable solely from a Defeasance Fund; and
- (2) the Authority shall have paid, or made provisions satisfactory to the Trustee for payment of:
  - (i) all reasonable and proper fees, charges, expenses and disbursements of the Trustee for services performed and disbursements made under this Indenture; and
  - (ii) all amounts necessary to be paid under the Bond documents to effect the discharge and termination of this Indenture; and
- (3) the Authority and the Borrower shall have directed the Trustee to discharge and satisfy this Indenture by written instrument of an authorized Borrower Representative.

Section 13.04 Payment of Indenture Funds and Trust Estate

Upon the discharge and termination of this Indenture, the Trustee shall disburse any amounts then in the Indenture Funds, and otherwise held by the Trustee as part of the Trust Estate, to the University or to such other Person as may be entitled thereto by Applicable Law.

IN WITNESS WHEREOF, the Authority has caused this Indenture to be executed in its name and behalf, under its corporate seal hereunto affixed, and the same to be attested, by officers thereof duly authorized thereunto, and the Trustee has caused this Indenture to be executed in its name and on its behalf, under seal, by an officer thereof duly authorized thereunto.

THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD

By \_\_\_\_\_

Chair

[S E A L]

Attest:

\_\_\_\_\_  
Secretary

REGIONS BANK

as Trustee

By \_\_\_\_\_

Its \_\_\_\_\_

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**AGREEMENT AND CONSENT OF SAMFORD UNIVERSITY**

The undersigned Samford University certifies that the above and foregoing Trust Indenture has been reviewed by an Authorized University Representative (as defined in the Indenture) and Samford University agrees and consents to the terms and provisions, and the delivery and performance by the within Authority and Trustee, of the Indenture, including particularly and without limitation the provisions thereof applicable to Samford University.

IN WITNESS WHEREOF, Samford University has caused this Agreement and Consent to be executed its name, under seal, by an officer thereof duly authorized thereunto.

**SAMFORD UNIVERSITY**

By \_\_\_\_\_

President

STATE OF ALABAMA    )

JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County in said State, certify that \_\_\_\_\_, whose name as Chair of The Educational Building Authority of the City of Homewood a public corporation, is signed to the foregoing Trust Indenture and who is known to me, acknowledged before me on this day that, being informed of the contents of said Trust Indenture, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

NOTARIAL SEAL

My commission expires: \_\_\_\_\_

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County in said State, certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of Regions Bank, as trustee under the foregoing Trust Indenture dated [Month] 1, 2024 by The Educational Building Authority of the City of Homewood , is signed to the foregoing Trust Indenture, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Trust Indenture, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of Regions Bank acting in its capacity as trustee as aforesaid.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

NOTARIAL SEAL  
My commission expires: \_\_\_\_\_

STATE OF ALABAMA     )  
COUNTY OF JEFFERSON    )

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that \_\_\_\_\_whose name as \_\_\_\_\_of Samford University, a non-profit corporation under the laws of Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of the said corporation.

GIVEN under my hand and official seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

[SEAL]

SCHEDULE 6.05

Exhibit A

FORM OF REQUISITION FROM THE INSURANCE AND CONDEMNATION FUNDS

Description of the Property

[Insurance/Condemnation] Fund

Certificate and Requisition for Payment

Date: \_\_\_\_\_, 20\_\_\_\_

Draw Request #\_\_\_\_

CHF - Horizons I, L.L.C. (the "Borrower") hereby requests, under Section 6.05 of the Trust Indenture (the "Indenture") dated as of [Month] 1, 2024, between The Educational Building Authority of the City of Homewood (the "Authority") and Regions Bank as Trustee (the "Trustee"), that payments for the account of the Authority from the [Insurance/Condemnation] Fund (the "Insurance/Condemnation] Fund") created under the Indenture be made for the payment of costs described in Sections 4.05 or Article 9 of the Lease Agreement (the "Lease Agreement ") dated [Month] 1, 2024, between the Borrower and the Authority be made in the amounts and to the Persons set forth on the attached Schedule.

The Borrower does hereby certify to the Trustee that, as of the date hereof, (1) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed and (2) the payment of the above-listed items from the [Insurance/Condemnation] Fund, together with the payment of all prior requisitions from the Construction Fund created under the Indenture, the [Insurance/Condemnation] Fund, and the [Condemnation/Insurance] Fund created under the Indenture, will not result in more than 5% of the proceeds of the Series \_\_\_\_\_ Bonds being used directly or indirectly in any trade or business carried on by any person who is not a "501(c)(3) organization" or a "governmental unit," within the meaning of §145 of the Internal Revenue Federal Tax Code of 1986, as amended, or in any unrelated trade or business of a 501(c)(3) organization, and (3) no Event of Default has occurred and is continuing under the Indenture or the Lease Agreement.

CHF - HORIZONS I, L.L.C.

By \_\_\_\_\_  
Authorized Borrower Representative



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**SERIES 2024-A SUPPLEMENTAL TRUST INDENTURE**

**[Month] 1, 2024**

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**

**and**

**REGIONS BANK  
as Trustee**

**Regarding  
Revenue Bonds  
(CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University)  
Tax-Exempt Series 2024-A**

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**Notice of Supplement of Original Indenture**

**This Series 2024-A Supplemental Trust Indenture is delivered in supplement of that certain Trust Indenture dated [Month] 1, 2024 by the Authority and the Trustee and recorded in \_\_\_\_\_ in the Office of the Judge of Probate of Jefferson County, Alabama.**

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**This Series 2024-A Supplemental Trust Indenture was prepared by Heyward C. Hosch, Barry A. Staples and Ann W. Todd of Maynard Nexsen P.C.**

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**Series 2024-A SUPPLEMENTAL TRUST INDENTURE**

**[Month] 1, 2024**

This Series 2024-A Supplemental Trust Indenture is made and entered as of the above date by the undersigned:

**Authority: The Educational Building Authority of the City of Homewood**

**Trustee: Regions Bank, as trustee**

**Recitals**

The Authority has authorized and delivered this Series 2024-A Supplemental Trust Indenture to the Trustee pursuant to the Act and in supplement of the within Indenture by the Authority and the Trustee to provide for the issuance of the within Revenue Bonds (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), Tax-Exempt Series 2024-A, under the Indenture for the purposes described herein.

**Agreement**

Now therefore, in consideration of the respective agreements and covenants of the Authority, the Trustee, and the registered owners of the Series 2024-A Bonds, by acquisition thereof, hereby covenant and agree, each with the others, as follows:

## ARTICLE 1

### Definitions

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#### Section 1.01 Incorporation from Indenture of Defined Terms

The Authority and the Trustee incorporate and use herein certain capitalized terms as such terms are defined in the within Original Indenture.

#### Section 1.02 Definition of Certain Terms

For purposes hereof:

**Architect Agreement** means the “Agreement Between Owner and Architect” dated \_\_\_\_\_, 2024, as at any time amended, restated or supplemented, by the University and Davis Architects, Inc.

**Architect Consent and Agreement to Perform** means the Consent and Agreement (Architect) with respect to the Series 2024-A Project, effective as of the Closing Date, as at any time amended, restated or supplemented, by the University in favor of the Trustee.

**Authorized Denominations** means, for the Series 2024-A Bonds, the amount of \$5,000 and any integral multiple thereof for each maturity.

**Bond Purchase Agreement** means the Bond Purchase Agreement dated the date of delivery thereof, with respect to the Series 2024-A Bonds, by the Authority and the Underwriter .

**Borrower Security Agreement** means the Borrower Security Agreement dated [Month] 1, 2024, with respect to the Series 2024-A Project, as at any time amended, restated or supplemented, by the Borrower in favor of the Trustee.

**Continuing Disclosure Agreement** means the Continuing Disclosure Agreement dated the Date of Initial Delivery by the Authority in compliance with 17 CFR Section 240.15c2-12 for the benefit of the Series 2024-A Bonds

**Contractor** means Hoar Construction, Inc.

**Construction Contract** means the Agreement Between Owner and Construction Manager dated \_\_\_\_\_ 2024, as at any time amended, restated, or supplemented, by the University and the Contractor.

**Contractor Consent and Agreement to Perform** means the Consent and Agreement (Contractor) with respect to the Series 2024-A Project, effective as of the Closing Date, as at any time amended, restated or supplemented, by the University in favor of the Trustee.

**Date of Initial Delivery** means \_\_\_\_\_, 2024.

**Developer Consent and Agreement to Perform** means the Consent and Agreement (Developer) with respect to the Series 2024-A Project, effective as of the Closing Date, as at any time amended, restated or supplemented, by the University in favor of Trustee.

**Development Agreement** means the Development Manager Service Agreement dated \_\_\_\_\_, 2024, as at any time amended, restated or supplemented, by the University and the Developer.

**Developer Indemnity Letter** means the indemnity letter dated the date of delivery from the Developer to the Authority, the Borrower, and the Underwriter with respect to the Series 2024-A Project.

**Indenture** means the Original Indenture, as amended, restated, and supplemented pursuant to the provisions thereof, by the Authority and the Trustee.

**Original Indenture** means the Trust Indenture dated [Month] 1, 2024, by the Authority and the Trustee.

**Series 2024-A Project Acquisition Contracts** means collectively for the Series 2024-A Project: (i) the Construction Contract, (ii) the Architect Agreement, (iii) the Development Agreement and (iv) the other contracts, if any, relating to the acquisition, construction and installation of the Series 2024-A Project.

**Series 2024-A Bond Proceeds** means the amount of \$\_\_\_\_\_, being the principal amount of \$\_\_\_\_\_ original issue \_\_\_\_\_ of \$\_\_\_\_\_ and less underwriting discount of \$\_\_\_\_\_.

**Series 2024-A Bonds** means the Revenue Bonds (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), Tax-Exempt Series 2024-A, of the Authority.

**Series 2024-A Construction Fund** means the Fund created by the Authority pursuant to Section 3.04.

**Series 2024-A Project** means capital improvements consisting of recreation, wellness, and athletic facilities for students of the University.

**Tax Agreement** means the Tax Certificate and Agreement dated the Closing Date with respect to the Series 2024-A Bonds by the Authority, the Borrower, and the University.

**Underwriter** means collectively RBC Capital Markets, LLC and Stifel, Nicolaus & Company, Incorporated.

**University** means Samford University and the successors and assigns thereof.

**University Collateral Assignment** means the University Collateral Assignment Agreement dated [Month] 1, 2024, with respect to the Series 2024-A Project, as at any time amended, restated or supplemented, by the University in favor of the Borrower.

## ARTICLE 2

### The Series 2024-A Bonds

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#### Section 2.01 Compliance with Original Indenture

The Authority represents:

- (1) the Series 2024-A Bond Proceeds shall be applied as provided herein for the payment of Costs of the Project for the Series 2024-A Project;
- (2) no Event of Default exists under the Indenture;
- (3) all required deposits into the Indenture Funds will be made simultaneously with the issuance of the Series 2024-A Bonds;
- (4) the Series 2024-A Project constitutes "ancillary improvements" within the meaning of the Authorizing Act.

#### Section 2.02 Authorization of Series 2024-A Bonds

(a) Authorization

The Authority authorizes to be issued under and secured by the Indenture a series of Bonds in maximum aggregate principal amount of \$XXX and designated "Revenue Bonds (CHF - Horizons I, L.L.C. Recreation\Wellness\Athletic Center Project at Samford University), Tax-Exempt Series 2024-A" for the acquisition of the Series 2024-A Project.

(b) Authorized Denominations and Form of Series 2024-A Bonds

The Series 2024-A Bonds shall be issued and delivered in certificated form as set forth on Exhibit A (with such changes thereto as required by Applicable Law on the Date of Initial Delivery) as a single bond for each stated maturity thereof in integral multiples of an Authorized Denomination and numbered consecutively in the order of issuance.

(c) Initial Issuance Pursuant to Book-Entry System

The Series 2024-A Bonds will be initially held pursuant to a Book-Entry System administered by the Securities Depository. On the Date of Initial Delivery, the certificated Bond for each stated maturity thereof will be registered in the name of the Securities Depository Nominee and delivered to, and held in the custody of, the Securities Depository or the Trustee in accordance with the applicable rules of the Securities Depository.

(d) Date

The Series 2024-A Bonds shall be dated the date of delivery and payment therefor.

(e) Principal Payments and Interest Rates

The principal of the Series 2024-A Bonds will mature on the Stated Principal Payment Date in each of the following years and principal amounts, subject to prior extraordinary, mandatory and optional redemption, and will accrue interest at the following per annum rates of interest:

| <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-------------|-------------------------|----------------------|
|-------------|-------------------------|----------------------|

(f) Optional Redemption

The Series 2024-A Bonds having stated maturities in 20 1 33 1 and thereafter are subject to prior redemption on \_\_\_\_\_ 1, 20\_\_\_\_, or on any Business Day thereafter, in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity) as the Borrower shall direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, without premium or penalty.

(g) Mandatory Redemption

The Series 2024-A Bonds are subject to scheduled mandatory redemption as follows:

(1) The Authority authorizes and directs the Trustee to effect the mandatory redemption of those of the Series 2024-A Bonds having a stated maturity on the Stated Principal Payment Date in 20\_\_\_\_ (the "20YY Term Bonds") without consent of or direction by the Authority or the Borrower, by lot, on the Stated Principal Payment Date in each of the years and in the aggregate principal amounts set forth below (subject to a credit for the principal amount of the 20YY Term Bonds then cancelled or redeemed and not previously claimed as a credit, and without regard to any prior extraordinary mandatory redemption or optional redemption of the 20YY Term Bonds and without reduction of the principal amount subject to mandatory redemption in any year by reason of such prior extraordinary mandatory redemption or optional redemption) at a redemption price for each 20YY Term Bond to be redeemed equal to the principal amount thereof, plus accrued interest thereon to the redemption date, without premium or penalty:

| <u>Year</u> | <u>Principal Amount to Be<br/>Mandatorily Redeemed</u> |
|-------------|--|
|-------------|--|

(2) The Authority authorizes and directs the Trustee to effect the mandatory redemption of those of the Series 2024-A Bonds having a stated maturity on the Stated Principal Payment Date in 20\_\_\_\_ (the "20YY Term Bonds") without consent of or direction by the Authority or the Borrower, by lot, on the Stated Principal Payment Date in each of the years and in the aggregate principal amounts set forth below (subject to a credit for the principal amount of the 20YY Term Bonds then cancelled or redeemed and not previously claimed as a credit, and without regard to any prior extraordinary mandatory redemption or optional redemption of the 20YY Term Bonds and without reduction of the principal amount subject to mandatory redemption in any year by reason of such prior extraordinary mandatory redemption or optional redemption) at a redemption price for each 20YY Term Bond to be redeemed equal to the principal amount thereof, plus accrued interest thereon to the redemption date, without premium or penalty:

| <u>Year</u> | <u>Principal Amount to Be<br/>Mandatorily Redeemed</u> |
|-------------|--|
|-------------|--|

(h) Extraordinary Redemption

The Series 2024-A Bonds are subject to extraordinary redemption on any Business Day in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity) as the Borrower shall direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, plus the unamortized amount of any original issue premium on the Series 2024-A Bonds called for redemption, and otherwise without premium or penalty, from amounts deposited in the Redemption Fund pursuant to this Indenture from any one or more of the following sources, in an amount equal to such deposit (rounded down to the next highest Authorized Denomination):

- (1) any amount received by the Trustee as Net Proceeds of title insurance pursuant to Section 4.05 of the Lease Agreement; or
- (2) any amount received by the Trustee as Net Proceeds of a disposition of any Equipment pursuant to Section 8.02 of the Lease Agreement; or
- (3) any amount received by the Trustee as monetary consideration in connection with the release of, or the subordination of the Leasehold Mortgage to, any portion of the Project pursuant to written request of the Authority, the Borrower and the University in order that utility services or public services may be provided to the Project; or
- (4) any amounts on deposit in an account of a construction fund which are transferred to the Trustee for deposit in the Redemption Fund with a written certificate of an Authorized Borrower Representative to the effect that no further disbursements will be requested from such Account; or
- (5) any amounts transferred to the Redemption Fund by the Trustee pursuant to the following sections of the Original Indenture:
  - (i) Section 6.02 (c), (d), and (e); and
  - (ii) Section 6.04(c).

**Section 3.02 Delivery of Series 2024-A Bonds**

The Authority authorizes and directs the Trustee to authenticate and deliver the Series 2024-A Bonds upon receipt by the Trustee of all of the following:

- (1) the executed Series 2024-A Bonds;
- (2) executed counterparts of the Bond Documents;
- (3) the Series 2024-A Bond Proceeds;
- (4) the Developer Indemnity Letter;
- (5) the certificates, documents, legal opinions, proceedings, required by the Bond Purchase Agreement as certified to the Trustee by the Underwriter.

**Section 3.03 Application of Series 2024-A Bond Proceeds**

The Authority authorizes and directs the Trustee to deposit the Series 2024-A Bond Proceeds, when and as received on the Date of Initial Delivery, as follows:

- (1) the amount of \$\_\_\_\_\_ shall be deposited in the Issuance Costs Account of the Series 2024-A Construction Fund; and
- (2) the amount of \$\_\_\_\_\_ shall be deposited in the Capitalized Interest Account of the Series 2024-A Construction Fund; and
- (3) the amount of \$\_\_\_\_\_ shall be deposited in the Series 2024-A Project Account of the Series 2024-A Construction Fund.

#### Section 3.04 Series 2024-A Construction Fund

(a) The Authority creates a Fund designated the "Series 2024-A Construction Fund" to be held and applied by the Trustee as provided in this Section, and which Fund shall consist of the following accounts, hereby created:

- (1) the Issuance Costs Account;
- (2) the Capitalized Interest Account;
- (3) the Series 2024-A Project Account.

(b) The Authority authorizes and directs the Trustee to apply the funds in the Accounts of the Series 2024-A Construction Fund in:

- (1) the Issuance Costs Account, without further authorization or direction by the Authority, the Borrower or any other Person, to pay the Costs of the Project which constitute Issuance Costs for the Series 2024-A Bonds upon receipt by the Trustee of a requisition therefor in substantially the form of Schedule 3.04(b)(1) hereto, appropriately completed and properly executed; and
- (2) the Capitalized Interest Account, without further authorization or direction by the Authority, the Borrower, or any other Person, to pay interest on the Series 2024-A Bonds on each Stated Interest Payment Date during the period beginning on the Date of Initial Delivery and ending on February 1, 2026; and
- (3) the Series 2024-A Project Account for the payment of Costs of the Project with respect to the Series 2024-A Project, upon receipt by the Trustee of a requisition therefor in substantially the form of Schedule 3.04(b)(3) hereto, appropriately completed and properly executed.

(c) The Authority authorizes and directs the Trustee to apply the funds in the Accounts of the Series 2024-A Construction Fund for the following purposes upon receipt of (i) a Certificate of an Authorized Borrower Representative to the effect that all Costs of the Project for the Series 2024-A Project shall have been paid in full and directing the application of such funds for the following purposes and (ii) a Favorable Opinion of Bond Counsel with respect thereto:

- (1) deposit in the Account of the Bond Fund for the Series 2024-A Bonds; and
- (2) payment of Capital Expenditures for the Project or property of the University.

#### ARTICLE 4

##### Covenants of Authority

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#### Section 4.01 Compliance with the Continuing Disclosure Agreement

The Authority covenants and agrees to observe and perform the agreements of the Authority set forth in the Continuing Disclosure Agreement in due time, form and manner as required thereby; provided, the Owners will have only the rights and remedies set forth in the Continuing Disclosure Agreement for the enforcement of the agreements of the Authority thereunder and the failure of the Authority to observe or perform any such agreement of the Authority will not constitute an Event of Default under the Indenture.

#### Section 4.02 Compliance with the Federal Tax Code

The Authority covenants and agrees, for the benefit of the Series 2024-A Bonds, that the Authority will:

- (1) duly and punctually observe, perform and comply with all agreements and covenants thereof under the Tax Certificate and Agreement delivered by the Authority, the Borrower and the University simultaneously with the delivery of the Series 2024-A Bonds; and
- (2) not take any action, or omit to take any action, with respect to the Series 2024-A Bonds that would cause the interest on the Series 2024-A Bonds to be or become Taxable.

ARTICLE 5

Provisions of General Application

Section 5.01 Governing Law

The Indenture, as supplemented and amended hereby, shall be construed in accordance with and governed by the laws of the State of Alabama, without regard to conflict of law principles.

Section 5.02 Enforceability

If any provision herein shall be held invalid, illegal or unenforceable by any court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

ARTICLE 6

Confirmation of Indenture

The Authority, the Trustee, and, by acceptance of the Series 2024-A Bonds, the Owners thereof, agree:

- (1) this Series 2024-A Supplemental Trust Indenture is delivered in supplement to the Original Indenture, as part thereof, and shall be construed in accordance with, and governed by, the terms of the Original Indenture; and
- (2) the Original Indenture, as hereby supplemented and amended, is hereby ratified, confirmed, and approved in all respects.

IN WITNESS WHEREOF, the Authority has caused this Supplemental Indenture to be executed in its name and behalf, under its corporate seal hereunto affixed, and the same to be attested, by officers thereof duly authorized thereunto, and the Trustee has caused this Supplemental Indenture to be executed in its name and on its behalf, under its corporate seal hereunto affixed, and the same to be attested, by officers thereof duly authorized thereunto.

THE EDUCATIONAL BUILDING AUTHORITY OF THE  
CITY OF HOMEWOOD

By \_\_\_\_\_  
Chairman

S E A L

Attest: \_\_\_\_\_  
Secretary

REGIONS BANK  
as Trustee

By \_\_\_\_\_

Its \_\_\_\_\_

[S E A L]

Attest: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A  
TO  
Series 2024-A SUPPLEMENTAL TRUST INDENTURE

The form of the Series 2024-A Bonds begins on the following page.

This Bond has not been registered under the Securities Act of 1933, as amended, or under any state securities law, in reliance upon applicable exemptions, and this Bond, or any interest herein, may only be transferred in compliance with federal and state securities laws and in compliance with the within referenced Indenture.

UNITED STATES OF AMERICA  
STATE OF ALABAMA

THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD

REVENUE BOND  
(CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University)  
Tax-Exempt Series 2024-A

|                   |          |
|-------------------|----------|
| Registered Owner: | Bond No. |
| CEDE & CO.        | R-       |

|                |                   |                          |                                |                    |        |
|----------------|-------------------|--------------------------|--------------------------------|--------------------|--------|
| Dated Date:    | Principal Amount: | Interest Rate per annum: | Stated Interest Payment Dates: | Maturity Date:     | CUSIP: |
| _____,<br>2024 | \$ _____          | _____%                   | April 1 and<br>October 1       | October 1,<br>20__ | ____   |

Authorization of Indebtedness and Payment

For Value Received, The Educational Building Authority of the City of Homewood, a public corporation under the laws of the State of Alabama (the “Authority”), has issued this Bond pursuant to that certain Trust Indenture dated [Month] 1, 2024 (as at any time amended or supplemented, the “Indenture”) by the Authority and Regions Bank, as trustee (the “Trustee”) in evidence of indebtedness thereof to the Registered Owner, or registered assigns, in the Principal Amount and hereby promises to pay to the Registered Owner, through the Trustee, as Paying Agent, and Bond Registrar for the Series 2024-A Bonds, and solely from the Trust Estate as provided in the Indenture, (i) the Principal Amount on the Maturity Date, subject to prior redemption (in whole or in part) thereof as provided in the Indenture, and (ii) interest accrued on the outstanding amount of such Principal Amount at the Interest Rate, computed from the Dated Date, on the Stated Interest Payment Dates and on each date fixed for redemption (in whole or in part) of this Bond, as provided in the Indenture.

Definition of Terms

Capitalized terms used in this Bond without definition shall have the respective meanings assigned thereto in the Indenture.



**The Indenture**

The Indenture is held by the Trustee at the Principal Office thereof referenced in the Indenture and constitutes a contractual agreement binding upon the Authority, the Trustee and the registered owners of the Series 2024-A Bonds under the laws of the State of Alabama for (i) the source of payment of, and security for, the Series 2024-A Bonds; (ii) the registration, transfer, exchange and replacement of the Series 2024-A Bonds; (iii) the redemption, in advance of maturity, of the Series 2024-A Bonds; (iv) the payment of the Series 2024-A Bonds and the defeasance of the Indenture; (v) the amendment and supplement of the Indenture (without consent, or with the consent of the registered owners of a specified percentage, or all, of the principal amount of the Series 2024-A Bonds); (vi) the rights and duties of the Authority and the Trustee; and (vii) the enforcement of the Indenture by the registered owners of a specified percentage, or all, of the principal amount of the Series 2024-A Bonds.

**Agreement of Registered Owners of Series 2024-A Bonds**

The Indenture provides the registered owner of each of the Series 2024-A Bonds, by acquisition thereof, shall have thereby consented to, and agreed to be bound by, the provisions of the Indenture.

**Certification**

The Authority recites, certifies and declares that all conditions, actions and things required by the Constitution of Alabama of 2022 and laws of the State of Alabama, to exist, be performed and happen precedent to or in the issuance of this Bond do exist, have been performed and have happened in due time, form and manner as required by law.

\_IN WITNESS WHEREOF, The Educational Building Authority of the City of Homewood has caused this Bond to be executed in its name and on its behalf, under seal, and the same attested, by officers thereof duly authorized thereunto, on the Dated Date set forth above.

**THE EDUCATIONAL BUILDING AUTHORITY OF THE  
CITY OF HOMEWOOD**

\_\_\_\_\_  
Chair

SEAL

Attest:

By: \_\_\_\_\_  
Secretary

\_\_\_\_\_

Date of Authentication and Registration: \_\_\_\_\_, 2024

**Certificate of Authentication and Registration**

This is one of the Series 2024-A Bonds referenced in the within-mentioned Trust Indenture and has been registered by The Educational Building Authority of the City of Homewood on the registration books maintained with the Trustee in the name of the above-named registered owner on the Authentication and Registration Date specified above.

**Regions Bank**  
as Trustee

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_

\_\_\_\_\_

**Assignment**

For value received, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ this Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney to transfer this Bond on the books of the within-named Authority at the office of the within-named Trustee, with full power of substitution in the premises.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within bond in every particular, without alteration, enlargement or change whatsoever.

Signature Guaranteed\*:

\_\_\_\_\_  
(Bank or Trust Company)

\_\_\_\_\_  
(Authorized Officer)

Medallion Number: \_\_\_\_\_

\* Signature(s) must be guaranteed by an eligible guarantor institution which is a member of the recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

\_\_\_\_\_

**Notice By Securities Depository**

Unless the within Bond is presented by an authorized representative of the Securities Depository (as defined in the Indenture referenced in the within Bond), to the Board or its agent for registration of transfer, exchange, or payment, and any Series 2024-A Bond issued is registered in the name of the Securities Depository or the Securities Depository Nominee (as defined in the Indenture referenced in the within Bond), as the case may be, or in such other name as is requested by an authorized representative of the Securities Depository (and any payment is made to the Securities Depository or the Securities Depository Nominee or to such other entity as is requested by an authorized representative of the Securities Depository), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, the Securities Depository or Securities Depository Nominee, as the case may be, has an interest herein.

\_\_\_\_\_

SCHEDULE 3.04(b)(1)

THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD

Requisition and Payment Request for Issuance Costs Account

Requisition and Payment Request for Issuance Costs Account

To: Regions Bank, as Trustee

Re: Issuance Costs Account of the Series 2024-A Construction Fund under Trust Indenture dated [Month]  
1, 2024 by The Educational Building Authority of the City of Homewood and Regions Bank, as trustee

Date: \_\_\_\_\_, 2024

- 
1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto the above Indenture.
  2. The undersigned authorize and direct the Trustee to pay from the Issuance Costs Account of the Series 2024-A Construction Fund the amounts to the Persons set forth in the attached instructions not later than \_\_\_\_\_, 2024.
  3. The Borrower does hereby certify to the Trustee that, as of the date hereof, (i) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed, (ii) the amounts described in the attached instructions constitute Issuance Costs, and (iii) no Event of Default has occurred and is continuing under the Lease Agreement.

By **CHF - HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation

As sole member

As Authorized Borrower Representative

By \_\_\_\_\_

Its \_\_\_\_\_

SCHEDULE 3.04(b)(3)

Requisition and Payment Request for Series 2024-A Project Account  
Construction Costs

THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD  
Requisition and Payment Request for Series 2024-A Project Account  
Construction Costs

To: Regions Bank, as Trustee

Re: Series 2024-A Project Account of the Series 2024-A Construction Fund under Trust Indenture dated [Month] 1, 2024 by The Educational Building Authority of the City of Homewood and Regions Bank, as trustee

Date: \_\_\_\_\_, 202\_\_

Req. No. \_\_\_\_\_

- 
1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the above Indenture.
2. The undersigned authorize and direct the Trustee to pay from the Series 2024-A Project Account of the Series 2024-A Construction Fund the amount(s) to the Persons set forth in the attached Application and Certificate for Payment[(AIA Form G702)] (the “Application and Certificate”) and the attached Continuation Sheets[(AIA Document G703)] (“Continuation Sheets”) for the payment of Construction Costs for the account of the Borrower. Attached hereto is evidence of prior payment by the Borrower or the Authority to the appropriate contractor or supplier under the Series 2024-A Project Acquisition Contracts.] [To be included only if requisition includes any reimbursement to the Borrower or the Authority]
3. The Borrower does hereby certify to the Trustee that, as of the date hereof, (1) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed and (2) the items described in the attached Application and Certificate for Payment and Continuation Sheets are Construction Costs, (3) [the payment of the amounts set forth in the Application and Certificate and Continuation Sheets from the Series 2024-A Account of the Series 2024-A Construction Fund, together with the payment of all prior requisitions from such Account, will not result in more than 5% of the proceeds of the Series 2024-A Bonds used directly or indirectly in any trade or business carried on by any person who is not a “501(c)(3) organization” or a “governmental unit,” within the meaning of §145 of the Internal Revenue Federal Tax Code of 1986, as amended, or in any unrelated trade or business of a 501(c)(3) organization], and (4) no Event of Default has occurred and is continuing under the Lease Agreement.

By **CHF - HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation  
As sole member  
As Authorized Borrower Representative

By \_\_\_\_\_

Its \_\_\_\_\_

Approved By:

**SAMFORD UNIVERSITY**

By \_\_\_\_\_

Authorized University Representative

\_\_\_\_\_, as Developer, hereby approves the foregoing requisition and in doing so, makes the certifications specified in Section 6.02(d)(1)(ii) of the Lease Agreement and Section \_\_\_\_\_ of the Development Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

By \_\_\_\_\_

Its:      Authorized Developer Representative

**SCHEDULE 3.04(b)(3)**

**Requisition and Payment Request for Series 2024-A Project Account**

**Non-Construction Costs**

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**  
**Requisition and Payment Request for Series 2024-A Project Account**  
**Non-Construction Costs**

To: Regions Bank, as Trustee

Re: Series 2024-A Project Account of the Series 2024-A Construction Fund under Trust Indenture dated [Month] 1, 2024 by The Educational Building Authority of the City of Homewood and Regions Bank, as trustee

Date: \_\_\_\_\_, 202\_\_

Req. No. \_\_\_\_\_

1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the above Indenture.

2. The undersigned authorize and direct the Trustee to pay from the Series 2024-A Project Account of the Series 2024-A Construction Fund the amount(s) to the Persons set forth in the attached instructions for the payment of Non-Construction costs for the account of the Borrower.

3. The Borrower does hereby certify to the Trustee that, as of the date hereof, (1) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed and (2) the items described in the attached instructions are Non-Construction Costs, (3) the payment of the amounts set forth in the attached instructions from the Series 2024-A Account of the Series 2024-A Construction Fund, together with the payment of all prior requisitions from such Account, will not result in more than 5% of the proceeds of the Series 2024-A Bonds used directly or indirectly in any trade or business carried on by any person who is not a "501(c)(3) organization" or a "governmental unit," within the meaning of §145 of the Internal Revenue Federal Tax Code of 1986, as amended, or in any unrelated trade or business of a 501(c)(3) organization], and (4) no Event of Default has occurred and is continuing under the Lease Agreement.

By **CHF - HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation  
As sole member  
As Authorized Borrower Representative

By \_\_\_\_\_

Its \_\_\_\_\_

Approved By:

**SAMFORD UNIVERSITY**

By \_\_\_\_\_

Authorized University Representative

\_\_\_\_\_, as Developer, hereby approves the foregoing requisition and in doing so, makes the certifications specified in Section 6.02(c)(1) of the Lease Agreement and Section \_\_\_\_\_ of the Development Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By \_\_\_\_\_

Its: Authorized Developer Representative

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**SERIES 2024-B SUPPLEMENTAL TRUST INDENTURE**

\_\_\_\_\_  
[Month] 1, 2024  
\_\_\_\_\_

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**

and

**REGIONS BANK  
as Trustee**

\_\_\_\_\_  
**Regarding**  
**Revenue Bonds**  
**(CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University)**  
**Federally Taxable Series 2024-B**  
\_\_\_\_\_

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**Notice of Supplement of Original Indenture**

This Series 2024-B Supplemental Trust Indenture is delivered in supplement of that certain Trust Indenture dated [Month] 1, 2024 by the Authority and the Trustee and recorded in \_\_\_\_\_ in the Office of the Judge of Probate of Jefferson County, Alabama.

\_\_\_\_\_

\_\_\_\_\_

This Series 2024-B Supplemental Trust Indenture was prepared by Heyward C. Hosch, Barry A. Staples and Ann W. Todd of Maynard Nexsen P.C.

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**ERIES 2024-B SUPPLEMENTAL TRUST INDENTURE**

\_\_\_\_\_  
[Month] 1, 2024  
\_\_\_\_\_

This Series 2024-B Supplemental Trust Indenture is made and entered as of the above date by the undersigned:

**Authority: The Educational Building Authority of the City of Homewood**

**Trustee: Regions Bank, as trustee**

\_\_\_\_\_

\_\_\_\_\_

**Recitals**

The Authority has authorized and delivered this Series 2024-B Supplemental Trust Indenture to the Trustee pursuant to the Act and in supplement of the within Indenture by the Authority and the Trustee to provide for the issuance of the within Revenue Bonds (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), Federally Taxable Series 2024-B, under the Indenture for the purposes described herein.

**Agreement**

Now therefore, in consideration of the respective agreements and covenants of the Authority, the Trustee, and the registered owners of the Series 2024-B Bonds, by acquisition thereof, hereby covenant and agree, each with the others, as follows:

## ARTICLE 1

### Definitions

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#### Section 1.01 Incorporation from Indenture of Defined Terms

The Authority and the Trustee incorporate and use herein certain capitalized terms as such terms are defined in the within Original Indenture.

#### Section 1.02 Definition of Certain Terms

For purposes hereof:

**Architect Agreement** means the “Agreement Between Owner and Architect” dated \_\_\_\_\_, 2024, as at any time amended, restated or supplemented, by the University and Davis Architects, Inc.

**Architect Consent and Agreement to Perform** means the Consent and Agreement (Architect) with respect to the Series 2024-B Project, effective as of the Closing Date, as at any time amended, restated or supplemented, by the University in favor of the Trustee.

**Authorized Denominations** means, for the Series 2024-B Bonds, the amount of \$5,000 and any integral multiple thereof for each maturity.

**Bond Purchase Agreement** means the Bond Purchase Agreement dated the date of delivery thereof, with respect to the Series 2024-B Bonds, by the Authority and the Underwriter .

**Borrower Security Agreement** means the Borrower Security Agreement dated [Month] 1, 2024, with respect to the Series 2024-B Project, as at any time amended, restated or supplemented, by the Borrower in favor of the Trustee.

**Continuing Disclosure Agreement** means the Continuing Disclosure Agreement dated the Date of Initial Delivery by the Authority in compliance with 17 CFR Section 240.15c2-12 for the benefit of the Series 2024-B Bonds

**Contractor** means Hoar Construction, Inc.

**Construction Contract** means the Agreement Between Owner and Construction Manager dated \_\_\_\_\_ 2024, as at any time amended, restated, or supplemented, by the University and the Contractor.

**Contractor Consent and Agreement to Perform** means the Consent and Agreement (Contractor) with respect to the Series 2024-B Project, effective as of the Closing Date, as at any time amended, restated or supplemented, by the University in favor of the Trustee.

**Date of Initial Delivery** means \_\_\_\_\_, 2024.

**Developer Consent and Agreement to Perform** means the Consent and Agreement (Developer) with respect to the Series 2024-B Project, effective as of the Closing Date, as at any time amended, restated or supplemented, by the University in favor of Trustee.

**Development Agreement** means the Development Manager Service Agreement dated \_\_\_\_\_, 2024, as at any time amended, restated or supplemented, by the University and the Developer.

**Developer Indemnity Letter** means the indemnity letter dated the date of delivery from the Developer to the Authority, the Borrower, and the Underwriter with respect to the Series 2024-B Project.

**Indenture** means the Original Indenture, as amended, restated, and supplemented pursuant to the provisions thereof, by the Authority and the Trustee.

**Original Indenture** means the Trust Indenture dated [Month] 1, 2024, by the Authority and the Trustee.

**Series 2024-B Bond Proceeds** means the amount of \$ \_\_\_\_\_, being the principal amount of \$ \_\_\_\_\_ original issue \_\_\_\_\_ of \$ \_\_\_\_\_ and less underwriting discount of \$ \_\_\_\_\_.

**Series 2024-B Bonds** means the Revenue Bonds (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), Federally Taxable Series 2024-B, of the Authority.

**Series 2024-B Construction Fund** means the Fund created by the Authority pursuant to Section 3.04.

**Series 2024-B Project** means capital improvements consisting of recreation, wellness and athletic facilities for students of the University.

**Series 2024-B Project Acquisition Contracts** means collectively for the Series 2024-B Project: (i) the Construction Contract, (ii) the Architect Agreement, (iii) the Development Agreement and (iv) the other contracts, if any, relating to the acquisition, construction and installation of the Series 2024-B Project.

**Underwriter** means collectively RBC Capital Markets, LLC and Stifel, Nicolaus & Company, Incorporated.

**University** means Samford University and the successors and assigns thereof.

**University Collateral Assignment** means the University Collateral Assignment Agreement dated [Month] 1, 2024, with respect to the Series 2024-B Project, as at any time amended, restated or supplemented, by the University in favor of the Borrower.



## ARTICLE 2

### The Series 2024-B Bonds

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#### (e) Principal Payments and Interest Rates

The principal of the Series 2024-B Bonds will mature on the Stated Principal Payment Date in each of the following years and principal amounts, subject to prior extraordinary, mandatory and optional redemption, and will accrue interest at the following per annum rates of interest:

| <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-------------|-------------------------|----------------------|
|-------------|-------------------------|----------------------|

#### Section 2.01 Compliance with Original Indenture

The Authority represents:

- (1) the Series 2024-B Bond Proceeds shall be applied as provided herein for the payment of Costs of the Project for the Series 2024-B Project;
- (2) no Event of Default exists under the Indenture;
- (3) all required deposits into the Indenture Funds will be made simultaneously with the issuance of the Series 2024-B Bonds;
- (4) the Series 2024-B Project constitutes "ancillary improvements" within the meaning of the Authorizing Act.

#### Section 2.02 Authorization of Series 2024-B Bonds

##### (a) Authorization

The Authority authorizes to be issued under and secured by the Indenture a series of Bonds in maximum aggregate principal amount of \$XXX and designated "Revenue Bonds (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University), Federally Taxable Series 2024-B" for the acquisition of the Series 2024-B Project and the purposes of the Campus Development Account of the Series 2024-B Construction Fund.

##### (b) Authorized Denominations and Form of Series 2024-B Bonds

The Series 2024-B Bonds shall be issued and delivered in certificated form as set forth on Exhibit A (with such changes thereto as required by Applicable Law on the Date of Initial Delivery) as a single bond for each stated maturity thereof in integral multiples of an Authorized Denomination and numbered consecutively in the order of issuance.

##### (c) Initial Issuance Pursuant to Book-Entry System

The Series 2024-B Bonds will be initially held pursuant to a Book-Entry System administered by the Securities Depository. On the Date of Initial Delivery, the certificated Bond for each stated maturity thereof will be registered in the name of the Securities Depository Nominee and delivered to, and held in the custody of, the Securities Depository or the Trustee in accordance with the applicable rules of the Securities Depository.

##### (d) Date

The Series 2024-B Bonds shall be dated the date of delivery and payment therefor.

(f) Optional Redemption

The Series 2024-B Bonds having stated maturities in 20 [  33  ] and thereafter are subject to prior redemption on \_\_\_\_\_ 1, 20\_\_\_\_, or on any Business Day thereafter, in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity) as the Borrower shall direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, without premium or penalty.

(g) Mandatory Redemption

The Series 2024-B Bonds are subject to scheduled mandatory redemption as follows:

(1) The Authority authorizes and directs the Trustee to effect the mandatory redemption of those of the Series 2024-B Bonds having a stated maturity on the Stated Principal Payment Date in 20\_\_\_\_ (the "20YY Term Bonds") without consent of or direction by the Authority or the Borrower, by lot, on the Stated Principal Payment Date in each of the years and in the aggregate principal amounts set forth below (subject to a credit for the principal amount of the 20YY Term Bonds then cancelled or redeemed and not previously claimed as a credit, and without regard to any prior extraordinary mandatory redemption or optional redemption of the 20YY Term Bonds and without reduction of the principal amount subject to mandatory redemption in any year by reason of such prior extraordinary mandatory redemption or optional redemption) at a redemption price for each 20YY Term Bond to be redeemed equal to the principal amount thereof, plus accrued interest thereon to the redemption date, without premium or penalty:

| <u>Year</u> | <u>Principal Amount to Be<br/>Mandatorily Redeemed</u> |
|-------------|--|
|-------------|--|

(2) The Authority authorizes and directs the Trustee to effect the mandatory redemption of those of the Series 2024-B Bonds having a stated maturity on the Stated Principal Payment Date in 20\_\_\_\_ (the "20YY Term Bonds") without consent of or direction by the Authority or the Borrower, by lot, on the Stated Principal Payment Date in each of the years and in the aggregate principal amounts set forth below (subject to a credit for the principal amount of the 20YY Term Bonds then cancelled or redeemed and not previously claimed as a credit, and without regard to any prior extraordinary mandatory redemption or optional redemption of the 20YY Term Bonds and without reduction of the principal amount subject to mandatory redemption in any year by reason of such prior extraordinary mandatory redemption or optional redemption) at a redemption price for each 20YY Term Bond to be redeemed equal to the principal amount thereof, plus accrued interest thereon to the redemption date, without premium or penalty:

| <u>Year</u> | <u>Principal Amount to Be<br/>Mandatorily Redeemed</u> |
|-------------|--|
|-------------|--|

(h) Extraordinary Redemption

The Series 2024-B Bonds are subject to extraordinary redemption on any Business Day in whole, or in part in Authorized Denominations, at the option of the Authority on the written direction of the Borrower (the Authority being deemed, without action on its part, to have exercised such option upon delivery of such request by the Borrower) at such times, and in such order and amounts of maturities (by random selection within a maturity) as the Borrower shall direct in writing, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date fixed for redemption, plus the unamortized amount of any original issue premium on the Series 2024-B Bonds called for redemption, and otherwise without premium or penalty, from amounts deposited in the Redemption Fund pursuant to this Indenture from any one or more of the following sources, in an amount equal to such deposit (rounded down to the next highest Authorized Denomination):

- (1) any amount received by the Trustee as Net Proceeds of title insurance pursuant to Section 4.05 of the Lease Agreement; or
- (2) any amount received by the Trustee as Net Proceeds of a disposition of any Equipment pursuant to Section 8.02 of the Lease Agreement; or
- (3) any amount received by the Trustee as monetary consideration in connection with the release of, or the subordination of the Leasehold Mortgage to, any portion of the Project pursuant to written request of the Authority, the Borrower and the University in order that utility services or public services may be provided to the Project; or
- (4) any amounts on deposit in an account of a construction fund which are transferred to the Trustee for deposit in the Redemption Fund with a written certificate of an Authorized Borrower Representative to the effect that no further disbursements will be requested from such Account; or
- (5) any amounts transferred to the Redemption Fund by the Trustee pursuant to the following sections of the Original Indenture:
  - (i) Section 6.02 (c), (d), and (e); and
  - (ii) Section 6.03(c).

**Section 3.02 Delivery of Series 2024-B Bonds**

The Authority authorizes and directs the Trustee to authenticate and deliver the Series 2024-B Bonds upon receipt by the Trustee of all of the following:

- (1) the executed Series 2024-B Bonds;
- (2) executed counterparts of the Bond Documents;
- (3) the Series 2024-B Bond Proceeds;
- (4) the Developer Indemnity Letter;
- (5) the certificates, documents, legal opinions, proceedings, required by the Bond Purchase Agreement as certified to the Trustee by the Underwriter.

**Section 3.03 Application of Series 2024-B Bond Proceeds**

The Authority authorizes and directs the Trustee to deposit the Series 2024-B Bond Proceeds, when and as received on the Date of Initial Delivery, as follows:

- (1) the amount of \$\_\_\_\_\_ shall be deposited in the Issuance Costs Account of the Series 2024-B Construction Fund; and
- (2) the amount of \$\_\_\_\_\_ shall be deposited in the Capitalized Interest Account of the Series 2024-B Construction Fund; and
- (3) the amount of \$\_\_\_\_\_ shall be deposited in the Series 2024-B Project Account of the Series 2024-B Construction Fund.

#### Section 3.04 Series 2024-B Construction Fund

(a) The Authority creates a Fund designated the “Series 2024-B Construction Fund” to be held and applied by the Trustee as provided in this Section, and which Fund shall consist of the following accounts, hereby created:

- (1) the Issuance Costs Account;
- (2) the Capitalized Interest Account;
- (3) the Series 2024-B Project Account.

(b) The Authority authorizes and directs the Trustee to apply the funds in the Accounts of the Series 2024-B Construction Fund in:

- (1) the Issuance Costs Account, without further authorization or direction by the Authority, the Borrower or any other Person, to pay the Costs of the Project which constitute Issuance Costs for the Series 2024-B Bonds upon receipt by the Trustee of a requisition therefor in substantially the form of Schedule 3.04(b)(1) hereto, appropriately completed and properly executed; and
- (2) the Capitalized Interest Account, without further authorization or direction by the Authority, the Borrower, or any other Person, to pay interest on the Series 2024-B Bonds on each Stated Interest Payment Date during the period beginning on the Date of Initial Delivery and ending on February 1, 2026; and
- (3) the Series 2024-B Project Account for the payment of Costs of the Project with respect to the Series 2024-B Project, upon receipt by the Trustee of a requisition therefor in substantially the form of Schedule 3.04(b)(3) hereto, appropriately completed and properly executed.

(c) The Authority authorizes and directs the Trustee to apply the funds in the Accounts of the Series 2024-B Construction Fund for the following purposes upon receipt of (i) a Certificate of an Authorized Borrower Representative to the effect that all Costs of the Project for the Series 2024-B Project shall have been paid in full and directing the application of such funds for the following purposes and (ii) a Favorable Opinion of Bond Counsel with respect thereto:

- (1) deposit in the Account of the Bond Fund for the Series 2024-B Bonds; and
- (2) payment of Capital Expenditures for the Project or property of the University.

#### ARTICLE 4

##### Compliance with the Continuing Disclosure Agreement

---

The Authority covenants and agrees to observe and perform the agreements of the Authority set forth in the Continuing Disclosure Agreement in due time, form and manner as required thereby; provided, the Owners will have only the rights and remedies set forth in the Continuing Disclosure Agreement for the enforcement of the agreements of the Authority thereunder and the failure of the Authority to observe or perform any such agreement of the Authority will not constitute an Event of Default under the Indenture.

#### ARTICLE

##### Provisions of General Application

---

#### Section .01 Governing Law

The Indenture, as supplemented and amended hereby, shall be construed in accordance with and governed by the laws of the State of Alabama, without regard to conflict of law principles.

#### Section 5.02 Enforceability

If any provision herein shall be held invalid, illegal or unenforceable by any court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

#### ARTICLE 6

##### Confirmation of Indenture

---

The Authority, the Trustee, and, by acceptance of the Series 2024-B Bonds, the Owners thereof, agree:

- (1) this Series 2024-B Supplemental Trust Indenture is delivered in supplement to the Original Indenture, as part thereof, and shall be construed in accordance with, and governed by, the terms of the Original Indenture; and
- (2) the Original Indenture, as hereby supplemented and amended, is hereby ratified, confirmed, and approved in all respects.

IN WITNESS WHEREOF, the Authority has caused this Supplemental Indenture to be executed in its name and behalf, under its corporate seal hereunto affixed, and the same to be attested, by officers thereof duly authorized thereunto, and the Trustee has caused this Supplemental Indenture to be executed in its name and on its behalf, under its corporate seal hereunto affixed, and the same to be attested, by officers thereof duly authorized thereunto.

**EXHIBIT A**  
**TO**  
**Series 2024-B SUPPLEMENTAL TRUST INDENTURE**

The form of the Series 2024-B Bonds begins on the following page.

**THE EDUCATIONAL BUILDING AUTHORITY OF THE  
CITY OF HOMEWOOD**

By \_\_\_\_\_  
Chairman

**S E A L**

Attest: \_\_\_\_\_  
Secretary

**REGIONS BANK**  
as Trustee

By \_\_\_\_\_

Its \_\_\_\_\_

[S E A L]

Attest: \_\_\_\_\_

Its: \_\_\_\_\_

This Bond has not been registered under the Securities Act of 1933, as amended, or under any state securities law, in reliance upon applicable exemptions, and this Bond, or any interest herein, may only be transferred in compliance with federal and state securities laws and in compliance with the within referenced Indenture.

UNITED STATES OF AMERICA  
STATE OF ALABAMA

THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD

REVENUE BOND  
(CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University)  
Federally Taxable Series 2024-B

Registered Owner:

Bond No.

CEDE & CO.

R-

| Dated Date:    | Principal Amount: | Interest Rate per annum: | Stated Interest Payment Dates: | Maturity Date:     | CUSIP: |
|----------------|-------------------|--------------------------|--------------------------------|--------------------|--------|
| _____,<br>2024 | \$ _____          | _____%                   | April 1 and<br>October 1       | October 1,<br>20__ | ____   |

Authorization of Indebtedness and Payment

For Value Received, The Educational Building Authority of the City of Homewood, a public corporation under the laws of the State of Alabama (the “Authority”), has issued this Bond pursuant to that certain Trust Indenture dated [Month] 1, 2024 (as at any time amended or supplemented, the “Indenture”) by the Authority and Regions Bank, as trustee (the “Trustee”) in evidence of indebtedness thereof to the Registered Owner, or registered assigns, in the Principal Amount and hereby promises to pay to the Registered Owner, through the Trustee, as Paying Agent, and Bond Registrar for the Series 2024-B Bonds, and solely from the Trust Estate as provided in the Indenture, (i) the Principal Amount on the Maturity Date, subject to prior redemption (in whole or in part) thereof as provided in the Indenture, and (ii) interest accrued on the outstanding amount of such Principal Amount at the Interest Rate, computed from the Dated Date, on the Stated Interest Payment Dates and on each date fixed for redemption (in whole or in part) of this Bond, as provided in the Indenture.

Definition of Terms

Capitalized terms used in this Bond without definition shall have the respective meanings assigned thereto in the Indenture.

The Indenture

The Indenture is held by the Trustee at the Principal Office thereof referenced in the Indenture and constitutes a contractual agreement binding upon the Authority, the Trustee and the registered owners of the Series 2024-B Bonds under the laws of the State of Alabama for (i) the source of payment of, and security for, the Series 2024-B Bonds; (ii) the registration, transfer, exchange and replacement of the Series 2024-B Bonds; (iii) the redemption, in advance of maturity, of the Series 2024-B Bonds; (iv) the payment of the Series 2024-B Bonds and the defeasance of the Indenture; (v) the amendment and supplement of the Indenture (without consent, or with the consent of the registered owners of a specified percentage, or all, of the principal amount of the Series 2024-B Bonds); (vi) the rights and duties of the Authority and the Trustee; and (vii) the enforcement of the Indenture by the registered owners of a specified percentage, or all, of the principal amount of the Series 2024-B Bonds.

Agreement of Registered Owners of Series 2024-B Bonds

The Indenture provides the registered owner of each of the Series 2024-B Bonds, by acquisition thereof, shall have thereby consented to, and agreed to be bound by, the provisions of the Indenture.

Certification

The Authority recites, certifies and declares that all conditions, actions and things required by the Constitution of Alabama of 2022 and laws of the State of Alabama, to exist, be performed and happen precedent to or in the issuance of this Bond do exist, have been performed and have happened in due time, form and manner as required by law.

\_IN WITNESS WHEREOF, The Educational Building Authority of the City of Homewood has caused this Bond to be executed in its name and on its behalf, under seal, and the same attested, by officers thereof duly authorized thereunto, on the Dated Date set forth above.

THE EDUCATIONAL BUILDING AUTHORITY OF THE  
CITY OF HOMEWOOD

\_\_\_\_\_  
Chair

SEAL

Attest:

By: \_\_\_\_\_  
Secretary

\_\_\_\_\_

Date of Authentication and Registration: \_\_\_\_\_, 2024

Certificate of Authentication and Registration

This is one of the Series 2024-B Bonds referenced in the within-mentioned Trust Indenture and has been registered by The Educational Building Authority of the City of Homewood on the registration books maintained with the Trustee in the name of the above-named registered owner on the Authentication and Registration Date specified above.

**Regions Bank**  
as Trustee

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_

\_\_\_\_\_

**Assignment**

For value received, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ this Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney to transfer this Bond on the books of the within-named Authority at the office of the within-named Trustee, with full power of substitution in the premises.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within bond in every particular, without alteration, enlargement or change whatsoever.

Signature Guaranteed\*:

\_\_\_\_\_  
(Bank or Trust Company)

\_\_\_\_\_  
(Authorized Officer)

Medallion Number: \_\_\_\_\_

\* Signature(s) must be guaranteed by an eligible guarantor institution which is a member of the recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

**Notice By Securities Depository**

Unless the within Bond is presented by an authorized representative of the Securities Depository (as defined in the Indenture referenced in the within Bond), to the Board or its agent for registration of transfer, exchange, or payment, and any Series 2024-B Bond issued is registered in the name of the Securities Depository or the Securities Depository Nominee (as defined in the Indenture referenced in the within Bond), as the case may be, or in such other name as is requested by an authorized representative of the Securities Depository (and any payment is made to the Securities Depository or the Securities Depository Nominee or to such other entity as is requested by an authorized representative of the Securities Depository), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, the Securities Depository or Securities Depository Nominee, as the case may be, has an interest herein.

**SCHEDULE 3.04(b)(1)**

**Requisition and Payment Request for Issuance Costs Account**



THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD

SCHEDULE 3.04(b)(3)

Requisition and Payment Request for Issuance Costs Account

Requisition and Payment Request for Series 2024-B Project Account  
Construction Costs

To: Regions Bank, as Trustee

Re: Issuance Costs Account of the Series 2024-B Construction Fund under Trust Indenture dated [Month]  
1, 2024 by The Educational Building Authority of the City of Homewood and Regions Bank, as trustee

Date: \_\_\_\_\_, 2024

- 
1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto the above Indenture.
  2. The undersigned authorize and direct the Trustee to pay from the Issuance Costs Account of the Series 2024-B Construction Fund the amounts to the Persons set forth in the attached instructions not later than \_\_\_\_\_, 2024.
  3. The Borrower does hereby certify to the Trustee that, as of the date hereof, (i) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed, (ii) the amounts described in the attached instructions constitute Issuance Costs, and (iii) no Event of Default has occurred and is continuing under the Lease Agreement.

By **CHF - HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation  
As sole member  
As Authorized Borrower Representative

By \_\_\_\_\_

Its \_\_\_\_\_

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**  
**Requisition and Payment Request for Series 2024-B Project Account**  
**Construction Costs**

To: Regions Bank, as Trustee

Re: Student Housing Facilities Project Account of the Series 2024-B Construction Fund under Trust  
Indenture dated [Month] 1, 2024 by The Educational Building Authority of the City of Homewood and  
Regions Bank, as trustee

Date: \_\_\_\_\_, 202\_\_

Req. No. \_\_\_\_\_

1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the above Indenture.

2. The undersigned authorize and direct the Trustee to pay from the Student Housing Facilities Project Account of the Series 2024-B Construction Fund the amount(s) to the Persons set forth in the attached Application and Certificate for Payment[(AIA Form G702)] (the “Application and Certificate”) and the attached Continuation Sheets[(AIA Document G703)] (“Continuation Sheets”) for the payment of Construction Costs for the account of the Borrower. Attached hereto is evidence of prior payment by the Borrower or the Authority to the appropriate contractor or supplier under the Series 2024-B Project Acquisition Contracts.] [To be included only if requisition includes any reimbursement to the Borrower or the Authority]

3. The Borrower does hereby certify to the Trustee that, as of the date hereof, (1) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed and (2) the items described in the attached Application and Certificate for Payment and Continuation Sheets are Construction Costs, any and (3) no Event of Default has occurred and is continuing under the Lease Agreement.

By **CHF - HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation  
As sole member  
As Authorized Borrower Representative

By \_\_\_\_\_

Its \_\_\_\_\_

Approved By:

**SAMFORD UNIVERSITY**

By \_\_\_\_\_

Authorized University Representative

\_\_\_\_\_, as Developer, hereby approves the foregoing requisition and in doing so, makes the certifications specified in Section 6.02(d)(1)(ii) of the Lease Agreement and Section \_\_\_\_\_ of the Development Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

By \_\_\_\_\_

Its: Authorized Developer Representative

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**  
**Requisition and Payment Request for Series 2024-B Project Account**  
**Non-Construction Costs**

SCHEDULE 3.04(b)(3)

**Requisition and Payment Request for Series 2024-B Project Account**  
**Non-Construction Costs**

To: Regions Bank, as Trustee

Re: Student Housing Facilities Project Account of the Series 2024-B Construction Fund under Trust Indenture dated [Month] 1, 2024 by The Educational Building Authority of the City of Homewood and Regions Bank, as trustee

Date: \_\_\_\_\_, 202\_\_

Req. No. \_\_\_\_\_

1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the above Indenture.

2. The undersigned authorize and direct the Trustee to pay from the Student Housing Facilities Project Account of the Series 2024-B Construction Fund the amount(s) to the Persons set forth in the attached instructions for the payment of Non-Construction costs for the account of the Borrower.

3. The Borrower does hereby certify to the Trustee that, as of the date hereof, (1) the representations and warranties of the Borrower in the Lease Agreement are hereby ratified and confirmed and (2) the items described in the attached instructions are Non-Construction Costs, and (3) no Event of Default has occurred and is continuing under the Lease Agreement.

By **CHF - HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation

As sole member

As Authorized Borrower Representative

By \_\_\_\_\_

Its \_\_\_\_\_

Approved By:

**SAMFORD UNIVERSITY**

By \_\_\_\_\_

Authorized University Representative

\_\_\_\_\_, as Developer, hereby approves the foregoing requisition and in doing so, makes the certifications specified in Section 6.02(c)(1) of the Lease Agreement and Section \_\_\_\_\_ of the Development Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
By \_\_\_\_\_

Its: Authorized Developer Representative

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**APPENDIX B-2**

**FORM OF THE BOND LEASE**

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**BOND LEASE AGREEMENT (CHF - HORIZONS I, L.L.C. RECREATION/WELLNESS/ATHLETIC CENTER PROJECT AT SAMFORD UNIVERSITY)**

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**[Month] 1, 2024**

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**by**

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD  
as Authority**

**and**

**CHF - HORIZONS I, L.L.C.  
as Borrower**

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Samford University, for purposes of the Ground Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) by Samford University and the Authority, recorded in \_\_\_\_\_ in the Office of the Judge of Probate of Jefferson County, Alabama, has agreed and consented, by endorsement hereon, to the terms and provisions, and delivery and performance, of this Agreement by the Authority and the Borrower.

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The interest of the Authority in and to this Bond Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) has been assigned to Regions Bank, as trustee under Trust Indenture dated [Month] 1, 2024 by the Authority and the Trustee.

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This Agreement was prepared by Heyward C. Hosch, Barry A. Staples, and Ann W. Todd of Maynard Nexsen PC, 1901 6th Avenue North, Suite 1700, Birmingham, Alabama 35203

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**BOND LEASE AGREEMENT (CHF - HORIZONS I, L.L.C. RECREATION/WELLNESS/ATHLETIC CENTER PROJECT AT SAMFORD UNIVERSITY)**

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This Bond Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) is made by and between the following undersigned Persons each of which is identified herein as:

**Authority: The Educational Building Authority of the City of Homewood**

**Borrower: CHF - Horizons I, L.L.C.**

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**ARTICLE 1**

**Consideration and Purpose of Agreement**

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The Authority and the Borrower have made and delivered this Agreement to provide for the establishment, financing and operation by the Borrower, of the within Project pursuant to the within Governing Law in furtherance of the corporate and governmental purposes of the Authority, for the benefit of the University, and in consideration of, and reliance upon, the due and punctual performance of the respective agreements, obligations and undertakings made in this Agreement by the undersigned.

## ARTICLE 2

### DEFINITIONS AND RULES OF CONSTRUCTION

---

#### Section 2.01 Incorporation of Defined Terms from Indenture

The Authority and the Borrower incorporate and use herein certain capitalized terms as such terms are defined in the within Indenture.

#### Section 2.02 Definitions

For purposes hereof:

**Additional Lease Payments** means the Lease Payments payable by the Borrower to the Trustee and the Authority under this Lease Agreement that are described under the subheading "Additional Lease Payments" in Section 7.02(b).

**Agreement or Lease Agreement** means this Lease Agreement, as at any time amended, restated or supplemented, by the Authority and the Borrower.

**Agreement Term** means the term of this Lease Agreement as specified in Section 7.01.

**Annual Period** means the 12-month period commencing on (and including) July 1 of each calendar year and ending on (and including) June 30 of the immediately succeeding calendar year.

**Basic Lease Payments** means the Lease Payments payable by the Borrower to the Trustee under this Lease Agreement that are described under the subheading "Basic Lease Payments" in Section 7.02(a).

**Bonds** means, collectively, on any date of determination, all Bonds issued and Outstanding under the Indenture.

**CPI Adjustment** has the meaning ascribed thereto in Section 9.01(b).

**Collegiate Housing Foundation** means Collegiate Housing Foundation, an Alabama nonprofit corporation, and the successors and assigns thereof.

**Consistent Basis** means, in reference to the application of GAAP that the accounting principles observed in the period referred to are comparable in all material respects to those applied in the preceding period.

**Construction Fund** means any Indenture Fund established in a Supplemental Indenture for the custody and application of proceeds of any series of Bonds.

**Facility Lease Agreement** means the Facility Lease Agreement dated [Month] 1, 2024 by the Borrower and the University with respect to the Project.

**Indemnified Persons** means, collectively, the Authority, the Authority Indemnified Persons, and the Trustee Indemnified Persons (each, an "Indemnified Person").

**Indenture** means the Trust Indenture of even date herewith, as amended, restated or supplemented, by the Authority and the Trustee.

**Lease Payments** means collectively the Basic Lease Payments and the Additional Lease Payments.

**Net Proceeds** when used for any insurance or condemnation award, for the sale or other disposition of a portion of the Project, or for any other recovery on a contractual claim or claim for damage to or for taking of property, means the gross proceeds from the insurance or condemnation award, sale, or other disposition, or recovery remaining after payment of (i) all reasonable expenses (including reasonable attorneys' fees and any Extraordinary Expenses of the Trustee) incurred in the collection of such gross proceeds, and (ii) solely with respect to the builder's risk policy procured by contractor under the Construction Agreement and absent an event of default by contractor under the Construction Agreement, payments to the contractor from available builder's risk insurance proceeds for Costs of the Project which have already been paid by contractor under the Construction Agreement and for which contractor has not been reimbursed under a prior draw request made by Borrower.

**Plans and Specifications** for the Project, means the detailed plans and specifications for the construction thereof prepared by the architects and engineers acceptable to the University, and the Borrower, as amended from time to time by the Borrower with the consent of the University, a copy of which will be on file with the Trustee and for any other component of the Project, has the meaning set forth in a supplemental indenture relating to a Series of Additional Bonds issued to finance that component of the Project.

**Project** means collectively all "ancillary improvements" (as defined in the Authorizing Act) financed by the Authority from the proceeds of Bonds and leased and operated by the Borrower and the University, as more particularly defined or described in the Supplemental Indenture for each series of such Bonds.

**Restoration Plans and Specifications** have the meaning ascribed thereto in Section 9.03(a)(ii).

**Tax-Exempt Organization** means a Person organized under the laws of the United States of America or any state thereof (i) that is an organization described in §501(c)(3) of the Federal Tax Code, (ii) that is exempt from federal income taxes under §501(a) of the Federal Tax Code, and (iii) unless a Favorable Opinion of Bond Counsel will be delivered to the Authority and the Trustee, that is not a "private foundation," within the meaning of §509(a) of the Federal Tax Code.

**Trustee Indemnified Persons** means, collectively, the Trustee and its officers, directors, employees and agents (each, a "Trustee Indemnified Person").



**Unassigned Rights** means the rights of the Authority under Sections 7.02(b), 10.02, 10.04, 14.01, 14.04, 14.08, 14.09, 14.10, 14.12 and 14.19 of this Lease Agreement, and, to the extent not expressly provided in said Sections (or in any other sections hereof or under the Indenture) the Authority's rights hereunder and under the Indenture to (i) inspect books and records; (ii) give or receive notices, approvals, consents, requests, and other communications; (iii) receive payment or reimbursement for expenses, including without limitation, Authority Additional Payments; (iv) immunity from and limitation of liability; (v) indemnification by the Borrower or any other Person; and (vi) to enforce, in its own name and on its own behalf, those provisions hereof and under the Indenture, and of any other document, instrument, or agreement entered into with respect to the Bonds that provides generally for the foregoing enumerated rights or any similar rights of the Authority or any of the Authority Indemnified Persons; provided, the "Unassigned Rights" referenced in items (iv), (v), and (vi), above, shall include (but not be limited to) the rights of the Authority Indemnified Persons to immunity from and limitation of liability and indemnification by the Borrower as provided herein and the right of any such Authority Indemnified Person to enforce such rights in the name thereof.

#### Section 2.03 Rules of Construction

For all purposes of this Lease Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply:

- (1) the terms "agree", "shall", and "will" when used in this Lease Agreement with respect to the observance or performance of any agreement, duty or requirement to take, or forbear from taking, any action by the Authority, the Borrower, the Trustee the Securities Depository, or an Owner, means that such agreement, duty or requirement is imperative and enforceable by available remedies at law or in equity against the Person charged therewith;
- (2) all references in this Lease Agreement to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this Indenture as originally executed;
- (3) the terms "in this Lease Agreement," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (4) the Article and Section headings in this Lease Agreement are for convenience only and shall not affect the construction of this Lease Agreement.

## ARTICLE 3

### REPRESENTATIONS AND UNDERTAKINGS

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#### Section 3.01 The Authority

The Authority delivers this Agreement on the Effective Date pursuant to the authorization thereof by proceedings duly had and taken by the governing body thereof under the authority of the Governing Law having found and determined precedent thereto: (i) no approval of, or filing with, any Governmental Authority is required for the validity, or performance by the Authority, of this Agreement; (ii) no litigation is pending, or threatened in writing, in which a result adverse to the Authority would have a material and adverse effect upon the validity, or performance by the Authority, of this Agreement; (iii) the delivery and performance of this Agreement by the Authority will not cause or result in a default or violation under any contractual agreement, or order or ruling of any Governmental Authority, binding upon, or in effect with respect to, the Authority; and (iv) the establishment and operation of the Project is in furtherance of the corporate and governmental purposes of the Authority .

#### Section 3.02 The Borrower

The Borrower makes the following representations and warranties as the basis for the undertakings on its part herein contained as of the Closing Date and agrees that the Authority may rely on such representations and warranties notwithstanding the issuance of the Bonds and regardless of any investigations by or on behalf of the Authority or the results thereof.

**Organization and Power.** The Borrower is a limited liability company duly organized and validly existing under the laws of the State of Alabama is authorized to do business in the State of Alabama, and has all requisite power and authority and all necessary licenses and permits to own and operate its properties and to carry on its business as it is now being conducted and as it is currently proposed to be conducted. The Borrower has full power and authority to enter into and perform its obligations under the Borrower Documents and has all requisite power and authority to operate the Project and to execute and deliver this Lease Agreement and the other Borrower Documents and to carry out the terms thereof.

**Tax Status.** The Borrower is a disregarded entity for federal tax purposes separate and apart from its sole member, Collegiate Housing Foundation, which (i) is an organization described in Section 501(c)(3) of the Federal Tax Code or corresponding provisions of prior law and is not a "private foundation," as such term is defined under Section 509(a) of the Federal Tax Code, (ii) is exempt from federal income taxes under Section 501(a) of the Federal Tax Code (except for taxation under Section 511 of the Federal Tax Code of unrelated business taxable income as defined in Section 512(a) of the Federal Tax Code ), (iii) has received a Determination Letter recognizing it as an organization (A) described in Section 501(c)(3) of the Federal Tax Code that is exempt from federal income taxation under Section 501(a) of the Federal Tax Code (except for taxation under Section 511 of the Federal Tax Code of unrelated business taxable income as defined in Section 512(a) of the Federal Tax Code ), and (B) that is not a "private foundation" as defined in Section 509(a) of the Federal Tax Code, which Determination Letter has not been modified, limited, revoked or superseded, (iv) is in compliance with all of the terms, conditions and limitations, if any, contained in its Determination Letter and there has been no change in the facts and circumstances that served as the basis for the Determination Letter relating to its status as an organization described in Section 501(c)(3) of the Federal Tax Code and as an organization that is not a "private foundation" as defined in Section 509(a) of the Federal Tax Code of a nature or to a degree as would warrant any action by the Internal Revenue Service to modify, limit, revoke or supersede its Determination Letter, and (v) is an

organization organized and operated exclusively for charitable and educational purposes and not for pecuniary profit, and no part of the net earnings of Collegiate Housing Foundation inures to the benefit of any Person, private stockholder or individual, within the meaning of Section 3(a)(4) of the Securities Act of 1933, as amended. No administrative or judicial proceedings are pending or, to the Borrower's knowledge, threatened against Collegiate Housing Foundation that may, in any way, adversely affect the status of Collegiate Housing Foundation as an organization (i) described in Section 501(c)(3) of the Federal Tax Code that is exempt from federal income taxation under Section 501(a) of the Federal Tax Code, and (ii) that is not a "private foundation" as defined in Section 509 of the Federal Tax Code.

*Pending Litigation and Taxes.* To its knowledge, there are no actions, suits, proceedings, inquiries, or investigations pending or threatened against or affecting the Borrower or Collegiate Housing Foundation in any court or by or before any governmental authority or arbitration board or tribunal that involve the likelihood of materially and adversely affecting the properties, business, prospects, profits, operations, or condition (financial or otherwise) of the Borrower or Collegiate Housing Foundation, the ability of the Borrower to perform its obligations under any of the Borrower Documents, or the transactions contemplated by any of the Bond Documents; or that, in any way, would adversely affect the validity or enforceability of the Borrower Documents or any agreement or instrument to which the Borrower or Collegiate Housing Foundation is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Borrower aware of any facts or circumstances currently existing that would form the basis for any such action, suit, or proceeding. Neither the Borrower nor Collegiate Housing Foundation is in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, governmental authority, or arbitration board or tribunal. All tax returns (federal, state, and local) required to be filed by or on behalf of the Borrower have been duly filed, and all taxes, assessments, and other governmental charges shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof.

*Agreements Are Legal and Authorized.* The execution and delivery by the Borrower of the Borrower Documents, the consummation of the transactions herein and therein contemplated, and the fulfillment of or the compliance with all of the provisions hereof and thereof (i) are within the power, legal right, and authority of the Borrower, (ii) are legal and will not conflict with or constitute on the part of the Borrower a violation of or a breach of or a default under, or result in the creation or imposition of any Lien, charge, restriction, or encumbrance (other than Permitted Encumbrances) on any property of the Borrower under the provisions of, any charter instrument; operating agreement; indenture; mortgage; pledge, note, lease, loan, or installment sale agreement; contract; or other agreement or instrument to which the Borrower is a party or by which the Borrower or its properties are otherwise subject or bound, or, to its knowledge, any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities or properties, and (iii) have been duly authorized by all necessary and appropriate action on the part of the Borrower. The officer or officers of Collegiate Housing Foundation executing the Borrower Documents in Collegiate Housing Foundation's capacity as the sole member of the Borrower are duly and properly in office and are fully authorized and empowered to execute the same for and on behalf of the Borrower.

*Agreements Are Enforceable.* This Lease Agreement and the other Borrower Documents, when assigned to the Trustee under the Indenture, will constitute the legal, valid, and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms, including by the Trustee for the benefit of the Owners, except as the enforcement thereof may be limited by bankruptcy, insolvency, re-organization, arrangement, fraudulent conveyance, moratorium, and other laws relating to or affecting creditors' rights, to the application of equitable principles, and to the exercise of judicial discretion in appropriate cases. The Unassigned Rights constitute the legal, valid, and binding agreements of the Borrower enforceable against the Borrower (i) by the Authority in its own right, or (ii) in the case of the rights of any Authority Indemnified Person (including, without limitation, the right of any Authority Indemnified Person to indemnification and immunity from liability), by such Authority Indemnified Person in his, her or its own right in accordance with their respective terms except as the enforcement thereof may be limited by bankruptcy, insolvency, re-organization, arrangement, fraudulent conveyance, moratorium, and other laws relating to or affecting creditors' rights, to the application of equitable principles, and to the exercise of judicial discretion in appropriate cases.

*Governmental Consents.* Neither the Borrower nor any of its business or properties, nor any relationship between the Borrower and any other Person, nor any circumstance in connection with the execution, delivery, and performance by the Borrower of its obligations under any of the Borrower Documents, or the offer, issuance, sale, or delivery by the Authority of the Bonds, is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Borrower in connection with the execution, delivery, and performance of the Borrower Documents, the consummation of any transaction therein contemplated, or the offer, issuance, sale, or delivery of the Bonds, except as have been obtained or made and as are in full force and effect, except as are not currently obtainable, other than the recording of the Facility Lease Agreement and the filing of financing statements or instruments effective as financing statements perfecting the security interests created by the Security Documents to be recorded and filed in connection therewith, and except as may be required under any federal or state securities or blue sky laws. To the knowledge of the Borrower, the Borrower will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of governmental authorities as may be required on or prior to the date the Borrower is legally required to obtain the same.

*No Defaults.* No Event of Default has occurred and is continuing. To the knowledge of the Borrower, the Borrower is not in default or violation in any material respect under any charter instrument, limited liability company agreement, or other agreement or instrument to which it is a party or by which it may be bound. For purposes of this subsection, a default or violation is deemed "material" if it adversely affects the ability of the Borrower to perform its obligations hereunder.

*Compliance with Law.* To its knowledge the Borrower is not in violation of any laws, ordinances, or governmental rules or regulations to which it is subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (that are currently obtainable) necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain might materially and adversely affect the properties, business, prospects, profits, or condition (financial or otherwise) of the Borrower.

*Restrictions on the Borrower.* The Borrower is not a party to or bound by any contract, instrument, or agreement, or subject to any other restriction that materially and adversely affects its business, properties, assets, operations, or condition (financial or otherwise). The Borrower is not a party to any contract or agreement other than the Bond Documents that restricts the right or ability of the Borrower to incur indebtedness for borrowed money or to enter into long-term leases.

*No Prior Pledge.* The property to be subject to the Facility Lease Agreement has not been, and will not be, mortgaged, pledged, or hypothecated in any manner or for any purpose and has not been, and will not be, the subject of a grant of a security interest by the Borrower as security for its obligations under this Lease Agreement.

*Management Agreement.* The Borrower has not entered into and will not enter into any management contract or other service contract relating to the Bonds or the Project that is not a Qualified Management or Service Agreement.

*No Pension Plans.* The Borrower does not maintain; has not maintained; and is not a party to, and has not been a party to, any employee pension or benefit plan.

*Disclosure.* No written information, exhibit, or report furnished to the Authority by the Borrower in its application for financing or by the Borrower for inclusion in this Agreement contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading, provided, however, that the representation and warranty in this subsection is made only to the Authority and may not be relied on by any other Person.

*Statutory Liens.* To the knowledge of the Borrower, based on the representations of the University, there are no mechanics' or materialmen's Liens or other statutory Liens on the Project.

*Compliance.* To the knowledge of the Borrower, based on the representations of the University, the Project complies, or will comply in all material respects with all currently applicable building and zoning, health, environmental, and safety ordinances and laws and all other Applicable Laws, rules, and regulations of any and all governmental and quasi-governmental authorities having jurisdiction over any portion of the Project.

*Utilities.* To the best knowledge of the Borrower, based on representations of the University, all utility services and facilities necessary for the operation of the Project for its intended purposes are or will be available at the Property.

*Condemnation.* To the knowledge of the Borrower, based upon representations of the University, no condemnation or eminent domain proceeding has been commenced, is currently pending, or, is threatened against the Project.

*Tax Returns.* All tax returns (federal, state and local), if any, required to be filed by or on behalf of the Borrower have been filed (subject to lawful extensions), and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein.

*No Material Adverse Change.* Subsequent to the date on which the Authority authorized the Authority Documents, and as of the Closing Date, there has been no material adverse change in the financial condition, prospects or business affairs of the Borrower or, to the best knowledge of the Borrower, the feasibility of the Borrower operating the Project in accordance with this Lease Agreement.

*Charitable Mission.* The financing of the Project by the Authority will assist the Borrower in furthering Collegiate Housing Foundation's charitable mission. The financing of the Project is within the charitable mission of Collegiate Housing Foundation.

### **Section 3.03 Single Purpose Entity Representations and Warranties**

The Borrower represents, warrants and covenants to the Authority as follows:

- (1) The Borrower does not own and will not own any asset or property other than the Project and incidental personal property necessary for the ownership or operation of the Project.
- (2) The Borrower will not engage in any business other than the ownership of the Project, leasing or licensing units in the Project or leasing the Project as contemplated in the Bond Documents, and management and operation of the Project and as may be necessary or appropriate for the Borrower to comply with its obligations under this Lease Agreement and the other Bond Documents.
- (3) The Borrower will not enter into any contract or agreement with any affiliate of the Borrower, Collegiate Housing Foundation the owner of any beneficial interest in the Borrower or any affiliate of any constituent party, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's length basis with third parties other than any such party.
- (4) The Borrower has not incurred and will not incur, any Indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), except as contemplated or permitted in the Bond Documents.
- (5) The Borrower has not made and will not make, any loans or advances to any third party (including any Affiliate or constituent party of the Borrower), and will not acquire obligations or securities of any Affiliate. The Borrower is and will remain solvent and the Borrower will pay its debts and liabilities from its assets as the same shall become due.
- (6) The Borrower has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and will maintain its existence under the laws of the State of Alabama and authorization to conduct business in the State of Alabama and the Borrower will not amend, modify or otherwise change its Articles of Organization, Operating Agreement or other organizational documents of the Borrower except as permitted thereby.
- (7) The Borrower will maintain books, records, financial statements and bank accounts separate from those of its Affiliates. Notwithstanding the foregoing, Borrower is disregarded as an entity separate and apart from Collegiate Housing Foundation for federal income tax purposes, and its financial statements are consolidated with Collegiate Housing Foundation for reporting purposes.

(8) The Borrower will maintain separate annual financial statements prepared in accordance with GAAP applied on a Consistent Basis showing assets and liabilities separate and distinct from those of any other Person or entity, and audited by an Accountant.

(9) If the financial statements of the Borrower are consolidated with the financial statements of any other Person or entity, the Borrower will cause to be included a footnote in such consolidated financial statements indicating the separate existence of the Borrower and its assets and liabilities.

(10) The Borrower will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity, and will conduct business in its own name and will maintain and utilize separate stationery, invoices and checks. The Borrower will correct any known misunderstanding regarding its status as a separate entity.

(11) Neither the Borrower nor Collegiate Housing Foundation will seek or effect the liquidation, dissolution, winding up, consolidation or merger, in whole or in part, of the Borrower unless in accordance with Section 10.03 hereof.

(12) The Borrower will not commingle the funds and other assets of the Borrower with those of any Affiliate or Collegiate Housing Foundation.

(13) The Borrower has and will maintain or cause to maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or Collegiate Housing Foundation.

(14) The Borrower does not and will not hold itself out to be responsible for the debts or obligations of any other Person and except as contemplated in the Bond Documents will not pledge its assets for the benefit of any other Person.

(15) Notwithstanding any provisions hereof to the contrary, the Borrower discloses that (i) Collegiate Housing Foundation acts on its behalf, executes agreements including the Borrower Documents and the Bond Documents, as the sole member of the Borrower, Collegiate Housing Foundation owns 100% of the membership interest of the Borrower, (ii) Collegiate Housing Foundation reports the Borrower's financial position as part of its consolidated financial statements, (iii) Collegiate Housing Foundation's mission and purposes is limited to carrying out its charitable purposes and charitable mission, and (iv) the Borrower has no employees, and has or will engage the University to operate the Project on its behalf. To the extent that the foregoing violates any provisions of this Section those violations are hereby waived by the Authority and deemed to be permitted.

## ARTICLE 4

### LEASE OF PROJECT; SECURITY; TITLE

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#### Section 4.01 Demise of Project

The Authority does hereby demise and lease to the Borrower, and the Borrower does hereby lease and take from the Authority, all right, title and interest of the Authority in and to the Project, subject to Permitted Encumbrances and the terms of this Agreement.

#### Section 4.02 Burdens and Benefits of Ownership of Project

The Authority and the Borrower agree that pursuant to the terms of this Agreement the Borrower shall have all of the burdens and benefits of ownership of the Project for the term of this Agreement.

#### Section 4.03 Quiet Enjoyment

The Authority agrees the Borrower shall peaceably and quietly have, hold and enjoy the Project during the period in which this Agreement is in effect, subject to all the terms and provisions of this Agreement and to the exercise of remedies by the Authority and the Trustee upon an Event of Default.

#### Section 4.04 Warranty of Title by Borrower

The Borrower warrants that the Project is and will be maintained free from all Liens other than Permitted Encumbrances.

#### Section 4.05 Title Insurance

The Borrower will, simultaneously with the issuance of any series of Bonds, deliver to the Trustee an ALTA leasehold mortgagee's title binder or policy of leasehold mortgage insurance issued by a title insurance company acceptable to the Underwriter and the Trustee in the amount of the Bonds to be issued, and naming the Trustee and the Authority as insureds, as their interests may appear. The Borrower will furnish, within the time limit specified in any binder, an original of a mortgagee's title policy of leasehold mortgage insurance issued by such title insurance company. The mortgagee's title policy will insure that the Trustee has a valid first Lien on the Borrower's leasehold interest in the real property described in Exhibit A to this Lease Agreement subject only to Permitted Encumbrances. There will be deleted in such policy the standard exceptions for discrepancies, encroachments, overlaps, conflicts in boundary lines, servitudes, shortages in area, or other matters that would be disclosed by an accurate survey and inspection of the Property, for mechanics' and materialmen's liens, or for rights or claims of parties in possession and easements or claims of easements not shown by the public records. Any Net Proceeds payable either to the Trustee or the Borrower under such policy will be subject to the Lien of the Indenture, will be paid to the Trustee for deposit the Accounts of the Insurance Fund as provided in the Indenture, and will, at the Borrower's written direction, be either (a) used to acquire or construct replacement or substitute property for that to which title has been lost, or (b) deposited into the Redemption Fund and used to redeem the Bonds in accordance with the Indenture. Any such replacement or substitute property must be approved in writing by the Authority and the Trustee.

**Section 4.06     Borrower's Covenants Regarding Title**

The Borrower will protect, preserve, and defend its interest in the Project; appear and defend such interest in any action or proceeding affecting or purporting to affect the Project or the Security Documents, or any of the rights of the Trustee thereunder; and pay on demand all reasonable costs and expenses incurred by the Trustee in or in connection with any such action or proceeding, including reasonable attorneys' fees, as described in Section 12.04, whether any such action or proceeding progresses to judgment and whether brought by or against the Trustee. The Trustee will be reimbursed for any such costs and expenses in accordance with the provisions of Section 8.08. If the Borrower does not take the action contemplated herein, the Trustee or the Authority may, but is not be under any obligation to, appear or intervene in any such action or proceeding and retain counsel therein and defend the same or otherwise take such action therein as it may be advised and may settle or compromise the same and, in that behalf and for any of such purposes, may expend and advance such sums of money as it deems necessary, and such sums will be an advance payable in accordance with Section 8.08.

**Section 4.07     Environmental Condition of the Project and Indemnification**

The Borrower warrants, represents and covenants to the Authority and the Trustee that the Borrower will cause the University to comply with Section 6(i) of the Facility Lease Agreement with respect to the environmental matters concerning the Project.

**ARTICLE 5**

**ISSUANCE OF THE BONDS**

**Section 5.01     Issuance of the Bonds**

Pursuant to the Indenture the Authority will issue and deliver the Bonds in various series to finance the Project and will cause the proceeds of the Bonds to be applied as provided in the Indenture.

**Section 5.02     Security for the Bonds**

- (a) As security for the payment of the Bonds, the Authority will execute and deliver the Security Documents.
- (b) The Borrower agrees and consents to the terms and provisions of the Security Documents.
- (c) The Borrower agrees that:
  - (2) The Borrower will pay all Basic Lease Payments, and all Additional Lease Payments described in Section 7.02(b)(1), directly to the Trustee for the account of the Authority.
  - (3) The Trustee will have all rights and remedies herein accorded to the Authority (except for Unassigned Rights), and any reference herein to the Authority is deemed, with the necessary changes in detail, to include the Trustee, and the Trustee and the Owners are deemed to be and are third party beneficiaries of the representations, covenants, and agreements of the Borrower herein contained.
  - (4) The Borrower will record the Facility Lease Agreement in all offices required by Applicable Law.
  - (5) The Borrower will perfect, and will maintain during the term of this Lease Agreement the perfection of, the security interests of the Trustee created by the Security Documents in compliance with the Alabama Uniform Commercial Code.

## ARTICLE 6

### Acquisition and Construction of the Project; Latent Defect Notices

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#### Section 6.01 Acquisition, Construction, Furnishing, and Equipping of the Project

(a) The Authority authorizes the Borrower to use the proceeds of the Bonds to acquire, construct, furnish and equip the Project as provided in the Indenture.

(b) The Borrower agrees that it will, at all times during the construction of the Project, cause the University to maintain in full force and effect builder's risk - completed value form insurance insuring all buildings, structures, boilers, equipment, facilities, fixtures, supplies, and other property constituting the Project on an "all risk of loss or damage basis," currently referred to as "special form," including coverage for soft costs and lost rents due to covered damage and destruction prior to completion in an amount not less than the Maximum Annual Debt Service for the Bonds Outstanding for, including perils of fire, lightning, and all other risks covered by the extended coverage endorsement then in use in the State of Alabama to the full replacement cost of the Project, subject to policy sub-limits. Such policy or policies of insurance will name the Authority, the Borrower, the Trustee, and the University as insureds, as their respective interests may appear, and will name the Trustee as mortgagee under a standard loss payable endorsement providing that no act or omission by the named insured will in any way prejudice the rights of the Trustee thereunder, and all Net Proceeds received under such policy or policies by the Borrower or the Authority will be paid over to the Trustee and deposited into the Insurance Fund to be applied to the restoration or completion of the Project or to the redemption of the Bonds in accordance with the provisions of Section 9.01. In addition, the Borrower will cause the University at all times during the construction of the Project to maintain, or cause to be maintained by the Developer, the Contractor, and the Architect, as applicable (i) general liability, automobile liability, errors and omissions liability, and umbrella/excess liability insurance, all as required by the Development Management Services Agreements and the Construction Services Agreements and the Design Services Agreements and (ii) workers' compensation insurance as required by law, including without limitation employers' liability coverage. Said insurance policy or policies will contain a provision that such insurance may not be canceled by the insurance provider thereof without at least 30 days' advance written notice (10 days for non-payment of premium). The Borrower will promptly forward any notice of cancellation received from an insurance carrier to the Authority and the Trustee. All such policies or copies thereof or certificates that such insurance is in full force and effect will be delivered to the Trustee at or prior to the delivery of each series of Bonds all or a part of the proceeds thereof will be applied for capital expenditures for the Project.

(c) The Borrower agrees that it will cause the University to deliver or require the Contractor to deliver to the Trustee performance and labor and material payment bonds with respect to the Construction Agreement, and in the full amount thereof, made by the Contractor as the principal and a surety company or companies that is or are licensed to do business in the State of Alabama, rated at least "A" by S&P or "Excellent (A/A-)" by A.M. Best Company, Inc., and otherwise satisfactory and acceptable to the University and the Underwriter, which bonds shall be in such forms as are acceptable to the University and the Underwriter and name the Authority, the Borrower, the Trustee and the University as the obligees (or dual obligees, as applicable). The Borrower will cause all Net Proceeds received under said bonds to be deposited in the applicable construction fund for the part of the Project for which such bonds were obtained, or if received after the applicable Completion Date therefor, will be used to pay any obligation then owed by the Borrower under this Lease Agreement, and if any remaining amount of such Net Proceeds will be deposited into the Revenue Fund. If any of the Borrower, the Trustee, and the University desires to enforce its rights as an obligee (or dual obligee) under a performance bond, such entity shall provide written notice to the Borrower, the Trustee, and the University of such intent, and agrees to meet and confer within five (5) days of the delivery of such notice with the Borrower, the University, and the Trustee to discuss making a claim on such performance bond.

(d) The Borrower agrees to cause the University to complete construction of the Project in accordance with the Plans and Specifications and the Construction Contracts, subject to the terms and conditions of this Agreement, and warrants that such construction will result in a facility suitable for use by the Borrower for the intended purposes thereof and as an "ancillary improvement" (as defined in the Authorizing Act) and that all real and personal property provided for therein is necessary or appropriate in connection with Project. The Borrower may make changes in or additions to the Plans and Specifications; provided, however, changes in or additions to such Plans and Specifications that are material will be subject to the prior written approval of the University, as and to the extent required by the Facility Lease Agreement.

(e) The Borrower will cause the University not to permit any mechanics' or materialmen's or other Liens to be perfected or remain against the Project for labor or materials furnished in connection with the construction of the Project, provided that it will not constitute an Event of Default on such Lien's being filed, if the Borrower will promptly notify the Trustee of any such Liens, and the Borrower will in good faith promptly contest such Liens; in such event the Borrower may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom provided the Borrower will furnish the Trustee with a bond or cash deposit equal to at least the amount so contested, a title insurance endorsement, or an Opinion of Counsel stating that by nonpayment of any such items the Liens of the Security Documents as to any material part of the Project will not be materially and imminently endangered and neither the Project nor any material part thereof will be subject to imminent loss or forfeiture. The proceeds of the bond, cash deposit, or title insurance endorsement may be used by the Trustee to satisfy the Lien if action is taken to enforce the Lien and such action is not stayed. If the Borrower will be unable or will otherwise fail to obtain such a bond or provide such a cash deposit or title insurance endorsement or such an Opinion of Counsel, the Borrower will promptly cause to be satisfied and discharged all such items by payment thereof. In the event the Borrower fails to pay any of the foregoing items required by this Section to be paid by the Borrower, the Authority or the Trustee may (but are under no obligation to) pay the same, and any amounts so advanced therefor by the Authority or the Trustee will become an advance repayable in accordance with Section 8.08. The Borrower will cause the completion of the acquisition and construction of the Project to occur as promptly as practicable, with all reasonable dispatch, in a good and workmanlike manner.

(f) The Authority and the University agree to grant such utility, access and other easements over, across, and under the real property of the Authority and the University as in the reasonable judgment of the Borrower is necessary for the construction and operation of the Project.

## Section 6.02 Construction Fund

(a) The Authority and the Borrower agree:

(1) The proceeds of the Bonds will be applied to the Costs of the Project by disbursement of such proceeds by the Trustee as provided in the Indenture and in accordance with this Section.

(2) The Trustee shall, in making any disbursement of proceeds of Bonds, rely upon any instrument or signature reasonably believed by it to be genuine and authorized and is not required to confirm or otherwise investigate any factual statements made therein.

(3) The Borrower covenants and agrees to indemnify and hold harmless the Authority and the Trustee and the Authority Indemnified Persons and the Trustee Indemnified Persons from any liability incurred in connection with any application by the Borrower for the disbursement of proceeds of Bonds which indemnification will survive the Agreement Term.

(b) Subject to compliance by the Borrower with all of the terms, provisions, and conditions of this Lease Agreement, including, but not limited to, the applicable conditions for disbursements set forth in this Section, the Borrower will submit requisitions to the Trustee for the payment from proceeds of Bonds for Non-Construction Costs in one or more disbursements in accordance with the following procedures:

(1) Not less than five Business Days before the date on which the Borrower desires a disbursement from a designated Account of the Construction Fund, but not more frequently than monthly, the Borrower will submit to the Trustee a requisition for payment substantially in the form of the applicable schedule set forth in a Supplemental Indenture providing for the Construction Fund, which will be accompanied by an itemization of Non-Construction Costs in such detail as the Trustee requires, and the accuracy of such cost and fee itemization will be certified by the Borrower. The requisition must be signed by the Authorized Borrower Representative; and (B) prior to Borrower submitting any such requisition for payment of Non-Construction Costs, the University shall approve such requisition for payment, and such approval shall constitute a certification by the University to the Trustee and the Borrower that, after given effect to the disbursement, amounts remaining in the such Account of the Construction Fund, plus expected earnings thereon, are sufficient to pay the remaining Costs of the Project as determined on the date of such requisition.

(2) A disbursement request for Non-Construction Costs submitted in accordance with the foregoing procedure need not comply with, and is not subject to the requirements of, subsections (d), (g), or (h) of this Section.

(c) Subject to compliance by the Borrower with all of the terms, provisions, and conditions of this Lease Agreement, including, but not limited to, the conditions for disbursements set forth in this Section, the Borrower shall submit requisitions to the Trustee for the payment of proceeds of Bonds to the Borrower, to the University, or to the appropriate contractor under the Construction Contracts, for Construction Costs in several disbursements in accordance with the following procedures:

(1) Not less than five banking days before the date on which the Borrower desires a disbursement, but not more frequently than monthly, the Borrower will submit to the Trustee a requisition for payment in the applicable schedule to the Supplemental Indenture which established the Construction Fund, which will be accompanied by (A) an application for payment in the form of American Institute of Architects Document G702, Application and Certificate for Payment (a "G702"), and American Institute of Architects Form G703, Continuation Sheets (a "G703") if the requisition relates to amounts to be paid to the Contractor or (B) an application for payment substantially in the form of a G702 and continuation sheets substantially in the form of a G703 if the requisition relates to amounts to be paid to the University.

(2) The Authorized University Representative will approve each requisition for payment, and such approval will constitute a certification to the Trustee and the Borrower (A) that all work theretofore performed is in compliance with the Plan and Specifications and that all work and material for which payment is sought has been done and provided; (B) that the work has been done in accordance with Plans and Specifications for the Project; and (C) that, after given effect to the disbursement, amounts remaining in the Construction Fund, plus expected earnings thereon, are sufficient to pay the remaining Costs of the Project as determined on the date of such requisition.

(3) The University will determine the "maximum allowable disbursement" by adding to the cost of completed construction to date (as determined by the University on the basis of its review of the Application and Certificate of Payment and cost breakdown) any allowable Non-Construction Costs related to the Project.

(4) (i) Subject to the requirements of subsection (h) of this Section, the disbursement requested from the Trustee will be the "maximum allowable disbursement" as determined under (3) above less: (A) the percentage of the cost of completed construction specified in the Construction Contracts to be retained (hereinafter referred to as the "Retainage") and (B) the amounts previously disbursed by the Trustee.

(ii) The Retainage (but in no event more than the balance in the Construction Fund less amounts retained or set aside to meet costs not then due and payable or that are being contested) under the Development Agreement, under the Construction Agreement, or under any other Construction Contract will be disbursed by the Trustee only after (A) the Development Agreement or such Construction Contract has been performed to the satisfaction of the Borrower, as evidenced by the signature of the Authorized Borrower Representative on the final Application and Certificate for Payment, (B) the Trustee has received from the University an affidavit to the effect that the University, the Architect, and the Contractor, and all of its subcontractors and suppliers of labor and materials have been paid in full, (C) with respect to the Construction Agreement, the Borrower, the University, or the Contractor must deliver to the Trustee a final certificate of occupancy or a temporary certificate of occupancy for the Building and other necessary operating permits, along with a certificate of the Borrower that the same constitute all the certificates of approval necessary for operation of the Project, and, if applicable, (D) with respect to the Construction Agreement, the Borrower must deliver to the Trustee a certificate of substantial completion listing the items to be completed or corrected, if any, and the amounts to be withheld therefor, signed by the Authorized Borrower Representative and approved by the University stating that, except for amounts retained by the Trustee for costs of the construction not then due and payable, (a) construction of that portion of the Project relating to such Construction Agreement has been completed substantially in accordance with the Plans and Specifications, and all labor, services, materials, and supplies used in such construction have been paid or provided for, (b) all other facilities necessary in connection with the construction of that portion of the Project relating to such Construction Agreement have been constructed, acquired, and installed substantially in accordance with the Plans and Specifications therefor and all costs and expenses incurred in connection therewith have been paid or provided for, and (c) according to the "as built" survey of the Property or a certificate of the surveyor, the Building does not encroach on any other property or violate any setback or sideline requirements applicable to the Property. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or that may subsequently come into being. The University will certify the matters covered by subsection (ii)(D) above. The Borrower will cause the certificate required by subsection (ii)(D) above to be furnished as soon as the construction of the Project is completed and again as soon as the construction of any expansions of or improvements to the Project financed with the proceeds of Additional Bonds is completed.

(d) Notwithstanding any other terms and provisions set forth herein, the Borrower may request the Trustee to make all disbursements or any disbursement directly to the Borrower (in accordance with paragraph (h) hereof), to the University, to the Architect, to the Contractor, to any contractor, or to any subcontractor, laborer, materialman, or Person furnishing labor, services, or materials used or to be used on or in the construction of the Project (including authorized extras) or to any combination of them. Any such disbursement is deemed to have been made to the Borrower or for its account.

(e) The execution of each Application and Certificate for Payment submitted for disbursements relating to Construction Costs by the Borrower will constitute the certification, warranty, and agreement of the Borrower as follows:

- (1) the Project is free and clear of all Liens except Permitted Encumbrances;
- (2) all evidence, statements, and other writings required to be furnished under the terms of this Lease Agreement and the Indenture are true in all material respects and omit no material fact the omission of which may make them misleading;
- (3) all money previously disbursed has been used solely to pay for costs allowed by this Lease Agreement, and the Borrower has written evidence to support this item of warranty;
- (4) none of the items for which payment is requested has formed the basis for any payment previously made from the applicable Construction Fund;
- (5) all bills for labor, materials, and fixtures used, or on hand and to be used, in the construction of the Project or the improvements have been paid, and no Person is asserting a Lien with respect thereto, except Permitted Encumbrances;
- (6) such Application and Certificate for Payment contains no items representing payment of any amount constituting Issuance Costs;
- (7) the payment of such requisition, together with the payment of all prior requisitions, will not result in more than 5% of the proceeds of any series of Tax-Exempt Bonds being used directly or indirectly in any trade or business carried on by any Person that is not a Tax-Exempt Organization or a Governmental Authority or in any unrelated trade or business of a Tax-Exempt Organization;
- (8) the amount remaining in a Construction Fund after the payments of such requisition plus expected earnings thereon are sufficient to pay the remaining Costs of the Project, with respect to the Project; and
- (9) no Event of Default has occurred and is continuing.

(f) The Borrower covenants and agrees that, on the request of the Trustee from time to time, it will furnish the Trustee with evidence that is reasonably satisfactory to the Trustee (including, but not limited to, certificates and affidavits of the Borrower and the University or any contractor or such other Person as the Trustee may reasonably require) showing that to its knowledge (i) the cost of construction existing at that time, (ii) that all outstanding claims for labor, materials, fixtures, furnishings, equipment, and other work have been paid or provided for in accordance with the requirements of this Lease Agreement, (iii) that there are no Liens outstanding or unpaid other than Permitted Encumbrances, (iv) that the Borrower has substantially complied with all of the Borrower's obligations hereunder and under the Indenture, (v) that all construction has been done in accordance with the Plans and Specifications, (vi) that the performance and labor and material payment bonds required by Section 6.01 are in full force and effect, and (vii) that no Event of Default has occurred and is continuing. In providing any evidence, certificate, or affidavit to the Trustee under this subsection (g), the Borrower may reasonably rely on the certifications of the University, the Architect, the Contractor and/or other Person.



(g) The Authority and the Borrower agree that the Trustee will not make any disbursement from the Construction Fund unless each and all of the conditions precedent set forth below are met and complied with in full:

(1) if the disbursement is for Construction Costs, the Trustee must have evidence that the builder's risk - completed value form insurance required by Section 6.01 is in full force and effect;

(2) at the time of each disbursement the Trustee must not have or be deemed to have notice of an Event of Default that has occurred and is continuing;

(3) at the time each disbursement is made under this Section as a reimbursement to the Borrower or the Authority, the Borrower or the Authority must deliver to the Trustee evidence satisfactory to the Trustee of prior payment by the Borrower or the Authority to the appropriate contractor or supplier under the Construction Contracts or other Person of the amount then and theretofore approved for payment.

(h) The Authority and the Borrower agree that if sufficient liquid funds are not available to the Trustee at the time of presentment of an Application and Certificate for Payment then payment of such Application and Certificate for Payment will be delayed until liquid funds or additional funds sufficient to satisfy the requirements of this Section are received by the Trustee.

(i) The University may delegate or subcontract certain of its obligations with respect to the requisitions to Landmark Development Services Company, LLC, as Developer, provided however, the University shall, from and after any such delegation or subcontract, be and remain fully liable for the performance of such obligations.

#### **Section 6.03 Establishment of Completion Date**

The applicable Completion Date will be evidenced to the Trustee by a certificate of substantial completion signed by the Authorized Borrower Representative and the Authorized University Representative stating that, except for amounts retained by the Trustee for Costs of the Project not then due and payable as provided in Section 6.03, (a) construction of the Project has been completed substantially in accordance with the Plans and Specifications and all labor, services, materials, and supplies used in such construction have been paid or provided for, (b) all other facilities necessary in connection with the construction of the Project have been constructed, acquired, and installed substantially in accordance with the Plans and Specifications, and all costs and expenses incurred in connection therewith have been paid or provided for, and (c) a certificate of occupancy for the Project has been issued by appropriate local governmental authorities, if applicable. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or that may subsequently come into being. The Authorized University Representative will certify the matters covered by (a) and (b) above. It will be the duty of the Borrower to cause the certificate contemplated by this Section to be furnished as soon as the construction of the Project is substantially completed.

#### **Section 6.04 Borrower Required to Pay Costs of the Project if Construction Fund Insufficient**

In the event the money in the Construction Fund available for payment of the Costs of the Project is not sufficient to pay such costs in full, the Borrower will cause the acquisition and construction of the Project to be completed, and the payment of the Costs of the Project as may be in excess of the money available therefor in the Construction Fund made, by the University in accordance with the Facility Lease Agreement, provided, however, that in such event the Authority, the Borrower, and the Trustee, by acceptance of assignment of this Lease Agreement, agree that in such event the University may, in its discretion, proceed with completion of the Project, and payment of excess Costs of the Project, in conjunction with, or subsequent to, the exercise of any action or remedy available to the University at law, in equity, or by contractual agreement, against any Person or Persons in respect of the excess Costs of the Project; provided, further, however, payment of excess Costs of the Project, and pursuance of remedies in respect thereof, by the University shall not result in any abatement, diminution, postponement or reimbursement of payments by the University under the Facility Lease Agreement, or in the abatement, diminution or postponement of any of the Lease Payments pursuant to this Lease Agreement. The Authority does not make any warranty, either express or implied, that the money that will be deposited into the Construction Fund and that, under the provisions of this Lease Agreement, will be available for payment of the Costs of the Project, will be sufficient to pay all the costs that will be incurred in that connection. The obligations of the Borrower in this Section will survive any termination of this Lease Agreement.

## ARTICLE 7

### AGREEMENT TERM; LEASE PAYMENTS; PAYMENT OF PLEDGED REVENUES; INVESTMENT OF INDENTURE FUNDS; NATURE OF OBLIGATIONS OF THE BORROWER

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#### Section 7.01 Agreement Term

This Lease Agreement becomes effective upon its execution and delivery and shall be and remain in full force and effect until the Indenture is discharged and terminated in accordance with the terms thereof, provided that any agreement, covenant or obligation which by the terms thereof expressly survives the termination of this Lease Agreement shall be and remain in full force and effect, and legally binding upon the Person charged thereby, from and after the termination of this Lease Agreement until an action based thereupon shall be prohibited by law.

#### Section 7.02 Lease Payments

##### (a) Basic Lease Payments

The Borrower covenants and agrees to pay, or cause to be paid, to the Trustee, for the account of the Authority, in U.S. Currency immediately available, Basic Lease Payments at such times and in such amounts as shall enable the Trustee to pay Debt Service on the Bonds in full when due on each Stated Interest Payment Date and on each Stated Principal Payment Date; provided, however, the amount of any Basic Lease Payment due with respect to any series of Bonds shall be reduced by the amount, if any, on deposit, on the date on which such Basic Lease Payment is due, in the Account of the Bond Fund established for such series of Bonds and available for payment of Debt Service thereon on the then next succeeding Stated Interest Payment Date or Stated Principal Payment Date, as applicable.

##### (b) Additional Lease Payments

(1) The Borrower will pay to the Trustee, in U.S. Currency immediately available:

(i) for deposit into the Rebate Fund any amount required to be deposited therein under Section 10.12,

(ii) promptly on request, an amount equal to (A) the annual fee of the Trustee for the Ordinary Services of the Trustee rendered, and the Ordinary Expenses of the Trustee incurred, under the Indenture, as and when the same become due, and (B) the reasonable fees and charges of the Trustee, as bond registrar and paying agent, as and when the same become due, and (C) the reasonable fees and charges of the Trustee for the Extraordinary Services of the Trustee rendered by it, and the Extraordinary Expenses of the Trustee incurred by it, under the Indenture, as and when the same become due; provided, that the Borrower may, without creating an Event of Default, contest in good faith the reasonableness of any such Extraordinary Services of the Trustee and Extraordinary Expenses of the Trustee and the reasonableness of any such fees, charges, or expenses,

(iii) for deposit into any Indenture Fund any amounts required to be deposited into such Fund in connection with the issuance of Additional Bonds on the dates provided therefor and

(iv) any and all amounts to effect the extraordinary redemption of any Bonds required to be redeemed under the Indenture.

(2) The Borrower will pay to the Authority in U.S. Currency immediately available:

(i) all of the Authority's costs in connection with the issuance of the Bonds, including but not limited to the Authority's legal counsel,

(ii) in connection with any amendment to this Lease Agreement or refinancing of the Bonds, and

(iii) the Authority Additional Payments.

(3) The Borrower will pay to the Independent Engineer and the Insurance Consultant all of their reasonable fees, charges and expenses.

(4) The Borrower agrees:

(i) Any Authority Additional Payments will be billed to the Borrower by the Authority or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by such party for one or more of the above items. After such demand, amounts so billed will be paid by the Borrower within 30 days after receipt of the bill by the Borrower.

(ii) In the event the Borrower fails to make any of the payments required in this Section 7.02 the amount thereof so in default will continue as an obligation of the Borrower until such amount in default is paid in full and will bear interest at the highest rate of interest on the Bonds or at such other rate as provided for such payments.

(iii) All amounts deposited in the Funds and Accounts created in the Indenture and available to be used to pay the amounts, fees, charges, and expenses described in subsection (b)(1) in accordance with the terms of the Indenture will be credited against the Borrower's obligation to make Additional Lease Payments to the extent such amounts are so used.

##### (e) Credit for Transfers and Deposits Under the Indenture

The Borrower will receive a credit against its obligation to make the Lease Payments under this Section to the extent of all sums that are transferred to any Person or deposited to any Indenture Fund or Account thereof in accordance with the Indenture.

### Section 7.03 Agreement to Deposit Lease Payments

The Borrower covenants and agrees to collect and transfer to the Trustee the Lease Payments as provided in the Indenture.

### Section 7.04 Payment of Pledged Revenues

The Borrower covenants and agrees to pay, when and as received by the Borrower, the Pledged Revenues to the Trustee, for the account of the Authority, for application as provided in the Indenture.

### Section 7.05 Investment of Indenture Funds

The Borrower agrees to provide written directions to the Trustee with respect to the investment of the Indenture Funds pursuant to Section 6.06 of the Indenture.

### Section 7.06 Nature of Obligations of the Borrower

(a) The obligations of the Borrower to make the payments required thereof under this Lease Agreement (including without limitation Section 7.02) and to perform and observe any and all of the other covenants and agreements on its part contained herein are absolute and unconditional irrespective of any defense or any rights of setoff, abatement, recoupment, or counterclaim it may otherwise have against the Authority, the Trustee or the University. The Borrower agrees that it will not (i) suspend, abate, reduce, abrogate, diminish, postpone, modify, or discontinue any payments to be made by the Borrower under this Lease Agreement, (ii) fail to observe any of its other agreements contained in the Borrower Documents, or (iii) except as provided in Article 13 or in any amendment or amendments hereto executed in connection with the issuance of Additional Bonds, terminate its obligations under any of the Borrower Documents for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Borrower to occupy or to use the Project as contemplated in this Lease Agreement or otherwise, any change or delay in the time of availability of the Project, any acts or circumstances that may impair or preclude the use or possession of the Project, any defect in the title, design, operation, merchantability, fitness, or condition of the Project or in the suitability of the Project for the Borrower's purposes or needs, failure of consideration, any declaration or finding that any of the Bonds are unenforceable or invalid, the invalidity of any provision of this Lease Agreement or any of the other Bond Documents, any acts or circumstances that may constitute an eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or the use of all or any part of the Project, commercial frustration of purpose, any change in Applicable Law or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Lease Agreement.

(b) Nothing contained in this Section will be construed to release the Authority from the performance of any of the agreements on its part herein contained. In the event the Authority fails to perform any such agreement on its part, the Borrower may institute such action against the Authority as the Borrower deems necessary to compel performance so long as such action does not abrogate the Borrower's obligations hereunder.

## ARTICLE 8

### MAINTENANCE, TAXES, AND INSURANCE

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### Section 8.01 Maintenance and Modification of Project by the Borrower

(a) The Borrower agrees that during the Agreement Term it will at its own expense (i) keep the Project in as reasonably safe condition as its operations will permit, (ii) keep the Project and all other improvements forming a part of the Project in good repair and in good operating condition, making from time to time, subject to the provisions of Section 8.02, all necessary and proper repairs thereto and renewals and replacements thereof, including external and structural repairs, renewals, and replacements, and (iii) use the Equipment in the regular course of its business only, within the normal capacity of the Equipment, without abuse, and in a manner contemplated by the manufacturer thereof, and cause the Equipment to be maintained in accordance with the manufacturer's then currently published standard maintenance contract and recommendations. The Borrower may, also at its own expense, from time to time make any additions or alterations to the Project that it may deem desirable for its business purposes and that do not, in the opinion of an Independent Engineer filed with the Trustee adversely affect the operation or value of the Project, provided, that the opinion of an Independent Engineer will only be required in the case of material additions or alterations. Additions or alterations to the Project so made by the Borrower will be on the Property, will become a part of the Project, and will become subject to the demise of the Facility Lease Agreement. Additions or alterations that cost in excess of \$500,000 will be made only by contractors that furnish performance and labor and material payment bonds in the full amount of such contracts, made by the contractor thereunder as the principal and a surety company or companies reasonably acceptable to the Trustee and such bonds will be in such forms as are reasonably acceptable to the Trustee. Such bonds will name the Borrower, the Authority, the University and the Trustee as obligees, and all Net Proceeds received under such bonds will be paid over to the Trustee and deposited into the Insurance Fund to be applied to the completion of the additions or alterations to the Project.

(b) The Borrower will execute a conditional assignment directing the architect who has prepared any Plans and Specifications for any "material" additions or alterations to make available to the Trustee a complete set of the Plans and Specifications, which assignment will be effective only on the occurrence of an Event of Default. All Construction Contracts executed by the Borrower for construction of any "material" additions or alterations will contain a provision that, or by separate agreement such contractors will agree that, on the occurrence of an Event of Default, said contracts with the contractors and/or sub-contractors will be deemed assigned to the Trustee should the Trustee so direct. The Borrower covenants to include such conditional assignments in all material contracts and subcontracts executed for work to be performed on the Property. For purposes of this Section, the term "material" means any addition or alteration or contract having a cost of more than \$100,000.

(c) The Borrower further agrees that at all times during the construction of additions or alterations that cost in excess of \$500,000, it will maintain or cause to be maintained in full force and effect builder's risk - completed value form insurance to the full insurable value of such additions or alterations. The Borrower will not permit any mechanics' or materialmen's or other statutory liens to be perfected or remain against the Project for labor or materials furnished in connection with any additions or alterations so made by it, provided that it will not constitute an Event of Default on such Lien's being filed if the Borrower promptly notifies the Trustee of any such Liens and the Borrower good faith promptly contests such Liens; in such event, the Borrower may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom provided the Borrower furnishes the Trustee with a bond or cash deposit equal to at least the amount so contested, which, in the case of cash, will be placed into the Insurance Fund an account with the Trustee for the purposes stated in this subsection, or with an Opinion of Counsel stating that by nonpayment of any such items, the leasehold interest under the Facility Lease Agreement will not be materially endangered and neither the Project nor any material part thereof will be subject to imminent loss or forfeiture. The proceeds of the bond or cash deposit may be used by the Trustee to satisfy the Lien if action is taken to enforce the Lien and such action is not stayed. The bond or cash deposit will be returned to the Borrower if the Lien is successfully contested. If the Borrower is unable or otherwise fails to obtain such a bond or provide such a cash deposit or such an Opinion of Counsel, the Borrower will promptly cause to be satisfied and discharged all such items by payment thereof. If the Borrower is unable or otherwise fails to obtain such a bond or provide such a cash deposit or such an Opinion of Counsel, or to satisfy and discharge the Lien, the Authority or the Trustee may, but is under no obligation to, satisfy and discharge the Lien by payment thereof or provide security that will cause the claimant to release the Lien against the Project, and all amounts so paid by the Authority or the Trustee will be treated as an advance to the Borrower repayable in accordance with Section 8.08.

(d) The Borrower will not do or permit others under its control to do any work in or about the Project or related to any repair, rebuilding, restoration, replacement, alteration of, or addition to the Project, or any part thereof, unless the Borrower first procures and pays for all requisite municipal and other governmental permits and authorizations. All such work will be done in a good and workmanlike manner and in compliance with all applicable building, zoning, and other laws, ordinances, governmental regulations, and requirements and in accordance with the requirements, rules, and regulations of all insurers under the policies required to be carried under the provisions of this Article.

#### **Section 8.02 Removal of Equipment**

(a) If no Event of Default has occurred and is continuing, in any instance where the Borrower in its discretion reasonably determines that any items of Equipment or any portion thereof have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary, the Borrower may remove such items of Equipment or portion thereof from the Property and sell, trade-in, exchange, or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Authority or the Trustee therefor, provided that the Borrower either:

(1) substitutes and installs anywhere in the Building or on the Property items of replacement equipment or related property having equal or greater value or utility (but not necessarily having the same function) in the operation of the Project for the purpose for which it is intended, provided such removal and substitution will not impair the nature of the Project, all of which replacement equipment or related property will be free of all Liens (other than Permitted Encumbrances), will become subject to the demise of the Facility Lease Agreement and will be held by the Borrower on the same terms and conditions as the items originally constituting Equipment, or

(2) does not make any such substitution and installation, unless in the case of: (i) the sale of any such Equipment, (ii) the trade-in of such Equipment for other machinery, furnishings, equipment, or related property not to become part of the Equipment or to become subject to the demise of the Facility Lease Agreement or (iii) any other disposition thereof, the Borrower pays to the Trustee the proceeds of such sale or disposition or an amount equal to the credit received on such trade-in for deposit into the Redemption Fund. In the case of the sale, trade-in, or other disposition of any such Equipment to an Affiliate of the Borrower, the Borrower will pay to the Trustee an amount equal to the greater of the amounts and credits received therefor or the fair market value thereof at the time of such sale, trade-in, or other disposition for deposit into the Redemption Fund.

(b) In the event that prior to such removal and disposition of items of Equipment from the Building and the Property, the Borrower has acquired and installed machinery, furnishings, equipment, or related property with its own funds that become part of the Equipment and subject to the demise of the Facility Lease Agreement and that have equal or greater utility (but not necessarily the same function) as the Equipment to be removed, the Borrower may take credit to the extent of the amount so spent by it against the requirement that it either substitute and install other machinery and equipment having equal or greater value (but not necessarily the same function) or that it make payment to the Trustee for deposit into the Redemption Fund.

(c) The Borrower will report promptly to the Trustee each such removal, substitution, sale, or other disposition and will pay to the Trustee such amounts as are required by this Section to be deposited into the Redemption Fund promptly after the sale, trade-in, or other disposition requiring such payment; provided, that no such report and payment need be made until the amount to be deposited into the Redemption Fund on account of all such sales, trade-ins, or other dispositions not previously reported equals, in the aggregate, at least \$50,000 in any Annual Period. All amounts deposited into the Redemption Fund under this Section as a result of the sale, trade-in, exchange, or other disposition of Equipment will be applied to the redemption of all or a portion of the Bonds issued to finance or refinance the acquisition of such Equipment or, if such Bonds are no longer Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture. The Borrower will not remove, or permit the removal of, any of the Equipment from the Building or the Property except in accordance with the provisions of this Section.

#### Section 8.03 Taxes, Other Governmental Charges, and Utility Charges

(a) The Borrower will pay, as the same become due, (i) all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project that, if not paid, will become a Lien on the Project or a charge on the Trust Estate prior to or on a parity with the charge and security interest thereon and the pledge or assignment thereof created and made in the Indenture and including all ad valorem taxes or payments in lieu of such taxes lawfully assessed on the Project, (ii) all utility and other charges incurred in the ownership, operation, maintenance, use, occupancy, and upkeep of the Project and (iii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a Lien on the Project; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Borrower will be obligated to pay only such installments as are required to be paid during the Agreement Term.

(b) If the Borrower first notifies the Trustee in writing of its intention so to do, the Borrower may, at its own expense and in good faith, contest any such taxes, assessments, or other charges and, in the event of any such contest, may permit the taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided the Borrower furnishes the Trustee with a bond or a cash deposit equal to at least the amount so contested plus any interest or penalties that might be payable as a result of any late payment, which, in the case of cash, will be placed into an account with the Trustee and held for the purposes stated in this subsection, or an Opinion of Counsel stating that by nonpayment of any such items, the leasehold interest under the Facility Lease Agreement will not be materially endangered and neither the Project nor any material part thereof will be subject to imminent loss or forfeiture. The proceeds of such bond or cash deposit may be used by the Trustee to satisfy the Lien if action is taken to enforce the Lien and such action is not stayed. Such bond or cash deposit will be returned to the Borrower if the taxes, assessments, or other charges is successfully contested. If the Borrower is unable or otherwise fails to obtain such a bond or provide such a cash deposit or such Opinion of Counsel, such taxes, assessments, or charges will be promptly satisfied and discharged by payment thereof.

#### Section 8.04 Insurance Required

In addition to the insurance required by this Lease Agreement, the Borrower will keep the Project or cause the same to be kept continuously insured against such risks as are customarily insured against with respect to facilities of like size and type, as recommended by an Insurance Consultant, including, but not limited to:

(1) commencing on the date on which the Borrower begins leasing the Project to proposed occupants thereof, insurance on the repair or replacement basis in an amount of not less than 100% of the then actual cost of replacement (excluding costs of replacing excavations and foundations, but without deduction for depreciation) of the Project (with deductible provisions which are reasonable and customary in the current insurance market) against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke and such other risks as are now or hereafter included in the uniform standard extended coverage endorsement in common use for similar structures (including vandalism and malicious mischief) with standard policy sub-limits. Named windstorm and hail coverage shall be subject to the lowest commercially available deductible provisions, but in any case, with deductibles not to exceed 5% of total insured values;

(2) commencing on the date on which the Borrower begins leasing the Project to proposed occupants thereof, business interruption insurance (also referred to as "business income" or "loss of rents" insurance) covering loss of revenues and other income by the Borrower by reason of total or partial suspension of, or interruption in, the operation of the Project caused by covered damage to or destruction of the Project in an amount not less than the Maximum Annual Debt Service on the Bonds plus 12 months' budgeted operating expenses minus those operating expenses avoided as a result of and during the period of interruption and in the event a waiting period applies to the business income/loss of rents coverage, it shall not exceed 45 days per occurrence;

(3) comprehensive general liability insurance providing insurance (with deductible provisions which are reasonable and customary in the current insurance market) covering all claims for bodily injury and property damage, including not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, to include personal and advertising injury, general aggregate, products and completed operations aggregate insurance beginning at the completion of each Project component, and contractual liability to cover all insurable obligations in the Bond Lease;

(4) commencing on the date any vehicle is acquired or hired by the Borrower for use with respect to the Project, automobile liability insurance providing insurance (with deductible provisions which are reasonable and customary in the current insurance market) to the extent of not less than a combined single limit of \$1,000,000 per accident covering liability arising out of the use of any Borrower vehicle or such vehicles used in conjunction with the Project, whether owned, non-owned, or hired, and including personal injury protection and uninsured motorist protection in the minimum statutory limits where required by law;

(5) at all times, insurance under the National Flood Insurance Program within the minimum requirements and amounts required for federally financed or assisted Leases under the Flood Disaster Protection Act of 1973, as amended, if the Project is eligible under such program;

(6) as required by the laws of the State of Alabama, including, with respect to workers' compensation insurance, Coverage B-Employer's liability limits of: bodily injury by accident - \$500,000 each accident; and bodily injury by disease - \$500,000 each employee (and, in this regard, the Borrower will require all subcontractors performing work on the Project to provide an insurance certificate showing proof of workers' compensation insurance);

(7) to the extent that the Project contains a steam boiler, pressure vessels, or pressure piping, and commencing on the date on which the same are installed in the Project, boiler explosion insurance on steam boilers, if any, pressure vessels, and pressure piping in an amount not less than 100% of the then actual cost of replacement (excluding costs of replacing excavations and foundations, but without deduction for depreciation) of the Project (with deductible provisions which are reasonable and customary in the current insurance market);

(8) commencing on each Completion Date, fidelity bonds or employee dishonesty insurance in the amount of \$100,000 for all officers, agents, and employees of the Borrower with the responsibility of handling Pledged Revenues; and

(9) additional umbrella or excess liability coverage in the amount of \$10,000,000 in the aggregate, which will include all coverages required by (3), (4), and (6).

#### **Section 8.05 Application of Net Proceeds of Insurance**

(a) The Net Proceeds of the insurance carried under the provisions of Section 8.04(1), (5), and (7) will be paid and applied as provided in Section 9.01.

(b) The Net Proceeds of insurance carried under the provisions of Sections 8.04(3), (4), and (9) will be applied to discharge the liability with respect to which such insurance proceeds shall have been paid.

(c) The Net Proceeds of the insurance carried under the provisions of Section 8.04(2), up to an amount equal to the Debt Service Reserve Requirement for each series of Bonds Outstanding for the succeeding 12-month period, will be deposited into the Bond Fund and used as provided therefor in the Indenture and the balance will be deposited into the Revenue Fund.

#### **Section 8.06 Review by Insurance Consultant**

At all times during the Agreement Term, an Insurance Consultant will be designated by the Borrower. The Borrower will procure from the Insurance Consultant a review of its insurance requirements not less than every three years (commencing in 2027) along with a written recommendation, if necessary, for increasing or decreasing any of the insurance or coverages hereinabove required, and will furnish a copy of such review to the Trustee, and the University. If any such review by the Insurance Consultant contains recommendations for increasing any of such insurance or coverages, the Borrower will promptly increase such insurance or coverages in accordance with such recommendations, and if any such review by the Insurance Consultant contains recommendations for decreasing any of such insurance or coverages, the Borrower may decrease such insurance or coverages in accordance with such recommendations after consultation with the University. In addition, on or before the execution and delivery of this Lease Agreement and, thereafter, on the request of the Trustee, the Borrower will furnish to the Trustee a certificate of the Insurance Consultant to the effect that the insurance procured by the Borrower satisfies in all respects the requirements of Sections 8.04 and 8.07.

#### **Section 8.07 Additional Provisions Respecting Insurance**

All insurance required by Section 8.04 will be taken out and maintained in generally recognized responsible insurance companies qualified to do business in the State of Alabama, that may include "captive" insurance companies or governmental insurance pools, and non-admitted insurance carriers and that have a rating of "A-VII" or better by the latest Best Insurance Report. All policies evidencing such insurance will provide for payment to the Authority, the Borrower, the University, and the Trustee as their respective interests may appear, the policies required by Section 8.04(3) and (4) will name the Authority, the University and the Trustee as additional insureds, and the policies required by Section 8.04(1), (5), and (7) will name the Trustee as mortgagee and loss payee under a standard loss payable endorsement providing that no act or omission by the Borrower will in any way prejudice the rights of the Trustee under such policies and will require that all Net Proceeds of insurance if in excess of \$250,000 for loss or damage covered thereby be paid to the Trustee and applied under Section 9.01; provided, however, that prior to the occurrence of an Event of Default, all claims regardless of amount may be adjusted by the Borrower with the insurers, subject to prior written approval of the Trustee as to any settlement of any claim in excess of \$250,000, which approval will not be unreasonably withheld. A certificate or certificates of the insurers that such insurance is in force and effect will be deposited with the Trustee and prior to the expiration of any such policy the Borrower will furnish the Trustee with a certificate or certificates that the policy has been renewed or replaced or is no longer required by this Lease Agreement. In lieu of separate policies, the Borrower may maintain one or more blanket policies of insurance having the coverage required by Section 8.04. All such policies will provide that such insurance may not be canceled by the insurance carrier before the Bonds have been paid in full without at least 30 days' written notice (10 days for non-payment of premium). The Borrower will promptly forward any notice of cancellation received from an insurance carrier to the Authority and the Trustee.

#### **Section 8.08 Advances by the Authority or the Trustee**

If the Borrower fails to make any payment or perform any act required of it under this Lease Agreement, the Authority or the Trustee may (but are under no obligation to), after notifying the Borrower of its intention to do so and at the expiration of any applicable cure period, make such payment or perform such act. The Borrower agrees to pay all amounts so paid by the Authority or the Trustee as an additional obligation hereunder, together with interest thereon from the date of payment by the Authority or the Trustee, as applicable, at the Default Rate, upon written demand and appropriate verification. Any remedy herein vested in the Authority or the Trustee for the collection of the Lease Payments will also be available to the Authority and the Trustee for the collection of all such amounts so advanced. The Trustee is under no obligation to make any such payment unless it is requested to do so by the Majority of the Owners and is provided with adequate funds paid in cash to the Trustee (from a source or sources approved by the Trustee) for the purpose of such payment.

## ARTICLE 9

### DESTRUCTION, DAMAGE, AND CONDEMNATION

#### Section 9.01 Destruction and Damage

(a) In the event that the Project is destroyed or damaged (in whole or in part) by fire or other casualty, the Borrower will promptly notify the Authority and the Trustee in writing, and, unless the Bonds are paid in full from the Net Proceeds of insurance resulting from such destruction or damage, the Borrower covenants and agrees to continue to make the Lease Payments without postponement, abatement, or diminution thereof.

(b) If such Net Proceeds of insurance are less than \$250,000 (which amount will be increased as of each July 1 by a percentage equal to the increase made for then then immediately preceding year, if any, in the Consumer Price Index for the City of Homewood, Alabama (the "CPI Adjustment") as provided in writing by the Borrower to the Trustee), all such insurance proceeds will be paid to the Borrower, and the Borrower will repair, replace, rebuild, restore, and re-equip the Project promptly to substantially the same condition thereof as existed prior to the event causing such destruction or damage with such changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Borrower and as will not impair the value or the function of the Project. In the event the Net Proceeds are not sufficient to pay in full the costs of any such repair, replacement, rebuilding, restoration, and/or re-equipping, the Borrower will nonetheless complete said work and will pay that portion of the costs thereof in excess of the amount of said Net Proceeds.

(c) If such Net Proceeds of insurance are in excess of \$250,000 (plus the applicable CPI Adjustment, if any), all such insurance proceeds will be paid to the Trustee and deposited and held in the Insurance Fund to be applied, as fully as practicable, in one or more of the following ways as will be directed in writing by the Borrower within 60 days from the date of such deposit:

- (1) subject to the requirements of Section 9.03, such Net Proceeds may be applied to the restoration of the Project; or
- (2) subject to the requirements of Section 9.03, such Net Proceeds may be applied to the acquisition of other suitable land and the acquisition, by construction or otherwise, to the extent permitted by Applicable Law, of improvements consisting of a building or buildings, facilities, furnishings, machinery, equipment, or other properties suitable for the Borrower's operations at the Project as conducted prior to such destruction or damage (which improvements will be deemed a part of the Project and available for use and occupancy by the Borrower without the payment of any Lease Payments other than as herein provided to the same extent as if such improvements were specifically described herein and will be acquired by the Borrower subject to no Liens prior to or on a parity with the Lien of the Leasehold Mortgage, other than Permitted Encumbrances); or
- (3) such Net Proceeds may be transferred to the Trustee for deposit in the Redemption Fund to be applied to the redemption of Bonds; or
- (4) such Net Proceeds may be applied in some combination permitted by the foregoing clauses (1), (2), and (3) of this subsection.

(d) All Net Proceeds deposited into the Redemption Fund under this Section as a result of the destruction of or damage to the Project will be applied to the redemption of all or a portion of the Bonds issued to finance or refinance the acquisition of such portion of the Project or, if such Bonds are no longer Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture.

(e) Any balance of such Net Proceeds of insurance remaining after application under Section 9.01(b) or (c) hereof or remaining because of the failure of the Authorized Borrower Representative to furnish to the Authority, the Trustee, and the University the items required by Section 9.03, will be transferred to the Redemption Fund and used to redeem Bonds as provided in Section 9.01(d).

#### Section 9.02 Condemnation.

(a) In the event that title to or the temporary use of the Project or any part thereof is taken under the exercise of the power of eminent domain by any Governmental Authority or by any Person acting under Governmental Authority, the Borrower will promptly notify the Authority and the Trustee in writing and, unless the Bonds are paid in full from the award made in such eminent domain proceedings, is obligated to continue to make the Lease Payments and is not entitled any postponement, abatement, or diminution thereof.

(b) Except for Net Proceeds received by the Borrower under Section 9.04, the Authority, the Borrower, and the Trustee will cause the Net Proceeds received by them or any of them from any award made in such eminent domain proceedings to be paid to the Trustee and deposited and held in the Condemnation Fund to be applied, as fully as practicable, in one or more of the following ways as will be directed in writing by the Borrower within 60 days from the date of such deposit:

- (1) subject to the requirements of Section 9.03, such Net Proceeds may be applied to the restoration of the Project; or
- (2) subject to the requirements of Section 9.03, such Net Proceeds may be applied to the acquisition of other suitable land and the acquisition, by construction or otherwise, to the extent permitted by Applicable Law, of improvements consisting of a building or buildings, facilities, furnishings, machinery, equipment, or other properties suitable for the Borrower's operations at the Project as conducted prior to such taking (which improvements will be deemed a part of the Project and available for use and occupancy by the Borrower without the payment of any Lease Payments other than as herein provided to the same extent as if such improvements were specifically described herein and will be acquired by the Borrower subject to no Liens other than Permitted Encumbrances); or
- (3) such Net Proceeds may be transferred to the Trustee for deposit in the Redemption Fund to be applied to the redemption of Bonds; or
- (4) such Net Proceeds may be applied in some combination permitted by the foregoing clauses (1), (2), and (3) of this subsection.

(c) All Net Proceeds deposited into the Redemption Fund under this Section as a result of the condemnation of a portion of the Project will be applied to the redemption of all or a portion of the Bonds issued to finance or refinance the acquisition of such portion of the Project or, if such Bonds are no longer Outstanding, the redemption of such other Bonds as may be directed by the Borrower in accordance with the provisions of the Indenture.

(d) Any balance of such Net Proceeds remaining after application under Section 9.02(b) or remaining because of the failure of the Authorized Borrower Representative to furnish to the Authority and the Trustee the items required by Section 9.03 will be transferred to the Redemption Fund and used to redeem Bonds as provided in Section 9.02(c).

**Section 9.03 Conditions Precedent to Repair, Restoration, or Replacement of the Project; Other Requirements**

(a) Before the Trustee may apply any Net Proceeds under Section 9.01(c)(i), (ii), or (iv) or Section 9.02(b)(i), (ii), or (iv) to pay the costs of repairing, restoring, or and replacing the Project, the Borrower must furnish, or cause the University to furnish, to the Authority and the Trustee (i) a construction contract and any architect's agreement relating to such repair, restoration, or replacement, (ii) complete plans and specifications relating to such repair, restoration, or replacement (the "Restoration Plans and Specifications"), (iii) a certificate of an Independent Engineer that states that such repair, restoration, or replacement, if completed in accordance with the Restoration Plans and Specifications, will (A) restore the Project to substantially the condition thereof immediately preceding the damage, destruction, or condemnation and (B) comply with all applicable statutes, codes and regulations; (iv) a certificate of an Authorized Borrower Representative stating that sufficient money is available to (A) pay for such repair, restoration, or replacement and, (B) together with available business interruption insurance proceeds and other available Pledged Revenues, pay Debt Service on the Bonds and the Expenses during the period of repair, restoration, or replacement; (v) applicable Lien waivers or conditional Lien waivers; (vi) evidence of the existence of performance and payment bonds for the applicable general contractor; and (vii) evidence that the Borrower has acquired all permits and licenses necessary for such construction; and, if such net proceeds are in excess of \$250,000 (plus the applicable CPI Adjustment, if any), in addition to those requirements listed in (i) through (vii) above, the Borrower will also deliver to the Trustee: and (viii) an opinion of Bond Counsel to the effect that neither such repair, replacement, nor restoration nor such use of such casualty or condemnation proceeds will adversely affect the excludability from gross income for federal income tax purposes of interest on the Tax-Exempt Bonds.

(b) The Trustee will retain 10% of the requested disbursements to be disbursed on final completion of the repair, replacement, or restoration as certified by an Independent Engineer and receipt of certificates of occupancy, waivers of Liens and, if such Net Proceeds are in excess of \$250,000 (plus the applicable CPI Adjustment, if any). If at any time during the period of repair, restoration, or replacement, the insurance or casualty proceeds are less than the estimated remaining costs to restore, repair, or replace the Project, the Borrower will provide the Trustee with cash or cash equivalents in an amount equal to the shortfall.

**Section 9.04 Condemnation of Property Not Included in Project**

The Borrower is entitled to the Net Proceeds of any condemnation award or portion thereof made for damages to or for taking of its property not included in the Project and not subject to the demise of the Facility Lease Agreement.

**ARTICLE 10**

**COVENANTS OF AUTHORITY AND BORROWER**

**Section 10.01 No Warranty of Condition or Suitability by the Authority**

THE AUTHORITY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE HABITABILITY, MERCHANTABILITY, CONDITION, OR WORKMANSHIP OF ANY PART OF THE PROJECT OR THAT IT WILL BE SUITABLE FOR THE BORROWER'S PURPOSES OR NEEDS.

**Section 10.02 Access to Project and Records**

The Authority, the Trustee, and their duly authorized representatives and agents, reserve the right, on reasonable prior notice, to enter the Project at all reasonable times during the Agreement Term for the purpose of (a) examining and inspecting the Project, including any reconstruction thereof, and/or the books and records of the Borrower with respect to the Project, (b) performing such work in and about the Project made necessary by reason of the occurrence of an Event of Default, and (c) on the occurrence of an Event of Default, exhibiting the Project to prospective purchasers, Borrowers, or mortgagees. The Authority and the Trustee also have the right at all reasonable times to examine the books and records of the Borrower and make copies thereof insofar as such books and records relate to the repair and maintenance of the Project or insofar as necessary to ascertain compliance with this Lease Agreement subject to, with respect to information concerning students of the University, any applicable privacy or other laws restricting dissemination of such information.

**Section 10.03 Borrower and Collegiate Housing Foundation to Maintain Status; Conditions Under Which Exceptions Permitted**

(a) The Borrower (i) will maintain its legal existence as a single member limited liability company organized under the laws of the State of Alabama whose sole member is a Tax-Exempt Organization, (ii) will cause Collegiate Housing Foundation to maintain its legal existence as a Tax-Exempt Organization and a non-profit corporation organized under the laws of the State of Alabama (iii) will not, except as permitted by this Section, consolidate with or merge into another entity or permit another entity to consolidate with or merge into it, (iv) will not dissolve or otherwise dispose of all or substantially all of its assets, (v) will cause Collegiate Housing Foundation to file all required reports and documents with the IRS so as to maintain its status as a Tax-Exempt Organization, (vi) will not operate the Project in any manner nor engage in any activities or take any action that might reasonably be expected to result in Collegiate Housing Foundation's ceasing to be a Tax-Exempt Organization, and (vii) will promptly notify the Authority and the Trustee in writing of any loss of Collegiate Housing Foundation's status as a Tax-Exempt Organization or of any investigation, proceeding, or ruling that might result in such loss of status. The Borrower will preserve and keep in full force and effect all licenses and permits necessary to the proper conduct of its business.



(b) The Borrower covenants that none of its or Collegiate Housing Foundation's revenues, income, or profits, whether realized or unrealized, will be distributed to any of its or Collegiate Housing Foundation's directors or inure to the benefit of any private Person, other than for the lawful corporate purposes of the Borrower or Collegiate Housing Foundation; provided, however, that the Borrower and Collegiate Housing Foundation may pay to any Person the value of any service or product performed for, or supplied to, the Borrower or Collegiate Housing Foundation by such Person. The Borrower further covenants that it and Collegiate Housing Foundation will take such actions as are necessary or appropriate and within their respective control to take to comply with the provisions of the Federal Tax Code and the Regulations to preserve the exclusion of the interest paid on the Tax-Exempt Bonds from the gross income of the Owners thereof for federal income tax purposes and will not act or fail to act in any other manner that would adversely affect such exclusion. In connection with the foregoing, the Borrower acknowledges and agrees to comply with the provisions of the Tax Agreement.

(c) The Borrower may, without violating the covenants contained in this Section, consolidate, merge, sell, or otherwise transfer to another Person all or substantially all of its assets as an entirety (and thereafter dissolve), provided (i) such consolidation, merger, sale, or other transfer will not otherwise cause an Event of Default and (ii) the surviving, resulting, or transferee Person (A) will be authorized to do business in the State of Alabama, (B) will be a domestic corporation, partnership, limited liability company or other entity, or, if a natural Person, a resident of the United States of America, (C) will have the power to assume and will assume in writing all of the obligations of the Borrower under this Lease Agreement and the other Borrower Documents and will deliver to the Trustee any security agreement necessary to ensure that after such consolidation, merger, sale, or other transfer, the Trustee will have a security interest in all assets that constitute, or would have constituted, Collateral (as defined in the Borrower Security Agreement) prior to such consolidation, merger, sale, or transfer, together with an Opinion of Counsel that all action has been taken to perfect such security interest to the extent perfection can be made by the filing of financing statements, (D) will obtain all licenses and permits required by law to operate the Project, (E) will deliver to the Trustee a title insurance policy or endorsement insuring that the surviving, resulting, or transferee Person has a valid leasehold interest in the Property only to the Permitted Encumbrances, (F) will deliver to the Trustee and an Opinion of Counsel to the effect that this Lease Agreement and the other Borrower Documents, as assumed by the surviving, resulting, or transferee Person, are valid and enforceable obligations of such Person, subject only to exceptions related to bankruptcy and other customary exceptions, (G) will deliver a Favorable Opinion of Bond Counsel, and (H) will have a fund balance or net worth, as the case may be, as reflected in the *pro forma* financial statements required to be furnished under this Section, not less than the fund balance or net worth, as the case may be, of the Borrower, as reflected in the most recent audited balance sheet of the Borrower furnished to the Trustee under this Lease Agreement.

(d) The Borrower may also, without violating any covenants contained in this Lease Agreement, sell, or otherwise transfer the Project to another Person that is controlled solely by the Borrower or Collegiate Housing Foundation and that, prior to such sale or transfer, has no assets or liabilities, on completion or satisfaction of the conditions set forth in items (i) and (ii)(A) through (G) of the preceding subsection and on such completion or satisfaction will be released from all liabilities and obligations under this Lease Agreement and the other Borrower Documents.

(e) The Borrower warrants that it is and while this Lease Agreement is in effect it (or the surviving, resulting, or transferee entity permitted by this Section) will continue to be authorized to do business in the State of Alabama.

#### Section 10.04 Indemnity

(a) The Borrower hereby fully and forever and irrevocably releases and, to the fullest extent permitted by law and to the extent of its interest in the Project or from the proceeds of available insurance, agrees to indemnify, hold harmless and defend the Authority and each Authority Indemnified Person, and the other Indemnified Persons against any and all fees, costs and charges, losses, damages, claims, actions, liabilities, and expenses of any conceivable nature, kind, or character (including, without limitation, fees and expenses of attorneys, accountants, consultants and other experts, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Persons, or any of them, may become subject under or any statutory law or regulation (including federal or state securities laws and regulations and federal tax laws or regulations) or at common law or otherwise (collectively, "Indemnified Liabilities"), arising out of or based on or in any way relating to:

- (1) any of the Bond Documents or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale, or resale of the Bonds;
- (2) the performance or observance by or on behalf of the Authority of those things on the part of the Authority agreed to be performed or observed hereunder and under the documents identified in Paragraph (1) above;
- (3) any act or omission of the Borrower or any of its affiliates or affiliated Persons, agents, contractors, servants, employees, tenants, or licensees in connection with the Project; the operation of the Project; or the condition, environmental or otherwise, occupancy, use, possession, conduct, or management of work done in or about, or from the planning, design, acquisition, construction, installation, furnishing, or equipping of, the Project or any part thereof;
- (4) any Lien or charge on payments by the Borrower to the Authority or the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions, and other charges imposed on the Authority or the Trustee in respect of any portion of the Project;
- (5) the defeasance or redemption, in whole or in part, of the Bonds;
- (6) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document for the Bonds of any material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided, however, this Subparagraph (vii) will not apply with respect to any information contained in any such materials that are solely and exclusively provided by the Authority;
- (7) any declaration of taxability of interest on any Tax-Exempt Bonds, or allegations that interest on any Tax-Exempt Bonds is Taxable or any regulatory audit or inquiry regarding whether interest on any Tax-Exempt Bonds is Taxable;
- (8) the Trustee's acceptance or administration of the trust of the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party; and

(9) any injury to or death of any Person or damage to property in or on the Project or growing out of or connected with the use, nonuse, condition, or occupancy of the Project, except, (A) in the case of the foregoing indemnification of the Trustee Indemnified Persons, to the extent such Indemnified Liabilities are caused by the negligence or willful misconduct of such Trustee Indemnified Person or, (B) in the case of the foregoing indemnification of the Authority and the Authority Indemnified Persons, to the extent such Indemnified Liabilities are caused by the willful misconduct of the Person otherwise seeking indemnification.

(b) THE BORROWER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE AUTHORITY AND THE AUTHORITY INDEMNIFIED PERSONS SHALL BE RELEASED FROM, AND INDEMNIFIED HEREUNDER AGAINST, INDEMNIFIED LIABILITIES ARISING FROM THE AUTHORITY'S OR ANY AUTHORITY INDEMNIFIED PERSON'S OWN NEGLIGENCE OF ANY KIND, DESCRIPTION OR DEGREE, OR BREACH OF CONTRACTUAL DUTY, WITHOUT REGARD TO THE NECESSITY OF ANY BREACH OR FAULT ON THE PART OF BORROWER, EXCEPT INsofar AS AND TO THE EXTENT THAT ANY SUCH INDEMNIFIED LIABILITIES ARISE FROM THE WILLFUL MISCONDUCT OF THE PERSON SEEKING INDEMNIFICATION.

(c) In the event that any action or proceeding is brought against any Indemnified Person with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Person, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Person, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise, or settle the same in its sole discretion; provided that the Indemnified Person has the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Person has the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the fees and expenses of such separate counsel; provided, however, that such Indemnified Person may only employ separate counsel at the expense of the Borrower if, in the reasonable judgment of such Indemnified Person, a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(d) The Borrower covenants and agrees the interests and rights of any Indemnified Person to indemnity hereunder and to payment of fees and reimbursement of expenses will survive the discharge and termination of the Bonds and the Bond Documents and, in the case of the Trustee, any resignation or removal and shall be and remain in full force and effect, and legally binding upon the Borrower, from and after the termination of this Lease Agreement until an action based thereupon shall be prohibited by law.

(e) Insofar as any document or instrument issued or delivered in connection with the Bonds (including, without limitation, the documents referred to in Paragraph 10.04(a)(1), above) purports to constitute an undertaking by or impose an obligation upon the Borrower to provide indemnification to the Authority or the Authority Indemnified Persons, the indemnification provision or provisions of such document shall not be deemed, interpreted or construed in any way as a modification of or limitation upon the Borrower's obligations or the rights of the Authority and the Authority Indemnified Persons under this Section and the provisions of this Section shall in every respect supersede the indemnification provisions of any such other document and shall apply thereto as if fully set forth therein.

#### **Section 10.05 Covenant Regarding Financial Statements**

(a) The Borrower will provide the Trustee, the Dissemination Agent and the University annually, within 180 days after the end of each Annual Period, beginning with the Annual Period ended June 30, 2026, the financial statements of the Borrower, including its balance sheet, statement of revenue, expenses, and changes in fund balance (deficit), and statement of cash flow, for the year then ended in comparative form for the preceding Annual Period, which financial statements will be prepared in accordance with GAAP and accompanied by an Audit Report.

(b) The financial statements to be furnished to the Trustee, the Dissemination Agent and the University, annually under this Section will be accompanied by a certificate of the Borrower, which may expressly rely upon a supporting certificate of the University, to the effect that no Event of Default on the part of the Borrower under any provision of this Lease Agreement has occurred and is continuing and that the Borrower has fully complied with all of the provisions of this Lease Agreement in all material respects, or if an Event of Default on the part of the Borrower under any provision of this Lease Agreement has occurred and is continuing or the Borrower has failed to comply with all of the provisions of this Lease Agreement, setting forth the nature of each thereof as applicable.

#### **Section 10.06 Continuing Disclosure Agreement**

The Borrower will at all times remain party to the Continuing Disclosure Agreement, or if the Continuing Disclosure Agreement terminates, it will enter into a similar agreement to provide for the dissemination of the financial statements and notices required by Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Borrower will perform its obligations under the Continuing Disclosure Agreement; provided, however, that the failure to perform such obligations will not constitute an Event of Default.

#### **Section 10.07 Operation of Project and Safety Code**

The Borrower will operate the Project for the purposes for which it is designed and will continue to maintain the Project in compliance with all applicable life and safety codes and all applicable building and zoning, health, environmental, and safety ordinances and laws and the Applicable Law of each Governmental Authority of competent jurisdiction.

#### **Section 10.08 Related Party Transactions**

The Borrower will not enter into any transaction relating to the Project, including, without limitation, the purchase, sale, lease, or exchange of property or the rendering of any service, with any Affiliate of the Borrower except in the ordinary course of business and under the reasonable requirements of the Borrower's business and on terms found by the Board of Directors of Collegiate Housing Foundation to be fair and reasonable and no less favorable to the Borrower than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of the Borrower provided, however, the foregoing will not apply to any transaction undertaken by the Borrower in support of the University.

#### **Section 10.09 Calculation and Payment of Rebate Amount**

(a) The Borrower will (i) calculate the Rebate Amount as of each Calculation Date, (ii) transmit a copy of such calculation to the Trustee, and (iii) pay to the Trustee for deposit to the Rebate Fund or direct the Trustee to transfer from the Funds and in the order of priority set forth in Section 6.10 of the Indenture an amount equal to the difference, if any, between the amount then in the Rebate Fund and the Rebate Amount so calculated. If, as of any Calculation Date, the amount in the Rebate Fund will exceed the Rebate Amount, the Borrower may direct the Trustee to transfer such excess from the Rebate Fund to the Revenue Fund or as otherwise directed by a Favorable Opinion of Bond Counsel.

(b) The Borrower will pay, or will direct the Trustee to pay, to the United States of America from the amounts on deposit in the Rebate Fund, all amounts required to be paid to the United States of America under §148(f) of the Federal Tax Code and the Regulations promulgated thereunder, will complete and file any IRS form that must accompany each such payment to the United States of America, and will provide a copy of any such form to the Trustee.

(c) Notwithstanding any provision of this Section, if the Borrower provides, at the Borrower's expense, to the Trustee and to the Authority an Opinion of Bond Counsel to the effect that any action required under this Section or Section 12.02 of the Indenture is no longer required, or to the effect that some further action will be required, to maintain the excludability from gross income of interest on the Tax-Exempt Bonds pursuant to §103(a) of the Federal Tax Code, the Borrower, the Authority, and the Trustee may rely conclusively on such opinion in complying with the provisions hereof and Section 12.02 of the Indenture, and the covenants hereunder will be deemed to be modified to that extent.

#### **Section 10.10 Notice to the Rating Agencies**

(a) The Borrower will, prior to execution, give written notice of, and, after execution, copies of any amendment to the Indenture or to any indenture supplemental to the Indenture to each Rating Agency.

(b) The Borrower will, prior to execution, give written notice of, and, after execution, copies of any amendment, change, or modification of any other Bond Documents to each Rating Agency.

#### **Section 10.11 Covenants Regarding Tax-Exempt Bonds**

The Authority and the Borrower each covenant that it will not directly or indirectly use or permit the use of any gross proceeds (as defined in the Treasury Regulations) of any Bonds or any other funds of the Authority or the Borrower, or take, or omit to take, any action, or direct the Trustee to invest any funds held by it, in such manner as will cause any Tax-Exempt Bonds to be or become Taxable.

#### **Section 10.12 Authorized Borrower Representative, Authorized Authority Representatives and Successors**

The Borrower and the Authority respectively, will designate, in the manner prescribed in the Indenture, the Authorized Borrower Representative and the Authorized Signatory. In the event that any Person so designated and such Person's alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Lease Agreement, a successor will be appointed in the same manner.

### **ARTICLE 11**

#### **ASSIGNMENT, SUBLEASING, ENCUMBERING, AND SELLING; REDEMPTION; LEASE PAYMENTS; AND ABATEMENT**

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#### **Section 11.01 Assignment and Subleasing**

(a) The Borrower may, to the extent permitted under the Facility Lease, enter into subleases with occupants of the Project (which includes residence hall agreements, leases, licenses, or other similar agreements in accordance with University practice) or the University without complying with the provisions of this subsection other than Section 11.01(a)(6). With the prior written consent of the University (except as may be set forth in an amendment hereto) the rights and obligations of the Borrower under this Lease Agreement may be assigned and delegated, and the Project may be subleased, as a whole or in part, by the Borrower without the necessity of obtaining the consent of either the Authority or the Trustee, subject, however, to each of the following conditions:

(1) No assignment (other than under Section 10.03) or sublease will relieve the Borrower from primary liability for any of its obligations hereunder, and in the event of any such assignment or sublease, the Borrower will continue to remain primarily liable for payment of the Lease Payments and for the payment, performance, and observance of the other obligations and agreements on its part herein provided to be performed and observed by it.

(2) The assignee will assume in writing the obligations of the Borrower hereunder to the extent of the interest assigned.

(3) The Borrower will furnish or cause to be furnished to the Authority and the Trustee assurances reasonably satisfactory to the Authority and the Trustee that the Project will continue to be operated as a student housing facility and related facilities in accordance with the terms of this Lease Agreement.

(4) No assignment or sublease with any Person will be entered into by the Borrower without delivery by the Borrower to the Trustee in advance of:

(i) a Favorable Opinion of Bond Counsel, or a written determination from the IRS, to the effect that such assignment or sublease will not cause interest on any Tax-Exempt Bonds to be or become Taxable; and

(ii) an Opinion of Counsel to the effect that such assignment or sublease will not create a novation.

(5) The Borrower will, within 30 days after the execution thereof, furnish or cause to be furnished to the Authority, and the Trustee a true and complete copy of each such assignment or sublease, as the case may be. The Authority and the Trustee have the right, at any time and from time to time, to notify any assignee or sub-lessee of the rights of the Authority and the Trustee, as provided in this Lease Agreement. From time to time, on the request of the Authority or the Trustee, the Borrower will specifically assign and grant a security interest to the Trustee, as additional security for the Lease Payments, in writing and in the form approved by the Authority and the Trustee, all the right, title, and interest of the Borrower in and to any and all subleases hereafter on or affecting the Project (other than any sublease to which the University is a party as the sub-lessee), together with all security therefor and all money payable thereunder, subject to the conditional right of the Borrower to collect the rentals under any such subleases. The Borrower and the Authority will also execute and deliver to the Trustee any notification, financing statement, or other document reasonably required by the Trustee to perfect the foregoing assignment and security interest created as to any such subleases and other properties.

(6) All subleases will, to the extent required by the laws of the State of Alabama, contain an attornment clause providing in effect that if at any time during the term of the sublease, the Trustee, the designee of the Trustee, or a subsequent purchaser at a foreclosure sale from the Trustee, becomes the owner of the Project, such sub-lessee agrees, at the election and on demand of any owner of the Project, to attorn, from time to time, to any such owner on the terms and conditions set forth in the sublease. To the extent required by the laws of the State of Alabama, such sub-lessee will be required to agree that at the request of the party to whom it has attorned, it will execute, acknowledge, and deliver, without charge, from time to time, instruments acknowledging such attornment. The attornment clause will also provide that on such attornment, the sublease will continue in full force and effect as, or as if it were, a direct sublease between the successor and the sub-lessee, except that the successor landlord will not (A) have any liability for any previous act or omission of a predecessor landlord under the sublease, (B) be bound by any previous modification of the sublease, unless such modification or prepayment will have been expressly approved in writing by the Authority and the Trustee, or (C) have any liability for refusal or failure to perform or complete the landlord's work or otherwise prepare the demised Project for occupancy in accordance with the provisions of the sublease.

(b) The Authority confirms and recognizes that the right of possession of sub-lessees of the Borrower to the Project and their other rights arising out of the subleases will not be affected or disturbed in any way by the Authority or the Trustee or by the exercise of any rights or remedies by the Authority or the Trustee for any reason other than one that would entitle the Borrower under the subleases to dispossess the sub-lessees from the Project or that would constitute an event of default under the subleases. Further, in the event of a foreclosure or such other exercise of the Authority's or the Trustee's rights under this Lease Agreement and the Indenture, the Authority agrees that so long as any sub-lessee is not in default under the terms of its sublease, it will recognize such sub-lessee as the sub-lessee under such sublease.

(c) For purposes of this Section 11, the term sub-lessee shall not include students of the University who are residents in the Project.

#### **Section 11.02 Restrictions on Sale, Encumbrance, or Conveyance of the Project by the Borrower**

The Borrower will not, except as specifically provided in this Lease Agreement and the Facility Lease Agreement (a) directly, indirectly, or beneficially sell, convey, or otherwise dispose of any part of its interest in the Project during the Agreement Term, (b) permit any part of the Project to become subject to any mortgage, Lien, claim of title, encumbrance, security interest, conditional sale contract, title retention arrangement, finance lease, or other charge of any kind, except for Permitted Encumbrances or except as otherwise permitted under this Lease Agreement, or (c) assign, transfer, or hypothecate (other than to the Trustee) any rent (or analogous payment) then due or to accrue in the future under any sublease of the Project, except for Permitted Encumbrances or except as otherwise permitted in this Lease Agreement.

#### **Section 11.03 Redemption of Bonds**

The Authority, at the written request and expense of the Borrower at any time, and if the Bonds are then callable or available for purchase, and if there are funds available therefor, will forthwith take all steps necessary on its part to be taken under the applicable redemption or purchase provisions of the Indenture to effect redemption or purchase of all or part of the then outstanding Bonds, as may be specified by the Borrower, on the earliest date on which such redemption or purchase may be made under such applicable provisions. In the circumstances set forth in Sections 8.02, 9.01, and 9.02 and the Facility Lease Agreement, if any, if the Borrower elects to have amounts transferred to, or deposited into, the Redemption Fund, Bonds will be redeemed by the Authority automatically without the request of the Borrower, however, in certain circumstances, the Borrower has the right to select the date of redemption under the Indenture.

**ARTICLE 12**  
**EVENTS OF DEFAULT AND REMEDIES**

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**Section 12.01 Events of Default**

The occurrence of any one or more of the following events constitutes an “Event of Default” under this Lease Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or effected by operation of law or pursuant to action:

- (1) The Borrower fails to pay any Basic Lease Payment in the amount and at the times provided therefor in Section 7.02; or
- (2) Any representation or warranty made by the Borrower in any statement or certificate furnished to the Authority or the Trustee or the purchaser of any Bonds, in connection with the sale of any Bonds or furnished by the Borrower pursuant hereto, proves to have been inaccurate in any material respect as the date of the issuance or making thereof and is not corrected within 30 days after written notice specifying such inaccuracy has been given to the Borrower by the Authority, the Trustee or such purchaser. In the case of any such inaccuracy that cannot with due diligence be corrected within such 30 day period, but that can be wholly corrected within a period of time not materially detrimental to the rights of the Trustee and, it will not constitute an Event of Default if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the inaccuracy is corrected in accordance with and subject to any directions or limitations of time established in writing by the Trustee has consented to such extension in writing; or
- (3) The Borrower fails to perform or cause to be performed any other covenant, condition, or provision hereof, other than as referred to in (1) above or any covenant contained in Section 10.07, and to correct such failure within 30 days after written notice specifying such failure is given to the Borrower by the Authority or the Trustee. In the case of any such failure that cannot with due diligence be corrected within such 30 day period, but that can be wholly corrected within a period of time not materially detrimental to the rights of the Trustee it will not constitute an Event of Default if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the failure is corrected in accordance with and subject to any directions or limitations of time established in writing by the Trustee has consented to such extension in writing; or

(4) The Borrower (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property or of the Project, (ii) fails to lift or bond promptly (if legally permissible) any execution, garnishment, or attachment of such consequence as will impair the ability of the Borrower to carry on its operations at the Project, (iii) enters into an agreement of composition with its creditors, (iv) admits in writing its inability to pay its debts as such debts become due, (v) makes a general assignment for the benefit of its creditors, (vi) commences a voluntary case under the federal bankruptcy law or any similar law in effect in a foreign jurisdiction (as now or hereafter in effect), (vii) files a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (viii) fails to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law or any similar law in effect in a foreign jurisdiction (as now or hereafter in effect), or (ix) takes any action for the purpose of effecting any of the foregoing; or

(5) A proceeding or case is commenced, without the application of the Borrower, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Borrower, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Borrower or of all or any substantial part of its assets, or (iii) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case continues without dismissal, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues without vacation or stay and in effect, for a period of 90 days, whether or not consecutive; or

(6) An Event of Default under, and as defined in, the Indenture shall occur and any applicable cure or grace period shall have expired.

#### **Section 12.02 Remedies on Event of Default**

(a) Whenever any Event of Default referred to in Section 10.01(a) occurs and is continuing, the Authority, or the Trustee as the assignee of the Authority, may declare all unpaid installments of Basic Lease Payments and other amounts payable under Section 7.02 of this Lease Agreement for the remainder of the Agreement Term to be immediately due and payable, whereon the same will become immediately due and payable, it being understood that on a declaration of acceleration by the Trustee under Section 7.02 of the Indenture, all unpaid Basic Lease Payments payable hereunder will become immediately due and payable; provided, however, that if acceleration of the Bonds has been rescinded and annulled under Section 7.02 of the Indenture, acceleration of the Basic Lease Payments and other amounts payable under Section 7.02 of this Lease Agreement required by this Section will similarly be rescinded and annulled and the Event of Default occasioning such acceleration will be waived, but no such waiver, rescission, and annulment will extend to or affect any subsequent Event of Default or impair or exhaust any right, power, or remedy consequent thereon.

(b) With respect to any Event of Default the Authority, or the Trustee as the assignee of the Authority, at its option, which may be exercised separately and independently from any similar option under the Indenture, shall:

- (1) have access to and inspect, examine, and make copies of the books and records and any and all accounts, similar data, and income tax and other tax returns of the Borrower; and
- (2) institute and take, by appropriate proceedings, from time to time, whatever action at law or in equity, or under the terms of the Bond Documents, may appear necessary or desirable to collect the Lease Payments and other amounts payable by the Borrower under this Lease Agreement then due or to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the Borrower under this Lease Agreement; and
- (3) intervene and file or prove any claim for the amounts due under this Lease Agreement as Lease Payments or otherwise, and take all action necessary or appropriate to protect the interests of the Owners in any proceeding referenced in Section 12.01(4) or (5).

(c) Amounts collected under action taken under this Section will be applied in accordance with the provisions of the Indenture, or, if the Bonds have been paid in full (or provision for payment thereof has been made in accordance with the provisions of the Indenture) and the Borrower has paid all amounts due under Sections 7.02, 8.08, 10.04, and 12.04, then any amounts remaining will be paid to the University.

#### **Section 12.03 No Remedy Exclusive**

No remedy herein conferred on or reserved to the Trustee, as assignee of the Authority, is intended to be exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing on any Event of Default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Trustee to exercise any remedy reserved to it in this Article, it will not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Authority hereunder will also extend to the Trustee, and the Trustee and the Owners of the Bonds are deemed third-party beneficiaries of all covenants and agreements herein contained.

#### **Section 12.04 Agreement to Pay Attorneys' Fees and Expenses**

In the event an Event of Default occurs on the part of the Borrower under any of the provisions of this Lease Agreement and the Authority or the Trustee employ attorneys or incur other expenses for the collection of Lease Payments hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees that it will, on demand therefor, pay to the Authority or the Trustee the reasonable fees of such attorneys and such other expenses reasonably incurred by the Authority and/or the Trustee. Any such attorneys' fees required to be paid by the Borrower under this Lease Agreement will include such attorneys' fees through all proceedings, including, but not limited to, negotiations, administrative hearings, trials, and appeals. The Borrower may contest, in good faith, the reasonableness of any such fees and expenses.

#### **Section 12.05 Waiver of Events of Default**

The Trustee, on behalf of the Authority, may waive any Event of Default hereunder (except with regard to Unassigned Rights) and its consequences or rescind any declaration of acceleration of payments of the Lease Payments due hereunder. In case of any such waiver or rescission, or in case any proceeding taken by the Authority or the Trustee on account of any such Event of Default is discontinued or abandoned or determined adversely to the Authority or the Trustee, then and in every such case the Authority and the Borrower will be restored to their former position and rights hereunder, but no such waiver or rescission extends to any subsequent or other Event of Default or impairs any right consequent thereon.

#### **Section 12.06 Limited Liability, Authority, and Recourse**

(a) Notwithstanding anything to the contrary contained in any Bond Document or other instrument executed in connection with the issuance of the Bonds, the liability of the Borrower under any such Bond Document, Borrower Document or instrument is limited to its interest in the Project and the other Security and no Person has the right to obtain payment from the Borrower or from any assets of the Borrower other than the Project and the other Security.

(b) No recourse under or upon any obligation, covenant or agreement contained in this Lease Agreement, in any of the other Bond Documents, or in any document delivered in connection with the issuance of any series of the Bonds, or for any claim based thereon, or under any judgment obtained against the Borrower, or by the enforcement of any assessment or penalty, or otherwise by any legal or equitable proceeding by virtue of any constitution, rule of law or equity, or statute or otherwise, or under any other circumstance, under or independent hereof, shall be had against any incorporator, director, member or officer, as such, past, present or future, of the Borrower or Collegiate Housing Foundation or any incorporator, director, member or officer thereof or of any successor entity, as such, either directly or through the Borrower or any successor entity or otherwise, for the payment for or to the Borrower or any receiver thereof, of any sum that may be due and unpaid by the Borrower under this Lease Agreement, any of the other Bond Documents, or any other document delivered in connection with the issuance of any series of Bonds.

(c) Notwithstanding anything herein to the contrary, the liability of the Borrower hereunder and each obligation of the Borrower, including its indemnity obligations and reimbursement obligations, under this Lease Agreement and any other Borrower Document shall be limited to the funds available under the Borrower Documents, and from no other Person. No assets of Collegiate Housing Foundation shall be subject to or liable for the Borrower's obligations hereunder or under any other Borrower Documents, and Collegiate Housing Foundation shall have no obligation to contribute funds to the Borrower to pay any costs, expenses, obligations or liabilities of the Borrower hereunder or under any other Borrower Document. None of the Authority or the Trustee shall seek to obtain payment from any Person that owns the membership interest in or controls the Borrower, including Collegiate Housing Foundation or from any assets of Collegiate Housing Foundation. The provisions contained in this subsection are not intended to, and shall not, limit any right that the Authority or the Trustee might otherwise have to obtain injunctive relief against the Borrower or relief in any suit or action in connection with enforcement or collection of amounts that may become owing or payable under or on account of insurance maintained by the Borrower.

(d) The provisions of this Section will survive the Agreement Term notwithstanding any enforcement or exercise by the Authority or the Trustee of any rights or remedies for a Lease Event of Default, including foreclosure under any Security Document, and whether or not the purchaser in any such foreclosure shall be the Authority or the Trustee.

#### **Section 12.07 No Liability of the Borrower's or Collegiate Housing Foundation's Officers or the Authorized Borrower Representative**

The Authority and the Borrower agree that no recourse under or on any obligation, covenant, or agreement contained in this Lease Agreement, in any of the Bond Documents or Borrower Documents, or in any other documents delivered in connection with the issuance of the Bonds, or for any claim based thereon, or under any judgment obtained against the Borrower, or by the enforcement of any assessment or penalty or otherwise or by any legal or equitable proceeding by virtue of any constitution, rule of law or equity, or statute or otherwise or under any other circumstances, under or independent hereof, will be had against the Authorized Borrower Representative, any incorporator, director, member, or officer, as such, past, present, or future of the Borrower or Collegiate Housing Foundation, or any incorporator, director, member, or officer of any successor entity, as such, either directly or through the Borrower, Collegiate Housing Foundation, or any successor entity, or otherwise, for the payment for or to the Borrower or any receiver thereof, of any sum that may be due and unpaid by the Borrower under this Lease Agreement, any of the Bond Documents or Borrower Documents, or any other documents delivered in connection with the issuance of the Bonds.

#### **Section 12.08 Restoration to Original Positions**

In case the Authority or the Trustee has proceeded to enforce any right under this Lease Agreement, and such proceedings are discontinued or abandoned for any reason, or are determined adversely, then and in every such case the Authority, the Borrower, and the Trustee will be restored to their former positions and rights hereunder, and all rights, remedies, and powers of the Authority and the Trustee will continue as if no such proceedings had been taken. To the extent that the Authority or the Trustee waives or rescinds any Event of Default hereunder, or in case any proceeding taken by the Authority or the Trustee on account of any such Event of Default is discontinued or abandoned or determined adversely, then and in every such case the Authority, the Trustee, and the Borrower will be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission extends to any subsequent or other Event of Default or impairs any right consequent thereon.

#### **Section 12.09 Delay or Omission Not a Waiver**

The Authority and the Borrower agree that no delay or omission of the Authority or the Trustee to exercise any right or power accruing on any Event of Default impairs any such right or power, or will be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Lease Agreement to the Authority or the Trustee may be exercised from time to time and as often as may be deemed expedient by the Authority or the Trustee.

#### **Section 12.10 Waiver of Extension, Stay, and Redemption Laws**

To the extent permitted by Applicable Law, the Borrower will not, during the continuance of any Event of Default hereunder, insist on, or plead, or in any manner whatever, claim or take any benefit or advantage of, any extension or stay law wherever enacted, now or at any time hereafter in force, that may affect the covenants and terms of performance of this Lease Agreement; nor after any sale or sales of the Project that may be made under any provision herein contained, or under the decree, judgment, or order of any court of competent jurisdiction, claim or exercise any right under any statute heretofore or hereafter enacted by the United States of America or by any state or territory, or otherwise, to redeem the property so sold or any part thereof, and the Borrower hereby expressly waives all benefits or advantages of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Authority, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

#### Section 12.11 Remedies Subject to Provisions of Laws

The Authority and the Borrower agree that all rights, remedies, and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Article are subject to all applicable mandatory provisions of Applicable Law that may be controlling in the Project and to be limited to the extent necessary so that they will not render this Lease Agreement invalid or unenforceable under the provisions of any Applicable Law.

#### Section 12.12 No Right to Conduct Affairs of the Borrower

The Authority and the Borrower agree that nothing contained in this Lease Agreement will operate or be construed to grant to the Authority or the Trustee the right to conduct the business and affairs of the Borrower, whether or not an Event of Default has occurred.

### ARTICLE 13

#### OPTIONS IN FAVOR OF THE BORROWER

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#### Section 13.01 General Option to Terminate Lease Agreement

The Borrower has, and the Authority hereby grants, the following option to terminate this Lease Agreement at any time prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture). The Borrower may terminate the Agreement Term by (i) paying to the Trustee an amount that, when added to the aggregate amount on deposit in the Indenture Funds, is sufficient to provide for the discharge and termination of the Indenture pursuant to Article 13 thereof.

#### Section 13.02 Option to Prepay Lease On the Occurrence of Certain Extraordinary Events

(a) The Borrower has, and the Authority hereby grants, the option to prepay the Lease Agreement prior to the discharge of the Indenture):

(1) in full if the Project (or a substantial portion thereof) shall have been destroyed or damaged to such an extent that, in the opinion of an Independent Engineer expressed in a Certificate filed with the Trustee, the Borrower and the Authority, (i) the Project cannot reasonably be restored within a period of 12 months to the condition thereof immediately preceding such destruction or damage, or (ii) the Borrower is prevented from carrying on its normal operations at the Project for a period of not less than 12 consecutive months, or (C) the cost of restoration or replacement thereof would exceed the Net Proceeds of insurance payable in respect of such destruction or damage,

(2) in full if title to, or the temporary use of, a substantial portion of, the Project have been taken under the exercise of the power of eminent domain by any Governmental Authority, or Person acting under Governmental Authority, to such an extent that, in the opinion of an Independent Engineer expressed in a Certificate filed with the Trustee, the Borrower and the Authority, (i) the Project cannot be reasonably restored or replaced within a period of 12 months to substantially the condition thereof immediately preceding such taking, or (ii) the Borrower is prevented from carrying on its normal operations at the Project for a period of not less than 12 consecutive months, or (iii) the cost of restoration or replacement thereof would exceed the total amount of compensation for such taking, or



(3) in part in the event of partial condemnation or destruction of, or partial damage to, the Project, from the Net Proceeds received by the Borrower as a result of such taking, destruction, or damage to the extent such Net Proceeds are not used for the restoration of the Project or for the acquisition of substitute property suitable for the Borrower's operations at the Project as such operations were conducted prior to such taking, destruction, or damage if the Borrower furnishes to the Trustee, and the Authority (i) a Certificate of an Independent Engineer stating that the property forming a part of the Project that was taken, destroyed, or damaged is not essential to the Borrower's use or occupancy of the Project at substantially the same revenue-producing level as prior to such taking, destruction, or damage, or that the Project has been restored to a condition substantially equivalent to its condition prior to such taking, destruction, or damage, or that the Borrower has acquired suitable land and improvements that are substantially equivalent to the property forming a part of the Project that was taken, destroyed, or damaged,

(b) In the case of the occurrence of any of the events described in Section 13.02(a), the Borrower, if it exercises its option to prepay the Lease Agreement must prepay the Lease Agreement within 180 days after such event.

(c) To exercise such option, the Borrower will, within 60 days following the event authorizing the exercise of such option, give written notice of the exercise of such option to the Authority and to the Trustee and will specify therein the date of redemption, which date will not be less than 45, nor more than 120, days from the date such notice is mailed, and will make arrangements satisfactory to the Trustee for the giving of the required notice of redemption.

(d) The amount payable by the Borrower in the event of its exercise of the option to prepay the Lease Agreement in full granted in the circumstances described in Section 13.02(a)(1) and (2) will be the sum of the following:

(i) an amount of money that, when added to the amount then on deposit in the Indenture Funds is sufficient to retire and redeem all the then Outstanding Bonds on the applicable redemption date provided by the Indenture, including without limitation, principal, all interest to accrue to said redemption date, and redemption expense, but without premium, plus

(ii) an amount of money equal to the Trustee's and paying agents' fees and expenses, including reasonable attorneys' fees and expenses, under the Indenture accrued and to accrue until such final payment and redemption of the Bonds, plus

(iii) an amount of money equal to the Authority 's reimbursable expenses under this Lease Agreement accrued and to accrue until such final payment and redemption of the Bonds.

(e) The amount payable by the Borrower in the event of its exercise of the option to prepay the Lease Agreement in part granted in the circumstances described in Section 13.02(a)(3) will be the sum of the following:

(i) an amount of money that, when added to the amount then on deposit in the Bond Fund and the Redemption Fund, is sufficient to retire and redeem the Outstanding Bonds that are to be redeemed on the applicable redemption date provided by the Indenture, including without limitation, principal, all interest to accrue to said redemption date, and redemption expense, but without premium, plus

(ii) an amount of money equal to the Trustee's and paying agents' fees and expenses, including reasonable attorneys' fees and expenses relating to such redemption, plus

(iii) an amount of money equal to the Authority's reimbursable expenses under this Lease Agreement relating to such redemption.

(f) The Authority authorizes and directs the Trustee to deposit all amounts received pursuant to this Section in the Redemption Fund for application as provided therefor.

### **Section 13.03 Option to Prepay Lease in Connection with Optional Redemption of the Bonds**

(a) The Borrower has, and the Authority hereby grants, the option to prepay the Lease Agreement by prepaying Basic Lease Payments due under this Lease Agreement in such manner and amounts as will enable the Authority to redeem the Bonds prior to maturity in whole or in part on any date, as provided in Section 5.02 of the Indenture. The Basic Lease Payments payable by the Borrower in the event of its exercise of the option granted under this Section will be, (i) in the case of partial redemption, the amount necessary to pay principal, all interest to accrue to the redemption date, the applicable redemption premium, as provided in Section 5.02 of the Indenture, and any redemption expense, and (ii) in the case of a total redemption, the amounts set forth in Article of the Indenture and the applicable redemption premium, as provided in Section 5.02 of the Indenture.

(b) To exercise such option, the Borrower will give the Authority and the Trustee not less than 45 days' prior written notice of the exercise of such option, will specify therein the date of tender of such prepayment and the amount thereof, will direct the redemption of the corresponding amount of Bonds and will make arrangements satisfactory to the Trustee for the giving of the required notice of redemption.

(c) The Authority authorizes and directs the Trustee to deposit all amounts received pursuant to this Section in the Redemption Fund for application as provided therefor.

## ARTICLE 14

### PROVISIONS OF GENERAL APPLICATION

#### SECTION 14.01 NOTICES

(a) All notices, certificates, or other communications hereunder will be sufficiently given and will be deemed given when mailed by certified mail, postage prepaid, return receipt requested, or given when dispatched by electronic or facsimile transmission, or by personal delivery addressed as follows:

| Name       | Address   | Contact Person  |
|------------|---|---|
| Authority  | Homewood City Hall<br>2850 19th Street South<br>Homewood, Alabama 35209 | City Attorney   |
| Trustee    | 1900 5th Avenue North<br>26th Floor 1<br>Birmingham, Alabama<br>35203   | Corporate Trust   |
| Borrower   | 409 Johnson Avenue<br>Fairhope, Alabama 36532                           | President   |
| University | 800 Lakeshore Drive<br>Homewood, Alabama 35229                          | Vice President for Finance,<br>Business and Affairs and<br>Strategy |
|            |   |   |

(b) Receipt of notices, certificates, or other communications hereunder will occur on actual delivery (whether by mail, electronic or facsimile transmission, messenger, courier service, or otherwise) to any Person who is an officer of the Borrower at any location where such Person may be found, or to an officer, agent, or employee of the Borrower or other party, at the address of such party set forth above, subject to change as provided hereinabove. An attempted delivery in accordance with the foregoing, acceptance of which is refused or rejected, is deemed to be and constitutes receipt; and an attempted delivery in accordance with the foregoing by mail, messenger, or courier service (whichever is chosen by the sender) that is not completed because of changed address of which no notice was received by the sender in accordance with this provision prior to the sending of the notice, certificate, or other communication is also be deemed to be and constitutes receipt. A duplicate copy of each notice, certificate, or other communication given hereunder will also be given to the Trustee. Any party named in this Section may, by notice given to each of the others, designate any additional or different addresses to which subsequent notices, certificates, or other communications will be sent. Notwithstanding anything to the contrary contained herein, the Authority's failure or delay in giving any notice or making any filing required in this Indenture will not affect the validity or efficacy of such notice or filing, and the Authority is not liable for any failure or delay by the Authority in giving such notice or making such filing.

#### Section 14.02 Construction and Binding Effect

This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements. This Agreement inures to the benefit of and is binding on the Authority, the Borrower, and their respective successors and assigns subject, however, to the limitations set forth herein.

#### Section 14.03 Severability

In the event any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

#### Section 14.04 Amendment, Changes, and Modifications

This Lease Agreement may be amended, changed, modified, or altered, only as provided in the Indenture.

#### Section 14.05 Execution of Counterparts

This Lease Agreement may be executed in several counterparts, each of which is an original and all of which constitute but one and the same instrument.

#### Section 14.06 Governing Law

This Lease Agreement and all disputes, claims, defenses, controversies or causes of action (whether in contract or tort) that may be based upon, arise out of or relate hereto, including as to any representation or warranty made by the Borrower in or in connection with this Lease Agreement or as an inducement to enter into this Lease Agreement, shall be governed by the laws of the State of Alabama, without regard to any conflicts of laws principles.

#### **Section 14.07 Jurisdiction**

(a) All claims of whatever character arising out of this Lease Agreement shall be brought in any state or federal court of competent jurisdiction located in Jefferson County, Alabama.

(b) By executing and delivering this Lease Agreement, each party hereto irrevocably: (i) accepts generally and unconditionally the exclusive jurisdiction and venue of such courts; (ii) waives any defense of forum non conveniens; (iii) agrees not to seek removal of such proceedings to any court or forum other than as specified above.

#### **Section 14.08 Waiver of Personal Liability**

The Borrower agrees that no Authority Indemnified Person shall be personally liable for the payment of Debt Service on the Bonds or any costs incidental thereto or any sum hereunder or under the Indenture or be subject to any personal liability or accountability by reason of the execution and delivery of this Lease Agreement or the Indenture.

#### **Section 14.09 Non-Liability of the Authority**

(a) The Authority shall not be obligated to pay the Debt Service on the Bonds, except from the Trust Estate. Neither the faith and credit nor the taxing power of the State of Alabama, or any other political subdivision or agency thereof or any political subdivision approving the issuance of the Bonds, nor the faith and credit of the Authority, is pledged to the payment of Debt Service on the Bonds or any costs incidental thereto. The Authority has no taxing power. The Authority shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims, or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with the Indenture, the Bonds, or this Lease Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Lease Agreement.

(b) The Borrower hereby acknowledges that the Authority 's sole source of money to repay the Bonds is the Trust Estate, and hereby agrees that if the payments to be made under this Lease Agreement ever prove insufficient to pay all Debt Service on the Bonds as the same shall become due (whether by maturity, redemption, acceleration, or otherwise) or costs incidental thereto, then upon notice or demand from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such Debt Service when due, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance, or malfeasance on the part of the Trustee, the Authority, the Borrower, or any third party, subject to any right of reimbursement from the Trustee, the Authority , or any such third party, as the case may be, therefor.

#### **Section 14.10 No Obligation to Enforce Assigned Rights**

Notwithstanding anything to the contrary in this Lease Agreement or the Indenture, the Authority shall have no obligation to and instead the Trustee and/or the Owners, as the case may be, in accordance with this Lease Agreement and the Indenture, shall have the right, without any direction from or action by the Authority , to take any and all steps, actions, and proceedings, to enforce any or all rights of the Authority (other than the Unassigned Rights) under the Indenture or this Lease Agreement, including, without limitation, the rights to enforce the remedies on the occurrence and continuation of an Event of Default and the obligations of the Borrower under this Lease Agreement.

#### **Section 14.11 Non-Impairment**

Nothing in this Lease Agreement shall be deemed or construed to limit, impair, or affect in any way the right of the Authority, or of any Authority Indemnified Person, to enforce the Unassigned Rights, regardless of whether there is then existing an Event of Default (including, without limitation, a payment default), or any action based thereon or occasioned by an Event of Default or alleged Event of Default, and regardless of any waiver or forbearance granted by the Trustee or any Bondholder(s) in respect thereof. Any default or Event of Default in respect of the Unassigned Rights may only be waived with the Authority's written consent.

#### **Section 14.12 Authority's Performance**

None of the provisions of this Lease Agreement shall require the Authority to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless payable from the Trust Estate, or unless the Authority shall first have been adequately indemnified to its satisfaction against the cost, expense, and liability which may be incurred thereby. The Authority shall not be under any obligation hereunder to perform any administrative service with respect to the Bonds or the Project (including, without limitation, record keeping and legal services), it being understood that such services will be performed or provided by the Trustee or the Borrower. The Authority covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions expressly contained in this Lease Agreement, the Indenture, and any and every Bond executed, authenticated, and delivered under the Indenture; provided, however, that the Authority shall not be obligated to take any action or execute any instrument under any provision hereof unless and until it has (a) been requested to do so in writing by the Borrower, the Trustee, or a Majority of the Owners, having the authority to so direct, (b) received from the party requesting such action or execution assurance satisfactory to the Authority that the Authority 's expenses incurred or to be incurred in connection with taking such action or executing such instrument have or will be paid or reimbursed to the Authority; and (c) if applicable, received in a timely manner the instrument or document to be executed, in form and substance satisfactory to the Authority. In complying with any provision herein or in the Indenture, including, but not limited to, any provision requiring the Authority to "cause" another Person to take or omit any action, the Authority shall be entitled to rely conclusively (and without independent investigation or verification) (i) on the faithful performance by the Trustee or the Borrower, as the case may be, of their respective obligations hereunder and under the Indenture, and (ii) upon any written certification or opinion furnished to the Authority by the Trustee or the Borrower, as the case may be. In acting, or in refraining from acting, under this Lease Agreement, the Authority may conclusively rely on the advice of its counsel. The Authority shall not be required to take any action hereunder or under the Indenture that it reasonably believes to be unlawful or in contravention hereof or thereof.

#### **Section 14.13 Payments Due on Saturdays, Sundays, and Holidays**

In any case where the date for any payment due under this Lease Agreement is, in the location of the Office of the Trustee, not a Business Day, then such payment may be made on the immediately succeeding Business Day with the same force and effect as if made on the date due.

#### **Section 14.14 Subordination to Indenture**

This Lease Agreement and the rights and privileges hereunder of the Borrower are expressly made subject and subordinate to the rights and privileges of the Trustee and the Owners set forth in the Indenture.

#### **Section 14.15 Limitation on Interest**

No provisions of this Lease Agreement require the payment or permit the collection of interest in excess of the maximum interest rate permitted by law. If any excess interest in such respect is herein provided for, or adjudicated to be so provided for herein the Borrower will not be obligated to pay such interest in excess of the amount permitted by law, and the right to demand the payment of any such excess will be and hereby is waived. This provision will control any provisions of this Lease Agreement inconsistent with this provision.

#### **Section 14.16 Indenture**

The Indenture provisions concerning the Bonds and the other matters therein are an integral part of the terms and conditions of this Lease Agreement, and the execution of this Lease Agreement will constitute conclusive evidence of approval of the Indenture by the Borrower to the extent it relates to the Borrower. Additionally, the Borrower agrees that, whenever the Indenture by its terms imposes a duty or obligation on the Borrower, such duty or obligation will be binding upon the Borrower to the same extent as if the Borrower were an express party to the Indenture, and the Borrower hereby agrees to carry out and perform all of its obligations under the Indenture as fully as if the Borrower were a party to the Indenture.

#### **Section 14.17 Authority of Authorized Borrower Representative**

Whenever under the provisions of this Lease Agreement or the Indenture the approval of the Borrower is required, or the Authority or the Trustee is required to take some action at the request of the Borrower, such approval or such request will be made by an Authorized Borrower Representative unless otherwise specified herein or in the Indenture. The Authority or the Trustee is authorized to act on any such approval or request and the Borrower will have no complaint against the Authority or the Trustee as a result of any such action taken in accordance with such approval or request. The execution of any document or certificate required under the provisions hereof or of the Indenture by an Authorized Borrower Representative will be on behalf of the Borrower and will not result in any personal liability of such Authorized Borrower Representative.

#### **Section 14.18 Authority of Authorized Signatory**

Whenever under the provisions of this Lease Agreement or the Indenture the approval of the Authority is required, or the Borrower or the Trustee is required to take some action at the request of the Authority such approval or such request will be made by an Authorized Signatory unless otherwise specified herein or in the Indenture. The Borrower or the Trustee is authorized to act on any such approval or request and the Authority will have no complaint against the Borrower or the Trustee as a result of any such action taken in accordance with such approval or request. The execution of any document or certificate required under the provisions hereof or of the Indenture by an Authorized Signatory will be on behalf of the Authority and will not result in any personal liability of such Authorized Signatory.

#### **Section 4.19 Notice of Change in Fact**

The Borrower will notify the Authority and the Trustee in writing promptly after the Borrower becomes aware of (a) any change in any material fact or circumstance represented or warranted by the Borrower in this Lease Agreement or in connection with the issuance of a series of Bonds that would make any such representation or warranty false when made, (b) any Event of Default specifying in each case the nature thereof and what action the Borrower has taken, is taking, and/or proposes to take with respect thereto, (c) any IRS audit of the Borrower or the Bonds, and/or (d) any material litigation affecting the Bonds, the Borrower, or the Project.

#### **Section 14.20 Survival of Provisions**

The provisions of this Lease Agreement and the Indenture and any other document in connection with the issuance of the Bonds to which the Authority is a party concerning (i) the tax-exempt status of Tax-Exempt Bonds (including, but not limited to provisions concerning rebate); (ii) the interpretation of this Lease Agreement; (iii) governing law, jurisdiction, and venue; (iv) the Authority's right to rely on written representations of others contained herein or in any other document or instrument issued or entered into in respect of the Bonds, regardless of whether the Authority is a party thereto; (v) the indemnification rights and exculpation from liability of the Authority and the Authority Indemnified Persons; and (vi) any other provision of this Lease Agreement not described or enumerated above that expressly provides for its survival, will survive and remain in full force and effect notwithstanding the payment or redemption in full, or defeasance of the Bonds, the discharge of the Indenture, and the termination or expiration of this Lease Agreement.

The Authority, the Borrower and the Trustee, by acceptance of assignment of this Lease Agreement, agree that, notwithstanding any other provision of this Lease Agreement or the Indenture, to the extent of their rights hereunder (including without limitation, their rights to immunity, indemnification and exculpation from pecuniary liability) each Authority Indemnified Person is a third-party beneficiary of this Lease Agreement entitled to enforce such rights in the name thereof.

**ARTICLE 1**

**THIRD-PARTY BENEFICIARIES**

The Authority, the Borrower and the Trustee, by acceptance of assignment of this Lease Agreement, agree that, notwithstanding any other provision of this Lease Agreement or any of the other Bond Documents:

(a) the University is a third-party beneficiary of this Lease Agreement and shall have all rights and remedies thereof as provided by Applicable Law; and

(b) to the extent of their rights hereunder (including without limitation, their rights to immunity, indemnification and exculpation from pecuniary liability) each Authority Indemnified Person is a third-party beneficiary of this Lease Agreement entitled to enforce such rights in the name thereof.

IN WITNESS WHEREOF, the Authority and the Borrower have each caused this Bond Lease Agreement (CHF - Horizons I, L.L.C. Project at Samford University) to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

**THE EDUCATIONAL BUILDING AUTHORITY  
OF THE CITY OF HOMEWOOD**

By \_\_\_\_\_  
Chair

SEAL

Attest: \_\_\_\_\_

Secretary

**CHF- HORIZONS I, L.L.C.**

By: Collegiate Housing Foundation,  
As sole member

By \_\_\_\_\_  
President

**AGREEMENT AND CONSENT OF SAMFORD UNIVERSITY**

The undersigned Samford University does hereby, pursuant to, and for the purposes of, the Ground Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) dated [Month] 1, 2024, certify that the above and foregoing Lease Agreement has been reviewed by an Authorized University Representative and Samford University does hereby agree and consent to the terms and provisions, and the delivery and performance by the within Authority and Borrower, of the Lease Agreement, including particularly and without limitation the provisions thereof applicable to Samford University.

IN WITNESS WHEREOF, Samford University has caused this Agreement and Consent to be executed its name, under seal, by an officer thereof duly authorized thereunto.

**SAMFORD UNIVERSITY**

By \_\_\_\_\_  
President

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that \_\_\_\_\_ whose name as Chair of The Educational Building Authority of the City of Homewood, a public corporation, is signed to the foregoing Bond Lease Agreement (CF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) and who is known to me, acknowledged before me on this day that, being informed of the contents of said Bond Lease Agreement he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Given under my hand this the \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

NOTARIAL SEAL

My commission expires: \_\_\_\_\_

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that \_\_\_\_\_ whose name as President of Collegiate Housing Foundation, an Alabama corporation acting as sole member of CHF - Horizons I, L.L.C., an Alabama limited liability company, is signed to the foregoing Bond Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) and who is known to me, acknowledged before me on this day that, being informed of the contents of said Bond Lease Agreement he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation acting as sole member of said limited liability company as aforesaid..

Given under my hand this the \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

NOTARIAL SEAL

My commission expires: \_\_\_\_\_

STATE OF ALABAMA        )  
COUNTY OF JEFFERSON    )

EXHIBIT A

DESCRIPTION OF THE PROPERTY

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that \_\_\_\_\_ whose name as \_\_\_\_\_ of Samford University, a non-profit corporation under the laws of Alabama, is signed to the foregoing Bond Lease Agreement (CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University) and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Bond Lease Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of the said corporation.

GIVEN under my hand and official seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

[SEAL]

EXHIBIT B

**DESCRIPTION OF THE EQUIPMENT**

All machinery, equipment, furniture, furnishings, appliances, signs, and other articles of tangible personal property of every kind and nature whatsoever owned by the Borrower now or hereafter attached to, used in connection with, or located at, in, on, or under the Property described in Exhibit A hereto, excluding, however, machinery, equipment, furniture, furnishings, and other articles of tangible personal property located at, in, on, or under the Property described in Exhibit A hereto that is owned by occupants of the Project located on the Property.

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## APPENDIX C

### DTC BOOK-ENTRY SYSTEM

The information in this Appendix C concerning DTC and DTC's book-entry system has been obtained from DTC and contains statements that are believed to describe accurately DTC, the method of effecting book-entry transfers of securities distributed through DTC and certain related matters, but neither the Authority nor the Borrower takes any responsibility for the accuracy or completeness of such statements. Beneficial Owners should confirm the following information with DTC or the DTC Participants.

This section describes how ownership of the Series 2024 Bonds is to be transferred and how the principal of and interest on the Series 2024 Bonds are to be paid to and credited by DTC while the Series 2024 Bonds are registered in its nominee name. The information in this section concerning DTC and the Book-Entry-Only System has been provided by DTC for use in disclosure documents such as this Official Statement. The Borrower and the Underwriters believe the source of such information to be reliable, but take no responsibility for the accuracy or completeness thereof.

The Borrower cannot and does not give any assurance that (1) DTC will distribute payments of debt service on the Series 2024 Bonds, or redemption or other notices, to DTC Participants, (2) DTC Participants or others will distribute debt service payments paid to DTC or its nominee (as the registered owner of the Series 2024 Bonds), or redemption or other notices, to the Beneficial Owners, or that they will do so on a timely basis, or (3) DTC will serve and act in the manner described in this Official Statement. The current rules applicable to DTC are on file with the United States Securities and Exchange Commission, and the current procedures of DTC to be followed in dealing with DTC Participants are on file with DTC.

*None of the Authority, the Borrower, the Trustee or the Underwriter has any responsibility or obligation to any Beneficial Owner with respect to (1) the accuracy of any records maintained by DTC or any DTC Participant, (2) the distribution by DTC or any DTC Participant of any notice that is permitted or required to be given to the Owners of the Series 2024 Bonds under the Indenture, (3) the payment by DTC or any DTC Participant of any amount received under the Indenture with respect to the Series 2024 Bonds, (4) any consent given or other action taken by DTC or its nominee as the Owner of the Series 2024 Bonds or (5) any other related matter.*

DTC will act as securities depository for the Series 2024 Bonds. The Series 2024 Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered certificate will be issued for each maturity of the Series 2024 Bonds, in the aggregate principal amount of each maturity, and will be deposited with DTC.

#### General

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of certificated securities. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations.

DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the

DTC system is also available to others such as both U.S. and non- U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a rating of AA+ by Standard & Poor’s. The DTC Rules applicable to its Participants are on file with the United States Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Series 2024 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2024 Bonds on DTC’s records. The ownership interest of each actual purchaser of Series 2024 Bonds (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2024 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive Series 2024 Bonds representing their ownership interests in Series 2024 Bonds, except in the event that use of the book-entry system for the Series 2024 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2024 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2024 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership.

DTC has no knowledge of the actual Beneficial Owners of the Series 2024 Bonds; DTC’s records show only the identity of the Direct Participants to whose accounts such Series 2024 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2024 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2024 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Series 2024 Bonds may wish to ascertain that the nominee holding the Series 2024 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2024 Bonds within a maturity are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2024 Bonds unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Borrower as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts Series 2024 Bonds are credited on the Record Date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption and interest payments on the Series 2024 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the Borrower or the Trustee, on payable date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC nor its nominee, the Trustee, or the Borrower, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption price and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the

responsibility of the Borrower or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2024 Bonds at any time by giving reasonable notice to the Borrower or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered to DTC Participants or the Beneficial Owners, as the case may be.

### **Limitation**

For so long as the Series 2024 Bonds are registered in the name of DTC or its nominee, Cede & Co., the Authority, the Borrower and the Trustee will recognize only DTC or its nominee, Cede & Co., as the registered owner of the Series 2024 Bonds for all purposes, including payments, notices and voting. So long as Cede & Co. is the registered owner of the Series 2024 Bonds, references herein to the Holders or registered owners of the Series 2024 Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners of the Series 2024 Bonds.

Because DTC is treated as the owner of the Series 2024 Bonds for substantially all purposes under the Indenture, Beneficial Owners may have a restricted ability to influence in a timely fashion remedial action or the giving or withholding of requested consents or other directions. In addition, because the identity of Beneficial Owners is unknown to the Authority, the Borrower, the Trustee or DTC, it may be difficult to transmit information of potential interest to Beneficial Owners in an effective and timely manner. Beneficial Owners should make appropriate arrangements with their broker or dealer regarding distribution of information regarding the Series 2024 Bonds that may be transmitted by or through DTC.

Under the Indenture, payments made by the Trustee to DTC or its nominee shall satisfy the Authority's obligations under the Indenture and the Borrower's obligations under the Bond Lease to the extent of the payments so made.

None of the Authority, the Borrower or the Trustee shall have any responsibility or obligation with respect to:

- (a) the accuracy of the records of DTC, its nominee or any Direct Participant or Indirect Participant with respect to any beneficial ownership interest in any Series 2024 Bonds;
- (b) the delivery to any Direct Participant or Indirect Participant or any other Person, other than a Holder, as shown on the registration books maintained by the Trustee, of any notice with respect to any Series 2024 Bond including, without limitation, any notice of redemption with respect to any Series 2024 Bond;
- (c) the payment to any Direct Participant or Indirect Participant or any other Person, other than a Holder, as shown on the registration books maintained by the Trustee, of any amount with respect to the principal or redemption price of, or interest on, any Series 2024 Bond; or
- (d) any consent given by DTC or its nominee as registered owner.

Prior to any discontinuation of the book-entry only system hereinabove described, the Authority, the Borrower and the Trustee may treat Cede & Co. (or such other nominee of DTC) as, and deem Cede & Co. (or such other nominee) to be, the absolute Holder of the Series 2024 Bonds for all purposes whatsoever, including, without limitation:

- (a) the payment of the principal or redemption price of and interest on and the Series 2024 Bonds;
- (b) giving notices of redemption and other matters with respect to the Series 2024 Bonds;

- (c) registering transfers with respect to the Series 2024 Bonds; and
- (d) the selection of Series 2024 Bonds for redemption.

The Authority and the Trustee cannot give any assurances that DTC or the Participants will distribute payments of the principal or redemption price of and interest on the Series 2024 Bonds, paid to DTC or its nominee, as the registered owner of the Series 2024 Bonds, or any redemption or other notices, to the Beneficial Owners or that they will do so on a timely basis or that DTC will serve and act in the manner described in this Official Statement.

So long as Cede & Co. is the registered owner of the Series 2024 Bonds, as nominee of DTC, references in this Official Statement to the Holders of the Series 2024 Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners, and Cede & Co. will be treated as the only Bondholder of Series 2024 Bonds for all purposes under the Indenture.

The Authority may enter into amendments to the agreement with DTC or successor agreements with a successor securities depository relating to the book-entry system to be maintained with respect to the Series 2024 Bonds without the consent of Beneficial Owners or Bondholders.

### **Removal From the Book-Entry System**

DTC may discontinue providing its services as securities depository with respect to the Series 2024 Bonds at any time by giving written notice to the Authority, the Trustee and the Borrower. The Authority or the Borrower, with the consent of the other, may terminate the services of DTC (or a successor securities depository). Upon the discontinuance or termination of the services of DTC, unless a substitute securities depository is appointed, Bond certificates will be printed and delivered to the Beneficial Owners of the Series 2024 Bonds.

In the event the Series 2024 Bonds are removed from the Book-Entry System, the principal of and the interest on the Series 2024 Bonds shall be payable to the persons in whose names the Series 2024 Bonds are registered on the Bond Register on the applicable Record Date. Payments of interest on the Series 2024 Bonds shall be made to the registered owner of the Series 2024 Bonds (as determined at the close of business on the Record Date next preceding the applicable Stated Interest Payment Date) by check mailed on the Stated Interest Payment Date and the principal amount of any Series 2024 Bond and premium, if any, together with interest payable other than a regularly scheduled Stated Interest Payment Date, shall be made by check only upon presentation and surrender of the Series 2024 Bond on or after its maturity date or date fixed for redemption or other payment at the office of the Trustee; provided, however, that payment of principal of, premium, if applicable, and interest on any Series 2024 Bond may be made by wire transfer as described above under the heading “THE SERIES 2024 BONDS.”

## APPENDIX D

### PROPOSED FORMS OF OPINIONS OF BOND COUNSEL

[Form of Opinion for Tax-Exempt Series 2024A Bonds]

\_\_\_\_\_, 2024

The Educational Building Authority of the City of Homewood

RBC Capital Markets, LLC

Stifel, Nicolaus & Company, Incorporated

Owners of the Bonds referenced herein

### THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD

#### Revenue Bonds

(CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University)

#### Tax-Exempt Series 2024-A

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We have acted as bond counsel to The Educational Building Authority of the City of Homewood (the "Authority") for the purpose of delivering the within opinions in connection with the issuance of the above-referenced Bonds (the "Bonds") by the Authority on the date hereof pursuant to the Governing Law and that certain Trust Indenture dated \_\_\_\_\_ 1, 2024 (the "Indenture") by the Authority and Regions Bank, as trustee (the "Trustee"), to finance certain educational facilities (the "Project") for lease to CHF - Horizons I, L.L.C., an Alabama limited liability company (the "Borrower"), pursuant to Lease Agreement dated \_\_\_\_\_ 1, 2024 (the "Lease Agreement") by the Authority and the Borrower, for the benefit of, and management by, Samford University, an Alabama nonprofit corporation (the "University").

For purposes hereof, we have incorporated and used herein certain capitalized terms as such terms are defined in the Indenture .

The within opinions are based upon our (a) examination of (i) the certificate of incorporation, as amended, of the Authority, (ii) the executed Bonds, (iii) executed counterparts of the Indenture and the Lease Agreement and certified proceedings of the Authority with respect thereto, (iv) the executed Tax Agreement, and (v) such other certificates, documents, proceedings and records provided to us for purposes hereof and as we have deemed necessary (collectively the "Supporting Documents"); (b) review of the applicable laws of the State of Alabama and of the United States of America in effect on the date hereof and as we have deemed necessary; (c) reliance, without independent investigation or inquiry, upon the representations of fact made in the Indenture, the Lease Agreement, the Tax Agreement, and the Supporting Documents, and (d) assumption that (i) the Authority, the Borrower and the University will comply with the Tax Agreement, and the requirements of the Federal Tax Code which are applicable subsequent to the issuance of the Bonds, for the continued exclusion of interest on the Bonds

from gross income for purposes of federal income taxation, (ii) the Lease Agreement is enforceable by and against the Borrower, and (iii) the Indenture is enforceable by and against the Trustee.

We are of the opinion, on the date hereof and subject to the within qualifications, that:

(1) The Authority validly exists under the Governing Law and pursuant to the authority thereof has duly authorized, executed and delivered the Bonds, the Indenture and the Lease Agreement.

(2) The Indenture and the Lease Agreement are legal, valid and binding obligations of the Authority and are enforceable against the Authority in accordance with the respective terms thereof.

(3) The Bonds are legal, valid and binding obligations of the Authority payable solely from, and secured by a valid pledge of, the Trust Estate under the Indenture on an equal and proportionate basis with all Bonds at any time Outstanding under the Indenture.

(4) Interest on the Bonds is presently excludable from gross income for federal income tax purposes under Section 103 of the Federal Tax Code, regulations and rulings of the Commissioner of Internal Revenue issued or pertinent thereunder, and court decisions heretofore rendered, and is not an item of tax preference for purposes of the federal alternative minimum tax; provided, as a result of amendments to the Federal Tax Code enacted pursuant to the Inflation Reduction Act of 2022, interest on the Bonds may be taken into account for purposes of the alternative minimum tax imposed by Section 55(b)(2) of the Federal Tax Code on "applicable corporations" as defined in Section 59(k) of the Federal Tax Code. The opinion set forth in the preceding sentence is subject to the condition that the Authority, the Borrower, and the University comply with all requirements of the Federal Tax Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Authority, the Borrower, and the University have each covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds.

(5) Interest on the Bonds is exempt from State of Alabama income taxation.

The rights of the Owners of the Bonds, and the enforceability of the Bonds, the Indenture and the Lease Agreement, are subject to and may be limited by (a) the exercise of judicial discretion (in a proceeding at law or in equity), (b) the valid exercise of the constitutional powers of the United States of America and the sovereign and police powers of the State of Alabama, and (c) bankruptcy, insolvency, reorganization, moratoria, fraudulent conveyance, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.

We have not been engaged, and therefore have not undertaken, to review or determine, and consequently provide no assurance, and express no opinion, as to: (a) the tax treatment of interest on the Bonds under any provision or section of the Federal Tax Code, other than Section 103 thereof, or any other law of the United States of America, the State of Alabama, or of any other state; (b) the validity of the Bonds, the Indenture or the Lease Agreement under the laws of any state other than State of Alabama; (c) the title of the Authority, the Borrower, or the University to any property or revenues; (d) the adequacy of the sources of payment of the Bonds; or (e) the adequacy, completeness, sufficiency or veracity of any statement or information in any official statement or other offering document, or other information with respect to the offering or sale of the Bonds.

By acceptance hereof, you have each agreed (a) the within opinions are (i) limited to the subjects expressly stated herein and no other opinion is implied or may be inferred therefrom, (ii) given on the date hereof whereupon our engagement with respect to the subjects stated herein terminated and we have no continuing obligation to advise any of you (or any successor or assign thereof) of any change in relevant fact or law subsequent to the date hereof even if such change may affect an opinion herein, (iii) delivered to you solely in connection with the subject transactions and cannot be relied upon by you or any other person for any other purpose, and (iv) an expression of our professional judgement as to the legal issues expressly stated herein and in consequence thereof we are not a guarantor or insurer of such expression of professional judgement or of the outcome of any legal dispute that may arise with respect to any subject matter herein contained; and (b) each of the Owners of the Bonds, Regions Bank, as trustee, Stifel, Nicolaus & Company, Incorporated, and RBC Capital Markets, LLC, has not had any attorney-client relationship with Maynard Nexsen PC with respect to the subject transaction or any matter referenced herein.

Faithfully yours,

[Form of Opinion for Taxable Series 2024B Bonds]

\_\_\_\_\_, 2024

The Educational Building Authority of the City of Homewood

RBC Capital Markets, LLC

Stifel, Nicolaus & Company, Incorporated

Owners of the Bonds referenced herein

**THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**

**Revenue Bonds**

**(CHF - Horizons I, L.L.C. Recreation/Wellness/Athletic Center Project at Samford University)**

**Federally Taxable Series 2024-B**

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We have acted as bond counsel to The Educational Building Authority of the City of Homewood (the "Authority") for the purpose of delivering the within opinions in connection with the issuance of the above-referenced Bonds (the "Bonds") by the Authority on the date hereof pursuant to the Governing Law and that certain Trust Indenture dated \_\_\_\_\_ 1, 2024 (the "Indenture") by the Authority and Regions Bank, as trustee (the "Trustee"), to finance certain educational facilities (the "Project") for lease to CHF - Horizons I, L.L.C., an Alabama limited liability company (the "Borrower"), pursuant to Lease Agreement dated \_\_\_\_\_ 1, 2024 (the "Lease Agreement") by the Authority and the Borrower, for the benefit of, and management by, Samford University, an Alabama nonprofit corporation (the "University").

For purposes hereof, we have incorporated and used herein certain capitalized terms as such terms are defined in the Indenture .

The within opinions are based upon our (a) examination of (i) the certificate of incorporation, as amended, of the Authority, (ii) the executed Bonds, (iii) executed counterparts of the Indenture and the Lease Agreement and certified proceedings of the Authority with respect thereto, and (iv) such other certificates, documents, proceedings and records provided to us for purposes hereof and as we have deemed necessary (collectively the "Supporting Documents"); (b) review of the applicable laws of the State of Alabama and of the United States of America in effect on the date hereof and as we have deemed necessary; (c) reliance, without independent investigation or inquiry, upon the representations of fact made in the Indenture, the Lease Agreement, and the Supporting Documents, and (d) assumption that (i) the Lease Agreement is enforceable by and against the Borrower, and (ii) the Indenture is enforceable by and against the Trustee.



We are of the opinion, on the date hereof and subject to the within qualifications, that:

- (1) The Authority validly exists under the Governing Law and pursuant to the authority thereof has duly authorized, executed and delivered the Bonds, the Indenture and the Lease Agreement.
- (2) The Indenture and the Lease Agreement are legal, valid and binding obligations of the Authority and are enforceable against the Authority in accordance with the respective terms thereof.
- (3) The Bonds are legal, valid and binding obligations of the Authority payable solely from, and secured by a valid pledge of, the Trust Estate under the Indenture on an equal and proportionate basis with all Bonds at any time Outstanding under the Indenture.
- (4) Interest on the Bonds is not excludable from gross income for federal income tax purposes.
- (5) Interest on the Bonds is exempt from State of Alabama income taxation.

The rights of the Owners of the Bonds, and the enforceability of the Bonds, the Indenture and the Lease Agreement, are subject to and may be limited by (a) the exercise of judicial discretion (in a proceeding at law or in equity), (b) the valid exercise of the constitutional powers of the United States of America and the sovereign and police powers of the State of Alabama, and (c) bankruptcy, insolvency, reorganization, moratoria, fraudulent conveyance, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.

We have not been engaged, and therefore have not undertaken, to review or determine, and consequently provide no assurance, and express no opinion, as to: (a) the tax treatment of interest on the Bonds under any provision or section of the Federal Tax Code or any other law of the United States of America, the State of Alabama, or of any other state; (b) the validity of the Bonds, the Indenture or the Lease Agreement under the laws of any state other than State of Alabama; (c) the title of the Authority, the Borrower, or the University to any property or revenues; (d) the adequacy of the sources of payment of the Bonds; or (e) the adequacy, completeness, sufficiency or veracity of any statement or information in any official statement or other offering document, or other information with respect to the offering or sale of the Bonds.

By acceptance hereof, you have each agreed (a) the within opinions are (i) limited to the subjects expressly stated herein and no other opinion is implied or may be inferred therefrom, (ii) given on the date hereof whereupon our engagement with respect to the subjects stated herein terminated and we have no continuing obligation to advise any of you (or any successor or assign thereof) of any change in relevant fact or law subsequent to the date hereof even if such change may affect an opinion herein, (iii) delivered to you solely in connection with the subject transactions and cannot be relied upon by you or any other person for any other purpose, and (iv) an expression of our professional judgement as to the legal issues expressly stated herein and in consequence thereof we are not a guarantor or insurer of such expression of professional judgement or of the outcome of any legal dispute that may arise with respect to any subject matter herein contained; and (b) each of the Owners of the Bonds, Regions Bank, as trustee, Stifel, Nicolaus & Company, Incorporated, and RBC Capital Markets, LLC, has not had any attorney-client relationship with Maynard Nexsen PC with respect to the subject transaction or any matter referenced herein.

Faithfully yours,

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## APPENDIX E-1

### FORM OF BORROWER CONTINUING DISCLOSURE AGREEMENT

#### CONTINUING DISCLOSURE AGREEMENT

**THIS CONTINUING DISCLOSURE AGREEMENT** (the “Agreement”) dated as of June 1, 2024, is executed and delivered by **CHF – HORIZONS I, L.L.C.**, an Alabama limited liability company (the “Borrower”), and **REGIONS BANK**, an Alabama banking corporation (the “Dissemination Agent”), in connection with the issuance by **THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**, an Alabama public nonprofit corporation (the “Authority”), of its \$[PAR-A] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Tax-Exempt Series 2024-A (the “Series 2024A Bonds”), and its \$[PAR-B] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Taxable Series 2024-B (the “Series 2024B Bonds” and, together with the Series 2024A Bonds, the “Series 2024 Bonds”). The Series 2024 Bonds are being issued pursuant to the Indenture as defined below.

#### AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Section 1. Purpose of the Disclosure Agreement.** This Agreement is being executed and delivered by the Borrower and the Dissemination Agent for the benefit of the Owners and Beneficial Owners, defined below, of the Series 2024 Bonds and in order to assist RBC Capital Markets, LLC (the “Representative”) acting on its own behalf and on behalf of Stifel, Nicolaus & Company, Incorporated (together, the “Underwriters”), in complying with the Rule, as defined below. The Borrower and the Dissemination Agent acknowledge that the Authority has undertaken no responsibility with respect to any reports, notices or disclosures provided or required to be provided under this Agreement, and has no liability to any Person, including, without limitation, any Owner or Beneficial Owner of the Series 2024 Bonds, with respect to any such reports, notices or disclosures.

**Section 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings:

“*Annual Report*” means any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Agreement.

“*Beneficial Owner*” or “*Owner*” means any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2024 Bonds (including Persons holding Series 2024 Bonds through nominees, depositories or other intermediaries); or (b) is treated as the owner of any Series 2024 Bonds for federal income tax purposes.

“*Bond Trustee*” means Regions Bank, an Alabama banking corporation, in its capacity as trustee under the Indenture.

“*Dissemination Agent*” means Regions Bank, acting in its capacity as dissemination agent hereunder, or any successor dissemination agent designated in writing by the Borrower and which has filed with the Bond Trustee a written acceptance of such designation.

“*EMMA*” means the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board as provided at <http://www.emma.msrb.org>, or any similar system that is acceptable to or as may be specified by the Securities and Exchange Commission from time to time.

“*Financial Obligation*” shall mean (a) a debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of (a)

or (b). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“*Fiscal Year*” means the period of 12 consecutive months beginning July 1 and ending on June 30, or such 12-month period as may be designated by the Borrower as the Fiscal Year of the Borrower.

“*Indenture*” means, collectively, the Trust Indenture dated as of June 1, 2024, by and between the Authority and the Bond Trustee, as supplemented and amended by the Series 2024A Supplemental Indenture and the Series 2024B Supplemental Indenture, and as the same may be further supplemented or amended from time to time.

“*Lease Agreement*” means the CHF – Horizons I, L.L.C. Project Bond Lease Agreement dated as of June 1, 2024 between the Authority and the Borrower as the same may from time to time be supplemented or amended.

“*Listed Events*” means any of the events listed in Section 5(a) of this Agreement.

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“*State*” means the State of Alabama.

“*University*” means Samford University, an Alabama nonprofit corporation.

### **Section 3. Provision of Annual Reports; Other Reporting Requirements.**

(a) The Borrower shall provide, or shall cause the Dissemination Agent to provide, not later than one hundred eighty (180) days after the end of each Fiscal Year, to EMMA, an Annual Report in the appropriate format required by law or applicable regulation which is consistent with the requirements of Section 4 of this Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Agreement. If the Fiscal Year changes, the Borrower shall notify the Dissemination Agent and the Bond Trustee in writing of such change.

(b) Not later than fifteen (15) business days prior to the date specified in Section 3(a) above for providing the Annual Reports to EMMA, the Borrower shall provide such portion of the Annual Report to the Dissemination Agent. If, by such date, the Dissemination Agent has not received a copy of an Annual Report as set forth in Section 4 below, the Dissemination Agent shall contact the Borrower to determine if the Borrower is in compliance with Section 3(a) above.

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to EMMA by the date required in Section 3(a) above, the Dissemination Agent shall send a notice to EMMA in substantially the form attached hereto as Exhibit A.

(d) The Dissemination Agent shall, if and to the extent the Borrower has provided the Annual Report to the Dissemination Agent, file a report with the Bond Trustee (if the Dissemination Agent is not the Bond Trustee) certifying that the Annual Report has been provided pursuant to this Agreement and stating the date it was provided.

(e) All documents filed on EMMA shall be provided in a searchable, electronic format and shall be accompanied by identifying information as prescribed by the SEC and MSRB.

(f) The Borrower shall promptly file written notice of any change in its Fiscal Year with the MSRB.

**Section 4. Content of Annual Report.** The Annual Report of the Borrower shall contain or include by reference the following information:

(a) Commencing with the Fiscal Year ending June 30, 2026 the audited financial statements of the Borrower for such Fiscal Year, prepared in accordance with generally accepted accounting principles for nonprofit corporations as promulgated from time to time by the Financial Accounting Standards Board.

The audited financial statements described above may be included by specific reference to other documents, including official statements of debt issues with respect to which the Borrower is an “obligated person” (as defined by the Rule), which have been filed with EMMA. If the document included by reference is a final limited offering memorandum, it must be available from the Municipal Securities Rulemaking Board. The Borrower shall clearly identify each such other document so included by reference.

(b) The Dissemination Agent shall not be responsible in any manner for the content of any notice, report, certification, or other information prepared or submitted by the Borrower pursuant to this Agreement and shall have no duty or obligation to review any such notice, report, certification, or other information.

**Section 5. Reporting of Significant Events.**

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events (each, a “Listed Event”):

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulty;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulty;
- (v) substitution of credit or liquidity providers, or their failure to perform;

(vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2024A Bonds, or other material events affecting the tax status of the Series 2024A Bonds;

- (vii) modifications to rights of Owners, if material;
- (viii) bond calls, if material, and tender offers;
- (ix) defeasances;

(x) release, substitution or sale of property securing repayment of the Series 2024 Bonds, if material;

- (xi) rating changes;

(xii) bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or if such jurisdiction has been assumed by leaving the existing

governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;

(xiii) the consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(xv) incurrence of a Financial Obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Borrower, any of which affect Owners, if material; and

(xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Borrower, any of which reflect financial difficulties.

(b) The Dissemination Agent shall, within five business days of obtaining actual knowledge of the occurrence of a Listed Event or an event that might constitute a Listed Event, provide the Borrower with written notice. The Dissemination Agent shall not be deemed to have actual knowledge of those items listed in clause (ii), (vi), (vii), (x), (xi), (xii), (xiii), (xv) or (xvi) above without the Dissemination Agent having received written notice of such event.

(c) Whenever the Borrower obtains knowledge of the occurrence of a Listed Event or an event that might constitute a Listed Event, because of a notice from the Dissemination Agent pursuant to Section 5(b) above or otherwise, the Borrower shall, within five business days after obtaining such knowledge and in any event no more than seven business days after the occurrence of such event, determine if such event is in fact a Listed Event and provide the Dissemination Agent with written notice pursuant to subsections (d) or (e) below, as applicable; provided that, for the avoidance of doubt, the Borrower is only required to so notify and instruct the Dissemination Agent pursuant to subsection (e) below if it obtained such knowledge of the occurrence of a Listed Event or an event that might constitute a Listed Event because of a notice from the Dissemination Agent given in accordance with Section 5(b) above.

(d) If the Borrower determines that an event is a Listed Event, the Borrower shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent to report the occurrence pursuant to subsection (f) below. Such notice shall include sufficient information concerning the Listed Event to enable the Dissemination Agent to report the occurrence.

(e) If the Borrower determines that an event is not a Listed Event, the Borrower shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f) below.

(f) If the Dissemination Agent has been instructed by the Borrower to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with EMMA within five business days of its receipt of such instructions from the Borrower. Notwithstanding the foregoing, notice of Listed Events described in clauses (a)(viii) and (ix) above need not be given under this Section any earlier than the notice (if any) of the underlying event is given to the Owners of affected Series 2024 Bonds pursuant to the Indenture.

**Section 6. Termination of Reporting Obligation.** Except as otherwise provided herein, the obligations under this Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Series 2024 Bonds. If the Borrower's obligations under the Lease Agreement are assumed in full by another Person, such other Person shall be responsible for compliance with this Agreement in the same manner as if it were the Borrower and the Borrower shall have no further responsibility hereunder (except with respect to obligations of the Borrower which survive the termination hereof pursuant to Section 11 hereof). If such termination or substitution occurs prior to the final maturity of the Series 2024 Bonds, the Borrower shall give notice of such termination or substitution in the same manner as for a Listed Event under Section 5(f) above.

**Section 7. Dissemination Agent.** The Borrower may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Borrower pursuant to this Agreement. The initial Dissemination Agent shall be Regions Bank. The Dissemination Agent may resign at any time by providing at least thirty (30) days' written notice to the Borrower, and such resignation shall be effective as of the date of the appointment of a designated Dissemination Agent.

**Section 8. Amendment; Waiver.** Notwithstanding any other provision of this Agreement, the Borrower and the Dissemination Agent may amend this Agreement (and the Dissemination Agent shall agree to any amendment so requested by the Borrower other than amendments increasing or affecting the obligations or duties of the Dissemination Agent, which amendments shall require the consent of the Dissemination Agent, as applicable) and any provision of this Agreement may be waived if such amendment or waiver would not, in the opinion of nationally recognized federal securities law counsel, cause the undertakings herein to violate the Rule as in effect at the time of the original issuance of the Series 2024 Bonds, after taking into account any amendments or interpretations of the Rule.

In the event of any amendment or waiver of a provision of this Agreement, the Borrower shall describe such amendment in the next Annual Report of the Borrower, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (a) notice of such change shall be given in the same manner as for a Listed Event under Section 5(f) above; and (b) the Annual Reports for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**Section 9. Additional Information.** Nothing in this Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Agreement, the Borrower shall not have any obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**Section 10. Default.** In the event of a failure of the Borrower to comply with any provision of this Agreement, the Dissemination Agent, at the written direction of the Representative, or any Owner or Beneficial Owner of the Series 2024 Bonds (but only if and to the extent the Dissemination Agent is indemnified to its satisfaction from any costs, liability, or expense including, without limitation, fees and expenses of its attorneys, as provided in the Indenture) may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an Event of Default under the Indenture, the Lease Agreement, or the Leasehold Deed of Trust and the sole remedy under this Agreement in the event of a failure of the Borrower to comply with this Agreement shall be an action to compel performance; provided, however that nothing in this Agreement shall limit any Owner's rights under applicable federal securities laws.

## **Section 11. Duties, Immunities and Liabilities of Dissemination Agent.**

(a) If and for so long as the Bond Trustee is acting as Dissemination Agent, the provisions of the Indenture relating to the administration of the Indenture, and all rights, privileges, and immunities of the Bond Trustee set forth therein (including, without limitation, the right to require indemnification before taking any action hereunder) apply to this Agreement and to the Dissemination Agent acting hereunder as if such provisions were fully set forth herein. The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement, and no further duties or responsibilities shall be implied. Any corporation or association into which the Dissemination Agent in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Dissemination Agent in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Dissemination Agent in its individual capacity may be sold or otherwise transferred, shall be the Dissemination Agent under this Agreement without further act. The Borrower covenants and agrees to indemnify and hold the Dissemination Agent and its directors, officers, agents and employees (collectively, the "Indemnitees") harmless from and against any and all liabilities, losses, damages, fines, suits, actions, demands, penalties, costs and expenses, including out-of-pocket, incidental expenses, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and the costs and expenses of defending or preparing to defend against any claim ("Losses") that may be imposed on, incurred by, or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which the Dissemination Agent is authorized to rely pursuant to the terms of this Agreement. In addition to any other indemnity otherwise provided, as long as the Dissemination Agent has not acted negligently, the Borrower also covenants and agrees to indemnify and hold the Indemnitees and each of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Dissemination Agent's performance under this Agreement. The provisions of this Section 11 shall survive the termination of this Agreement and the resignation or removal of the Dissemination Agent for any reason. Anything in this Agreement to the contrary notwithstanding, in no event shall the Dissemination Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to loss profits), even if the Dissemination Agent has been advised of such loss or damage and regardless of the form of action. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Series 2024 Bonds or the termination hereof.

(b) The Authority shall have no responsibility or liability in connection with the Borrower's compliance with the Rule, its filing obligations under this Agreement or in connection with the contents of such filings. The Borrower agrees to indemnify and save the Authority and the Authority Indemnified Persons (as defined in the Indenture), harmless against any loss, expense (including reasonable attorneys' fees) or liability arising out of (i) any breach by the Borrower of this Agreement, or (ii) any Annual Report or notices provided under this Agreement or any omissions therefrom.



**Section 12. Notices.** Any notices or communications to or among any of the parties to this Agreement may be given as follows:

|                     |   |
|---------------------|---|
| If to the Borrower: | CHF – Horizons I, L.L.C.<br>c/o Collegiate Housing Foundation<br>409 Johnson Avenue<br>Fairhope, Alabama 36532<br>Telephone: (251) 928-9340<br>Facsimile: (251) 928-0342<br>Email: <a href="mailto:willgivhan@collegiatehousing.org">willgivhan@collegiatehousing.org</a> |
|---------------------|---|

|                               |  |
|-------------------------------|--|
| If to the Dissemination Agent | Regions Bank<br>Attention: Corporate Trust Department<br>1900 5 <sup>th</sup> Avenue North, 26 <sup>th</sup> Floor<br>Birmingham, Alabama 35203<br>Telephone: (205) 264-6587<br>Facsimile: (205) 264-5264<br>Email: <a href="mailto:carmen.kilgore@regions.com">carmen.kilgore@regions.com</a> |
|-------------------------------|--|

Any party may, by written notice to the other parties listed above, designate a different address to which subsequent notices or communications should be sent.

**Section 13. Beneficiaries.** This Agreement shall inure solely to the benefit of the Borrower, the Dissemination Agent, the Authority, the Authority Indemnified Persons, the Underwriters, and the Owners and Beneficial Owners from time to time of the Series 2024 Bonds and shall create no rights in any other person or entity.

**Section 14. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 15. Applicable Law.** This Agreement shall be construed under the laws of the State.

**Section 16. No Liability of Borrower's Member or Officers.** No recourse under or upon any obligation, covenant, or agreement contained in this Agreement or in any other documents delivered in connection with the issuance of the Series 2024 Bonds, or for any claim based thereon, or under any judgment obtained against the Borrower or Collegiate Housing Foundation, or any incorporator, director, member, or officer of any successor entity, as such, or by the enforcement of any assessment or penalty or otherwise or by any legal or equitable proceeding by virtue of any constitution, rule of law or equity, or statute or otherwise or under any other circumstances, under or independent hereof, shall be had against any incorporator, director, member, or officer, as such, past, present, or future of the Borrower, either directly or through the Borrower or any successor entity, or otherwise, for the payment for or to the Borrower or any receiver thereof, of any sum that may be due and unpaid by the Borrower under this Agreement or any other documents delivered in connection with the issuance of the Series 2024 Bonds.

**Section 17. Electronic Signatures.** The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. For purposes hereof: (a) "electronic signature" means a manually signed original signature that is then transmitted by electronic means or a digital signature of an authorized representative of any party provided by AdobeSign or DocuSign (or such other digital signature provider as specified by such party) in English; and (b) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format (".pdf") or other replicating image attached to an electronic mail or internet message.

IN WITNESS WHEREOF, the Borrower and the Dissemination Agent have executed this Agreement under seal on the date and year first written above.

CHF – HORIZONS I, L.L.C., an Alabama limited liability company

By: Collegiate Housing Foundation, its sole member

By \_\_\_\_\_  
William B. Givhan, President

REGIONS BANK, as Dissemination Agent

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**EXHIBIT A**

**NOTICE TO EMMA OF FAILURE TO FILE REPORT**

Name of Authority: The Educational Building Authority of the City of Homewood

Name of Bond Issues: The Educational Building Authority of the City of Homewood (the “Authority”) of its (a) \$[PAR-A] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Tax-Exempt Series 2024A and (b) \$[PAR-B] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Taxable Series 2024B

Name of Borrower: CHF – Horizons I, L.L.C.

Date of Issuance: June \_\_, 2024

NOTICE IS HEREBY GIVEN that the Borrower has not provided an Annual Report with respect to the above-named Series 2024 Bonds.

Dated \_\_\_\_\_

REGIONS BANK,  
on behalf of CHF – Horizons I, L.L.C.

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

cc: The Educational Building Authority of the City of Homewood and CHF – Horizons I, L.L.C.

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## APPENDIX E-2

### FORM OF UNIVERSITY CONTINUING DISCLOSURE AGREEMENT

#### CONTINUING DISCLOSURE AGREEMENT

**THIS CONTINUING DISCLOSURE AGREEMENT** (the “Agreement”) dated as of June 1, 2024, is executed and delivered by **SAMFORD UNIVERSITY**, an Alabama nonprofit corporation (the “University”) in connection with the issuance by **THE EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF HOMEWOOD**, an Alabama public nonprofit corporation (the “Authority”), of its \$[PAR-A] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Tax-Exempt Series 2024-A (the “Series 2024A Bonds”), and its \$[PAR-B] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Taxable Series 2024-B (the “Series 2024B Bonds” and, together with the Series 2024A Bonds, the “Series 2024 Bonds”). The Series 2024 Bonds are being issued pursuant to the Indenture as defined below:

**Section 1. Purpose of Agreement.** This Agreement is being executed and delivered by the University for the benefit of the Owners and Beneficial Owners, defined below, of the Series 2024 Bonds and in order to assist RBC Capital Markets, LLC (the “Representative”) acting on its own behalf and on behalf of Stifel, Nicolaus & Company, Incorporated (together, the “Underwriters”) in complying with the Rule, defined below. The University acknowledges that the Authority has undertaken no responsibility with respect to any reports, notices or disclosures provided or required to be provided under this Agreement, and has no liability to any Person, including, without limitation, any Owner or Beneficial Owner of the Series 2024 Bonds, with respect to any such reports, notices or disclosures.

**Section 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings:

“*Annual Financial Information*” shall mean the financial information and operating data with respect to the University, provided at least annually, which includes (a) updates of the information set forth in Appendix A-1 to the Official Statement; and (b) Audited Financial Statements of the University for the prior year if available on the due date set forth herein, and, if not then available, unaudited financial statements with Audited Financial Statements to be provided promptly upon becoming available.

“*Audited Financial Statements*” shall mean the University’s annual financial statements, prepared in accordance with United States generally accepted accounting principles, consistently applied, which financial statements have been audited by a firm of independent certified public accountants.

“*Beneficial Owner*” or “*Owner*” means any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2024 Bonds (including Persons holding Series 2024 Bonds through nominees, depositories or other intermediaries); or (b) is treated as the owner of any Series 2024 Bonds for federal income tax purposes.

“*Bond Trustee*” means Regions Bank, an Alabama banking corporation, in its capacity as trustee under the Indenture.

“*Borrower*” means CHF – Horizons I, L.L.C., whose sole member is the Collegiate Housing Foundation.

“*Dissemination Agent*” shall initially mean Digital Assurance Certification, L.L.C., or any successor dissemination agent designated in writing by the University and which has filed with the University a written acceptance of such designation.

“*EMMA*” means the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board as provided at <http://www.emma.msrb.org>, or any similar system that is acceptable to or as may be specified by the Securities and Exchange Commission from time to time.

“*Financial Obligation*” shall mean (a) a debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of (a) or (b). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“*Fiscal Year*” shall mean the twelve-month period beginning July 1 and ending June 30 of each year.

“*Indenture*” means, collectively, the Trust Indenture dated as of June 1, 2024, by and between the Authority and the Bond Trustee, as supplemented and amended by the Series 2024A Supplemental Indenture and the Series 2024B Supplemental Indenture, and as the same may be further supplemented or amended from time to time.

“*Listed Events*” shall mean any of the events listed in Section 5(a) of this Agreement.

“*MSRB*” shall mean the Municipal Securities Rulemaking Board, established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, as amended.

“*Official Statement*” shall mean the Official Statement dated \_\_\_\_\_, 2024 prepared in connection with the Series 2024 Bonds.

“*Recreation Facility*” shall have the meaning given to it in the Facility Lease Agreement, dated the date of issuance of the Series 2024 Bonds, by and between the University and the Borrower.

“*Rule*” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as heretofore amended, and as such Rule may be amended from time to time hereafter.

“*SEC*” shall mean the United States Securities and Exchange Commission, and any successor thereto.

“*State*” shall mean the State of Alabama.

### **Section 3. Provision of Annual Financial Information; Other Reporting Requirements.**

(a) The University shall, or shall cause the Dissemination Agent (if other than the University) to, not later than 180 days following the end of the University’s Fiscal Year, commencing with the Fiscal Year ending June 30, 2024, file with the MSRB, in an electronic format (by transmission to EMMA) and accompanied by identifying information as prescribed by the MSRB, provide to the MSRB the Annual Financial Information (by transmission to EMMA). The Annual Financial Information may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Agreement; provided, however, that the Audited Financial Statements of the University may be submitted separately from the balance of the Annual Financial Information.

(b) Not later than 15 business days prior to the date specified in Section 3(a) above for providing the Annual Financial Information to EMMA, the University shall provide the Annual Financial Information to the Dissemination Agent. If, by such date, the Dissemination Agent has not received a copy of the Annual Financial Information as set forth in Section 4 below, the Dissemination Agent shall contact the University to determine if the University is in compliance with Section 3(a) above.

(c) If the University is unable to file the Annual Financial Information with the MSRB, in an electronic format (by transmission to EMMA) by the date required in subsection (a) above, the University, or the Dissemination Agent if other than the University, shall file a notice on EMMA in substantially the form attached hereto as Exhibit A.

(d) The Dissemination Agent (if other than the University) shall, if and to the extent the University has provided the Annual Financial Information to the Dissemination Agent, file a report with the University certifying that the Annual Financial Information has been filed with the MSRB, in an electronic format (by transmission to EMMA) pursuant to this Agreement and the date provided.

(e) Additionally, during construction of the Recreation Facility commencing July, 2024, the University shall provide or cause the Dissemination Agent to provide to EMMA, within 30 days of the end of each calendar month, monthly construction progress reports for the prior month regarding the Recreation Facility, until Substantial Completion of the Recreation Facility is achieved.

(f) All documents filed on EMMA shall be provided in a searchable, electronic format and shall be accompanied by identifying information as prescribed by the SEC and MSRB.

(g) The University shall promptly file written notice of any change in its Fiscal Year with the MSRB.

#### **Section 4. Content of Annual Financial Information.**

(a) By 180 days following the end of the University's Fiscal Year, the University or the Dissemination Agent (if not the University) on its behalf shall submit to the MSRB the Annual Financial Information for the prior Fiscal Year, including the Audited Financial Statements (except as otherwise provided herein).

(b) Any or all of the items listed in Section 4(a) above may be included by specific reference to other documents, including official statements of debt issues of the University which have been submitted to the MSRB or the SEC. If the document included by reference is a final official statement, it must be available from the MSRB. The University shall clearly identify each such other document so included by reference.

(c) If any information described in Section 4(a) above can no longer be generated because the operations to which such information relates have been materially changed or discontinued, a statement to that effect shall satisfy the obligations of the University under this Section 4; provided, however, that the University shall, to the greatest extent feasible, provide in lieu thereof similar information with respect to any substitute or replacement operations.

#### **Section 5. Reporting of Significant Events.**

(a) Pursuant to the provisions of this Section 5, the University shall give, or cause to be given by the Dissemination Agent (if other than the University), notice of the occurrence of any of the following events, if applicable, with respect to the Series 2024 Bonds:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2024A Bonds, or other material events affecting the tax status of the Series 2024A Bonds;
- (vii) modifications to rights of Owners, if material;
- (viii) bond calls, if material, and tender offers;

(ix) defeasance of Bonds;

(x) release, substitution or sale of property securing repayment of the Series 2024 Bonds, if material;

(xi) rating changes;

(xii) bankruptcy, insolvency, receivership or similar event of the University, which event is considered to occur when any of the following occur: (A) the appointment of a receiver, fiscal agent, or similar officer for the University in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the University, or if such jurisdiction has been assumed by leaving the existing governing body and de facto officers or officers in possession but subject to the supervision and orders of a court or governmental authority; or (B) the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the University;

(xiii) the consummation of a merger, consolidation or acquisition involving the University or the sale of all or substantially all of the assets of the University, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(xv) incurrence of a Financial Obligation of the University, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the University, any of which affect security holders, if material; and

(xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any Financial Obligation of the University, any of which reflect financial difficulties.

(b) The Dissemination Agent (if not the University) shall, within five business days of obtaining actual knowledge of the occurrence of a Listed Event or an event that might constitute a Listed Event, provide the University with written notice. The Dissemination Agent (if not the University) shall not be deemed to have actual knowledge of those items listed in clause (ii), (vi), (vii), (x), (xi), (xii), (xiii), (xv) or (xvi) above without the Dissemination Agent having received written notice of such event.

(c) Whenever the University obtains knowledge of the occurrence of a Listed Event or an event that might constitute a Listed Event, because of a notice from the Dissemination Agent pursuant to Section 5(b) above or otherwise, the University shall, within five business days after obtaining such knowledge and in any event no more than seven business days after the occurrence of such event, determine if such event is in fact a Listed Event and provide the Dissemination Agent with written notice pursuant to subsections (d) or (e) below, as applicable.

(d) If the University determines that an event is a Listed Event, the University shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent to report the occurrence pursuant to subsection (f) below. Such notice shall include sufficient information concerning the Listed Event to enable the Dissemination Agent to report the occurrence.



(e) If the University determines that an event is not a Listed Event, the University shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f) below.

(f) If the Dissemination Agent has been instructed by the University to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with EMMA within five business days of its receipt of such instructions from the University. Notwithstanding the foregoing, notice of Listed Events described in clauses (a)(viii) and (ix) above need not be given under this Section any earlier than the notice (if any) of the underlying event is given to the Owners of affected Series 2024 Bonds pursuant to the Indenture.

**Section 6. Termination of Reporting Obligation.** The University's obligations under this Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Series 2024 Bonds. If such termination occurs prior to the final maturity of the Series 2024 Bonds, the University shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

**Section 7. Dissemination Agent.** The University may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under this Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the University pursuant to this Agreement. The initial Dissemination Agent shall be Digital Assurance Certification, L.L.C. The Dissemination Agent may resign at any time by providing at least 30 days' written notice to the University, and such resignation shall be effective as of the date of the appointment of a designated Dissemination Agent.

**Section 8. Amendment; Waiver.** Notwithstanding any other provision of this Agreement, the University may amend this Agreement and any provision of this Agreement may be waived; provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Section 3(a), 4 or 5(a) of this Agreement, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the University or other obligated person with respect to the Series 2024 Bonds, or the type of business conducted;

(b) The undertaking, as amended or modified, or taking into account any such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Series 2024 Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Owners of the Series 2024 Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners; or (ii) does not, in the opinion of a nationally recognized bond counsel impair the interests of the Owners or Beneficial Owners of the Series 2024 Bonds.

In the event of any amendment or waiver of a provision of this Agreement, the University shall describe such amendment in the next posting of Annual Financial Information and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change in accounting principles, on the presentation) of financial information or operating data being presented.

**Section 9. Additional Information.** Nothing in this Agreement shall be deemed to prevent the University from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information or notice of occurrence of a Listed Event, in addition to that which is required by this Agreement. If the University chooses to include any information in any Annual Financial Information or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Agreement, the University shall have no obligation under this Agreement to

update such information or include it in any future Annual Financial Information or notice of occurrence of a Listed Event.

**Section 10. Remedies in Event of Default.** In the event of a failure of the University to comply with any provision of this Agreement, any Owner or Beneficial Owner of the Series 2024 Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the University to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an event of default on the Series 2024 Bonds, and the sole remedy under this Agreement in the event of any failure of the University to comply with its obligations under this Agreement shall be an action to compel performance.

**Section 11. Duties, Immunities and Liabilities of Dissemination Agent.**

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement, and no further duties or responsibilities shall be implied. Any corporation or association into which the Dissemination Agent in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Dissemination Agent in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Dissemination Agent in its individual capacity may be sold or otherwise transferred, shall be the Dissemination Agent under this Agreement without further act. The University covenants and agrees to indemnify and hold the Dissemination Agent and its directors, officers, agents and employees (collectively, the “Indemnitees”) harmless from and against any and all liabilities, losses, damages, fines, suits, actions, demands, penalties, costs and expenses, including out-of-pocket, incidental expenses, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and the costs and expenses of defending or preparing to defend against any claim (“Losses”) that may be imposed on, incurred by, or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which the Dissemination Agent is authorized to rely pursuant to the terms of this Agreement. Provided the Dissemination Agent has not acted negligently, the University also covenants and agrees to indemnify and hold the Indemnitees and each of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Dissemination Agent’s performance under this Agreement. The provisions of this Section 11 shall survive the termination of this Agreement and the resignation or removal of the Dissemination Agent for any reason. Anything in this Agreement to the contrary notwithstanding, in no event shall the Dissemination Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to loss profits), even if the Dissemination Agent has been advised of such loss or damage and regardless of the form of action. The obligations of the University under this Section 11 shall survive resignation or removal of the Dissemination Agent and payment of the Series 2024 Bonds or the termination hereof.

(b) The Authority shall have no responsibility or liability in connection with the University’s compliance with the Rule, its filing obligations under this Agreement or in connection with the contents of such filings. The University agrees to indemnify and save the Authority and the Authority Indemnified Persons (as defined in the Indenture), harmless against any loss, expense (including reasonable attorneys’ fees) or liability arising out of (i) any breach by the University of this Agreement, or (ii) any Annual Financial Information or notices provided under this Agreement or any omissions therefrom.

**Section 12. Notices.** Any notices or communications to the University or the Dissemination Agent may be given as follows:

If to the University: Samford University  
800 Lakeshore Drive  
Homewood, AL 35229  
Attn: Colin M. Coyne, Vice President for  
Finance, Business Affairs and Strategy  
Telephone: (205) 726-4037  
Email: [ccoyne@samford.edu](mailto:ccoyne@samford.edu)

with a copy to: Samford University  
800 Lakeshore Drive  
Homewood, AL 35229  
Attn: General Counsel  
Telephone: (205) 726-4219  
Email: [jhunt5@samford.edu](mailto:jhunt5@samford.edu)

To the Dissemination Agent: Digital Assurance Certification, L.L.C.  
315 East Robinson Street, Suite 300  
Orlando, Florida 32801  
Attention: DAC Support  
Telephone: (407) 515-1100  
Email: [support@dacbond.com](mailto:support@dacbond.com)

Any party may, by written notice to the other parties listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

**Section 13. Beneficiaries.** This Agreement shall inure solely to the benefit of the University, the Authority, the Authority Indemnified Persons, the Underwriters and the Owners and Beneficial Owners from time to time of the Series 2024 Bonds and shall create no rights in any other person or entity.

**Section 14. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 15. Applicable Law.** This Agreement shall be construed under the laws of the State, without reference to the choice of law principles thereof.

**Section 16. Electronic Signatures.** The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. For purposes hereof: (a) “electronic signature” means a manually signed original signature that is then transmitted by electronic means or a digital signature of an authorized representative of any party provided by AdobeSign or DocuSign (or such other digital signature provider as specified by such party) in English; and (b) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

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IN WITNESS WHEREOF, the University has executed this Agreement on the date and year first written above.

SAMFORD UNIVERSITY

By: \_\_\_\_\_  
Colin M. Coyne  
Vice President for Finance, Business Affairs and  
Strategy

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL FINANCIAL INFORMATION**

Issuer: The Educational Building Authority of the City of Homewood

Name of Bond Issue: The Educational Building Authority of the City of Homewood (the “Authority”) of its (a) \$[PAR-A] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Tax-Exempt Series 2024A and (b) \$[PAR-B] Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University) Taxable Series 2024B.

Date of Issuance: June \_\_, 2024

NOTICE IS HEREBY GIVEN that the University has not provided Annual Financial Information with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Agreement. The University anticipates that the Annual Financial Information will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

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**APPENDIX F**

**FORM OF FACILITY LEASE**

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**FACILITY LEASE AGREEMENT**

**between**

**CHF – HORIZONS I, L.L.C.,**  
as Lessor

**and**

**SAMFORD UNIVERSITY,**  
as Lessee

## **FACILITY LEASE AGREEMENT**

This Facility Lease Agreement (this “**Facility Lease**”) is made and entered into as of [●], 2024, by and between CHF – HORIZONS I, L.L.C., a limited liability company organized and existing under the laws of Alabama (“**Lessor**”), whose sole member is Collegiate Housing Foundation, a non-profit Alabama corporation that is exempt under Section 501(c)(3) of the Internal Revenue Code, and SAMFORD UNIVERSITY, a non-profit Alabama corporation that is exempt under Section 501(c)(3) of the Internal Revenue Code (“**Lessee**”).

### RECITALS:

A. Lessee, as ground lessor (the “**Ground Lessor**”), and The Educational Building Authority of the City of Homewood (the “**Building Authority**”), as ground lessee (the “**Ground Lessee**”), entered into that certain Project Ground Lease Agreement dated as of [●], 2024 (the “**Ground Lease**”) for the purpose of the acquisition, construction, furnishing and equipping of an approximately 154,000 square foot recreation center and athletic complex currently under construction on the University campus, (the “**Recreation Facility**”) and related site improvements; and

B. Pursuant to the terms of the Ground Lease, the Building Authority (in its capacity as Ground Lessee) is leasing from Lessee (in its capacity as Ground Lessor) the Property, as defined in the Ground Lease and as described in Exhibit 1 attached hereto, on which the Recreation Facility is and will be located; and

C. Pursuant to the terms of a Bond Lease Agreement dated as of [●], 2024 (the “**Bond Lease**”) the Building Authority is leasing the Recreation Facility to the Lessor and the Lessor has agreed to operate, maintain, and repair, or cause to be operated, maintained and repaired, the Recreation Facility in accordance with the terms thereof; and

D. The terms of the Ground Lease and the Bond Lease each expires on the [●] anniversary of the commencement date thereof, unless extended or sooner terminated in accordance with their terms (the “**Expiration Date**”), which, as set forth herein, is the intended term of this Facility Lease; and

E. Pursuant to and in accordance with the Trust Indenture dated as of [●], 2024 (the “**Indenture**”), between the Building Authority and Regions Bank, as trustee (the “**Trustee**”), the Building Authority will issue its Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), Tax-Exempt Series 2024-A (the “**Series 2024-A Bonds**”) and its Lease Revenue Bonds (CHF – Horizons I, L.L.C. Recreation Center Project at Samford University), Taxable Series 2024-B (collectively with the Series 2024-A Bonds, the “**Series 2024 Bonds**”); and

F. Lessor desires to lease the Recreation Facility to Lessee, and Lessee desires to lease the Recreation Facility from Lessor, in furtherance of the educational mission of Lessee, all upon the terms and subject to the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all Parties hereto, the Parties hereby covenant, acknowledge, represent, and agree as follows:

Section 1. Incorporation of Recitals; Definitions.

- (a) The recitals set forth above are hereby incorporated into this Facility Lease.
- (b) Any initial-capitalized term not defined in this Facility Lease shall have the meaning given to it in the Bond Lease.

Section 2. Demise; Term; Occupancy of Recreation Facility.

- (a) Lessor hereby leases the Recreation Facility to Lessee and Lessee hereby leases the Recreation Facility from Lessor for a term commencing on the date hereof and expiring on the Expiration Date (the “**Term**”).
- (b) Lessor shall deliver occupancy of the Recreation Facility to Lessee on or before the Completion Date. Lessee agrees to accept delivery of the Recreation Facility from Lessor upon the Completion Date in accordance with the terms of the Ground Lease, upon tender of possession by Lessor. Lessee’s right to occupy the Recreation Facility shall commence on the Completion Date and Lessee shall have no obligations hereunder with respect to the construction, operation, repair, and maintenance of the Recreation Facility prior to such date, but the obligation to pay Rent as herein provided shall nevertheless commence in accordance with the terms hereof.
- (c) Neither Lessor nor Lessee shall have any right to terminate this Facility Lease for any reason, including but not limited to defaults specified in Section 8 hereof, so long as any Bonds are outstanding and unpaid, other than Bonds that are deemed to have been paid in accordance with the Indenture.

Section 3. Rent.

- (a) Base Rent. Lessee agrees to pay to Lessor, without previous demand therefor and without right of set-off, abatement, credit or deduction, base rent for the Recreation Facility (the “**Base Rent**”) on March 20 and September 20 of each year, commencing on September 20, 2024 on the dates and in the amounts set forth on the Schedule of Base Rent attached to and hereby made a part of this Facility Lease as Exhibit 2 (the “**Schedule of Base Rent**”). The obligation to pay Base Rent is an independent covenant, and an unconditional and absolute obligation of the Lessee, regardless of the failure of Lessor to meet any of its obligations under this Facility Lease. On each September 1 of the Term, if there is any amount remaining in the Accounts of the Bond Fund with respect to the Series 2024 Bonds, as provided in the Indenture, the amount of Base Rent due on that next succeeding September 20 shall be reduced by such amount. The Schedule of Base Rent shall be amended in accordance with Section 4(c) hereof upon any partial redemption of the Series 2024 Bonds[, other than a scheduled sinking fund redemption of the Series 2024-A Bonds pursuant to Section 5.03 of the Indenture and Section 2.02(g) of the Supplemental Indenture with respect to the Series 2024-A Bonds].

(b) Additional Rent. In addition to Base Rent, Lessee agrees to pay to Lessor, without right of set-off, abatement, credit or deduction, as additional rent for the Recreation Facility (the “**Additional Rent**” and, together with the Base Rent, the “**Rent**”), all costs incurred by Lessor in connection with the Recreation Facility or the Series 2024 Bonds, including without limitation the following: costs incurred by Lessor for its annual audits, accounting services, corporate and bond compliance fees, rating agency fees, the Collegiate Housing Foundation’s annual membership fee, as provided in Section 16 hereof, costs of UCC financing statement continuations, Lessor insurance costs, Building Authority fees and costs (unless paid by Lessee directly to the Building Authority), costs of calculating and paying arbitrage rebate, Trustee fees and costs, obligations of Lessor under the Bond Lease, including without limitation its indemnity obligations thereunder, and reasonable legal and other expenses incurred by Lessor in connection with the Recreation Facility, including without limitation the reasonable costs and expenses incurred by Lessor in complying with its obligations under Section 11 hereof.

(c) Payment to Trustee for Credit of Lessor and Building Authority. Lessor and Lessee acknowledge and agree that: (i) Lessor intends to remit all proceeds of the Base Rent and Additional Rent to the Trustee in satisfaction of Lessor’s obligations under the Bond Documents; and (ii) the Trustee will deposit and disburse the proceeds of the Base Rent and Additional Rent in accordance with the provisions of the Indenture and other Bond Documents, including without limitation Section 6.03 and Section 6.06 of the Indenture. Lessor hereby authorizes and directs Lessee, and Lessee hereby agrees, to remit, on Lessor’s behalf, the Base Rent and Additional Rent directly to the Trustee to be credited against the amounts owed by Lessor to the Trustee in satisfaction of Lessor’s obligations under the Bond Lease, the Indenture and the other Bond Documents and Lessee’s obligations hereunder.

#### Section 4. Redemption of Series 2024 Bonds; Prepayment of Rent.

(a) Upon the written request of Lessee, Lessor shall, in Lessor’s capacity as Borrower under the Bond Lease, at any time that the Series 2024 Bonds are then callable or available for optional redemption, cause the Building Authority to redeem some or all of the Series 2024 Bonds as provided for in accordance with the applicable provisions of the Bond Lease and the Indenture and upon prepayment of Base Rent in accordance with this Section 4. Lessee shall be entitled to cause Lessor to cause the Building Authority to redeem the Series 2024 Bonds in any manner and in any combination of maturities that is permitted under the Bond Lease and the Indenture.

(b) In the event of redemption of the Series 2024 Bonds, in whole or in part, as provided in Article 5 of the Indenture, Lessee shall prepay, no later than fifteen (15) days before the redemption date, Base Rent in an amount equal to the principal amount of the Series 2024 Bonds to be redeemed, plus the amount of unpaid interest accrued or to accrue on that principal amount through the redemption date, plus redemption premium (if any). The amount of Base Rent payable shall be reduced by the amounts held by the Trustee and available for the payment of the redemption price as a result of any damage, destruction or condemnation under Article 9 of the Bond Lease. In the event that the Series 2024 Bonds are redeemed in whole, the prepayment of Base Rent shall be applied to the purchase price paid by Lessee to purchase all of the right, title, and interest of Lessor in and to the Recreation Facility pursuant to Section 4(d) hereof.

(c) Upon any redemption of a portion of the Series 2024 Bonds, [other than a mandatory scheduled redemption in accordance with Section 5.03 of the Indenture,] Lessor and Lessee shall execute and deliver a written amendment to this Facility Lease amending the Schedule of Base Rent based on the amounts owed under the Series 2024 Bonds still outstanding.

(d) In the event that the Series 2024 Bonds are redeemed in whole, this Facility Lease shall terminate on the date that Lessee has paid the entire amount provided in Section 4(b) of this Facility Lease, plus any Additional Rent accrued to such date, plus, if such redemption occurs at any time during the first 5 years of the term hereof, payment to Collegiate Foundation of the amount of membership fees that Collegiate Housing Foundation otherwise would have been due during the remainder of those first 5 years.

Section 5. Construction of Recreation Facility. The parties acknowledge that construction of the Recreation Facility was undertaken by Lessee prior to the execution and delivery of this Facility Lease and will be completed after issuance of the Series 2024 Bonds with proceeds of such Bonds. Lessee shall be responsible for completion of the Recreation Facility in accordance with the development management, design, and construction agreements and plans and specifications with respect to the Recreation Facility (the "**Construction Documents**"). All such construction shall be executed in accordance with the provisions set forth in Exhibit 4 attached hereto and made a part hereof.

Section 6. Net Lease. Lessee recognizes, understands, and acknowledges that it is the intention hereof that this Facility Lease be a net lease and that, until the Series 2024 Bonds are fully paid, all Base Rent paid within any year of the Term shall be available for payment of the principal of and interest on the Series 2024 Bonds and that all Additional Rent shall be available for the purposes specified therefor in Section 3(b) hereof. This Facility Lease shall be construed to effectuate such intent. Without limiting the generality of the foregoing:

(a) Lessee Obligations. From and after the Completion Date Lessee is responsible to pay any and all expenses incurred in connection with the use and operation of the Recreation Facility, including without limitation the following:

(i) Lessor shall not be required to perform any service, make any payment, or do any act or thing with respect to the Recreation Facility, or the Lessee's property located thereon. Lessee shall pay, as they come due and payable, all insurance premiums, maintenance costs, Operating Expenses (as defined in Section 6(g), below) and all other charges, costs, and expenses of any nature and all penalties and interest thereon (collectively referred to herein as "**Charges**") that are assessed or imposed upon the Recreation Facility or any of Lessee's property located thereon.

(ii) Effective as of the date hereof, the Base Rent and Additional Rent shall be paid to the Trustee for the account of Lessor without any diminution, set off, compensation, counterclaim, abatement, suspension of payment, or deduction whatsoever, and the Lessor shall remit the Base Rent and Additional Rent paid to the Trustee, in accordance with Section 3 of this Facility Lease and the terms of the Trust Indenture, the Bond Lease and other documents providing for or securing the Series 2024 Bonds (the "**Bond Documents**").

(iii) Lessee assumes complete responsibility and liability for the upkeep of the entire Recreation Facility, as more particularly provided in Section 6(d), below. At the expiration or termination of this Lease, Lessee shall surrender the Recreation Facility in good condition and repair.

(iv) Lessor shall not be required to furnish to Lessee any facilities or services of any kind, including, without limitation, water, gas, sewerage, electricity, heat, and telephone or other communication service. Lessee shall arrange for the furnishing of all such services upon the Recreation Facility and shall indemnify Lessor against any liability on such account. Lessor shall cooperate with Lessee in granting all necessary servitudes as may be necessary to make all necessary utilities available to the Recreation Facility.

(b) Audit Rights. From and after the Completion Date:

(i) Lessor may, at Lessor's sole expense other than reimbursement of reasonable out of pocket costs, during customary business hours conduct internal audits of the books, records, and accounts of Lessee directly related to the Recreation Facility, to the extent necessary to verify compliance with this Facility Lease, or any other agreements it enters into pursuant to the authority of this Facility Lease. Audits may be made on either a continuous or periodic basis or both, maybe conducted at Lessee's office at the Premises or, at the option of Lessor, by review of electronic records provided by Lessee. Audits may be conducted by employees of Lessor or by independent auditors retained by Lessor, but any and all such audits shall be conducted without materially, unreasonably, or unnecessarily interrupting or interfering with the normal conduct of business affairs of Lessee. Lessee shall make available copies of its books, bank account records, other records and accounts, and such other information, in each case directly related to the Recreation Facility, that Lessor may reasonably request and shall otherwise cooperate with Lessor and its respective authorized representatives and/or designees in connection with such audit.

(ii) Lessee may, at Lessee's sole expense, during customary business hours, conduct internal audits of the books, bank accounts, records, and accounts of the Lessor directly related to the Recreation Facility, including but not limited to verification of the costs incurred by Lessor in the exercise of Lessor's reserved rights in Section 11. Audits may be made on either a continuous or periodic basis or both and may be conducted by employees of the Lessee or by independent auditors retained by Lessee, but any and all such audits shall be conducted without materially, unreasonably, or unnecessarily interrupting or interfering with normal conduct of affairs of Lessor. Lessor shall make available copies of its books, bank account records, other records and accounts, and such other information, in each case directly related to the Recreation Facility, that Lessee may reasonably request and shall otherwise cooperate with Lessee and its respective authorized representatives and/or designees in connection with such audit.

(c) Insurance. Lessee shall, at its sole cost and expense, at all times during the term of this Facility Lease after the Completion Date, maintain in full force and effect the insurance set forth in the Insurance Schedule attached hereto as Exhibit 3. Upon the commencement of this Facility Lease and at each policy renewal date, Lessee shall furnish to the Lessor at the address set forth in Section 12 hereof an insurance certificate or renewal certificate on industry standard ACORD forms evidencing all insurance required to be carried by Lessee in accordance with this

Facility Lease, listing Lessor as the certificate holder. The insurance certificate must document that the liability insurance coverage purchased by Lessee includes contractual liability coverage to cover all insurable obligations in the Facility Lease. No such insurance shall be cancelled, allowed to expire, or be reduced in limits or coverages below the amounts stated herein without at least thirty (30) days prior written notice to the Additional Insureds defined below, with the exception of ten (10) days' notice for non-payment of premium. All insurance referenced herein with the exception of Commercial Crime and Pollution Liability insurance shall be written on an Occurrence Form with insurers licensed and authorized to write/issue insurance in the State of Alabama and shall be provided by insurance companies having an AM Best rating of at least an "A-VIII". All required insurance policies, coverages, and limits are primary insurance to any and all other collectible insurance available to the Additional Insureds. "Additional Insureds" include Lessor, the Building Authority, the Trustee, and any other parties required to be named as such under the Bond Documents. To the extent permitted by law, Lessor and Lessee each waive any right to recover against the other on account of any and all claims Lessor or Lessee may have against the other with respect to insurance actually carried, or required to be carried hereunder (not including worker's compensation insurance), to the extent of the proceeds that are or would have been recoverable from such insurance coverage and all such policies shall be endorsed to recognize such waiver of claims and subrogation.

(d) Maintenance of Recreation Facility and Equipment; Effect of Damage, Destruction or Condemnation.

(i) Lessee shall, at all times during the term of this Facility Lease after the Completion Date, keep and maintain, or cause to be kept and maintained, the Property, the Recreation Facility and appurtenances, and every part thereof and all personal property, and any and all buildings, other structures, or improvements that may exist on, in, or be made a part of the Property, in good order and condition, ordinary wear and tear excepted, consistent with the maintenance standards for the other premises located on Lessee's campus, and in compliance with all applicable life and safety codes and all applicable building and zoning, health, environmental, and safety ordinances and laws and all other applicable laws, rules, and regulations of the United States of America, the State, and any political subdivision or agency thereof having jurisdiction over the Recreation Facility. Lessee shall make or cause to be made all necessary repairs to the Property and the Recreation Facility, interior and exterior, structural and nonstructural, ordinary and extraordinary, and foreseen and unforeseen.

(ii) If the Recreation Facility is damaged or destroyed, or is taken pursuant to a proceeding in the nature of eminent domain, in whole or in part, then subject to the provisions of the Bond Documents, which shall govern at all times while they remain in effect, Lessee shall be entitled to the net proceeds of any insurance after payment of all expenses incurred in the collection of the gross proceeds of such insurance or condemnation award and shall apply such net proceeds, in Lessee's sole discretion, to the costs of repairing or replacing the Recreation Facility and in the event such insurance or condemnation proceeds are not sufficient to pay the costs of such repair or replacement Lessee shall pay the portion of such costs as are in excess of the amount of insurance condemnation proceeds. In no event, however, will Lessee be entitled to any abatement of Rent payable hereunder.

(e) Licenses and Permits. Lessee shall obtain or cause to be obtained, in the name of Lessor and/or its authorized assignees and/or designees to the extent appropriate, and at Lessee's expense, all approvals required for the maintenance and operation of the Recreation Facility as and when required under applicable law. Such licenses and permits shall include, by way of example and not limitation, licenses and permits for health and safety systems maintenance, electricity, gas, plumbing, telephone, cleaning, elevator and boiler maintenance, air conditioning maintenance, broadband and high-speed internet access and other technological services as they are developed, use of copyrighted materials (such as music and videos), and such other licenses and permits as Lessee deems advisable. Nothing in this Section 6(e), however, shall be construed to excuse, limit or otherwise affect Lessor's obligation (as Lessee under the Ground Lease) to obtain a certificate of occupancy for the Recreation Facility.

(f) Capital Improvements. Lessee shall have the right, at its sole cost and expense and without liability to Lessor, to construct renovations, improvements, substantive repairs, or replacements of a capital nature; provided, however, that no such renovation, improvement, repair, or replacement shall alter the primary nature or use of the Recreation Facility.

(g) Operating Expenses. From and after the Completion Date, Lessee shall pay as and when due and prior to delinquency, all expenses incurred by Lessee in the operation of the Recreation Facility, including without limitation the following expenses (herein, "**Operating Expenses**"):

- (i) all expenses for Lessee's operating personnel;
- (ii) the cost of materials and supplies such as lavatory and cleaning supplies;
- (iii) the cost of replacements for tools and maintenance equipment (such equipment shall not include air conditioning equipment, boilers, elevators or any items of a capital nature);
- (iv) amounts paid to any manager or other independent contractors hired by or on behalf of Lessee for services (including full or part-time labor) and materials;
- (v) water and sewer charges;
- (vi) the cost of repainting or otherwise redecorating any part of the Recreation Facility;
- (vii) the cost of telephone service, postage, office supplies, maintenance, and repair of office equipment and similar charges related to operation of the Recreation Facility;
- (viii) premiums for insurance coverage purchased by Lessee;
- (ix) all costs and expenses (other than those of a capital nature) of maintaining, repairing and replacing paving, curbs, and walkways;
- (x) the cost of electricity and fuel consumed by the Recreation Facility;



(xi) the cost of normal maintenance of mechanical and electrical equipment, including heating, ventilating and air conditioning, and elevator equipment, but excluding capital expenditures;

(xii) real estate taxes, if any;

(xiii) the cost of casualty, liability, fidelity, rent, and all other insurance regarding the Recreation Facility;

(xiv) the cost of repair, replacement, maintenance, operation, and/or security for the Recreation Facility, and all supplies, tools, materials and equipment, whether by purchase or rental, used in the repair, replacement, maintenance, operation and/or security of the Recreation Facility, and any sales and other taxes thereon;

(xv) the cost of cleaning and janitorial services, including, without limitation, glass and window cleaning and garbage and waste collection and/or disposal;

(xvi) the cost of all interior and exterior landscaping and all temporary exhibitions located at or within the Recreation Facility;

(xvii) the cost of repairing interior walls, ceilings, and floor coverings (including carpet and tiles), and

(xviii) all other fees, costs, charges, and expenses properly allocable to the repair, replacement, maintenance, operation, and/or security of the Recreation Facility, in accordance with the prevailing customs and practices by Lessee for its other buildings.

(h) Service Contracts; Management Agreement. Lessee shall enter into and administer, or shall cause a contract manager to enter into and administer, all service contracts required for the proper maintenance and operational aspects of the Recreation Facility from and after the Completion Date, including, but not limited to, contracts for health and safety systems maintenance, transportation, audio-visual, electricity, gas, telephone, cleaning, elevator, and boiler maintenance, air conditioning maintenance, laundry and dry cleaning, cable and telecommunication, transmission data, electronic communications and distributions, broadband, high-speed internet access and other technological services as they are developed, use of copyrighted materials (such as music and videos). Lessee may, with prior written notice to Lessor, enter into agreements for management of the Recreation Facility or portions thereof. Lessee shall (i) provide a copy of any such Management Agreement to Lessor and (ii) ensure that no such service contract or Management Agreement includes any terms which would be inconsistent with or in any way jeopardize the tax-exempt status of Collegiate Housing Foundation and does not adversely affect the tax-exempt status of the interest on the Series 2024-A Bonds. With respect to any Management Agreement with an entity that is not a governmental entity Lessee shall obtain and provide to Lessor an opinion, from nationally recognized bond counsel for the benefit of Lessor that such Management Agreement will comply with Revenue Procedure 2017-13 or successor guidance or that, absent compliance with such Revenue Procedure or subsequent guidance, does not adversely affect the tax-exempt status of the interest on the Series 2024-A Bonds. If Lessee enters into any later Management Agreements(s), Lessor will, promptly after submission by Lessee thereof to Lessor for its review, and upon consultation and advice of counsel,

advise whether any such later Management Agreement is consistent with and does not adversely affect the tax-exempt status of Collegiate Housing Foundation. Lessor shall have no liability, personal or otherwise, under any such Management Agreement or service contract.

(i) Environmental Matters. Lessee covenants, represents, and warrants that, (a) except in a manner customary for and consistent with use for the purposes contemplated hereby, Lessee's use of the Premises shall not and will not involve the use, storage, generation, or disposal of Hazardous Materials (as defined in the Bond Lease), and Lessee shall not cause or permit any Hazardous Materials to be brought, used, stored, generated, or released, or disposed of on or about the Premises by Lessee, its agents, employees, contractors, subcontractors, or invitees, and such use of the Premises shall be in compliance with all laws, rules, or regulations now or hereafter promulgated by any governmental authorities and applicable to the Premises or the Lessee, including, without limitation, any and all Environmental Laws. Lessee shall indemnify and hold Lessor harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments, and expenses (including attorneys,' consultants,' or experts' fees and expenses of every kind and nature) suffered by or asserted against Lessee, including without limitation any liability under Section 4.07 of the Bond Lease, as a result of any violation of this Section 6(i). Lessor shall reasonably cooperate with Lessee, at no cost to Lessor, with respect to Lessee's environmental compliance activities and obligations including, for example, by responding to requests for information or requests to sign applications or documents that require Lessee's signature.

#### Section 7. Compliance with the Bond Documents.

(a) The terms, covenants, and conditions of the Bond Documents are hereby incorporated in and made a part of this Facility Lease with the same force and effect as though set forth at length herein.

(b) Without limiting the generality of the foregoing subsection (a) or the following subsection (c), in respect of the conduct of its operations in the Recreation Facility from and after the Completion Date, Lessee shall: (i) comply with all applicable laws and ordinances in accordance with Section 10.08 of the Bond Lease, (ii) comply with the requirements of Article 8 of the Bond Lease with respect to maintenance, taxes, and insurance with respect to the Recreation Facility, (iii) comply with the covenants made by Lessor as lessee in Section 10.03 of the Bond Lease with regard to the tax-exempt status of the Series 2024-A Bonds, and (iv) use the Recreation Facility in a manner that furthers the educational mission of Lessee and the charitable mission of Lessor. Lessee shall comply with its continuing disclosure obligations under the Continuing Disclosure Agreement executed by Lessee in connection with the issuance of the Bonds and dated June 1, 2024.

(c) Lessee shall not: (i) take any action inconsistent with the terms of the Bond Documents, (ii) do or permit to be done anything prohibited to Lessor under the Bond Documents, or which would constitute, with or without the giving of notice or the passage of time or both, an Event of Default under the Bond Lease, (iii) take any action that would adversely affect the validity of the Series 2024 Bonds or the tax-exempt status of interest on the 2024-A Bonds under, or the status of Collegiate Housing Foundation as an organization described in, Section 501(c)(3) of, the Internal Revenue Code of 1986, as amended, (iv) without limiting the generality of clause (iii),

lease or otherwise make available space in or the use of the Recreation Facility for the benefit of any private business unless it shall deliver to Lessor an opinion of nationally recognized bond counsel that doing so will not adversely affect the tax-exempt status of interest on the 2024-A Bonds under, or the status of Collegiate Housing Foundation as an organization described in, Section 501(c)(3) of, the Internal Revenue Code of 1986, as amended, or (v) take any action or do or permit anything that would result in any additional cost or other liability to Lessor under the Bond Documents.

(d) In the event of the termination of the Ground Lease or the Bond Lease for any reason, then this Facility Lease shall terminate coincidentally therewith without any further liability between the parties; provided, however, that if the Trustee or any successor in interest with respect to the Bond Lease shall enter into a subsequent Bond Lease and/or Ground Lease, then this Facility Lease shall not terminate and the successor leasehold mortgagee shall, without further action, succeed to and assume the rights and obligations of Lessor under this Facility Lease. Lessor shall not voluntarily terminate the Bond Lease or enter into an agreement with Building Authority to terminate the Bond Lease which has an effective date of such termination during the Term.

(e) Nothing in this Facility Lease shall be deemed or construed to modify, alter, or amend any of the obligations of Lessor, as Lessee under the Bond Lease, or of Lessee, as Lessor under the Ground Lease.

(f) Except as shall be required in order to comply with the Bond Documents, protect the interests of the holders of the Bonds, or protect the tax-exempt status of any Bonds or of Collegiate Housing Foundation, Lessor agrees that so long as no default shall have occurred and be continuing under Section 8 hereof: (i) Lessor will not exercise any option (including, but not limited to, the options in favor of Lessor, as Borrower, in Article 13 of the Bond Lease), make any election or request or give any consent or approval under any of the Bond Documents without first obtaining the written authorization of Lessee; (ii) upon receipt of notice from Lessee directing that Lessor exercise any such option, make any such election, or request or give any consent or approval under any Bond Document, Lessor shall exercise any such option, make any such election or request, and give any such consent or approval; (iii) if Lessor is entitled to direct application of the Net Proceeds (as defined in the Bond Lease) of insurance or any award made in an eminent domain proceeding, then, subject to the requirements of the Bond Documents, Lessor shall direct application thereof in accordance with written instructions provided by Lessee; (iv) if Lessor receives any such Net Proceeds, as lessee under the Bond Lease, then, subject to the requirements of the Bond Documents, Lessor shall pay the amount received to Lessee; and (v) the designation by Lessor pursuant to any of the Bond Documents of Permitted Investments (as defined in the Indenture) shall not be made without the prior approval of Lessee. In addition, if upon completion of the Recreation Facility there are proceeds of the Series 2024 Bonds remaining on deposit in the Construction Fund under the Indenture which are not needed for costs of the Recreation Facility, then Lessor and Lessee agree that such proceeds will be applied, to the extent permitted by the Indenture, to redemption of Series 2024 Bonds, to the cost of additional capital expenditures in connection with the Recreation Facility identified and approved by Lessee, or for other permitted purposes, and Lessor agrees that it will not take any such action except as shall be directed by or agreed to by Lessee, provided that any such action does not in any event adversely affect the tax-

exempt status of the Series 2024-A Bonds or cause less than 95% of the proceeds thereof to be expended on capital expenditures.

Section 8. Consent of Landlord. In any case where this Facility Lease (including the provisions of the Bond Documents that are incorporated herein by reference) requires Lessee to obtain the consent or approval of Lessor, whether prior to the taking of any action or otherwise, Lessee's request for Lessor's consent shall be deemed to constitute consent or approval of the Ground Lessor if such consent or approval is required by the Ground Lease. Unless otherwise specifically stated in any provision of this Facility Lease or the Ground Lease requiring Lessee to obtain consent or approval from Lessor, Lessor shall not unreasonably deny, condition, or delay any consent or approval.

Section 9. Default. If Lessee shall default in the fulfillment of any of its covenants and agreements set forth herein, and, except for any failure to pay Rent hereunder within five (5) Business Days of the due date thereof (which shall not be subject to any cure period), such failure continues for thirty (30) days after written notice with respect to such default (which thirty (30) day period shall be reasonably extended with respect to any default that cannot reasonably be cured within such thirty (30) day period provided that Lessee has commenced the cure within such period and is diligently pursuing the same), then Lessor shall have the right:

(a) If such default results in the occurrence of an Event of Default under the Bond Lease, to re-enter and take possession of the Recreation Facility without terminating this Facility Lease, exclude Lessee from possession thereof, and lease the same for the account of Lessee, holding Lessee liable for the Rent and other payments due hereunder up to the effective date of such leasing, and for the deficiency, if any, of the rent and other amounts payable hereunder to the extent rent and other amounts collected under such new lease do not cover the Rent and other payments due hereunder;

(b) If such default results in the occurrence of an Event of Default under the Bond Lease, to terminate this Facility Lease, exclude Lessee from possession of the Recreation Facility, and hold Lessee liable for the balance then due hereunder (except to the extent damages are mitigated by leasing the same to a third party), in which event the rights of Lessee in the Recreation Facility and the use and possession thereof shall terminate;

(c) If such default results, directly or indirectly, in the acceleration of payments due under the Bond Lease or of the principal of and interest on the Bonds, to declare immediately due and payable all installments of Base Rent thereafter coming due hereunder to the extent necessary to enable Lessor to make all payments then required pursuant to the Bond Documents; and

(d) To take whatever other action at law or in equity may appear necessary or desirable to collect the Rent then due, or to enforce any obligation, covenant, or agreement of Lessee under this Facility Lease.

Section 10. Obligations Unconditional. The payment and performance of all Lessee's obligations arising under this Facility Lease are absolute, irrevocable and unconditional without regard to any claim of the Lessee to any right of abatement, counterclaim, set-off, recoupment, or

other claim or action the Lessee may have against the Lessor, the Building Authority, or the Trustee and constitutes a general obligation of the Lessee payable from all lawfully available funds and revenues thereof. Lessee shall have no right to terminate this Facility Lease or to withhold payment of Rent for any reason. Lessee hereby covenants that moneys in amounts sufficient to pay all Base Rent and Additional Rent when due will be made available to pay Rent throughout the Term.

Section 11. Reserved Rights. Lessor retains the right to provide the following as functions in connection with the Recreation Facility:

(a) Compliance with tax and federal reporting requirements under the Bond Documents, including communication with the Building Authority and the Trustee, with Lessee agreeing to furnish such information as may be reasonably requested by Lessor to assist Lessor in fulfilling its obligations under the Tax Agreement (as defined in the Indenture);

(b) Maintaining appropriate books and records for the Recreation Facility related to the Series 2024 Bond financing; provided, however, that Lessor shall have no responsibility for maintaining books and records with regard to the activities of Lessee or its manager in operating and maintaining the Recreation Facility;

(c) Ultimate dominion and control over the Recreation Facility, in accordance with the Bond Documents, subject to Lessee's rights hereunder;

(d) Monitoring compliance with the Bond Documents;

(e) Engagement of an independent auditor to prepare annual audits of Lessor and overseeing the preparation of the annual audits;

(f) Compliance with continuing disclosure requirements under the Bond Documents and the Continuing Disclosure Agreement executed by Lessor and Trustee in connection with the issuance of the Bonds and dated June 1, 2024, with Lessee agreeing to assist Lessor by providing Lessor with such information with respect to Lessee as is necessary or required by the Bond Documents or applicable law to be posted on EMMA, including information concerning the Recreation Facility and the operation thereof;

(g) Arranging for the calculation of arbitrage rebate payments required under the Bond Documents;

(h) Engaging and overseeing the activities of the insurance consultant to ensure the maintenance of required insurance coverages, at the lowest possible costs;

(i) Directing investments of Series 2024 Bond proceeds under the Bond Documents;

(j) Satisfying federal tax reporting requirements for the Recreation Facility and the Series 2024 Bonds;

(k) Overseeing and participating in any legal proceedings or legal matters regarding the Recreation Facility; and

(l) Responding to inquiries from rating agencies, the Trustee and the Building Authority.

Section 12. Notices.

(a) All notices, certificates, demands, requests, or other communications hereunder shall be sent by certified mail, postage prepaid, return receipt requested, or by commercial overnight delivery service, or by personal delivery, or by electronic mail (provided a copy of the same shall also be mailed or sent by commercial overnight delivery on the same day) addressed as follows:

If to the Lessor: CHF – Horizons I, L.L.C.  
c/o Collegiate Housing Foundation  
409 Johnson Avenue  
Fairhope, AL 36532  
Attention: President  
Telephone: 251-928-9340  
Email: willgivhan@collegiatehousing.org

If to the Lessee: Samford University  
800 Lakeshore Drive  
Homewood, Alabama 35229  
Attn: Colin Coyne, Vice President for Finance, Business Affairs  
and Strategy  
Telephone: 205-726-4037  
Email: ccoyne@samford.edu

(b) Either party hereto may, by notice given to each of the other, designate any additional or different addresses to which subsequent notices, certificates, demands, requests, or other communications shall be sent.

(c) Notwithstanding anything contained herein to the contrary, any notice required to be given by Lessor or Lessee hereunder shall be deemed to have been given and shall be effective as of the date such notice is received or refused reflected on said notice. All notices, certificates, demands, requests, or other communications made by either party to the other which are required or permitted by the provisions of this Facility Lease shall be in writing.

Section 13. Assignment; Sublease.

(a) Lessee acknowledges and agrees that Lessor's interest in this Facility Lease will be assigned by Lessor to the Trustee as security for the Series 2024 Bonds. Lessee acknowledges and consents to such assignment. Lessee agrees that no assignment or delegation by Lessee of its rights and obligations hereunder shall be permitted except with the prior written consent of Lessor and the Trustee; provided, that no consent of Lessor or the Trustee shall be required in order for Lessee to sublease any portion of the Recreation Facility to Eligible Tenants

or to sublease space within the retail portion of the Recreation Facility or, subject to Section 7(c) hereof, the parking facility comprising a portion of the Recreation Facility.

(b) In addition, Lessee may, without Lessor's or the Trustee's prior consent, but upon not less than thirty (30) days' prior notice to Lessor, the Building Authority and the Trustee, assign this Facility Lease and the leasehold estate hereby created to a successor entity (as hereinafter defined) of Lessee; provided, however, that (i) Lessee shall first deliver (A) an opinion from nationally recognized bond counsel for the benefit of Lessor that such assignment does not adversely affect the tax-exempt status of the interest on the Series 2024-A Bonds, (B) an opinion of counsel reasonably acceptable to the Building Authority that such assignment will not result in a violation of the Authorizing Act (as defined in the Indenture), and (C) a letter from any credit rating agency then maintaining a credit rating with respect to Lessee evidencing that such assignment will not result in a credit rating after the assignment to the successor entity that is lower than the rating prior to the date on which such rating agency is given notice of or otherwise becomes aware of the event resulting in the assignment, and (ii) Borrower determines, in its reasonable discretion, that such assignment will not adversely affect the status of Collegiate Housing Foundation as an organization described in Section 501(c)(3) of the Internal Revenue Code. A "successor entity," as used in this Section 13(b), shall mean an entity that is an organization which is described in either Section 511(a)(2)(B) of the Internal Revenue Code or Section 501(c)(3) and 170(b)(1)(A)(ii) of the Internal Revenue Code and that is not a private foundation within Section 509 of the Internal Revenue Code, which (x) is the surviving entity resulting from a merger or consolidation with, or other reorganization of, Lessee, its successors or assigns, completed in accordance with applicable statutory provisions for the merger, consolidation, or reorganization, provided that by operation of law or by effective provisions contained in the instruments of merger, consolidation, or reorganization the liabilities of the entities participating in such merger, consolidation, or reorganization are assumed by the entity surviving such merger, consolidation, or reorganization; (y) is acquiring all or substantially all of the assets of Lessee, including the leasehold estate created by this Facility Lease, and assuming the obligations of Lessee under this Facility Lease; or (z) is acquiring all or substantially all of the ownership interests of Lessee.

Section 14. Indemnity. Lessee hereby releases and agrees to indemnify and hold harmless Lessor, its successors and assigns and all of its officers, employees, directors, agents, and consultants (hereinafter collectively referred to as the "Lessor Indemnitees") of and from any and all claims, demands, liabilities, losses, costs, or expenses (collectively, the "Claims") asserted against or incurred by the Lessor Indemnitees, or any of them, arising or resulting from bodily injury (including death), personal injury, property damage, expenses, and reasonable attorneys' and expert consultants' fees, and caused by, growing out of, or otherwise happening due to: (i) any negligent act or omission on the part of the Lessee, its agents, employees, or others working at the direction of the Lessee or on its behalf, or for whose acts the Lessee may be liable, (ii) the operation of the Recreation Facility, as provided by this Facility Lease or otherwise, or (iii) the application or violation of any applicable federal, State, or local law, rule, or regulation, from and after the Completion Date, but shall not include any such Claims arising or resulting from criminal, tortious, or intentional acts of the Lessor Indemnitees, or any of them, or from a breach of any obligations of Lessor (as Lessee) under the Ground Lease. This indemnification extends to the successors and assigns of the Lessee, and this indemnification survives the expiration or termination of this Facility Lease and the dissolution or, to the extent allowed by law, the bankruptcy of the Lessee.

This indemnification does not extend beyond the scope of this Facility Lease and does not extend to Claims exclusively between the undersigned parties arising from the terms, or regarding the interpretation of, this Facility Lease or the Ground Lease.

Section 15. Covenant of the Lessee Regarding Covered Parity Debt

(a) The Lessee represents and agrees that the Lessee has incurred, and will assume or incur, Covered Parity Debt (as hereinafter defined) which shall become due and payable on various dates during each calendar year. The Lessee therefore covenants and agrees the Lessee will, in each calendar year, reserve and allocate funds of the Lessee, and apply such funds, for the payment in each such calendar year, when due, of the principal of and interest on all Covered Parity Debt on an equal and proportionate basis and parity of lien without preference or priority of any obligation which constitutes a part of Covered Parity Debt over any other such obligation and without discrimination or priority among the Persons entitled to such payments.

(b) For purposes hereof the term "Covered Parity Debt" means and includes, without duplication or limitation:

(1) all pecuniary obligations of the Lessee (as evidenced by any form of contractual agreement) to pay, or cause to be paid, all or any part of the principal of and interest on any revenue bonds issued by the Building Authority for the benefit of the Lessee, including without limitation all revenue bonds at any time issued and outstanding under (i) the Restated Trust Indenture dated June 30, 2023 (in restatement of the Trust Indenture dated as of April 1, 1988) by the Building Authority and The Bank of New York Mellon Trust Company, National Association, as successor trustee, (ii) the Indenture, and (iii) the Trust Indenture dated \_\_\_\_\_ 1, 2024 by the Authority and Regions Bank, as trustee for the Series 2024-CD Bonds (as defined in the Indenture); and

(2) all items that would be classified as a liability in conformity with GAAP (as defined in the Indenture) and which, on any date of determination, would be in excess of \$5,000,000 in principal amount and would constitute indebtedness incurred for the payment of borrowed money or the capitalized value of any liability under any lease of, or installment sale, or other agreement, for the purchase price of property, less and except (i) unsecured obligations incurred in the ordinary course of business, (ii) deferred compensation payables, (iii) any liability classified as a contingent liability in conformity with GAAP, (iv) any liability that matures by its terms (and is not renewable at the option of the Lessee to a date later than) one year from the date of creation, (v) any liability the payment of which is effectively limited to certain assets without recourse to the Lessee, and (vi) any liability which by its terms is effectively subordinated in right of payment to Covered Parity Debt.

(c) The Lessee covenants and agrees to deliver forthwith to the Trustee any notice of an event of default, or notice of any action taken, or to be taken, in respect of an event of default, under any of the Covered Parity Debt Documents immediately upon receipt thereof by the Lessee.

(d) The Lessee covenants and agrees to undertake, and expressly provide in each contractual agreement (of any nature or type), the provisions of this Section with respect to the assumption or incurrence of any Covered Parity Debt by the Lessee.



Section 16. Miscellaneous.

(a) Separate Rights and Obligations. The rights and obligations of Lessee under this Facility Lease shall be separate from and shall not be limited by, or be deemed a limitation on, the rights and obligations of Lessee in its capacity as Ground Lessor under the Ground Lease or as Owner under the Management Agreement.

(b) No Waiver of Rights by Lessor. No failure of Lessor to exercise any power given Lessor hereunder or to insist upon strict compliance by Lessee with its undertakings, duties, and obligations hereunder, and no custom or practice of the parties hereto at variance with the provisions hereof shall constitute a waiver of Lessor's right to demand compliance with the provisions contained in this Facility Lease.

(c) Rights are Cumulative. All rights, powers, and privileges conferred herein upon both parties hereto shall be cumulative.

(d) Provisions are Binding Upon Assigns and are Real Covenants. Each of the legally applicable provisions of this Facility Lease shall apply to, extend to, be binding upon and inure to the benefit or detriment of not only the parties hereto, but also the legal representatives, successors, and assigns of Lessor and Lessee hereto, and shall be deemed and treated as real covenants running with the Recreation Facility during the Term. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the legal representatives, successors, and assigns of said party, the same as if in each case expressed.

(e) Applicable Law. This Facility Lease shall be governed, construed, performed and enforced in accordance with the laws of the State of Alabama.

(f) All Genders and Numbers Included. Whenever the singular or plural number, or masculine or feminine gender, is used in this Facility Lease, it shall equally apply to, extend to, and include the other.

(g) Invalidity of Provision or Part Thereof. In the event any provision, or any portion of any provision of this Facility Lease is held inapplicable or invalid, the other provisions of this Facility Lease and the remaining portion of said provision, shall not be affected thereby and shall continue in full force and effect as written.

(h) Time is of the Essence. All time limits stated in this Facility Lease are of the essence of this Facility Lease.

(i) Section Captions are to be Disregarded. The captions of the numbered or lettered sections and subsections of this Facility Lease are for purposes of identification and convenience only and are to be completely disregarded in construing this Facility Lease.

(j) Entire Agreement Contained Herein. The making, execution and delivery of this Facility Lease by Lessee has not been induced by any representations, statements, covenants, or warranties by Lessor except for those contained in this Facility Lease. This Facility Lease and the documents and provisions incorporated herein constitutes the full, complete and entire agreement between and among the parties hereto; no agent, employee, officer, trustee,

representative, or attorney of the parties hereto has authority to make, or has made, any statement, agreement, representation, or contemporaneous agreement, oral or written, in connection herewith modifying, adding to or changing the provisions of this Facility Lease. No amendment of this Facility Lease shall be binding unless such amendment shall be in writing, signed by both parties hereto.

(k) No Partnership or Agency. Nothing in this Facility Lease is intended, or shall in any way be construed, so as to create any form of partnership or agency relationship between the parties. The parties hereby expressly disclaim any intention of any kind to create any partnership or agency relationship between themselves. Nothing in this Facility Lease shall be construed to make either party liable for any obligation of the other.

(l) Counterparts; Facsimile Signatures. This Facility Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. Signatures may be delivered by facsimile or other electronic transmission and any signatures so delivered shall be deemed original signatures for all purposes and by any party examining this Facility Lease and any court.

(m) Exculpation. No incorporator, trustee, director, member, officer, official, employee, agent, or representative, past, present, or future of Lessor or Lessee, or of any member thereof, or any incorporator, trustee, director, member, officer, official, employee, agent, or representative of any successor entity, as such, either directly or through Lessor and Lessee, respectively, any member thereof, or any successor entity, or otherwise (the “**Exculpated Parties**”), shall have any liability hereunder and no recourse under or upon any obligation, covenant, representation or agreement contained in this Agreement, including any obligations of indemnity, shall be had against any of the Exculpated Parties for any liability hereunder including, without limitation, the payment for or to Lessor and Lessee or any receiver thereof of any sum that may be due and unpaid by Lessor and Lessee under this Facility Lease, notwithstanding the survival of any obligation of Lessor and Lessee beyond the term hereof.

(n) Reserved

(o) Representations.

(i) Lessor Representations. Lessor represents and warrants to Lessee that Lessor is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Alabama. The Lessor has full power and authority to enter into this Facility Lease, to carry out its obligations hereunder, and to consummate the transactions contemplated hereby. The execution, delivery, and performance by Lessor of this Facility Lease and the consummation of the transactions contemplated hereby have been duly authorized by all entity action on the part of Lessor. This Facility Lease has been duly executed and delivered by Lessor and (assuming due authorization, execution, and delivery by Lessee) this Facility Lease constitutes the legal, valid, and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

(ii) Lessee Representations. Lessee represents and warrants to Lessor that Lessee is a non-profit corporation, duly organized, validly existing, and in good standing under the laws of the State of Alabama. Lessee has full power and authority to enter into this Facility Lease, to carry out its obligations hereunder, and to consummate the transactions contemplated hereby. The execution, delivery, and performance by Lessee of this Facility Lease and the consummation of the transactions contemplated hereby have been duly authorized by all entity action on the part of Lessee. This Facility Lease has been duly executed and delivered by Lessee and (assuming due authorization, execution, and delivery by Lessor) this Facility Lease constitutes the legal, valid, and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

(p) Lessee a Member of Collegiate Housing Foundation. Upon the execution hereof, Lessee shall be deemed to be a member of Collegiate Housing Foundation and shall remain such a member until the termination of this Agreement. Lessee warrants, represents, and agrees that at all times during the term of this Facility Lease it shall be and remain an organization which is described in either Section 511(a)(2)(B) of the Code or Sections 501(c)(3) and 170(b)(1)(A)(ii) of the Code that is not a private foundation within Section 509 of the Code. Notwithstanding anything herein or in Collegiate Housing Foundation's bylaws to the contrary, Lessee shall in no event be liable for any obligations of Collegiate Housing Foundation or be required to perform any obligations or take any actions as a result of being a member of Collegiate Housing Foundation. As compensation to Lessor for undertaking to own and finance the Recreation Facility and assuming its obligations under the Bond Documents, this Facility Lease and the related transactions, Collegiate Housing Foundation will be entitled to receive a monthly fee, payable as Additional Rent, equal to one and one-half percent (1.5%) of Base Rent, not to exceed \$250,000 annually.

(q) Recordation of Memorandum of Facility Lease. Lessor and Lessee agree that the parties shall execute, acknowledge and deliver simultaneously with the execution of this Facility Lease, in recordable form, a memorandum of lease setting forth the basic terms hereof.

(r) Quiet Enjoyment. Lessor covenants and agrees that, throughout the term of this Facility Lease from and after the Completion Date, Lessee may peacefully and quietly enjoy the Recreation Facility subject, however, to the Ground Lease, the Bond Lease and Permitted Encumbrances, and Lessee's fulfillment of the covenants and agreements contained in this Facility Lease.

(s) Waiver of Jury Trial. TO THE MAXIMUM EXTENT PERMITTED BY LAW, LESSOR AND LESSEE WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE BETWEEN LESSOR AND LESSEE ARISING OUT OF THIS FACILITY LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Facility Lease Agreement to be duly executed in duplicate counterparts each of which shall be deemed to be an original, the day and year first above written.

**LESSOR:**

**CHF – Horizons I, L.L.C.**

By: Collegiate Housing Foundation, its sole member

By: \_\_\_\_\_  
William B. Givhan, President

**LESSEE:**

**Samford University**

By: \_\_\_\_\_

Name: Colin Coyne

Its: Vice President for Finance, Business Affairs  
and Strategy

## EXHIBIT 1

### DESCRIPTION OF PROPERTY

A PARCEL OF REAL PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER IF SECTION 18, TOWNSHIP 18 SOUTH, RANGE 2 WEST AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 18 SOUTH, RANGE 3 WEST AND LOCATED ENTIRELY ON LOT 1 ACCORDING TO THE AMENDED FINAL PLAT OF SAMFORD UNIVERSITY SURVEY AS RECORDED IN MAP BOOK PAGE 203, PAGE 61 IN THE OFFICE OF THE JUDGE OF PROBATE JEFFERSON COUNTY, ALABAMA. COMMENCE AT A FOUND PK NAIL SOUTHEAST CORNER OF SAID SECTION. SAID POINT HAVING A ALABAMA WEST STATE PLAN COORDINATE OF NORTHING: 1260074.49 EASTING: 2183201.33 THENCE RUN NORTH 00°00'00" WEST FOR 570.15 FEET; THENCE RUN SOUTH 90°00'00" WEST FOR 54.76 FEET TO THE POINT OF BEGINNING ;THENCE RUN NORTH 20°03'22" WEST FOR 338.71 FEET; THENCE RUN NORTH 50°44'32" EAST FOR 64.60 FEET; THENCE RUN NORTH 69°37'54" EAST FOR 295.06 FEET;THENCE RUN SOUTH 20°03'22" EAST FOR 48.25 FEET ;THENCE RUN NORTH 69°56'38" EAST FOR 88.34 FEET; THENCE RUN SOUTH 20°03'22" EAST FOR 313.32 FEET;THENCE RUN SOUTH 69°56'38" WEST FOR 444.40 FEET TO THE POINT OF BEGINNING.SAID TRACT OF LAND CONTAINING 155434.81 SQ. FT. OR 3.57 ACRES MORE OR LESS.

EXHIBIT 2

SCHEDULE OF BASE RENT

## EXHIBIT 3

### INSURANCE SCHEDULE

(a) General. It is the intent of the parties that all risk of loss for the Recreation Facility be shifted to insurance to the maximum extent practicable. Accordingly, unless otherwise provided herein or the Lessor otherwise agrees, upon Recreation Facility completion, the Lessee shall maintain insurance covering the risks enumerated below to the extent that such insurance is commercially available on commercially reasonable terms. Such insurance shall be written on an occurrence basis unless the Lessor otherwise consents in writing, which consent shall not be unreasonably withheld or delayed, except for the Commercial Crime coverage required under Section (d) of this Exhibit 3 and Pollution Liability coverage required under Section (j) of this Exhibit 3 hereof which may be written on a claims made basis. The policies shall provide that such insurance shall be primary coverage without reduction or right of offset or contribution on account of any insurance provided by the Lessor to itself or its officers, officials, or employees, that such insurance shall not be altered or cancelled without thirty (30) days' written notice, or ten (10) days' written notice for non-payment of premium. The Lessee shall promptly forward any notice of cancellation received from an insurance carrier to the Lessor. Except for the insurance required under Sections (b) and (d) of this Exhibit 3, such insurance shall name the Lessor, Building Authority, Trustee and their members, officers, agents, employees, and representatives as additional insureds. Except for the insurance required under Sections (b) and (d) of this Exhibit 3 hereof, such insurance shall provide a waiver of subrogation in favor of the Lessor, Building Authority, Trustee, and their members, officers, agents, employees, and representatives. The insurance policies purchased by or maintained by the Lessee must be issued by a company authorized to conduct business in the State or by a company acceptable to the Lessor and which has a rating of "A-VIII" or better by the latest *Best Insurance Report*. Notwithstanding anything else herein contained, (i) the rights of the Lessor to any insurance policies covering the Premises or the Recreation Facility (or any portion thereof) and any and all proceeds paid or payable thereunder shall be in all respects junior and subordinate to the rights of the Trustee under the Bond Documents and any other permitted Leasehold Mortgage, and (ii) the obligations herein are in addition to and separate from the Lessor's obligations under the Bond Lease and the Lessor may waive or consent to any adjustment to the requirements of this Schedule.

(b) Workers' Compensation, Employer's Liability. At all times the Lessee shall maintain Workers' Compensation Insurance as required by the laws of the State. The Workers' Compensation policy must include Coverage B-Employer's liability limits of: Bodily Injury by Accident – One Million Dollars (\$1,000,000) each accident; Bodily Injury by Disease – One Million Dollars (\$1,000,000) policy limit; and Bodily Injury by Disease – One Million Dollars (\$1,000,000) each employee.

(c) Property/Business Interruption. Subject to the additional requirements of the Bond Lease, which shall govern any inconsistency herewith, the Lessee shall maintain:

(i) Special Form property insurance, including fire and extended coverage, sprinkler leakage, vandalism, malicious mischief, wind, hail, and/or hurricane coverage, ordinance or law coverages A, B, and C, debris removal, earthquake, or earth movement, and flood coverage, covering full replacement value of all real property, personal property, and equipment. Flood and



earthquake or earth movement limits may be sub-limited at a minimum of \$5,000,000 each to the extent higher limits are not commercially available at commercially reasonable sums; and

(ii) Business interruption insurance covering loss of revenues, the value of related soft costs or other income by the Lessee by reason of total or partial suspension of, or interruption in, the operation of the Recreation Facility caused by covered damage or destruction of the Recreation Facility in an amount sufficient to meet debt payments and other recurring payments for twelve (12) months with a 180 day extended period of indemnity or on an actual loss sustained basis, subject to the reasonable discretion of the Lessor.

(d) Commercial Crime. The Lessee shall maintain commercial crime or employee dishonesty insurance for all officers, agents, and employees of the Lessee with policy limits not less than One Million Dollars (\$1,000,000).

(e) Commercial General Liability. The Lessee shall maintain a primary Commercial General Liability insurance policy, ISO Form 1992 or later, or equivalent, ("**CGL**") covering claims for bodily injury (including death) and property damage, including loss of use thereof, in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate, with deductible provisions not to exceed Fifty Thousand Dollars (\$50,000) per occurrence, to include personal and advertising injury, general aggregate, products and completed operations aggregate insurance, contractual liability to cover all insurable obligations in this Ground Lease, and without exclusions for assault and battery and abuse and molestation. The policy or policies must be on an "occurrence" basis unless waived by the Lessor.

(f) Automobile. The Lessee shall maintain business automobile liability insurance with liability limits of not less than One Million Dollars (\$1,000,000) combined single limit covering liability arising out of the use of any of the Lessee's vehicles used in conjunction with the Recreation Facility, whether owned, non-owned or hired.

(g) Umbrella. The Lessee shall obtain and maintain an additional umbrella or excess liability coverage in the minimum amount of Twenty-Five Million Dollars (\$25,000,000) per occurrence and in the aggregate, over the underlying policies required by sections (b), (e), and (f) hereof.

(h) Loss Payable Clauses. The contracts of insurance set forth in section (c) hereof shall contain a standard loss payable endorsement providing that no act or omission by the named insureds shall in any way prejudice the rights of the Trustee as mortgagee and loss payee and any Leasehold Mortgagee, the Lessor, the Building Authority and the Lessee shall also be included as loss payees as their respective interests may appear.

(i) Boiler and Machinery or Mechanical Breakdown Insurance. The Lessee shall maintain Boiler and Machinery or Mechanical Breakdown insurance to cover Recreation Facility steam boilers and/or other Recreation Facility equipment.

(j) Pollution liability. The Lessee shall maintain pollution liability coverage in the amount of \$5,000,000 per claim and in the aggregate.

## EXHIBIT 4

### DEVELOPMENT SERVICES

*All capitalized terms not otherwise defined herein shall have the meanings given such terms in the Facility Lease to which this exhibit is appended or otherwise in the Bond Documents.*

Lessee shall pursue to Final Completion (as hereinafter defined) the development, design, construction, installation and equipping of the Recreation Facility on the Property, in accordance with the terms of this Exhibit 4 (the “**Development Services**”).

(a) Construction Phase.

(i) Lessee shall perform its obligations under the Construction Documents and shall Substantially Complete the Recreation Facility, including all Offsite Improvements (as hereinafter defined), at a total cost for the Recreation Facility and Offsite Improvements not to exceed the \$79,977,309 (the “**Total Development Cost**”), subject to Change Orders (as hereinafter defined) in accordance with Section (c) of this Exhibit 4. Lessee shall Finally Complete the Recreation Facility and the Offsite Improvements within a reasonable time (but in no event more than 150 days) after the occurrence of Substantial Completion of the Recreation Facility. Lessee shall perform the Development Services with the objective of causing the Recreation Facility to be developed and completed in a good and workmanlike manner, free and clear of all mechanics’, materialmen’s and similar liens, all in accordance with the terms of the Construction Documents, the plans and specifications for the Recreation Facility and Offsite Improvements described on Schedule A attached hereto (the “**Plans and Specifications**”), Article 6 of the Bond Lease, and all applicable laws, rules, regulations, codes, and permits. The Lessee shall cause the general contractor for the Recreation Facility to construct the Recreation Facility in accordance with the Construction Services Agreement dated [●], (the “**Construction Services Agreement**”) between the Lessee and Hoar Construction (the “**General Contractor**”). All building materials for the Recreation Facility and Offsite Improvements must be new and of good quality in accordance with the Construction Documents and the Plans and Specifications.

(ii) Lessee warrants, or shall cause to be warranted by the General Contractor, that the Finally Complete (as hereinafter defined) Recreation Facility will be of first-class quality suitable for use by Lessor for the intended purposes thereof and as an “ancillary improvement” (as defined in the Authorizing Act) and that all real and personal property provided for in the Plans and Specifications and Construction Documents is necessary or appropriate in connection with the Recreation Facility. Lessee acknowledges that Lessor is financing the construction of the Recreation Facility pursuant to the terms and conditions of the Bond Documents and agrees not to knowingly take, or fail to take, any action that would cause Lessor to be in breach of the representations or covenants made by Lessor in the Bond Lease, including without limitation Sections 3.02, 3.03, 4.04, 4.06, 4.07, 6.01, 6.02, 6.03, 6.04, 8.03, 8.04, 8.07, 10.02, 10.07 and 10.12 thereof. Lessee certifies that the Construction Documents meet the requirements set forth in this Facility Lease for construction of the Recreation Facility.

(iii) Lessee shall assign qualified staff to monitor, facilitate and provide oversight of the counterparties to the Construction Documents (the “**Project Vendors**”) to assure that

the Project Vendors perform their respective obligations under the Construction Documents, performing work in accordance with the Plans and Specifications, and adhering to the Project Schedule set forth on Schedule B (the “**Project Schedule**”) and the Development Budget set forth on Schedule C (the “**Development Budget**”) as required by, and subject to, the terms and provisions of this Facility Lease. Lessee shall conduct regularly scheduled construction progress meetings, to which representatives of the Lessor will be invited to attend and participate. Lessee shall provide timely notification to the Lessor of any potential or actual deviations from the Plans and Specifications, Project Schedule or Development Budget or other material issues or concerns that could impact the delivery of the Recreation Facility as required by this Facility Lease. Lessee will also require appropriate representatives of the Project Vendors to be directly and actively engaged in construction administration during the construction phase of the Recreation Facility, verifying whether the work being installed or constructed is in conformity with the Plans and Specifications. Lessee, Landmark Development Services Company, LLC (the “**Development Manager**”) and the architect for the Recreation Facility project will also participate as provided herein and in the Construction Documents in the review and approval of each Change Order request or pay application by the Project Vendors to assure each is accurate and reflects the Recreation Facility and Offsite Improvements work completed to date.

(iv) Lessee shall monitor compliance with the Development Budget and issue written construction progress reports monthly by the 25<sup>th</sup> of the month to Lessor that compare actual costs incurred with those costs set forth in the Development Budget, and report on the progress of construction. Upon request by the Lessor, Lessee shall provide a soft electronic copy of the initial version of the Development Budget as well as all subsequent approved versions of the Development Budget for the Recreation Facility. Within the Development Budget, Lessee may reallocate demonstrated cost savings in any particular accounting category (other than “allowance” categories and “issuance expense” categories) to other accounting categories; provided, that in no event may any such change cause the total cost necessary to obtain Final Completion of the Recreation Facility to exceed the Total Development Cost.

(v) Lessee shall provide all furniture, fixtures, and equipment (“**FF&E**”) to be placed in the Recreation Facility, and order and arrange for the shipping of and installation of all FF&E, not as a cost of the Recreation Facility but as a cost to be borne by Lessee. Such FF&E shall include, without limitation, that which is listed in Schedule D attached hereto. Such FF&E (i) shall be new and of high quality and (ii) shall include all such items as are consistent with the minimum requirements set forth in the Bond Documents and the Lessee’s standards for facilities similar to the Recreation Facility.

(vi) Lessee shall cause all necessary utilities to be provided to the Recreation Facility and shall connect the Recreation Facility to such utilities.

(vii) The Lessee shall cause the facilities and improvements described in Schedule E (the “**Offsite Improvements**”) to be constructed as a cost of the Recreation Facility within the Construction Area described on Schedule F which is located on land owned by the Lessee that is not part of the Property. The Lessee does hereby grant to Lessor and its successors, assigns, successors-in-title, invitees, employees, and sublessees, a non-exclusive easement on, over, across, and through the Construction Area described on Schedule F for the purpose of development, construction, and installation of the Offsite Improvements. Such non-exclusive easement herein granted shall expire

automatically upon Final Completion of the Offsite Improvements. The Lessee shall own, operate, and maintain the Offsite Improvements at its sole cost and expense and not as an expense of the Recreation Facility.

(viii) The Recreation Facility will be deemed Finally Complete (“**Finally Complete**” or “**Final Completion**”) when:

- (1) the Recreation Facility is fully completed as required by the Plans and Specifications (including all punch list items) and all required final certificates of occupancy for the Recreation Facility are issued; and
- (2) the Recreation Facility is fully paid for and free from any liens other than the Bond Documents; and
- (3) all governmental authorities with jurisdiction have given their final approval of the Recreation Facility; and
- (4) all final releases, warranties, manuals, contractor marked as-built drawings, CAD drawings, equipment cuts, operating guides, and any other documents necessary for full operation of the Recreation Facility are delivered to the Lessor.

(b) Compliance with Laws and Approvals.

(i) In performance of the Development Services, Lessee shall comply with in all material respects, and cause the Project Vendors to comply with, the Plans and Specifications, the Construction Documents, and all applicable building codes, ordinances, laws, and regulations.

(ii) Lessee shall obtain, or cause to be obtained, all necessary approvals, entitlements and permits required by various governmental agencies to have the Recreation Facility permitted for construction and certified for permanent occupancy.

(c) Change Orders. Lessee may order, authorize, or perform any change or substitute work or materials in prosecuting the construction of the improvements (a “**Change Order**”). Notwithstanding the foregoing, any Change Order that will change the Total Development Cost of the Recreation Facility must be approved by the Lessor and the Trustee unless Lessee undertakes, by written instrument, to pay any additional amount in excess of the Total Development Cost and delivers such undertaking to Lessor and the Trustee. Approval of Change Orders shall not relieve Lessee from the obligation to obtain all other necessary approvals and permits required by various governmental agencies from complying in all material respects with the Plans and Specifications, the Construction Documents, Article 6 of the Bond Lease, and all applicable building codes and ordinances.

(d) Coordination of Construction. To the extent reasonably possible, development and construction of the Recreation Facility shall be done so as to minimize disruption of Lessee’s operations. Lessee shall coordinate all construction activities with the appropriate departments of Lessee.

(e) Sales Tax. Lessee agrees to cooperate with Lessor and the Authority with respect to any exemptions from sales or use taxes which may otherwise be assessed or incurred in connection with the purchase of materials which are incorporated into the Recreation Facility or Offsite Improvements (and together with any interest, fees, penalties, or collection costs thereon with respect thereto collectively being referred to hereinafter, the “**Sales Tax**”). Without limiting the generality of the foregoing, Lessee shall obtain and provide to the General Contractor an Owner’s Sales Tax exemption certificate and shall cause the General Contractor to take such actions as are necessary to provide its own properly completed Sales Tax exemption certificate based upon the Owner’s Sales Tax exemption certificate and to take advantage of applicable exemptions, all as may be required under applicable Alabama law and regulations.

(f) Payment of Bills for Construction. As a construction expense, Lessor covenants and agrees to pay or cause to be paid, currently as they become due and payable in accordance with the terms of the Bond Documents, as the case may be, all bills for labor, materials, insurance, and bonds, and all fees of Project Vendors and subcontractors and all other costs and expenses incident to any construction in or on the Recreation Facility (collectively, the “**Development Costs**”) not to exceed the Total Development Cost and excluding those costs and which Lessee has paid or shall pay as an un-reimbursed expense of Lessee; provided, however, that Lessor may, in good faith, in its own name, dispute and contest any such bill, fee, cost, or expense, and in such event, any such item need not be paid until adjudged to be valid. Unless so contested by Lessor, all such items shall be paid by Lessor or its designee within the time provided by law, and if contested, any such item shall be paid before the issuance of an execution on a final judgment with respect thereto. Lessee shall prepare and/or cause the Development Manager to prepare, and shall submit to Lessor, all applications for payment submitted by any Project Vendors and all draw request submitted in accordance with Sections (g) and (i) of this Exhibit 4, below.

(g) Certifications. Prior to Final Completion, Lessee shall obtain and submit to the Lessor all certifications by Lessee and/or the Project Vendors required under the Bond Documents (all such certifications shall be expressly addressed to Lessor), together with schedules, documents, and copies of documents, permits and approvals, applications for payment, monthly progress reports, waivers of liens, and any other information required under the Bond Documents.

(h) Development Accounting. Beginning on the date of this Facility Lease and continuing through the end of the Annual Period (as defined in the Indenture) in which Final Completion occurs:

(i) The Lessee shall make and keep accurate records and accounts for the Recreation Facility on an accrual basis and furnish reports of such records and accounts to Lessor on a monthly basis. Such records and accounts shall be sufficient for financial statements in accordance with generally accepted accounting principles, consistently applied, to be prepared from them and comply with all requirements of the Bond Documents with respect to records and accounting.

(ii) Books and records kept by the Lessee pertaining to the Recreation Facility shall always be accessible and such books and records shall be available for inspection by the Lessor, the Trustee, or their respective representatives during normal business hours, within three (3) days after reasonable request therefor. Within fifteen (15) days after the Lessor’s or Trustee’s written request to audit or inspect the Lessee’s books and records pertaining to the Recreation Facility, the

Lessee shall provide originals or copies of such books and records to the Lessor or Trustee at the location requested by the Lessor or Trustee.

(iii) The Lessee shall prepare on an accrual basis and in accordance with generally accepted accounting principles a Recreation Facility balance sheet, income statement and cash flow for each Annual Period ending during the construction period, from the Lessee's records and information provided by the Trustee and the Lessor.

(i) Draw Requests.

(i) Lessee shall prepare and coordinate the submission of requisitions for payment of Development Costs in the forms required under the Bond Documents ("**Draw Requests**"), including applications and certificates for payment in accordance with the terms and provisions of the Bond Documents, as applicable, to Lessor for Lessor's approval and signature, in such a manner as to cause to be paid, currently as they become due and payable in accordance with the terms of the Bond Documents, all Development Costs. Unless contested by Lessor, Lessee shall prepare and coordinate the submission of Draw Requests in such a manner as to cause such items to be paid by the Trustee on or before the date that payment is due in accordance with Section 6.02 of the Bond Lease.

(ii) The Lessor will not create or suffer to exist any Lien (as defined in the Indenture) with respect to the Recreation Facility except Permitted Encumbrances (as defined in the Indenture). Lessee shall discharge or cause to be discharged of record, by bond or otherwise, within thirty (30) days following the date whereupon Lessee receives actual knowledge of the filing, of any mechanics or similar Lien or claim filed against the Recreation Facility or the Property for work or materials claimed to have been furnished at Lessee's request or for the benefit of Lessee and/or the Recreation Facility. If Lessee shall fail to cause such Lien or claim to be so discharged or bonded within such period, in addition to any other right or remedy the Lessor may have, the Lessor may discharge such Lien or claim by procuring the discharge of such Lien or claim by the deposit in a court or by bonding, and, in any event, the Lessor shall be entitled, if the Lessor so elects, to compel the prosecution of any action for the foreclosure of such lien or claim by the lien or claimant and to pay the amount of the judgment, if any, in favor of the lienor or claimant, with interest, costs and allowances. Lessee shall provide the Lessor with written notice of any Lien or claim filed against the Recreation Facility or the Property promptly following Lessor's and/or Development Manager's obtaining actual knowledge of such Lien or claim.

(j) Failure to Deliver Recreation Facility on Schedule. If the Lessee fails to cause the Recreation Facility to be completed and available for occupancy by the Completion Date (as defined in the Bond Lease) Lessee shall nevertheless continue to pay Rent as provided in Section 3 of this Facility Lease and shall be entitled to the benefit of any damages payable by the contractor to the extent and as provided in the Construction Services Agreement.

(k) Post Construction Phase. Following completion of the Recreation Facility, Lessee shall be responsible to:

(i) Secure, assign and deliver to the Lessor warranties and similar submittals required by the Construction Documents and deliver all manuals, record drawings and maintenance information to the Lessor.

(ii) Coordinate a warranty inspection at least 30 days prior to expiration of the General Contractor's warranty period.

(iii) Provide Lessor with materials developed by Lessee and/or Project Vendors related to the management and maintenance of the Recreation Facility.

(iv) Coordinate and assist Lessor with obtaining pursuant to the Design Services Agreement for the Recreation Facility and deliver to Lessor a copy of as-built Plans and Specifications, which incorporate all design changes made throughout the construction phase via drawing revisions made by requests for information, architect's supplemental instructions, Change Orders and construction change directives, and mark-ups of the Plans and Specifications provided by the General Contractor.

(l) Insurance and Bonds for Construction Phase. In addition to the insurance required under Exhibit 3:

(i) The Lessee shall request and review certificates of insurance from Project Vendors verifying the insurance required of each Project Vendor and/or its subcontractors under the Construction Documents and forward certifications received to Lessor.

(ii) The Lessee shall obtain or cause the General Contractor to obtain a Performance Bond and a Payment Bond which comply with the requirements for such bonds under the Construction Services Agreement and the Bond Documents. Each such bond shall be in the amount of the "Guaranteed Maximum Price" as defined in the Construction Services Agreement, with the General Contractor as contractor and principal and the Lessor as owner-obligee; together with a multiple obligee rider naming the Lessee and the Trustee as obligees, with direction to the surety that the Trustee shall have priority over any other obligees. Each Performance Bond and Payment Bond surety shall be obligated to perform all obligations of the General Contractor under the bond(s) issued by such surety.

(iii) In addition to the Performance Bond and Payment Bond described in Section (l)(ii) of this Exhibit 4, the Lessee shall obtain a Performance Bonds and a Payment Bonds ensuring payment for and performance of certain additional work that is outside the scope of the Construction Services Agreement. Such Performance Bond and Payment Bond will be provided in such amounts and which otherwise comply with the requirements for such bonds under this Facility Lease and the Bond Documents.

## **Schedule A**

### **Plans and Specifications**



## **Schedule B**

### **Project Schedule**

#### **OUTLINE OF CONSTRUCTION SCHEDULE**

##### **PROJECT MILESTONE ACTIVITIES**

##### **COMPLETION DATE**

Seibert Renovation Substantial Completion

September 27, 2024

Seibert Expansion Substantial Completion

October 8, 2024

Bashinsky Renovation

October 24, 2024

## Schedule C

### Development Budget

#### Samford University

#### Athletic, Recreation, and Wellness Center Renovation

|  | Budget              |
|--|---------------------|
| <b>Construction Costs:</b>                                 |                     |
| Hoar Construction GMP                                      | \$55,312,655        |
| Alumni Center  | \$2,750,552         |
| Scoreboard   | \$1,088,975         |
| Fire Protection  | \$1,784,920         |
| Early Release Mechanical                                   | \$941,399           |
| <b>Total Construction Costs</b>                            | <b>\$61,878,501</b> |
| <b>FF&amp;E:</b>   |                     |
| Fitness Equipment  | \$1,800,000         |
| AV Equipment   | \$1,100,000         |
| Communications Equipment                                   | \$200,000           |
| Food Service Equipment                                     | \$300,000           |
| Furniture  | \$700,000           |
| Graphics & Signage   | \$340,000           |
| Scoreboard relocation                                      | \$350,000           |
| Laundry Equipment  | \$27,000            |
| Add'l Life Safety Equipment                                | \$49,977            |
| <b>Total FF&amp;E</b>                                      | <b>\$4,866,977</b>  |
| <b>Professional Fees and Misc. Development Costs:</b>      |                     |
| Architect & Engineering                                    | \$4,030,637         |
| Site Survey & Geotechnical                                 | \$83,000            |
| Testing & Inspections                                      | \$208,100           |
| Project Management   | \$1,888,000         |
| FFE Procurement  | \$25,000            |
| FFE Coordination   | \$45,000            |
| Legal  | \$150,000           |
| Financial Analysis   | \$15,000            |
| Insurance  | \$140,000           |
| Permits & Regulatory                                       | \$40,000            |
| Miscellaneous Professional                                 | \$100,000           |
| Reimb/Travel   | \$125,000           |
| Other  | \$40,000            |
| <b>Total Professional Fees and Misc. Development Costs</b> | <b>\$6,889,737</b>  |

**Technology Infrastructure:**

|  |                     |
|--|---------------------|
| Building System Controls                     | \$1,520,260         |
| Security Systems                             | \$1,500,000         |
| Fire Alarm Systems                           | \$562,250           |
| Allowance for Bashinsky Network/Security     | \$200,000           |
| Technology Oversight                         | \$86,667            |
| Enterprise Value Strategy                    | \$950,030           |
| <b>Total Technology Infrastructure Costs</b> | <b>\$4,819,207</b>  |
| Owner Contingency                            | \$1,522,887         |
| <b>Total Development Cost</b>                | <b>\$79,977,309</b> |

## **Schedule D**

### **Furniture, Fixtures and Equipment**

- Flooring (Tile, Carpet)
- Fitness Equipment
  - Treadmills
  - Elliptical
  - Upright Bikes
  - Peloton Bikes
  - Recumbent Bikes
  - Motion Trainer
  - Cross-Trainer
  - Strength Conditioning (Weights, Sleds, Etc.)
  - Stretch Equipment & Bands
  - Mats
  - Racks
- Furniture (Tables, Chairs, Pillows)
- Shelving & Cabinets
- Mirrors
- Laundry Equipment
- Pool Tables, Ping Pong Tables & Foosball
- Safe

## **Schedule E**

### **Offsite Improvements**

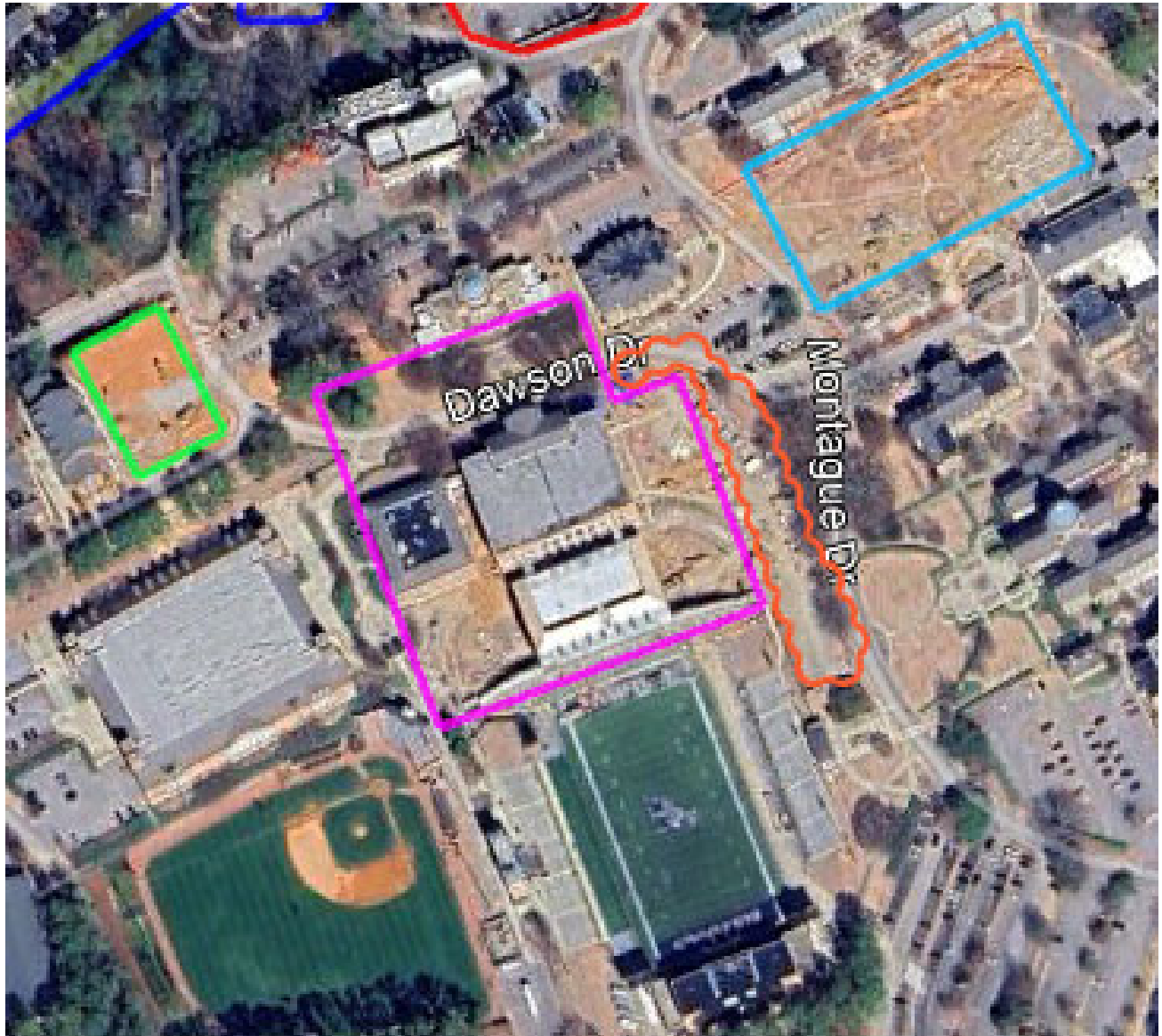
Relocation of scoreboard on Bobby Bowden Field

Renovation of Beeson Center for use as health center

Landscaping and hardscaping outside the leased area

## Schedule F

### Construction Area



Recreation Center Project (magenta)

Offsite Improvements (orange)



