



DAC Bond

\$100,000,000

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK
NEW YORK INSTITUTE OF TECHNOLOGY REVENUE BONDS,
SERIES 2024**

Dated: Date of Delivery

Due: July 1, as shown on the inside cover

Payment and Security: The Dormitory Authority of the State of New York New York Institute of Technology Revenue Bonds, Series 2024 (the "Series 2024 Bonds") are special limited obligations of the Dormitory Authority of the State of New York ("DASNY") payable solely from and secured by a pledge of (i) certain payments to be made under the Loan Agreement (the "Loan Agreement"), dated as of the date of issuance of the Series 2024 Bonds, between New York Institute of Technology (the "Institute", "NYIT" or "New York Institute of Technology") and DASNY, and (ii) all funds and accounts (except the Arbitrage Rebate Fund) established in connection with the Series 2024 Bonds. The Series 2024 Bonds are to be issued under DASNY's New York Institute of Technology Revenue Bond Resolution, adopted February 14, 2024 (the "Resolution"), DASNY's Series Resolution 2024-1 Authorizing Up to \$105,000,000 New York Institute of Technology Revenue Bonds, adopted February 14, 2024 (the "Series 2024 Resolution") and the Certificate of Determination, dated as of February 27, 2024, relating to the Series 2024 Bonds (the "Series 2024 Certificate of Determination"). The Resolution, the Series 2024 Resolution and the Series 2024 Certificate of Determination are collectively referred to herein as the "Resolutions."

The Loan Agreement, assigned by DASNY to Manufacturers and Traders Trust Company, as trustee (the "Trustee"), is a general obligation of the Institute and requires the Institute to pay, in addition to the fees and expenses of DASNY and the Trustee, amounts sufficient to pay, when due, the principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on the Series 2024 Bonds. The obligations of the Institute to make such payments under the Loan Agreement will be secured by a pledge of certain revenues of the Institute pursuant to a Security Agreement, dated as of the date of issuance of the Series 2024 Bonds, between the Institute and DASNY (the "Security Agreement") and assigned by DASNY to the Trustee. See "PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS."

The Series 2024 Bonds will not be a debt of the State of New York (the "State") and the State will not be liable on the Series 2024 Bonds. DASNY has no taxing power.

Description: The Series 2024 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. The Series 2024 Bonds will bear interest at the rates and mature at the times shown on the inside cover hereof. Interest on the Series 2024 Bonds will be payable July 1, 2024 and each January 1 and July 1 thereafter, to the registered owners of the Series 2024 Bonds as more fully described herein.

The Series 2024 Bonds will be issued initially under a Book-Entry Only System, registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"). Individual purchases of beneficial interests in the Series 2024 Bonds will be made in Book-Entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2024 Bonds, payments of the principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on such Series 2024 Bonds will be made directly to DTC or its nominee. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC participants. See "PART 3 – THE SERIES 2024 BONDS – Book-Entry Only System" herein.

Redemption or Purchase: *The Series 2024 Bonds are subject to redemption or purchase in lieu of optional redemption prior to maturity as more fully described herein.*

Tax Matters: In the opinion of Bryant Rabbino LLP, Bond Counsel to DASNY, under existing law and assuming continuing compliance by DASNY and the Institute with certain tax covenants described herein, and the accuracy and completeness of certain representations and certifications made by DASNY and the Institute described herein, (i) interest on the Series 2024 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and (ii) interest on the Series 2024 Bonds is not an item of tax preference for purposes of calculating the federal alternative minimum tax under the Code.

In addition, Bond Counsel is of the opinion that under the existing law interest on the Series 2024 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof, including The City of New York. See "PART 12 – TAX MATTERS" herein regarding certain other tax considerations.

The Series 2024 Bonds are offered when, as, and if issued and received by Morgan Stanley & Co. LLC (the "Underwriter"). The offer of the Series 2024 Bonds may be subject to prior sale, or withdrawn or modified at any time without notice. The offer is subject to the approval of legality by Bryant Rabbino LLP, New York, New York, Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the Institute by its counsel, Cullen and Dykman LLP, Uniondale, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Katten Muchin Rosenman LLP, New York, New York. DASNY expects to deliver the Series 2024 Bonds in definitive form in New York, New York, on or about March 14, 2024.

Morgan Stanley

\$100,000,000
DORMITORY AUTHORITY OF THE STATE OF NEW YORK
NEW YORK INSTITUTE OF TECHNOLOGY REVENUE BONDS, SERIES 2024

Serial Bonds

Due		Interest			CUSIP
July 1	Amount	Rate	Yield	Price	Number[†]
2027	\$1,700,000	5.000%	2.870%	106.651	65000BR59
2028	1,785,000	5.000	2.860	108.591	65000BR67
2029	1,875,000	5.000	2.890	110.290	65000BR75
2030	1,970,000	5.000	2.940	111.759	65000BR83
2031	2,070,000	5.000	2.990	113.085	65000BR91
2032	2,175,000	5.000	3.050	114.195	65000BS25
2033	2,280,000	5.000	3.110	115.153	65000BS33
2034	2,395,000	5.000	3.180	115.870	65000BS41
2035	2,515,000	5.000	3.310 ^C	114.640	65000BS58
2036	2,640,000	5.000	3.400 ^C	113.797	65000BS66
2037	2,775,000	5.000	3.520 ^C	112.685	65000BS74
2038	2,910,000	5.000	3.600 ^C	111.951	65000BS82
2039	3,055,000	5.000	3.680 ^C	111.223	65000BS90
2040	3,210,000	5.000	3.820 ^C	109.962	65000BT24
2041	3,370,000	5.000	3.890 ^C	109.338	65000BT32
2042	3,540,000	5.000	3.950 ^C	108.807	65000BT40
2043	3,715,000	5.000	4.000 ^C	108.366	65000BT57
2044	3,900,000	5.000	4.050 ^C	107.928	65000BT65

\$22,740,000 5.250% Term Bond Due July 1, 2049, Yield 4.110%^C, Price 109.486 CUSIP Number[†] 65000BT73
\$29,380,000 5.250% Term Bond Due July 1, 2054, Yield 4.240%^C, Price 108.350 CUSIP Number[†] 65000BT81

[†] CUSIP data herein are provided by CUSIP Global Services, which is managed on behalf of the American Bankers Association by FactSet Research Systems Inc. The CUSIP numbers listed above have been assigned by an independent company not affiliated with DASNY and are being provided solely for the convenience of owners of the Series 2024 Bonds only at the time of issuance of the Series 2024 Bonds. Neither DASNY nor the Underwriter makes any representation with respect to such numbers or undertakes any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2024 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity.

^C Yield to the first optional redemption date of July 1, 2034 at a redemption price of 100%.

No dealer, broker, salesperson or other person has been authorized by DASNY, the Institute or the Underwriter to give any information or to make any representations with respect to the Series 2024 Bonds, other than the information and representations contained in this Official Statement. If given or made, any such information or representations must not be relied upon as having been authorized by DASNY, the Institute or the Underwriter.

This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor will there be a sale of the Series 2024 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information

The information set forth herein relating to DASNY under the heading “PART 9 - DASNY” has been obtained from DASNY. All other information herein has been obtained by the Underwriter from the Institute and other sources deemed to be reliable by the Underwriter, and is not to be construed as a representation by DASNY or the Underwriter. In addition, DASNY does not warrant the accuracy of the statements contained herein relating to the Institute nor does it directly or indirectly guarantee, endorse or warrant (1) the creditworthiness or credit standing of the Institute, (2) the sufficiency of security for the Series 2024 Bonds or (3) the value or investment quality of the Series 2024 Bonds.

The Institute has reviewed the parts of this Official Statement describing the Institute, covenants of the Institute, bondholders’ risks, the principal and interest requirements, the Series 2024 Project, the estimated sources and uses of funds, and “APPENDIX B – CONSOLIDATED FINANCIAL STATEMENTS OF NEW YORK INSTITUTE OF TECHNOLOGY WITH INDEPENDENT AUDITORS’ REPORT THEREON”. As a condition to delivery of the Series 2024 Bonds, the Institute will certify that as of the date of this Official Statement and of delivery of the Series 2024 Bonds, such parts do not contain any untrue statements of a material fact and do not omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading. The Institute makes no representation as to the accuracy or completeness of any other information included in this Official Statement.

The Trustee has no responsibility for the form and content of this Official Statement and has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom.

References in this Official Statement to the Act, the Resolution, the Series 2024 Resolution, the Series 2024 Certificate of Determination, the Security Agreement, the Assignment and the Loan Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series 2024 Resolution, the Series 2024 Certificate of Determination, the Security Agreement, the Assignment and the Loan Agreement for full and complete details of their provisions. Copies of the Resolution, the Series 2024 Resolution, the Series 2024 Certificate of Determination, the Security Agreement, the Assignment and the Loan Agreement will be on file with DASNY and the Trustee.

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

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

IN CONNECTION WITH THE OFFERING OF THE SERIES 2024 BONDS, THE UNDERWRITER OF THE SERIES 2024 BONDS MAY OVER ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICES OF THE SERIES 2024 BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THIS OFFICIAL STATEMENT CONTAINS STATEMENTS WHICH, TO THE EXTENT THEY ARE NOT RECITATIONS OF HISTORICAL FACT, CONSTITUTE “FORWARD-LOOKING STATEMENTS.” IN THIS RESPECT, THE WORDS “ESTIMATE,” “PROJECT,” “ANTICIPATE,” “EXPECT,” “INTEND,” “BELIEVE” AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. A NUMBER OF IMPORTANT FACTORS AFFECTING THE INSTITUTE’S FINANCIAL RESULTS COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE STATED IN THE FORWARD-LOOKING STATEMENTS.

TABLE OF CONTENTS

Page	Page
PART 1 – INTRODUCTION.....1	Financial Assistance 32
Purpose of the Official Statement1	Investment Income..... 32
Purpose of the Issue1	Fundraising 32
Authorization of Issuance.....1	Government Funding 33
DASNY2	Risks as Employer 33
The Institute2	Changes in Law 33
The Series 2024 Bonds.....2	Tax Related Risk..... 33
Payment of the Series 2024 Bonds.....2	Additional Bonds 33
Security for the Series 2024 Bonds2	Additional Indebtedness 34
Covenants.....3	Certain Matters Relating to Enforceability of the
PART 2 – SOURCE OF PAYMENT AND SECURITY	Resolution and Loan Agreement..... 34
FOR THE SERIES 2024 BONDS3	Secondary Market for the Series 2024 Bonds 34
Payment of the Series 2024 Bonds3	No Debt Service Reserve Fund for the Series 2024
Security for the Series 2024 Bonds4	Bonds 34
Covenants.....4	COVID-19 34
Events of Default and Acceleration.....6	Cybersecurity 34
Issuance of Additional Bonds6	Bond Ratings 35
General.....7	Other Factors 35
PART 3 – THE SERIES 2024 BONDS.....7	PART 7 – THE SERIES 2024 PROJECT 35
Description of the Series 2024 Bonds7	PART 8 – ESTIMATED SOURCES AND USES OF
Redemption Provisions7	FUNDS 35
Purchase in Lieu of Optional Redemption9	PART 9 – DASNY 36
Book-Entry Only System9	Background, Purposes and Powers 36
PART 4 – PRINCIPAL AND INTEREST	Governance..... 36
REQUIREMENTS12	Claims and Litigation.....40
PART 5 – THE INSTITUTE.....13	Other Matters..... 40
The Mission of the New York Institute of	PART 10 – LEGALITY OF THE SERIES 2024 BONDS
Technology13	FOR INVESTMENT AND DEPOSIT..... 40
Strategic Plan13	PART 11 – NEGOTIABLE INSTRUMENTS 40
Capital Plans14	PART 12 – TAX MATTERS..... 41
Accreditations14	Certain Ongoing Federal Tax Requirements and
Program Review.....15	Covenants..... 41
Governance and Administration.....15	Certain Collateral Federal Tax Consequences 41
Board of Trustees15	Bond Premium..... 41
Administration16	Information Reporting and Backup Withholding.....42
Academic Programs19	Miscellaneous 42
New York Institute of Technology College of	PART 13 – STATE NOT LIABLE ON THE SERIES
Osteopathic Medicine19	2024 BONDS 42
OPERATING INFORMATION19	PART 14 – COVENANT BY THE STATE 42
Faculty19	PART 15 – LEGAL MATTERS..... 43
Competition.....20	PART 16 – UNDERWRITING..... 43
Student Enrollments20	PART 17 – CONTINUING DISCLOSURE 43
Tuition, Fees and Financial Aid24	PART 18 – RATINGS 43
ANNUAL FINANCIAL STATEMENT	PART 19 – MISCELLANEOUS..... 44
INFORMATION25	APPENDIX A – CERTAIN DEFINITIONSA-1
Selected Financial Data.....25	APPENDIX B – CONSOLIDATED FINANCIAL
FINANCIAL OPERATIONS28	STATEMENTS OF NEW YORK INSTITUTE OF
Management’s Discussion of Financial Operations28	TECHNOLOGY WITH INDEPENDENT AUDITORS’
Investments28	REPORT THEREON..... B-1
Endowment29	APPENDIX C – SUMMARY OF CERTAIN
Fundraising30	PROVISIONS OF THE LOAN AGREEMENT
Property, Plant and Equipment.....30	AND THE SECURITY AGREEMENT C-1
Insurance.....30	APPENDIX D – SUMMARY OF CERTAIN
Outstanding Indebtedness and Leases31	PROVISIONS OF THE RESOLUTION..... D-1
Retirement Plan.....31	APPENDIX E – FORM OF APPROVING OPINION OF
Labor Relations.....31	BOND COUNSEL E-1
Litigation and Contingent Liabilities.....31	APPENDIX F – FORM OF AGREEMENT TO PROVIDE
PART 6 – BONDHOLDERS’ RISKS.....32	CONTINUING DISCLOSUREF-1
General.....32	



DORMITORY AUTHORITY – STATE OF NEW YORK
CHARLIE WILLIAMS – VICE-PRESIDENT

515 BROADWAY, ALBANY, NY 12207
LISA A. GOMEZ – CHAIR

OFFICIAL STATEMENT RELATING TO

\$100,000,000

DORMITORY AUTHORITY OF THE STATE OF NEW YORK NEW YORK INSTITUTE OF TECHNOLOGY REVENUE BONDS, SERIES 2024

PART 1 – INTRODUCTION

Purpose of the Official Statement

The purpose of this Official Statement, including the cover page, inside cover page and appendices, is to provide information about the Dormitory Authority of the State of New York (“DASNY”) and New York Institute of Technology (the “Institute”, “NYIT” or “New York Institute of Technology”) in connection with the offering by DASNY of \$100,000,000 aggregate principal amount of its New York Institute of Technology Revenue Bonds, Series 2024 (the “Series 2024 Bonds”).

The following is a brief description of certain information concerning the Series 2024 Bonds, DASNY and the Institute. A more complete description of such information and additional information that may affect decisions to invest in the Series 2024 Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain terms used in this Official Statement are defined in “APPENDIX A – CERTAIN DEFINITIONS” attached hereto.

Purpose of the Issue

The Series 2024 Bonds are being issued for the purpose of providing funds which, together with other available money, will be used by the Institute (i) to pay a portion of the costs of the Series 2024 Project (as defined and described below), (ii) to pay capitalized interest on the Series 2024 Bonds for approximately sixteen months and (iii) to pay the Costs of Issuance incidental to the issuance of the Series 2024 Bonds. See “PART 7 – THE SERIES 2024 PROJECT” and “PART 8 – ESTIMATED SOURCES AND USES OF FUNDS” herein.

Authorization of Issuance

The Series 2024 Bonds will be issued pursuant to DASNY’s New York Institute of Technology Revenue Bond Resolution, adopted February 14, 2024 (the “Resolution”), DASNY’s Series Resolution 2024-1 Authorizing Up to \$105,000,000 New York Institute of Technology Revenue Bonds, adopted February 14, 2024 (the “Series 2024 Resolution”), the Certificate of Determination, dated as of February 27, 2024, relating to the Series 2024 Bonds (the “Series 2024 Certificate of Determination”) and the Dormitory Authority Act, being Chapter 524 of the Laws of New York of 1944, as amended (the “Act”). The Resolution, the Series 2024 Resolution and the Series 2024 Certificate of Determination are collectively referred to herein as the “Resolutions.” In addition to the Series 2024 Bonds, the Resolution authorizes the issuance of other Series of Bonds (collectively, the “Bonds”) to, among other things, pay Costs of one or more Projects, to pay the Costs of Issuance of such Series of Bonds, to refund all or a portion of Outstanding Bonds or other notes or bonds of DASNY that were issued on behalf of the Institute, and to refinance other indebtedness of the Institute. Each Series of Bonds will be separately secured under the Resolution from each other Series of Bonds. Subject to compliance with the conditions to the Institute’s ability to incur additional debt, there is no limit on the amount of additional Bonds that may be issued under the Resolution, which Bonds may be issued at any time after the scheduled delivery date of the Series 2024 Bonds. Additional indebtedness secured on a parity with the security interest in the Pledged Revenues is permitted in certain circumstances as described in the Loan Agreement. See “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS – Issuance of Additional Bonds” and “PART 3 – THE SERIES 2024 BONDS” herein.

DASNY

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

The Institute

The Institute is a private, non-profit, comprehensive institution of higher education, chartered by the Board of Regents of the University of the State of New York in 1955. The Institute operates two primary campuses in New York and is host to more than 7,500 students worldwide, including additional locations in Arkansas, Vancouver (Canada) and China. See “PART 5 – THE INSTITUTE” herein and “APPENDIX B – CONSOLIDATED FINANCIAL STATEMENTS OF NEW YORK INSTITUTE OF TECHNOLOGY WITH INDEPENDENT AUDITORS’ REPORT THEREON” attached hereto.

The Series 2024 Bonds

The Series 2024 Bonds are dated their date of delivery and bear interest from such date, payable July 1, 2024, and on each January 1 and July 1 thereafter, at the rates and maturities set forth on the inside cover page of this Official Statement. See “PART 3 – THE SERIES 2024 BONDS – Description of the Series 2024 Bonds” herein.

Payment of the Series 2024 Bonds

The Series 2024 Bonds are special limited obligations of DASNY payable solely from the Pledged Revenues (as defined below), which consist of certain payments to be made by the Institute under the Loan Agreement, dated as of the date of issuance of the Series 2024 Bonds, between the Institute and DASNY (the “Loan Agreement”), which payments are pledged and assigned to Manufacturers and Traders Trust Company, as trustee (the “Trustee”) pursuant to an Assignment, dated as of the date of issuance of the Series 2024 Bonds, from DASNY to the Trustee (the “Assignment”). See “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS – Payment of the Series 2024 Bonds” herein.

The Series 2024 Bonds will not be a debt of the State of New York (the “State”) nor will the State be liable on them. DASNY has no taxing power. Neither the State nor DASNY has any responsibility to make payments with respect to the Series 2024 Bonds except for DASNY’s responsibility to make payments from money received from the Institute pursuant to the Loan Agreement and from amounts held in the funds and accounts established by the Resolutions and pledged to the payment of or to secure payment of the Series 2024 Bonds.

Security for the Series 2024 Bonds

The Series 2024 Bonds are secured by the Pledged Revenues, the proceeds of such Series 2024 Bonds until disbursed in accordance with the Resolutions and all funds and accounts established by the Resolution and the Series 2024 Resolution in connection with the Series 2024 Bonds (other than the Arbitrage Rebate Fund).

The Loan Agreement is a general obligation of the Institute. As security for its obligations under the Loan Agreement, the Institute will enter into a Security Agreement, dated as of the date of issuance of the Series 2024 Bonds, between the Institute and DASNY (the “Security Agreement”), pursuant to which the Institute will grant to DASNY a security interest in all receipts, revenues, income and other moneys received or receivable by or on behalf of the Institute, including, without limitation, tuition, fees, gifts, grants, bequests, contributions, donations and pledges whether in the form of money, securities or other personal property, revenues derived from the operation of the facilities of the Institute, and all rights to receive the same, whether in the form of accounts, payment intangibles, contract rights, general intangibles, healthcare insurance receivables, chattel paper, deposit accounts, instruments, promissory notes or other rights, and the proceeds thereof, as such terms are presently or hereafter defined in the Uniform Commercial Code in effect from time to time in the State, and any insurance thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Institute (the “Pledged Revenues”); provided, however, that Pledged Revenues shall not include any (i) revenues of the medical clinic received or receivable by or on behalf of the Institute; (ii) student health, dental, tuition and other insurances, to the extent that those revenues are pass-throughs to third-party service providers with contracts obligating them to serve the Institute’s students; (iii) gifts, grants, scholarships, fellowships, bequests, donations and/or contributions heretofore or hereafter made, designated at the time of making thereof by the donor or maker as being for certain specific purposes inconsistent with the payment of debt service on the Bonds, and the income derived therefrom, to the extent required by virtue of such designation; or (iv) gifts, grants, scholarships, fellowships, bequests, donations and/or contributions heretofore or hereafter made, designated at the time of making thereof by the donor or maker as being restricted for use solely during a specific period of time, which time restrictions may inconsistent with the payment of debt service on the Bonds during any particular period of time, and the income derived therefrom, to the extent required by virtue of such designation. Upon the

issuance of the Series 2024 Bonds, DASNY will pledge and assign to the Trustee for the benefit of the Bondholders its security interest in the Pledged Revenues pursuant to the Assignment. The Loan Agreement permits the Institute to incur, subject to certain conditions, certain Additional Indebtedness secured by a pledge of, or security interest in, the Pledged Revenues that is of equal priority with the pledge securing its obligations under the Loan Agreement. See “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS – Security for the Series 2024 Bonds” and “– Issuance of Additional Bonds” herein and “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” attached hereto.

Covenants

Pursuant to the Loan Agreement and for so long as the Series 2024 Bonds remain Outstanding, the Institute agrees to comply with certain covenants set forth in the Loan Agreement. Additional Indebtedness may be incurred by the Institute only in accordance with the terms of the Loan Agreement. For a description of such covenants and the limits on Additional Indebtedness, see “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS – Covenants – Additional Indebtedness” herein.

PART 2– SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS

Set forth below is a narrative description of certain contractual provisions relating to the source of payment of and security for the Series 2024 Bonds. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Act, the Loan Agreement, the Security Agreement, the Assignment, the Resolution, the Series 2024 Resolution and the Series 2024 Certificate of Determination. Copies of the Loan Agreement, the Security Agreement, the Assignment, the Resolution, the Series 2024 Resolution and the Series 2024 Certificate of Determination will be on file with DASNY and the Trustee. See also “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto for a more complete statement of the rights, duties and obligations of the parties thereto.

Payment of the Series 2024 Bonds

The Series 2024 Bonds will be special limited obligations of DASNY. The principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on the Series 2024 Bonds are payable solely from the Revenues, which consist of payments to be made by the Institute pursuant to the Loan Agreement on account of the principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on the Series 2024 Bonds. DASNY has pledged and assigned its rights to and interest in the Loan Agreement (other than Unassigned Rights and except for the moneys and investments from time to time in the Arbitrage Rebate Fund) to the Trustee as security for the payment of the principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on the Series 2024 Bonds, for the benefit of the Holders of the Series 2024 Bonds.

The Loan Agreement obligates the Institute to make payments to satisfy the principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on the Outstanding Series 2024 Bonds. Payments made by the Institute in respect of interest on the Series 2024 Bonds are to be made on the 10th day of each month, commencing on July 10, 2025, in an amount equal to one-sixth (1/6th) of the interest coming due on the Series 2024 Bonds on the immediately succeeding interest payment date therefor. Payments by the Institute in respect of principal of the Series 2024 Bonds, whether at maturity or through mandatory Sinking Fund Installments, are to be made on the 10th day of each month commencing July 10, 2026, in an amount equal to one-twelfth (1/12th) of the principal and Sinking Fund Installment on the Series 2024 Bonds coming due on the next succeeding July 1. The Loan Agreement also obligates the Institute to pay, except in the case of an optional redemption or a purchase in lieu of optional redemption which is subject to the condition that sufficient money is available on the redemption date or the purchase date, on or prior to the date any applicable notice of optional redemption or purchase in lieu of optional redemption is given, the amount, if any, required to pay the Redemption Price or Purchase Price of such Series 2024 Bonds. See “PART 3 – THE SERIES 2024 BONDS – Redemption Provisions” and “– Purchase in Lieu of Optional Redemption” herein.

DASNY has directed the Institute, and the Institute has agreed, to make such payments directly to the Trustee. Such payments are to be applied by the Trustee to the payment of the principal, Sinking Fund Installments, if any, Redemption Price or Purchase Price of and interest on the Series 2024 Bonds.

The Loan Agreement and the obligation of the Institute to make payments under the Loan Agreement are general obligations of the Institute. The obligations of the Institute to make payments or cause the same to be made under the Loan Agreement are absolute and unconditional and the amount, manner and time of making such payments are not to be decreased, abated, postponed or delayed for any cause or by reason of the happening or non-happening of any event, irrespective of any

defense or any right of set-off, recoupment or counterclaim which the Institute may otherwise have against DASNY, the Trustee or any Bondholder for any cause whatsoever.

Security for the Series 2024 Bonds

The Series 2024 Bonds are secured by the pledge of the Pledged Revenues, the proceeds of the Series 2024 Bonds until disbursed in accordance with the Resolution and, except as otherwise provided in the Resolution, all funds and accounts established by the Resolution and the Series 2024 Resolution in connection with the Series 2024 Bonds (other than the Arbitrage Rebate Fund).

The Loan Agreement is a general obligation of the Institute and obligates the Institute to pay, in addition to the fees and expenses of DASNY and the Trustee, amounts sufficient to pay, when due, the principal, Sinking Fund Installments, if any, Redemption Price and Purchase Price of and interest on the Series 2024 Bonds. The obligations of the Institute to make payments under the Loan Agreement will be secured by a pledge of the Pledged Revenues pursuant to the Security Agreement.

The Series 2024 Bonds will not be a debt of the State nor will the State be liable on them. DASNY has no taxing power. Neither the State nor DASNY has any responsibility to make payments with respect to the Series 2024 Bonds except for DASNY's responsibility to make payments from money received from the Institute pursuant to the Loan Agreement and from amounts held in the funds and accounts established pursuant to the Resolutions and pledged therefor.

As security for its obligations under the Loan Agreement, the Institute will grant to DASNY, pursuant to the Security Agreement, a security interest in the Pledged Revenues, which, pursuant to the Assignment, DASNY will pledge and assign to the Trustee for the benefit of the Holders of the Series 2024 Bonds. The Loan Agreement permits the Institute to incur, subject to certain conditions, certain Additional Indebtedness secured by a pledge of, or security interest in, the Pledged Revenues that is of equal priority with the pledge securing its obligations under the Loan Agreement. See "APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT" attached hereto.

Covenants

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

Rate Covenant (Debt Service Coverage Ratio)

Subject to any governmental restrictions, its fiduciary obligations and limitations imposed by law ("Legal Limitations"), the Institute agrees to charge and collect rates and charges which, together with any other moneys legally available to it, shall provide moneys sufficient at all times: (a) to make the payments required by the Loan Agreement and comply with the Loan Agreement in all other respects, and (b) to satisfy all other obligations of the Institute in a timely fashion. Without limiting the generality of the foregoing and subject to Legal Limitations, the Institute shall charge and collect rates and charges that, together with any other moneys legally available to it in each Fiscal Year, will produce moneys at least sufficient to meet operating expenses for such Fiscal Year (excluding from revenues and expenses extraordinary items and excluding from expenses depreciation but including interest on and amortization of Long-Term Indebtedness).

The Institute will establish, charge and collect tuition, student fees and charges for services provided by the Institute and any auxiliary operations such that the Debt Service Coverage Ratio for each Fiscal Year shall be not less than 1.2:1. Within sixty (60) days after audited financial statements of the Institute are released for each Fiscal Year, the Institute shall furnish to the Trustee, DASNY and the Disclosure Dissemination Agent (as defined in the hereinafter defined Continuing Disclosure Agreement) a letter stating whether the Debt Service Coverage Ratio was met for such Fiscal Year. If the Institute fails to meet the foregoing covenant for any Fiscal Year, it shall promptly retain a Consultant to make a report and recommendation with respect to such tuition, student fees and other charges, and with regard to operations of the Institute. Upon receipt of such report and recommendation from the Consultant, the Institute shall within ninety (90) days of the receipt of such report and recommendation describe in writing to the Trustee, DASNY and the Disclosure Dissemination Agent what action, if any, the Institute shall take upon the report and recommendation of the Consultant. Notwithstanding any other provision of the Loan Agreement, failure to maintain the required Debt Service Coverage Ratio for any Fiscal Year shall not result in an Event of Default under the Loan Agreement unless (A) the Institute shall have failed to take the foregoing steps, (B) the Institute shall have failed to maintain the required Debt Service Coverage Ratio for two consecutive Fiscal Years, or (C) the Debt Service Coverage Ratio shall have been less than 1:1. The Debt Service Coverage Ratio shall not apply to any Indebtedness of the Institute that is either Non-Recourse Indebtedness, or principal payments made by the Institute on any Credit Facility repayment, or any payments made by the Institute under any operating lease.

The Institute was subject to covenants under debt that was outstanding as of June 30, 2023; as of that date, the Institute's debt service coverage ratio was 10.49:1.0. Income available for debt service as of June 30, 2023 was \$31.7 million and annual debt service was \$3.0 million.

Additional Indebtedness

Except as otherwise described below, the Institute covenants that it will not issue, incur, assume or guarantee any Additional Indebtedness.

The Institute may issue, incur, assume or guarantee Additional Indebtedness (including additional Bonds) if either of the following conditions are satisfied: (1) the amount of additional Long-Term Indebtedness issued in any Fiscal Year is less than or equal to 10% of the value of the Institute's net assets without donor restrictions plus net assets with donor restrictions for purpose or time as reported on the most recent annual audited financial statements of the Institute, or (2) if the amount of such new Long-Term Indebtedness issued is in excess of 10% of the value of the Institute's net assets without donor restrictions plus net assets with donor restrictions for purpose or time as reported on the most recent annual audited financial statements of the Institute, then the Institute must provide a certificate of an Authorized Officer of the Institute and pro forma calculations to the Trustee, DASNY and the Disclosure Dissemination Agent demonstrating that the Institute's required Debt Service Coverage Ratio would have been met, based on the annual audited financial statements of the Institute for the most recently ended Fiscal Year, except as noted below, taking into account the Debt Service Requirement on the Additional Indebtedness, provided that, for purposes of calculating such pro forma Debt Service Coverage Ratio, the Institute's projected Maximum Annual Debt Service shall be used to determine compliance instead of the then-applicable Debt Service Requirement, and provided further that, if the Additional Indebtedness is to finance a project or asset that is expected to generate additional revenues, then such revenues, net of anticipated expenses, may be included in the pro forma calculations of the Debt Service Coverage Ratio requirement.

Additional Indebtedness issued, incurred, assumed or guaranteed in accordance with the conditions described in the paragraph immediately above may be secured by a security interest in the Pledged Revenues on parity with the security interest in the Pledged Revenues securing the Loan Agreement, subject to the prior execution and delivery of a commercially reasonable parity Intercreditor Agreement.

Notwithstanding the foregoing, the Institute may issue, incur, assume or guaranty (i) Non-Recourse Indebtedness without limitation provided that any assets pledged as collateral or for the repayment of such Indebtedness must have been acquired by the Institute after the issuance of the Series 2024 Bonds, (ii) Refunding Indebtedness without limitation so long as the Institute provides the certificate noted above in subsection (2) demonstrating that the Institute's required Debt Service Coverage Ratio would have been met for the most recently ended Fiscal Year, and (iii) Short-Term Indebtedness in an amount up to \$30,000,000.

Liquidity Covenant

So long as the Series 2024 Bonds remain Outstanding, within sixty (60) days after audited financial statements of the Institute are released for each Fiscal Year, the Institute shall furnish to Trustee, DASNY and the Disclosure Dissemination Agent a letter confirming that available assets as of the end of such Fiscal Year are at least equal to 40% of outstanding Long-Term Indebtedness. For purposes of the foregoing, "available assets" means the sum of all cash and cash equivalents, investments and assets held by or for the benefit of the Institute, including amounts held by any trustees under bond indenture agreements (exclusive of amounts held by trustees attributable to Non-Recourse Indebtedness) and other reserve funds held by any trustee or Credit Facility provider in respect of any Credit Facilities, less all funds held in perpetuity by the Institute, all as shown on the audited financial statements of the Institute, determined in accordance with generally accepted accounting principles then applicable to the Institute. If the Institute fails to meet the foregoing covenant for two consecutive Fiscal Years it shall promptly retain a Consultant to make a report and recommendation with respect to such available assets and with regard to operations of the Institute. Notwithstanding any other provision of the Loan Agreement, however, failure to maintain the foregoing minimum ratio shall not result in an Event of Default under the Loan Agreement.

For a more complete description of the financial covenants of the Institute contained in the Loan Agreement and the defined terms used herein, see "APPENDIX A – CERTAIN DEFINITIONS" and "APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT" attached hereto.

Further Encumbrances

The Institute covenants and agrees in the Loan Agreement not to create or permit any additional Liens on the Main Campus, except for: (i) Permitted Encumbrances, or (ii) mortgages and/or security agreements that encumber the Main Campus in order to secure Additional Indebtedness, provided that the Institute contemporaneously grants to DASNY and the Trustee as further security for the Series 2024 Bonds a Mortgage and/or Security Agreement of equal priority with any such mortgage or

security agreement securing the Additional Indebtedness, which then shall constitute Shared Collateral and which shall be subject to an Intercreditor Agreement. See “APPENDIX A – CERTAIN DEFINITIONS” and “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” attached hereto.

Events of Default and Acceleration

An event of default under the Resolution with respect to the Series 2024 Bonds will exist if: (i) payment of the principal, Sinking Fund Installments, if any, or Redemption Price of any Series 2024 Bond shall not be made by DASNY when the same shall otherwise become due and payable; (ii) payment of an installment of interest on any Series 2024 Bond shall not be made by DASNY when the same shall become due and payable; (iii) a Determination of Taxability shall have occurred and be continuing; (iv) DASNY shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Resolution, the Series 2024 Bonds, or the Series 2024 Resolution on the part of DASNY to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to DASNY by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than 25% in principal amount of the Outstanding Series 2024 Bonds, or if such default is not capable of being cured within thirty (30) days, if DASNY fails to commence within said thirty (30) days and diligently prosecute the cure thereof; or (v) an “event of default” under the Loan Agreement shall have occurred and be continuing and all sums payable by the Institute under the Loan Agreement has been declared immediately due and payable, which declaration shall not have been annulled. Unless otherwise specified above, an event of default under the Loan Agreement is not an event of default under the Resolution.

The Resolution provides that if an event of default (other than as described in clause (iii) of the preceding paragraph) occurs and continues, the Trustee, upon the written request of Holders of not less than 25% in principal amount of the Outstanding Series 2024 Bonds will, by notice in writing to DASNY and each Rating Service then rating the Outstanding Series 2024 Bonds, declare the principal of and interest on all of the Outstanding Series 2024 Bonds to be immediately due and payable. At the expiration of thirty (30) days after notice of such declaration has been given, such principal and interest on all of the Outstanding Series 2024 Bonds will become immediately due and payable. At any time after the principal of the Series 2024 Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy hereunder, the Trustee will, with the written consent of the Holders of not less than 25% in principal amount of the Series 2024 Bonds not then due by their terms and then Outstanding, by written notice to DASNY, annul such declaration and its consequences under the terms and conditions specified in the Resolution with respect to such annulment. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

The Resolution provides that the Trustee is to give notice in accordance with the Resolution of each event of default known to the Trustee to the Institute within five (5) days, and to the Holders within thirty (30) days, in each case after obtaining knowledge of the occurrence thereof, unless such event of default has been remedied or cured before the giving of such notice; provided, however, that, except in the case of default in the payment of principal, Sinking Fund Installments, if any, or Redemption Price of or interest on any of the Series 2024 Bonds, the Trustee will be protected in withholding such notice thereof to the Holders if and so long as the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Series 2024 Bonds.

Issuance of Additional Bonds

In addition to the Series 2024 Bonds, the Resolution authorizes the issuance of other Series of Bonds to finance one or more projects and for other specified purposes, including to refund Outstanding Bonds or other notes or bonds of DASNY issued on behalf of the Institute or other indebtedness of the Institute. Each Series of Bonds will be separately secured from each other Series of Bonds under the Resolution by the pledge and assignment to the Trustee of the applicable revenues and the funds and accounts established pursuant to the Resolution and the applicable series resolution. Subject to compliance with the conditions to the Institute’s ability to incur additional debt, there is no limit on the amount of additional Bonds that may be issued under the Resolution, which Bonds may be issued at any time after the scheduled delivery date of the Series 2024 Bonds. Additional Indebtedness secured on a parity with the security interest in the Pledged Revenues is permitted in certain circumstances as described in the Loan Agreement. See “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS – Covenants” and “PART 5 – THE INSTITUTE - Capital Plans” herein and “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” attached hereto.

General

The Series 2024 Bonds will not be a debt of the State and the State will not be liable on the Series 2024 Bonds. DASNY has no taxing power. DASNY has never defaulted in the timely payment of principal of or interest on any of its bonds or notes. See “PART 9 – DASNY.”

PART 3 – THE SERIES 2024 BONDS

Set forth below is a narrative description of certain provisions relating to the Series 2024 Bonds. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Resolution, the Series 2024 Resolution, the 2024 Certificate of Determination and the Loan Agreement, copies of which will be on file with DASNY and the Trustee. See also “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto for a more complete description of certain provisions of the Series 2024 Bonds.

Description of the Series 2024 Bonds

General

The Series 2024 Bonds will be issued pursuant to the Resolution and the Series 2024 Resolution.

The Series 2024 Bonds will be dated their date of delivery, and will bear interest from such date, payable July 1, 2024, and on each January 1 and July 1 thereafter, at the rates and maturities set forth on the inside cover page of this Official Statement. Interest on the Series 2024 Bonds will accrue based upon a 360-day year of twelve 30-day months. The Series 2024 Bonds will be issued as fully registered bonds. The Series 2024 Bonds will be issued in denominations of \$5,000 or any integral multiple thereof.

Interest on the Series 2024 Bonds will be payable by check or draft mailed to the registered owners thereof or, if such Series 2024 Bonds are held by a depository or, at the option of the registered owner of at least \$1,000,000 of such Series 2024 Bonds, by wire transfer to the wire transfer address within the continental United States to which the registered owner has instructed the Trustee to make such payment at least five (5) business days prior to an interest payment date. If the Series 2024 Bonds are not registered in the name of The Depository Trust Company, New York, New York (“DTC”) or its nominee, Cede & Co., the principal or Redemption Price of the Series 2024 Bonds will be payable in lawful money of the United States of America at the principal corporate trust office of Manufacturers and Traders Trust Company, the Trustee and Paying Agent. See “Book-Entry Only System” herein. For a more complete description of the Series 2024 Bonds, see “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto.

The Series 2024 Bonds will be registered in the name of Cede & Co., as nominee for DTC, pursuant to DTC’s Book-Entry Only System. Purchases of beneficial interests in the Series 2024 Bonds will be made in book-entry form, without certificates. So long as DTC or its nominee, Cede & Co., is the registered owner of the Series 2024 Bonds, payments of the principal, Sinking Fund Installments, Redemption Price and Purchase Price of and interest on the Series 2024 Bonds will be made by the Trustee directly to Cede & Co. Disbursement of such payments to the DTC Participants (as hereinafter defined) is the responsibility of DTC and disbursement of such payments to the Beneficial Owners of the Series 2024 Bonds is the responsibility of the DTC Participants and the Indirect Participants (as hereinafter defined). If at any time the Book-Entry Only System is discontinued for the Series 2024 Bonds, the Series 2024 Bonds will be exchangeable for fully registered Series 2024 Bonds in any authorized denominations of the same maturity without charge except the payment of any tax, fee or other governmental charge to be paid with respect to such exchange, subject to the conditions and restrictions set forth in the Resolution. “See “Book-Entry Only System” herein and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto.

For a more complete description of the Series 2024 Bonds, see “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto.

Redemption Provisions

The Series 2024 Bonds are subject to optional and mandatory redemption as described below. For a more complete description of the redemption provisions relating to the Series 2024 Bonds, see “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto.

Optional Redemption

The Series 2024 Bonds maturing on or before July 1, 2034 are not subject to optional redemption prior to maturity. The Series 2024 Bonds maturing after July 1, 2034 are subject to redemption prior to maturity at the option of DASNY upon direction of the Institute, on or after July 1, 2034, in any order, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount of the Series 2024 Bonds to be redeemed, plus accrued interest to the redemption date.

Mandatory Redemption

The Series 2024 Bonds maturing on July 1, 2049 and July 1, 2054 are subject to redemption, in part, through application of Sinking Fund Installments upon notice given as prescribed in the Resolution, at a Redemption Price equal to 100% of the principal amount of Series 2024 Bonds to be redeemed, plus accrued interest to the date of redemption. Unless none of the Series 2024 Bonds of a maturity to be so redeemed are then Outstanding and, subject to the provisions of the Resolution permitting amounts to be credited to part or all of any one or more Sinking Fund Installments, there shall be due and DASNY shall be required to pay for the retirement of the Series 2024 Bonds maturing on July 1 of each of the years set forth in the following tables, the amount set forth opposite such year:

Series 2024 Bonds Maturing on July 1, 2049

<u>Year</u>	<u>Principal Amount</u>
2045	\$4,095,000
2046	4,310,000
2047	4,535,000
2048	4,775,000
2049 [†]	5,025,000

[†]Final maturity.

Series 2024 Bonds Maturing on July 1, 2054

<u>Year</u>	<u>Principal Amount</u>
2050	\$5,290,000
2051	5,570,000
2052	5,860,000
2053	6,170,000
2054 [†]	6,490,000

[†]Final maturity.

There will be credited against and in satisfaction of the Sinking Fund Installment payable on any date, the principal amount of Series 2024 Bonds entitled to such Sinking Fund Installment (A) purchased with moneys in the Debt Service Fund pursuant to the Resolutions, (B) redeemed at the option of DASNY, (C) purchased by the Institute and delivered to the Trustee for cancellation or (D) deemed to have been paid in accordance with the Resolutions. Series 2024 Bonds purchased with moneys in the Debt Service Fund will be applied against and in fulfillment of the Sinking Fund Installment of the Series 2024 Bonds so purchased payable on the next succeeding July 1. Series 2024 Bonds redeemed at the option of DASNY, purchased by the Institute (other than from amounts on deposit in the Debt Service Fund) and delivered to the Trustee for cancellation or deemed to have been paid in accordance with the Resolutions will be applied in satisfaction, in whole or in part, of one or more Sinking Fund Installments as the Institute may direct in its discretion.

Selection of Bonds to be Redeemed

In the case of redemption, DASNY, at the direction of the Institute, will select the maturities of such Series 2024 Bonds to be redeemed. If less than all Series 2024 Bonds within a maturity are to be redeemed, as long as the Series 2024 Bonds are in book-entry form registered in the name of Cede & Co., as nominee of DTC, DTC will determine by lot the amount of the interest of each DTC Direct Participant in such maturity to be redeemed. If the Series 2024 Bonds are no longer in book-entry form registered in the name of Cede & Co., as nominee of DTC, the Series 2024 Bonds or portions thereof to be redeemed

shall be selected for redemption by the Trustee, by lot, using such method of selection as the Trustee shall consider proper in its discretion.

Notice of Redemption

The Trustee is to give notice of the redemption of the Series 2024 Bonds in the name of DASNY, by mail, postage prepaid, not less than 20 days nor more than 45 days prior to the redemption date to each registered owner of any Series 2024 Bonds that are to be redeemed, at such person's address, if any, appearing upon the registry books of DASNY or if the Series 2024 Bonds are book-entry, by giving notice in accordance with the operational procedures of DTC and to EMMA. Any notice of redemption given which states that it is conditional upon receipt by the Trustee of money sufficient to pay the Redemption Price of such Series 2024 Bonds or upon the satisfaction of any other condition, may be rescinded at any time before payment of such Redemption Price if any such condition so specified is not satisfied. Upon giving such notice, the Trustee shall promptly certify to DASNY that it has mailed or caused to be mailed such notice to the owners of the Series 2024 Bonds to be redeemed in the manner provided in the Resolution. Such certificate shall be conclusive evidence that such notice was given in the manner required in the Resolution. The failure of any owner of a Series 2024 Bond to be redeemed to receive notice of redemption will not affect the validity of the proceedings for the redemption of such Series 2024 Bond.

If on the redemption date, moneys for the redemption of the Series 2024 Bonds to be redeemed, together with interest thereon to the redemption date, are held by the Trustee so as to be available for payment of the redemption price, and if notice of redemption has been mailed, then interest on the Series 2024 Bonds of such maturity will cease to accrue from and after the redemption date and such Series 2024 Bonds will no longer be considered to be Outstanding.

Purchase in Lieu of Optional Redemption

The Series 2024 Bonds are also subject to purchase in lieu of optional redemption prior to maturity at the election of the Institute, with the prior written consent of DASNY, on the same terms that apply to the Series 2024 Bonds subject to optional redemption, as set forth in the Resolutions.

Notice of purchase of the Series 2024 Bonds will be given in the name of the Institute to the registered owners of the Series 2024 Bonds to be purchased by first-class mail, postage prepaid, not less than twenty (20) days nor more than forty-five (45) days prior to the Purchase Date specified in such notice. The Series 2024 Bonds to be purchased are required to be tendered on the Purchase Date to the Trustee. Series 2024 Bonds to be purchased that are not so tendered will be deemed to have been properly tendered for purchase. If the Series 2024 Bonds are called for purchase in lieu of an optional redemption, such purchase will not extinguish the indebtedness of DASNY evidenced thereby or modify the terms of the Series 2024 Bonds. Such Series 2024 Bonds need not be cancelled, and will remain Outstanding under the Resolution and continue to bear interest.

The Institute's obligation to purchase a Series 2024 Bond to be purchased or cause it to be purchased is conditioned upon the availability of sufficient money to pay the Purchase Price for all of the Series 2024 Bonds to be purchased on the Purchase Date. If sufficient money is available on the Purchase Date to pay the Purchase Price of the Series 2024 Bonds to be purchased, the former registered owners of such Series 2024 Bonds will have no claim thereunder or under the Resolution or otherwise for payment of any amount other than the Purchase Price. If sufficient money is not available on the Purchase Date for payment of the Purchase Price, the Series 2024 Bonds tendered or deemed tendered for purchase will continue to be registered in the name of the registered owners on the Purchase Date, who will be entitled to the payment of the principal of and interest on such Series 2024 Bonds in accordance with their respective terms.

If not all of the Outstanding Series 2024 Bonds of a maturity are to be purchased, the Series 2024 Bonds of such maturity to be purchased will be selected in the same manner as Series 2024 Bonds of a maturity to be optionally redeemed in part are to be selected.

For a more complete description of the redemption and other provisions relating to the Series 2024 Bonds, see "APPENDIX D — SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION". See also "Book-Entry Only System" below for a description of the notices of redemption to be given to Beneficial Owners of the Series 2024 Bonds when the Book-Entry Only System is in effect.

Book-Entry Only System

DTC will act as securities depository for the Series 2024 Bonds. The Series 2024 Bonds will be issued as fully-registered securities in the name of Cede & Co. (DTC's partnership nominee), or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2024 Bond certificate will be issued for each maturity of the Series 2024 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest security 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 securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, and 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 S&P Global Ratings rating of AA+. The DTC Rules applicable to its Direct or Indirect Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the 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 each Series 2024 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 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 certificates representing their ownership interests in the 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 reflect 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.

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 the 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 DASNY as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2024 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 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 DASNY or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Direct or Indirect Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Underwriter, the Trustee, the Institute or DASNY, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of DASNY or the Trustee,

disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DASNY and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2024 Bonds registered in its name for the purposes of payment of the principal and redemption premium, if any, of, or interest on, the Series 2024 Bonds, giving any notice permitted or required to be given to a registered owners under the Resolution, registering the transfer of the Series 2024 Bonds, or other action to be taken by registered owners and for all other purposes whatsoever. DASNY and the Trustee shall not have any responsibility or obligation to any Direct or Indirect Participant, any person claiming a beneficial ownership interest in the Series 2024 Bonds under or through DTC or any Direct or Indirect Participant, or any other person which is not shown on the registration books of DASNY (kept by the Trustee) as being a registered owner, with respect to the accuracy of any records maintained by DTC or any Direct or Indirect Participant; the payment by DTC or any Direct or Indirect Participant of any amount in respect of the principal, redemption premium, if any, or interest on the Series 2024 Bonds; any notice which is permitted or required to be given to registered owners thereunder or under the conditions to transfers or exchanges adopted by DASNY; or other action taken by DTC as registered owner. Interest, redemption premium, if any, and principal will be paid by the Trustee to DTC, or its nominee. Disbursement of such payments to the Direct or Indirect Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the Direct or Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2024 Bonds at any time by giving reasonable notice to DASNY and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, the Series 2024 Bond certificates are required to be printed and delivered.

DASNY may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, the Series 2024 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that DASNY believes to be reliable, but DASNY takes no responsibility for the accuracy thereof.

Each person for whom a Direct or Indirect Participant acquires an interest in the Series 2024 Bonds, as nominee, may desire to make arrangements with such Participant to receive a credit balance in the records of such Direct or Indirect Participant, and may desire to make arrangements with such Direct or Indirect Participant to have all notices of redemption or other communications of DTC, which may affect such persons, to be forwarded in writing by such Participant and to have notification made of all interest payments. **NONE OF DASNY, THE TRUSTEE, THE INSTITUTE OR THE UNDERWRITER WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH DIRECT OR INDIRECT PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2024 BONDS.**

So long as Cede & Co. is the registered owner of the Series 2024 Bonds, as nominee for DTC, references herein to the Bondholders or registered owners of the Series 2024 Bonds (other than under the caption "PART 12 – TAX MATTERS" herein) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Series 2024 Bonds.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference only relates to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they will be sent by the Trustee to DTC only.

For every transfer and exchange of Series 2024 Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

NONE OF DASNY, THE TRUSTEE, THE INSTITUTE OR THE UNDERWRITER WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS OR ANY BENEFICIAL OWNER WITH RESPECT TO: (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2024 BONDS UNDER THE RESOLUTIONS; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2024 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2024 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2024 BONDS; OR (VI) ANY OTHER MATTER.

PART 4 – PRINCIPAL AND INTEREST REQUIREMENTS

The following table sets forth the amounts, after giving effect to the issuance of the Series 2024 Bonds, required to be paid by the Institute during each twelve month period ending June 30 of the Bond Years shown for the principal of and interest on the Series 2024 Bonds, which, as of the issuance date, represents all of the Institute's bond debt.

12 Month Period Ending on June 30	Series 2024 Bonds		Total⁽¹⁾
	Principal Payments	Interest Payments	
2024	--	\$1,524,839	\$1,524,839
2025	--	5,130,300	5,130,300
2026	--	5,130,300	5,130,300
2027	\$1,700,000	5,130,300	6,830,300
2028	1,785,000	5,045,300	6,830,300
2029	1,875,000	4,956,050	6,831,050
2030	1,970,000	4,862,300	6,832,300
2031	2,070,000	4,763,800	6,833,800
2032	2,175,000	4,660,300	6,835,300
2033	2,280,000	4,551,550	6,831,550
2034	2,395,000	4,437,550	6,832,550
2035	2,515,000	4,317,800	6,832,800
2036	2,640,000	4,192,050	6,832,050
2037	2,775,000	4,060,050	6,835,050
2038	2,910,000	3,921,300	6,831,300
2039	3,055,000	3,775,800	6,830,800
2040	3,210,000	3,623,050	6,833,050
2041	3,370,000	3,462,550	6,832,550
2042	3,540,000	3,294,050	6,834,050
2043	3,715,000	3,117,050	6,832,050
2044	3,900,000	2,931,300	6,831,300
2045	4,095,000	2,736,300	6,831,300
2046	4,310,000	2,521,313	6,831,313
2047	4,535,000	2,295,038	6,830,038
2048	4,775,000	2,056,950	6,831,950
2049	5,025,000	1,806,263	6,831,263
2050	5,290,000	1,542,450	6,832,450
2051	5,570,000	1,264,725	6,834,725
2052	5,860,000	972,300	6,832,300
2053	6,170,000	664,650	6,834,650
2054	6,490,000	340,725	6,830,725

⁽¹⁾ Totals may not foot due to rounding.

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PART 5 – THE INSTITUTE

New York Institute of Technology is a private, non-profit, comprehensive institution of higher education, chartered by the Board of Regents of the University of the State of New York in 1955. New York Institute of Technology offers many degree programs, including undergraduate, graduate and professional degrees, in more than 50 fields of study.

New York Institute of Technology operates six academic colleges and schools: College of Arts and Sciences; College of Engineering and Computing Sciences; College of Osteopathic Medicine (“NYITCOM”); School of Architecture and Design; School of Health Professions; and School of Management. The Institute also offers degree granting programs in collaboration with selected foreign universities as well as non-credit and professional development programs.

New York Institute of Technology operates two campuses in the metro New York region; a suburban campus in Old Westbury in Nassau County and the second in Manhattan at 61st Street and Broadway (combined as the “New York campuses”). The Institute also operates a location of its medical school on the campus of Arkansas State University in Jonesboro, Arkansas and academic programs internationally in Canada and China. Total enrollment across all campuses and programs exceeds 7,500 students.

New York Institute of Technology enrolls students on its New York and online campuses from 42 states and 74 countries, but the Institute is primarily a commuter school that competes predominantly with other regional public and private institutions located in the area.

New York Institute of Technology has more than 114,000 alumni who have graduated from its New York campuses and global sites, and consistently receives high rankings for its academic programs and diversity by respected rankings agencies such as *U. S. News & World Report*, *the Chronicle of Education*, and *the Georgetown University Center on Education and the Workforce*.

- For the past decade, New York Institute of Technology has been consistently ranked among the Best Regional Universities (North) by U.S. News & World Report, and in 2023 received its highest rank of number 21. The Institute was also recognized in 2023 as a Top Performer in Social Mobility, Best College for Veterans, and for Best Value Schools (North).
- In the 2023 U.S. News & World Report rankings, the Institute’s College of Engineering and Computing Sciences programs in Computer Science and Engineering were among the best in the United States.
- The Georgetown University Center on Education and the Workforce recognized the Institute as being in the top 2% of U.S. colleges for return on investment for low-income students. This rank placed the Institute #1 among Long Island institutions and #9 among 216 New York State institutions.

The Mission of the New York Institute of Technology

Since 1955, New York Institute of Technology has pursued its mission to:

- Provide career-oriented professional education
- Give all qualified students access to opportunity
- Support research and scholarship that benefit the larger world

Strategic Plan

NYIT recently developed a five-year strategic action plan, “New York Tech: Innovation in Action” through a collaborative effort of faculty, staff, students, alumni, and administrators. Approved by the Board of Trustees on March 16, 2022, implementation formally started in August 2022 and will conclude in June 2027. The plan highlights three cross-cutting themes that should be integrated across all strategic work - equity consciousness, operational efficiency and resource effectiveness, and digital transformation. The plan includes four priority areas for action: optimize student success, drive innovation and discovery with diverse talent, sharpen institutional identity, and fortify institutional viability. NYIT’s budgeting, continuous improvement, and planning processes all incorporate the plan objectives to ensure alignment, and each school/college and administrative office is actively working on actions recommended in the plan. Additionally, a cross-unit, cross-campus team of faculty, staff, students, and key administrators, the Strategic Plan Action Team, supports and/or develops projects recommended in the plan and collectively ensures the plan’s implementation. The plan includes 37 strategies and 115 recommended actions. To date, at least 80% of the plan strategies have already been engaged.

In year one of implementation, the Strategic Plan Action Team supported and/or funded the expansion of programs that promote student retention and graduation (e.g., peer success guides, peer tutors, and supplemental instructors), student sense of belonging (e.g., increased recreational opportunities for students and expanding student celebratory events), and faculty and staff development (e.g., communities of practice in which faculty focused on ways to develop skills and approaches in teaching and research; academic technology staff developed video resources for making teaching materials more accessible). The teams also addressed strategic ways to build mission-aligned community partnerships (e.g., working with a consultant to identify best practices to track partnerships and providing seed funding for a classroom re-design project with NYIT faculty and students at local middle schools). In year two, teams are assessing programs using key performance indicators and identifying new pilot opportunities (including a fund to support student travel to leadership and research conferences). In years two and three, the team is anticipated to develop larger-scale strategic approaches based on successful pilots. Throughout the plan, the Strategic Plan Action Team will evaluate its structure and function, and how to build on initial work to refine the goals and vision of NYIT in preparation for the next plan.

Capital Plans

In recent years, the Institute has spent approximately \$16 million to \$18 million annually on capital projects at its New York campuses, primarily in the areas of infrastructure improvements, academic and research space renovations, and technology upgrades.

A portion of the proceeds of the Series 2024 Bonds will be used to finance the costs of (i) a complete interior renovation of a former classroom building to create the Institute's new 20,000 square foot Biomedical Research Innovation and Imaging Center on the Long Island campus; (ii) infrastructure, façade, roof, mechanical system, flood mitigation, security and code compliance upgrades on both the Long Island and New York City campuses; (iii) interior renovations on both campuses of academic and administrative spaces, including labs, classrooms, offices and libraries; (iv) renovations of student and athletic spaces including lounges, locker rooms, athletic fields, and ball courts; and (v) various other renovation and deferred maintenance projects across the Institute's New York campuses.

The Institute has a multi-year, \$200 million capital and IT investment plan that relies on funding from the Series 2024 Bonds and institutional sources. Institutional sources include NYIT's up to \$60 million from depreciation budget lines and planned operating surpluses, \$25 million to \$30 million in capital reserves (operating investment reserves); and up to \$20 million in working capital. The Institute has planned its cash outlays over a three to four year period in a manner that it is not expected to have a negative impact on cash and liquidity. Projects funded from institutional sources include IT projects, improvements to leased properties, and capital projects with useful lives of fifteen years or less.

Accreditations

New York Institute of Technology has regional accreditation from the Commission on Higher Education of the Middle States Association of Colleges and Schools ("MSCHE") and has received the necessary approvals from local governing bodies at all of the Institute's global sites. Many New York Institute of Technology programs also enjoy specialized or professional accreditation including accreditation from the following organizations:

- AACSB International (The Association to Advance Collegiate Schools of Business)
- Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association
- Accreditation Review Commission on Education for the Physician Assistant, Inc.
- AOA Commission on Osteopathic College Accreditation
- Commission on Accreditation in Physical Therapy Education
- Commission on Collegiate Nursing Education
- Computing Accreditation Commission of the Accreditation Board for Engineering and Technology
- Council for Accreditation of Counseling & Related Educational Programs
- Council for the Accreditation of Educator Preparation
- Council for Interior Design Accreditation
- Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET)
- Engineering Technology Accreditation Commission of ABET
- National Architectural Accrediting Board

New York Institute of Technology's global sites have received accreditation from the following agencies:

- Ministry of Education (China)
- Ministry of Advanced Education, Skills and Training (British Columbia, Canada)

Program Review

New York Institute of Technology is committed to supporting the continuous cycle of data-informed reflection, analysis, and program improvement. Periodic program reviews are critical to ensuring our academic programs are relevant, successful, and mission-aligned, in addition to meeting MSCHE accreditation standards, and maintaining compliance with NYS Board of Regents and Executive Policies. The reviews are opportunities for departments to assess program mission, goals, strengths, needs, and areas for improvement to ensure our programs support student learning and success.

Periodic program reviews are scheduled according to a ten-year cycle, with the exception of programs offered at the Vancouver campus. Vancouver programs participate in NYIT's program review cycle as well as in self-studies for the Canadian Ministry based on the cycle established by the Ministry. In addition, NYIT's Office of Research, Assessment, and Decision Support produces a program performance dashboard at the start of each academic semester. Any programs whose performance falls below a certain defined threshold in a key indicator will be required to conduct a program review, regardless of the schedule or whether they are externally accredited.

Governance and Administration

The governance structure promotes the mission, goals, and objectives of New York Institute of Technology and oversees the procurement and use of its resources and assets. The governance of the Institute is accomplished by cooperative interaction among several bodies and functions, principally:

- *The Board of Trustees.* Acting as a body, it is the final governing authority of New York Institute of Technology and its constituent parts.
- *The President and Senior Management.* This group consists of the President and Chief Executive Officer; Provost and Executive Vice President; Vice President for Financial Affairs, Chief Financial Officer and Treasurer; General Counsel and Vice President for Human Resources; Vice President for Enrollment Management and Strategic Communications; Vice President for Development, Alumni Relations and External Affairs; Vice President for Information Technology and Chief Information Officer/Chief Information Security Officer; Vice President for Capital Planning and Facilities; and Vice President for Equity and Inclusion and Chief Medical Officer.
- *Academic Deans.* Deans are responsible for education programs and degrees in their respective schools.
- *The Academic Senate.* This is a governing body that includes broad faculty representation as well as certain members of senior management. It develops programs and policy recommendations consistent with the mission, strategies, and objectives of the Institute, and advises the President and the Board of Trustees.

Board of Trustees

The Board of Trustees secures the leadership and facilities necessary to provide sound educational programs, establishes policies, monitors plans to implement those policies, ensures that adequate funds are available, and conserves the assets of New York Institute of Technology. Among other things, the Board approves the annual budget, faculty granting of tenure, the acquisition and disposition of real property, and investment of endowment assets. The Board meets at least quarterly, and its standing committees – Executive, Finance, Investment, Audit, Development, Nominating & Governance, Building & Facilities, and Program & Personnel – as well as a new ad hoc committee on Entrepreneurship & Innovation, meet quarterly or as deemed necessary.

The number of trustees may range from a minimum of twelve to a maximum of twenty-five. Members of the Board of Trustees are elected for an initial two-year term and may be re-elected to subsequent terms of four years. No Trustee whose initial election to the Board occurred after December 1, 2005 may serve more than fourteen consecutive years as a Trustee, subject to possible extension by a supra-majority vote.

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The following table lists the current members of the Board and their principal business affiliations.

Ms. Catherine Allen
Founder and Chief Executive Officer
The Santa Fe Group

Mr. Andrew Berner
President
Jetton General Contracting

Mr. Domenick Chieco (B.S.A.T. '89)
Co-Chairman, Board of Directors
Milrose Consultants

Mr. Peter Ferentinos
Chief Executive Officer
Qualco, Inc.

Dr. Dan Ferrara, D.O., *Vice Chair* (D.O. '86)
Northeast Regional President
Alteon Health

Mr. Henry Iervolino (B.S. '82)
President and Chief Executive Officer
HJI Real Estate Management, LLC

Mr. Santhosh I. Keshavan
Executive Vice President and Chief Information Officer
Voya Financial

Mr. John R. Keville (B.S. '88)
Office Managing Partner
Sheppard Mullin

Mr. Michael J. Merlo, *Vice Chair*
Former Chief Credit Officer
Signature Bank

Mr. Ted Moudis (B.S.A.T. '80)
Founder and Senior Principal
Ted Moudis Associates

Dr. Patrick M. O'Shaughnessy (D.O. '99)
President and Chief Executive Officer
Catholic Health

Mr. Monte N. Redman (B.S. '81)
Former President and Chief Executive Officer
Astoria Bank

Mr. Peter J. Romano, *Chair* (B.Arch. '76)
President
Peter J. Romano & Company

Mr. Thomas Van Laan (M.B.A. '84)
Chief Executive Officer
CloudCalc, Inc.

Ms. Debra Vogel (A.A.S. '85)
President and Chief Executive Officer
Paradigm Management, LLC

Mr. Eli Wachtel (B.S. '72)
Co-Chief Information Officer and Founding Member
Wachtel Capital, LLC

Mr. Robert Wild, Esq.
Chairman Emeritus/Founding Partner
Garfunkel Wild, P.C.

Dr. Henry C. Foley, President, ex officio

Administration

The President of the Institute is also the chief executive officer charged with the responsibility for all academic, administrative, financial and other activities, and with the execution of all policies established by the Board of Trustees.

The vice presidents report directly to the President. The Provost and Executive Vice President is the chief academic officer, responsible for the academic activities of the Institute in New York, Arkansas and abroad, the faculty, libraries, student affairs, research, medical clinics and community outreach. The Provost and Executive Vice President has been appointed to direct the implementation of New York Institute of Technology's strategic plan.

The Vice President for Financial Affairs, Chief Financial Officer and Treasurer is responsible for all financial as well as certain non-academic service areas of the Institute. The General Counsel, Vice President for Human Resources is responsible for overseeing all legal and human resource matters for New York Institute of Technology. The Vice President for Development, Alumni Relations, and External Affairs is responsible for government relations, alumni relations and events and works with the Board and President to solicit gifts to the Institute from individuals, corporations and foundations. The Vice President for Enrollment Management and Strategic Communications oversees student recruitment and admissions, financial aid, student accounts, registration, and marketing and communication. The Vice President for Information Technology and Chief Information Officer/Chief Information Security Officer is responsible for information technology and data security. The Vice President for Capital Planning and Facilities is responsible for capital improvements, facilities operations and security.

The Vice President for Equity and Inclusion and Chief Medical Officer is responsible for pursuing projects, activities, and programming that promote diversity, equity and inclusion, and for providing institutional guidance on communicable disease issues.

The principal administrative officers of the Institute are:

Henry C. Foley, Ph.D., President and Chief Executive Officer. Henry C. “Hank” Foley, Ph.D., is the fourth president of New York Institute of Technology. He joined the Institute in June 2017 after serving as interim chancellor of the University of Missouri-Columbia. Dr. Foley holds a bachelor’s degree from Providence College, master’s degree from Purdue University, and doctorate from Penn State, all in chemistry. An accomplished researcher who has dedicated more than 30 years toward advancing the study of nanotechnology, he holds 16 patents, has written more than 150 articles and a textbook, the second edition of which appeared in June 2021. In addition, Dr. Foley has mentored nearly 50 graduate and undergraduate thesis students, as well as postdoctoral fellows. Those who have conducted research with him now hold faculty positions at MIT, Kansas State, Michigan State, University of South Carolina, and Penn State, as well as senior research and management positions at corporations, consultancies, and startups. Dr. Foley is a fellow of the American Institute of Chemical Engineers, the Industrial and Engineering Chemistry Division of the American Chemical Society, the American Association for the Advancement of Science, and the National Academy of Inventors. Early in his career, he was selected as a National Science Foundation Presidential Career Awardee. In 2015, Dr. Foley was awarded an Honorary Doctor of Science by Providence College and, in 2017, earned the Distinguished Science Alumni Award from Purdue University. He has also been recognized as an outstanding alum of the College of Science at Pennsylvania State University. He is a trustee for Providence College, as well as a member of the board of the Commission on Independent Colleges & Universities in New York and the Long Island Regional Advisory Council on Higher Education. Dr. Foley also serves on the Board of Directors of the Lincoln Center Business Improvement District and the Long Island Association. In 2019, he received a Long Island Business News Executive Circle Award, and was named to the City & State New York Higher Education Power 100 list in 2021.

Jerry Balentine, D.O., FACOEP, FACEP, Provost and Executive Vice President. Jerry Balentine has served as vice president for health sciences and medical affairs since 2014, and as Provost and EVP since 2022. Before joining New York Institute of Technology he served as chief medical officer and executive vice president of St. Barnabas Hospital and Healthcare System in the Bronx. He held numerous other positions at St. Barnabas since 1992, including medical director, co-director of the department of emergency medicine, and residency director. Dr. Balentine has been a faculty member at New York Institute of Technology College of Osteopathic Medicine since 2009. A graduate of Philadelphia College of Osteopathic Medicine, he completed his internship at St. Joseph’s Hospital in Philadelphia and his emergency medicine residency at Lincoln Medical and Mental Health Center in the Bronx, where he served as chief resident. He earned his undergraduate degree from McDaniel College in Westminster, Md. Dr. Balentine has authored and edited many web and textbook chapters and serves as reviewer for multiple healthcare journals. He is also a medical author and editor for the WebMD network, which includes MedicineNet, eMedicineHealth, RxList, and WebMD.

Barbara J. Holahan, CPA, M.B.A., Vice President for Financial Affairs, Chief Financial Officer and Treasurer. Barbara J. Holahan joined the Institute as financial controller in 2014 and has served as vice president for financial affairs, chief financial officer, and treasurer since 2019. Ms. Holahan oversees institutional financial planning functions including accounting, treasury operations, investments, payroll, accounts payable, purchasing, and operating and capital budgets. She works closely with other departments on shared business functions such as risk management, residence halls, fringe benefits and dining services. Before joining the Institute, Ms. Holahan was controller at the Metropolitan Opera, and associate treasurer and associate controller at Columbia University. She began her career as an auditor at KPMG and has worked as an independent consultant for the Wildlife Conservation Society (Bronx Zoo and NY Aquarium) and controller at other New York City area non-profits, providing services in audit, accounting, compliance, process re-engineering, policy writing, and FEMA disaster recovery management. She has an M.B.A. from Molloy University and a B.S. in Accounting from the University of Richmond. She is a member of the AICPA and NYSSCPA.

Pennie Turgeon, M.B.A., Vice President for Information Technology and Chief Information Officer/Chief Information Security Officer. Pennie Turgeon assumed her role at New York Institute of Technology in 2019. She is responsible for administrative and academic information systems, academic technology support, high-performance computing, media services, technology-enhanced classrooms, videoconferencing and web streaming, web applications development, computing labs, help desk services, networks, systems, telecommunications, data management/analytics, and security/privacy policies. From 2006–2019, Ms. Turgeon was the Vice President for IT and CIO at Clark University as well as the university’s Chief Information Security/Privacy Officer. Prior to that, she was at Worcester Polytechnic Institute for 15 years where she built and cultivated technology-mediated learning environments as the Director of Academic Technology and Distance Learning. She also held positions at Texas Instruments as a systems developer and at IBM as a marketing sales assistant. Ms.

Turgeon holds a B.S. from Worcester State University and an M.B.A. with a concentration in Management Information Systems from Worcester Polytechnic Institute.

Patrick Minson, Ed.D., Vice President for Development, Alumni Relations, and External Affairs. Patrick Minson has served as vice president for development and alumni relations since 2018 and vice president for development, alumni, relations, and external affairs since July 2022. From 2014 to May 2018, Dr. Minson served as the chief development officer at Wagner College in Staten Island, where he oversaw the implementation and strategic planning of a \$60 million capital campaign. Prior to that, Dr. Minson was the director of major gifts for The Children's Aid Society. He also spent several years at New York University as associate director of major gifts for the Stern School of Business and in several positions in the College of Dentistry. Dr. Minson has a Bachelor of Science from Boston College, an M.P.A. from NYU, an M.B.A. from Wagner College, and an Ed.D. from St. Peter's University.

Catherine Flickinger, J.D., General Counsel and Vice President for Human Resources. Catherine Flickinger, J.D., serves as general counsel at New York Institute of Technology. She oversees all legal and human resources matters for the Institute and also serves as Secretary to the Board of Trustees. Before coming to the Institute in 2011, she was Executive Vice President, General Counsel & Secretary at Hachette Filipacchi Media U.S. for more than 20 years. Prior to that, she was an Associate General Counsel at CBS Inc., after starting her career at the New York law firm, Cravath, Swaine & Moore following a federal judicial clerkship. Ms. Flickinger earned her J.D. from Columbia University School of Law and her bachelor's degree from the University of Pennsylvania. In 2004, the New York County Lawyers' Association named Ms. Flickinger one of its 40 Outstanding Women of the Bar.

Joseph Posillico, Ed.D., CPA, Vice President for Enrollment Management and Strategic Communications. A higher education industry executive with more than 30 years of experience in strategic enrollment management, student financial services, recruitment and retention, and marketing services, Dr. Posillico joined New York Institute of Technology as vice president for enrollment management, overseeing admissions and financial aid, in 2019. His areas of responsibility expanded in 2020 to include management of the bursar and registrar functions, and again in 2022 to include management of the university's Strategic Communications team. Prior to joining NYIT, he served as senior vice president for Caldwell University, where he oversaw admissions, financial aid, marketing, communications, registrar, athletics, finance, and facilities operations. He also served as acting president in June and July 2016, and as vice president for enrollment management from February 2005 to December 2015. During his time at Caldwell, the university experienced significant increases in undergraduate enrollment and first-year retention. Prior to that, Dr. Posillico held positions of increasing responsibility at Adelphi University for nearly 14 years, including the role of assistant vice president for enrollment management from 2001 to 2005. He holds a bachelor's degree from St. John's University, a master's degree from Adelphi University, and an Ed.D. from Northeastern University.

Brian Harper, M.D., M.P.H., Vice President for Equity and Inclusion and Chief Medical Officer. Brian Harper, M.D., M.P.H., is charged with pursuing projects, activities, and programming that promote diversity, equity and inclusion, providing institutional guidance on communicable disease issues, and oversight of the Academic Health Care Centers in Old Westbury and Central Islip. He also serves as an Associate Professor at NYITCOM, where he assists in educating future physicians on the tenets of clinical medicine. Prior to becoming a physician, Dr. Harper attended Brown University for his undergraduate education where he received a B.A. in Biology and a B.A. in Afro-American Studies. He then attended the State University of New York, Health Science Center at Syracuse for his medical degree, and obtained a master's degree in public health (MPH) from Columbia University. Dr. Harper is board certified in Preventive Medicine and Public Health. Dr. Harper has worked as a physician at the Rikers Island Medical Unit, served as the first Director of the Bureau of HIV Services at the Nassau County Department of Health, and as the Senior Vice President of Community Health Affairs at the Nassau University Medical Center, as the Commissioner of Health for Suffolk County, N.Y. and as the Chief Operating Officer and Medical Director of the Ralph Lauren Center for Cancer Care and Prevention under Memorial Sloan Kettering Cancer Center and North General Hospital before coming to NYIT.

Donald Booth, B.S., R.A., Vice President for Capital Planning and Facilities. Donald Booth, who received his B.S.A.T. from New York Institute of Technology in 1991, has more than 30 years of experience as an owner's representative, constructor, and registered architect, focusing on institutional facilities. He brings a diverse background to his projects, which promotes a collaborative, efficient, and productive environment. He joined NYIT with a wealth of expertise gained in his 19 years of healthcare facilities and capital planning experience and 12 years in private industry practicing architecture and construction. Mr. Booth has held leadership roles at several private and public institutions, including Northwell Health, where he most recently served as assistant vice president, Central Region Capital Projects, working with senior leadership to develop strategic programs across an extensive healthcare system.

Academic Programs

New York Institute of Technology offers traditional (in-person and blended) academic programs, online programs and accelerated programs for day, evening, and weekend students. The Institute also provides non-credit and professional development programs. Undergraduate, graduate and professional degree and certificate programs are offered at the New York and Arkansas campuses; certain degree programs are offered at the Institute's global sites. In total, the Institute offers degree programs in more than 50 fields of study.

New York Institute of Technology's academic programs are organized into six schools, each administered by a dean: College of Arts and Sciences; College of Engineering and Computing Sciences; College of Osteopathic Medicine; School of Architecture and Design; School of Health Professions; and the School of Management. New York Institute of Technology's core curriculum is interdisciplinary and liberal arts-based, promoting self-directed learning. Students are taught communication skills, mathematical reasoning, critical thinking, teamwork, and technological literacy in a cross-disciplinary context, giving students competencies essential for personal and career advancement.

New York Institute of Technology College of Osteopathic Medicine

The New York Institute of Technology College of Osteopathic Medicine, the first college of osteopathic medicine in the State, and one of the largest medical schools in the U.S. with more than 1,700 students (1240 in Long Island and 460 in Arkansas), has been dedicated to training osteopathic physicians for more than 40 years. Founded in 1977, NYITCOM is a four-year, fully accredited professional program leading to the doctor of osteopathic medicine degree (D.O.). A D.O. is a fully trained and licensed physician able to prescribe medicine, perform surgery, and utilize manipulative treatment. The osteopathic philosophy of treating the whole person is applied to prevention, diagnosis, and treatment of illness, disease, and injury. The medical school has established an extensive clinical education network encompassing hospitals in New York, New Jersey and Connecticut (New York metro area) and the Mississippi Delta Region (Arkansas).

The College of Osteopathic Medicine's 8,000 alumni practice in a broad range of specialties and are affiliated with nationally recognized hospitals with outstanding teaching traditions. Graduates practice as surgeons, cardiologists, pediatric endocrinologists, OB/GYNs, psychiatrists, gastroenterologists, emergency medical physicians, orthopedists, internists, dermatologists, neurologists, radiologists, anesthesiologists, urologists, and family physicians.

OPERATING INFORMATION

Faculty

The faculty includes 326 full-time members teaching on the New York campuses, in Arkansas and at the Institute's global sites; 242 of the full-time faculty hold doctorates. In addition, New York Institute of Technology has 450 part-time, or adjunct, faculty members. The presence of part-time to full-time faculty gives the Institute flexibility to increase or decrease its instruction costs based upon the level of student enrollment.

The tables below set forth the faculty profile as of Fall 2023:

<u>School</u>	<u>Full-Time Faculty</u>	<u>Number Tenured</u>	<u>Number Holding Doctorates</u>
Arts & Sciences	65	43	54
Architecture & Design	34	22	9
Engineering & Computing Sciences	60	31	33
Health Professions	38	16	25
Management	26	18	19
NYITCOM	<u>103</u>	<u>0</u>	<u>102</u>
Total	326	130	242

The following tables present the academic ranking of the Institute's full-time faculty and the number of part-time faculty at each school for Fall 2023:

	<u>Number</u>	<u>Distribution</u>
Professor	63	8.1%
Associate Professor	220	28.4%
Assistant Professor	272	35.1%
Instructor	219	28.2%
Postdoc Teaching Fellow	<u>2</u>	<u>0.2%</u>
Total	776	100.0%

<u>School</u>	<u>Part-Time Faculty</u>
Arts & Sciences	121
Architecture & Design	102
Engineering & Computing Sciences	57
Health Professions	85
Management	39
NYITCOM	38
Other	<u>2</u>
Total	450

Part-time faculty members are often employed in outside specialties related to their instructional work at the Institute and bring their special knowledge and experience to students seeking careers in the same or similar fields. While New York Institute of Technology could be characterized in the past as primarily a teaching institution, faculty are encouraged to pursue sponsored research and all faculty are required to carry out research to be promoted or given tenure. The Institute receives various instructional, training, and research grants and is working actively toward growing its research capabilities and activities. The Institute has developed several Ph.D programs and is graduating its first Ph.D candidates this year. One of the projects to be funded by the Series 2024 Bonds is a new state of the art Biomedical Research Innovation & Imaging Center, which will provide advanced facilities for NYIT's research faculty and Ph.D. students.

Competition

New York Institute of Technology competes with a number of private and public higher education institutions in the New York City metropolitan area, primarily based on the particular academic program. For example, several institutions in the region offer similar programs in engineering, computer science, management, and health professions. Competitors for these degrees include schools such as Adelphi University, City College, Hunter College and Queen's College of the City University of New York, Hofstra University, St. John's University, New Jersey Institute of Technology, and State University of New York's Stony Brook and Buffalo Universities.

New York Institute of Technology also has a strong reputation in disciplines in which the competition is more limited and the demand from employers and students is high. For example, a relatively small number of universities in the Northeast offer undergraduate degrees in architecture, and NYIT is the only accredited school of architecture on Long Island. Competitors in this field of study in New York City include the City College of the City University of New York and Pratt Institute.

Student Enrollments

The Institute's students are highly career-oriented and often maintain full-time and part-time employment while they pursue their education. In some cases, they may take a semester off to work in order to assist in the funding of their education. Additionally, many NYIT students rely on some form of financial aid such as grants, loans or scholarships to assist in meeting the costs of higher education. Consequently, New York Institute of Technology students frequently take longer to complete their degree requirements than do students at more traditional residential colleges. The Institute has been able to attract increasingly qualified students in recent years, as entering undergraduates for the 2023-24 academic year averaged 1,279 on the SATs, up from 1,187 in 2019-20.

Student enrollment at New York Institute of Technology for the complete academic years 2019-20 through 2023-24 is presented in the following tables. The tables show both the actual number of full-time and part-time students and the Full Time Equivalents (FTE) relating to such enrollment for the undergraduate and graduate divisions, and NYITCOM. The student enrollment table also includes students enrolled at the New York Institute of Technology global sites.

For undergraduates, the FTE figure is a calculation of the total number of full-time students enrolled plus the total number of credits taken by part-time undergraduate students divided by 12. For graduate students, the total number of credits taken by students is divided by 9. FTE is intended to approximate the number of full-time undergraduate and graduate students who would be taking such credits, giving consideration to the course loads of part-time students. These figures include matriculated as well as non-degree students enrolled in credit-bearing courses for personal development or career advancement.

Total New York Institute of Technology Student Enrollment for Academic Years

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
UNDERGRADUATE					
Full-time	4,018	3,256	3,172	3,072	3,148
Part-time	<u>425</u>	<u>336</u>	<u>190</u>	<u>230</u>	<u>174</u>
Total	4,443	3,592	3,362	3,302	3,322
Total FTE	4,270	3,396	3,259	3,170	3,223
Non-Degree					
Non-Degree Full-time	5	5	3	0	1
Non-Degree Part-time	<u>136</u>	<u>28</u>	<u>31</u>	<u>46</u>	<u>30</u>
Total Non-Degree	141	33	34	46	31
Total Non-Degree FTE	46	15	12	10	8
Total Undergraduate	4,584	3,625	3,396	3,348	3,353
Total Undergraduate FTE	4,316	3,411	3,271	3,180	3,231
GRADUATE					
Full-time	1,857	1,332	1,375	1,673	1,653
Part-time	<u>1,522</u>	<u>1,074</u>	<u>878</u>	<u>899</u>	<u>797</u>
Total	3,379	2,406	2,253	2,572	2,450
Total FTE	3,130	1,814	1,785	2,094	2,021
Non-Degree					
Non-Degree Full-time	8	6	3		1
Non-Degree Part-time	<u>46</u>	<u>18</u>	<u>18</u>	<u>31</u>	<u>11</u>
Total Non-Degree	54	24	21	31	12
Total Non-Degree FTE	36	11	8	9	4
Total Graduate	3,433	2,430	2,274	2,603	2,462
Total Graduate FTE	3,166	1,825	1,793	2,103	2,025
NYITCOM					
Full-time	<u>1,734</u>	<u>1,770</u>	<u>1,746</u>	<u>1,749</u>	<u>1,744</u>
Total NYITCOM FTE	1,734	1,770	1,746	1,749	1,744
TOTAL STUDENT ENROLLMENT					
Full-time	7,622	6,369	6,299	6,494	6,547
Part-time	<u>2,129</u>	<u>1,456</u>	<u>1,117</u>	<u>1,206</u>	<u>1,012</u>
Total Headcount	9,751	7,825	7,416	7,700	7,559
Total FTE	9,216	7,006	6,810	7,032	7,000

Enrollment at New York Institute of Technology's New York campuses declined through 2021-22 and then began to rebound through 2023-24. Reasons for the decrease included a decline in international students due to the pandemic and an increasingly competitive environment for the enrollment of new students. Another key reason for the decline was a strategic decision to implement a 'program prioritization' review that would sunset programs that were low revenue generators or high-cost centers. This strategy allowed the Institute to shrink in enrollment while strengthening and stabilizing itself financially. Between 2020-21 and 2021-22, several academic programs and all athletic programs were reduced or eliminated as part of this strategy. The short-term effect was enrollment declines, however, since 2021-22 enrollments have increased as the Institute has focused on its core programs, added new core programs and experienced a steady increase in international students. Though student headcounts have declined since 2019, net tuition and fees in 2023 were the highest ever at the Institute, reflecting the positive impact of selected reductions in programs and higher net tuition per student in the core programs.

Since 2020, New York Institute of Technology has also seen significant enrollment growth at its graduate campus in Vancouver, Canada with enrollments of 733 in fall 2019 rising to 893 students in Fall 2023.

New Student Enrollment - Undergraduate application and enrollment data for freshmen and transfer students and for graduate students at the New York campuses only are presented in the tables below.

**New Undergraduate Freshman and Transfer Student
Application and Enrollment for the New York Campuses for Academic Years***

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
Applicants	11,417	10,956	11,283	12,354	12,041
Acceptances	8,500	8,806	8,979	9,258	9,256
% of applicants accepted	74.5%	80.4%	79.6%	74.9%	76.9%
Enrolled transfer students	220	170	175	146	135
Full-time	180	141	145	122	125
Part-time	40	29	30	24	10
Enrolled freshmen	860	736	970	886	880
Full-time	827	716	948	868	861
Part-time	<u>33</u>	<u>20</u>	<u>22</u>	<u>18</u>	<u>19</u>
Total enrolled freshmen/transfers	1,080	906	1,145	1,032	1,015
% of accepted enrolled	12.7%	10.3%	12.8%	11.1%	11.0%

* Data obtained between 10/11 and 10/31 of the corresponding Fall Term

Graduate Application and Enrollment for the New York Campuses for Academic Years*

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
Applicants	4,451	4,169	5,373	9,887	11,486
Acceptances	1,990	1,935	2,841	4,522	4,598
% of applicants accepted	44.7%	46.4%	52.9%	45.7%	40.0%
Enrolled	612	443	662	731	628
% of accepted enrolled	30.8%	22.9%	23.3%	16.2%	13.7%

* Data obtained between 10/11 and 10/31 of the corresponding Fall Term

Medical school enrollment - NYITCOM applications and enrollment at the New York and Arkansas campuses for the academic years 2019-20 through 2023-24 are presented in the following table.

NYITCOM Application and First-Year Student Enrollment for Academic Years*

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
Applicants	7,140	7,853	7,847	8,898	8,824
Acceptances	958	973	973	1,078	1,217
% of applicants accepted	13.4%	12.4%	12.4%	12.1%	13.8%
Enrolled	435	438	438	430	432
% of accepted enrolled	45.4%	45.0%	45.0%	39.9%	35.5%

* Data obtained between 10/11 and 10/31 of the corresponding Fall Term

The following table summarizes average Scholastic Aptitude Test ("SAT") scores of entering freshman at the New York campuses for academic years 2019-20 through 2023-24:

**SAT Scores of Entering Undergraduate
Freshmen at the New York Campuses for Academic Years**

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
Average SAT Verbal	581	573	591	608	627
Average SAT Math	606	601	619	631	652
Total	1,187	1,174	1,210	1,239	1,279

As a result of the COVID-19 pandemic, similar to actions taken at many other higher education institutions, in spring 2020, New York Institute of Technology switched to an SAT optional institution beginning in fall 2020. SAT scores shown for periods beginning in fall 2020 and thereafter are based upon only those students who supplied such scores in their applications.

Geographic distribution of students. The Institute attracts students to its New York and online campuses from 42 states and 74 countries. As shown in the table below, more than 85% of undergraduate students at the New York campuses are from Connecticut, New Jersey, New York, and Pennsylvania. Slightly less than 4% of enrolled students are from other states and approximately 11% are from foreign countries. About 25% of graduate students at the New York campuses are international students from China, India and other Asian countries, mainly enrolled in the School of Management or the College of Engineering & Computing Sciences. An additional 44% of graduate students come from Long Island and New York City, and 31% are from the rest of New York and other states. The majority of NYITCOM students attending the Old Westbury Campus come from the State.

The table below shows the student profile for students at the New York campuses for Fall 2023.

	<u>Undergraduate</u>	<u>Graduate</u>	<u>Total</u>
Nassau and Suffolk Counties (New York)	40.0%	23.2%	34.7%
New York City	37.9%	20.5%	32.5%
Rest of New York State, plus New Jersey, Pennsylvania and Connecticut	14.3%	28.1%	18.6%
Other states	3.5%	3.1%	3.4%
Other countries (i.e., India and China)	4.3%	25.1%	10.8%
Total	100.00%	100.00%	100.00%

Tuition, Fees and Financial Aid

The information under this subheading is for students attending the New York campuses only.

Tuition and Fees - Tuition charges and the mandatory college fee, which covers a variety of educational services and co-curricular activities, for full-time undergraduate students are summarized in the following table:

Tuition and Fee Charges for Full-time Undergraduate Students at the New York Campuses for Academic Years

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
All Programs	\$38,010	\$39,760	\$39,760	\$42,360	\$44,360

The following table presents tuition charges for part-time undergraduate students.

Per Credit Tuition Charges for Part-time Undergraduates at the New York Campuses for Academic Years

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
All Programs	\$1,240	\$1,290	\$1,290	\$1,350	\$1,420

Graduate and NYITCOM student tuition charges are summarized in the following tables.

Per Credit Tuition Charge for Graduate Students at the New York Campuses for Academic Years

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
All Programs	\$1,320	\$1,400	\$1,400	\$1,470	\$1,540

Tuition Charges for College of Osteopathic Medicine for Academic Years

	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>
Tuition	\$59,350	\$60,450	\$60,450	\$61,960	\$64,130
Fees, First Year	\$1,516	\$1,616	\$1,616	\$1,629	\$1,733

Institute Housing - Although many students rent private apartments in the New York area or live with family, the Institute has entered into new leases to provide residential facilities for some students attending its New York City and Long Island campuses. Under a ten year lease beginning in academic year 2023-24, 250 student beds are available from a private operator of student residential facilities in New York City. In Long Island, the Institute entered an exclusive use, fifteen year lease with a property developer to convert a former hotel to a residence hall. Beginning in fall 2024, the facility will provide both room and dining services to approximately 190 students. For the 2024 academic year, room fees (no board) averaged \$20,000 in New York City.

Financial Aid Programs – The Institute is committed to enabling the most qualified students from diverse backgrounds to enroll. Approximately 87% of undergraduate and graduate students attending New York Institute of Technology receive some form of financial aid aggregating to \$241 million in 2023, including NYITCOM. Financial aid is awarded to students as a comprehensive package comprising federal, state, and New York Institute of Technology-funded grants, scholarships, loans, and employment. The Institute awards academic excellence scholarships in an effort to reward its continuing students and promote higher retention levels. Five-year histories of financial aid for the New York campuses' undergraduate and graduate programs and NYITCOM are below:

Financial Aid Awarded to Undergraduate & Graduate Students for the New York Campuses
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000s)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Federal & alternative loans	\$49,910	\$48,549	\$44,790	\$45,066	\$45,614
Federal grants & programs	9,981	10,461	10,780	11,678	11,628
New York State grants	4,203	4,143	3,388	4,401	4,435
NYIT grants & scholarships	<u>50,089</u>	<u>56,101</u>	<u>56,524</u>	<u>62,310</u>	<u>66,094</u>
Total Awards	<u>\$114,183</u>	<u>\$119,254</u>	<u>\$115,482</u>	<u>\$123,455</u>	<u>\$127,771</u>

Financial Aid Awarded to All Students for NYITCOM
for Fiscal Years Ended June 30
(\$000s)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Federal & alternative loans	\$87,568	\$96,551	\$99,051	\$100,355	\$104,399
Federal grants & programs	1,448	1,821	1,944	3,508	3,570
NYIT grants & scholarships	<u>5,290</u>	<u>6,353</u>	<u>6,459</u>	<u>5,882</u>	<u>5,333</u>
Total Awards	<u>\$94,306</u>	<u>\$104,725</u>	<u>\$107,454</u>	<u>\$109,745</u>	<u>\$113,302</u>

ANNUAL FINANCIAL STATEMENT INFORMATION

Selected Financial Data

New York Institute of Technology prepares its financial statements on an accrual basis of accounting in accordance with generally accepted accounting principles (GAAP) in the United States of America. The Institute's financial statements also are presented in accordance with the Audit and Accounting Guide for Not-for-Profit Organizations published by the American Institute of Certified Public Accountants ("AICPA"). See "APPENDIX B – CONSOLIDATED FINANCIAL STATEMENTS OF NEW YORK INSTITUTE OF TECHNOLOGY WITH INDEPENDENT AUDITORS' REPORT THEREON" attached hereto.

The financial information on the following page should be read in conjunction with the financial statements and accompanying notes and auditor's report included therein. The tables below provide Consolidated Statements of Financial Position and the Consolidated Statement of Activities for Net Assets Without Donor Restrictions of the Institute for the fiscal year ended August 31, 2019, and the fiscal years ended June 30, 2020, 2021, 2022, and 2023. In March 2019, the Board approved the recommendation to change New York Institute of Technology's fiscal year end from August 31 to June 30 which resulted in a ten month fiscal period for September 1, 2019 through June 30, 2020. This was done to better align the Institute's year end with the June 30 end date for all Federal financial aid programs, as well as NYITCOM's academic year, which begins on July 1.

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New York Institute of Technology
Consolidated Statements of Financial Position
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000)

Assets	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Cash and cash equivalents	\$46,901	\$31,252	\$30,459	\$43,262	\$58,850
Grants receivable	6,345	2,757	4,092	6,574	3,336
Student accounts receivable, net	6,393	4,676	2,794	3,851	4,515
Student loans receivable, net	8,773	8,069	7,241	6,229	4,607
Contributions receivable, net	1,642	1,492	853	561	1,406
Investments, at FV	101,502	91,273	115,615	131,195	130,298
Investments in real estate, at FV	19,217	18,538	18,247	18,247	18,247
Other assets	7,891	7,064	5,250	5,738	5,323
Operating right-of-use assets			107,055	95,493	103,120
Property, plant and equipment, net	<u>119,669</u>	<u>113,782</u>	<u>113,526</u>	<u>111,609</u>	<u>111,101</u>
Total assets	<u>318,333</u>	<u>278,903</u>	<u>405,132</u>	<u>422,759</u>	<u>440,803</u>
Liabilities and Net Assets					
Liabilities					
Accounts payable and accrued liabilities	37,523	42,579	36,680	32,160	26,063
Deferred tuition revenues	75,971	22,029	26,477	26,387	29,786
Refundable grants/US gov't loan funds	14,384	12,661	9,636	9,022	8,434
Notes payable		8,900			
Operating lease obligations			122,493	110,959	118,522
Postretirement health benefits	8,517	8,440	7,153	5,787	5,123
Bonds payable	<u>30,490</u>	<u>23,461</u>	<u>22,476</u>	<u>20,310</u>	<u>18,078</u>
Total liabilities	<u>166,885</u>	<u>118,070</u>	<u>224,915</u>	<u>204,625</u>	<u>206,006</u>
Net assets					
Without donor restrictions	139,560	148,893	166,861	205,044	219,857
With donor restrictions	<u>11,888</u>	<u>11,940</u>	<u>13,356</u>	<u>13,090</u>	<u>14,940</u>
Total net assets	<u>151,448</u>	<u>160,833</u>	<u>180,217</u>	<u>218,134</u>	<u>234,797</u>
Total liabilities and net assets	<u>\$318,333</u>	<u>\$278,903</u>	<u>\$405,132</u>	<u>\$422,759</u>	<u>\$440,803</u>

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New York Institute of Technology
Statements of Activities for Net Assets Without Donor Restrictions
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Operating revenues					
Tuition and fees	\$294,548	\$284,255	\$293,549	\$299,403	\$312,020
Less: Scholarships and fellowships	<u>(59,215)</u>	<u>(65,845)</u>	<u>(66,667)</u>	<u>(70,592)</u>	<u>(71,981)</u>
Net tuition and fees	235,333	218,410	226,882	228,811	240,039
Grants and contracts	4,634	6,326	13,171	17,573	6,139
Government appropriations	755	192	664	683	621
Contributions	900	737	664	1,359	3,004
Training and public service	3,247	2,388	3,292	3,847	4,285
Endowment Investment return designated for operations	4,084	2,926	4,606		4,159
Investment return, net	576	348	287	(3,075)	1,152
Sales and services of auxiliaries	20,207	19,113	9,186	14,230	15,462
Other sources	4,711	3,421	2,576	5,191	5,905
Net assets released from restriction	<u>557</u>	<u>652</u>	<u>1,034</u>	<u>596</u>	<u>851</u>
Total operating revenues	275,004	254,513	262,362	269,215	281,617
Operating expenses					
Instruction	123,970	110,680	123,424	119,481	125,108
Academic support	24,964	20,844	24,072	22,540	23,454
Student services	27,499	24,678	24,576	27,293	25,239
Research, training and public service	12,709	10,192	12,337	14,436	14,766
Auxiliary enterprises	<u>20,148</u>	<u>18,226</u>	<u>13,105</u>	<u>13,135</u>	<u>14,405</u>
Total program services	209,290	184,620	197,514	196,885	202,972
Supporting services – institutional support	<u>57,967</u>	<u>49,634</u>	<u>55,628</u>	<u>58,364</u>	<u>66,497</u>
Total operating expenses	<u>267,257</u>	<u>234,254</u>	<u>253,142</u>	<u>255,249</u>	<u>269,469</u>
Change in net assets from operations	<u>7,747</u>	<u>20,259</u>	<u>9,220</u>	<u>13,966</u>	<u>12,148</u>
Nonoperating activities					
Endowment return, net	(2,192)	(3,001)	14,209	(2,480)	747
Realized and Unrealized gain (loss) on real estate	(5,567)	(7,655)	(5,141)	25,928	1,723
Other	<u>(1,086)</u>	<u>(269)</u>	<u>(320)</u>	<u>769</u>	<u>195</u>
Change in net assets from non-operating activities	<u>(8,845)</u>	<u>(10,925)</u>	<u>8,748</u>	<u>24,217</u>	<u>2,665</u>
Change in net assets	<u>(\$1,098)</u>	<u>\$9,334</u>	<u>\$17,968</u>	<u>\$38,183</u>	<u>\$14,813</u>

FINANCIAL OPERATIONS

Management's Discussion of Financial Operations

Since 2020, the Institute has experienced sustained financial growth, including the recent completion of the fiscal year ended June 30, 2023, which surpassed its 2% operating margin target, closing with a \$13.6 million surplus (4.8% operating margin). Two Thousand Twenty-Three capped three years of growth for an aggregate total of \$57.3 million growth in university net assets, from \$160.8 million in 2020 to \$218.1 million in 2023. In fiscal year 2024, the Institute is forecasting an operating margin of 3.3% or \$9.8 million on total revenues of \$289 million.

The Institute's recent positive financial performance is evidenced by growth in liquid assets such as cash (nearly doubled since 2020, from \$31.2 million to \$58.9 million) and investments (\$91.3 million to \$130.3 million). Meanwhile, NYIT reduced comparative accounts payable balances, from \$42.6 million at June 30, 2020 to \$26.1 million at June 30, 2023.

The Institute is driven by its original 1955 mission, to provide career-oriented professional education, to give all qualified students access to opportunity, and to support research and scholarship that benefit the larger world. The vision proposes that by 2028, in providing an outstanding student experience, the Institute will become one of the best private institutions of higher education in metropolitan New York City and Long Island. Recently, the Institute announced a goal of becoming an R2 research university within five years and has added Ph.D. doctoral programs to support that initiative.

Enrollments at the Institute are thriving. Undergraduate and graduate applications continue to rise in a very competitive market. The last three freshman classes have been the highest in the last decade at NYIT. First-year undergraduate applications for fall 2024 are up 19% compared to the prior year. NYIT attributes some of this to our improving and broader brand awareness, growing academic reputation, and increased offerings in student services and experiences. The College of Osteopathic Medicine receives 20 applications for each of 300 first-year student slots in New York (total enrollment 1200) and 115 (total 460) in Arkansas, and high achievements by those students were demonstrated with a 100% residency match rate for the graduating class of May 2023.

Investments in the Institute's facilities are essential to support continued academic success. In 2022, NYIT announced its intent to construct a new research facility in our Long Island medical school "quad", in a building that formerly housed the school of Health Professions. The Biomedical Research Innovation and Imaging Center "BRIIC" will house multiple researchers engaged in the use of microscopes and an MRI for their growing body of work. Construction began in January 2024 with completion and occupancy slated for January 2025. Elsewhere on the Long Island and New York City campuses, the Institute is focusing on deferred maintenance (roof replacements, roads, strengthening facades, flood mitigation projects) and academic spaces (new electrical engineering labs, architecture maker spaces, libraries and student service locations.) Additionally, the Institute has entered into two long-term leases providing new, high-quality student residential sites in both New York City and Long Island. At the same time, the Institute is replacing outdated financial and human resource information systems, investing in new cyber and physical security improvements, and replacing and upgrading HVAC systems to become a greener and safer campus.

Investments

The Institute holds investments in two different investment pools. The first and largest is the endowment, which has funds invested in diverse financial vehicles including money market, mutual funds, debt, equity, hedge funds, limited partnership interests and real estate. The second and smaller pool is the capital reserve fund, a low-risk portfolio invested with a high liquidity profile of money market, mutual funds and equities. The endowment and capital reserve funds have separate investment profiles and policies. The Investment Committee of the Board of Trustees oversees the Institute's investments and the Committee meets quarterly to review investment performance and current allocations. The Investment Committee reviews the investment policies periodically and presents any changes to the full Board of Trustees for approval.

The Investment Committee engages JP Morgan's Endowments & Foundations Group ("JPM") to act as custodian and chief investment advisor for the Institute's investment portfolio. Working directly with the Investment Committee, JPM follows the Committee's directives on investment strategy for the investment pool. JPM researches and analyzes various investment opportunities and identifies alternative investment managers. JPM then brings their recommendations to the Committee for consideration and/or approval. On the Institute's behalf, JPM performs a thorough due diligence process, including a review of both quantitative and qualitative factors. Documentation of that research, along with opportunities for questions and answers with the JPM team and the investment manager, are made available as desired by the Committee.

The Institute employs an Investment Spending Policy to provide a constant framework for compliance with NYS UPMIFA, a consistent endowment distribution amount for budgeting purposes, and a plan for achieving real growth of the endowment portfolio relative to inflation. The Investment Spending Policy stipulates that the distribution is to be 5.0% - 6.0%

of a 3-year moving average investment market value. The exact percentage in the 5.0% - 6.0% range is determined annually by Senior Management during the budget planning cycle. The Investment Spending Policy states that spending is restricted on new endowment gifts or endowment accounts for which the investment market value is below the original gift value. The Board can elect to make special distributions from the portion without donor restrictions of investments at any time.

The budgeted endowment distribution rate for fiscal year 2022 was 6.0% with fiscal years 2023 and 2024 budgeted at 5.5%. The net distributions in fiscal year 2022 and 2023 were approximately \$0.2 million and \$4.4 million, respectively. The fiscal year 2022 distribution was reduced to an effective rate of 0.2% as a result of a board-approved action to reinvest most of the distribution prior to the end of the fiscal year. The fiscal year 2024 distribution is budgeted to be approximately \$4.4 million.

The table below shows fair market value by investment class for the past five fiscal years:

Investments at Fair Market Value
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000's)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Money market	\$3,683	\$1,684	\$9,033	\$5,329	\$1,237
Mutual funds	23,833	21,145	23,263	19,407	30,798
Common stock	32,368	42,253	56,790	39,131	50,863
Corporate bonds	15,766	8,006	6,200	44,263	25,293
Hedge funds	16,251	8,502	8,735	8,481	7,645
Partnership and other	<u>9,601</u>	<u>9,683</u>	<u>11,594</u>	<u>14,584</u>	<u>14,462</u>
Total investments	<u>\$101,502</u>	<u>\$91,273</u>	<u>\$115,615</u>	<u>\$131,195</u>	<u>\$130,298</u>

Endowment

Net assets of the Institute's endowment are classified based on the existence or absence of donor-imposed restrictions. The Institute complies with the State's version of the Uniform Prudent Management of Institutional Funds Act. Endowment assets are invested in a manner that is intended to produce a real return of 6.5%, net of inflation and investment manager costs. To satisfy this objective, the Institute relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current income (interest and dividends.) Actual returns in any given year may vary from this amount. In fiscal year 2023, the Endowment's net investment return was \$5,558,390.

Endowment Net Assets
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000's)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Without donor restrictions	\$79,286	\$76,110	\$89,942	\$67,460	\$88,714
With donor restrictions	<u>8,623</u>	<u>8,706</u>	<u>10,961</u>	<u>10,780</u>	<u>11,391</u>
Total endowment	<u>\$87,909</u>	<u>\$84,816</u>	<u>\$100,903</u>	<u>\$78,240</u>	<u>\$100,105</u>

In FY2022, the Institute temporarily transferred \$20 million from its unrestricted endowment to the unrestricted capital reserve. The funds were returned to the endowment during FY2023.

Fundraising

The Institute records contributions of cash and other assets when an unconditional promise to give is received from a donor. Contributions are recorded at the fair value of the assets received and are classified as either with donor restrictions or without donor restrictions, based upon the presence or absence of donor-imposed restrictions. The Institute reports gifts of cash or other assets as restricted support if they are received with donor restrictions that limit the use of the donated assets. The Institute reports pledges expected to be collected within one year at net realizable value. Pledges to be paid to the Institute over a period of years are recorded at their estimated present value using a risk-adjusted rate. The following table presents net contributions to the Institute for the past five fiscal years:

Contributions
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000's)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Contributions	\$2,617	\$1,449	\$1,088	\$2,023	\$5,033

Property, Plant and Equipment

The Institute currently operates academic programs in Manhattan, Old Westbury in Nassau County, and Jonesboro in Arkansas. Property, plant and equipment at the Institute's global sites in China are owned and maintained by the Institute's joint venture partners. The Vancouver, Canada campus operates out of leased spaces.

The Institute's Old Westbury Campus is on approximately 220 acres with 30 buildings containing 548,000 square feet. In addition to academic and student facilities, the Old Westbury Campus is the primary location for the Institute's administrative functions. In Manhattan, the Institute owns two buildings and leases additional space for a total of 182,000 square feet devoted to academic and student activities. In Arkansas, the Institute leases two buildings owned by the state university on the Jonesboro campus. Space is occasionally rented to other organizations and not-for-profit programs.

The following table presents property, plant, equipment and accumulated depreciation for the past five fiscal years:

Property, Plant, and Equipment
Fiscal Year Ended August 31 (FY2019)
Fiscal Years Ended June 30 (Beginning with FY2020)
(\$000's)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Land	\$4,799	\$4,799	\$4,799	\$4,799	\$4,799
Buildings and leasehold improvements	209,370	214,240	225,384	241,018	252,791
Machinery, equipment, furniture & fixtures	90,120	94,917	101,688	105,332	109,357
Library books*	3,801	3,801	3,801		
Constructions in progress	<u>8,703</u>	<u>7,162</u>	<u>6,252</u>	<u>5,368</u>	<u>6,320</u>
	316,793	324,919	341,924	356,517	373,267
Less: Accumulated depreciation	<u>(197,124)</u>	<u>(211,137)</u>	<u>(228,398)</u>	<u>(244,908)</u>	<u>(262,166)</u>
Total	<u>\$119,669</u>	<u>\$113,782</u>	<u>\$113,526</u>	<u>\$111,609</u>	<u>\$111,101</u>

* NYIT stopped capitalizing library books in 2018 and they were removed from the balance sheet in 2022 after being fully depreciated.

Insurance

The Institute maintains a program of risk and insurance protection covering its assets and operations and management of all owned or leased facilities. This insurance coverage includes general liability, all risk property insurance including business interruption, automobile, crime, workers' compensation, directors' and officers' liability, medical malpractice, cybersecurity, and other insurance. Annual insurance policy renewals, risk management and loss prevention programs are coordinated by the offices of the General Counsel and the Chief Financial Officer.

New York Institute of Technology offers students an ACA-compliant health insurance plan through Aetna, a large national health care insurance provider. Health insurance is required for most students enrolled at the New York and Arkansas campuses. If a domestic student has comparable health insurance coverage available, such as through a parent's plan, the student may be eligible to waive the coverage.

Outstanding Indebtedness and Leases

In September 2023, the Institute transferred \$18,015,774 to an irrevocable trust with an escrow agent to legally defease the remaining principal and interest balances for the Series 2016A and Series 2020A bonds. As a result, the liability for both bond issues has been removed from the Statement of Financial Position as of September 7, 2023.

The Institute has one unsecured line of credit of \$10,000,000 with a commercial bank, expiring December 31, 2024. The line is subject to renewal with consent from both parties. As of December 31, 2023, there are no borrowings under the line of credit. \$1,756,495 is reserved for open Standby Letters of Credit for security deposits and the net amount available for borrowing is \$8,243,505. The interest rate on the line of credit is SOFR plus 150 basis points. At December 31, 2023, the interest rate was 6.88%.

The Institute leases space to support its academic and related needs. Cash payments for all leased spaces are projected at \$17.6 million in fiscal year 2024. The Institute considers its space needs and financial obligations for both leased and owned properties in its long-term planning parameters.

In Manhattan, the Institute leases space in three buildings to support academic programming at a cost of \$11.6 million in fiscal year 2024. These leases have varying expiration dates from fiscal years 2027 to 2033. One dormitory space is leased in Manhattan at a cost of \$3.3 million in fiscal year 2024; the lease expires at the end of fiscal year 2034. The Institute entered a residence hall lease near its Long Island campus at a cost of \$1.3 million in fiscal year 2024; that lease expires at the end of fiscal year 2038.

Space is also leased to support operations at three other sites: Vancouver, Central Islip (medical clinic), and Arkansas. The combined cost of rents on those sites is \$1.4 million in fiscal year 2024.

Retirement Plan

The Institute has a contributory defined contribution retirement plan for substantially all full-time employees. Contributions are based on a percentage of the participants' salaries. Total pension costs under this plan for the five years ended August 31 (FY2019) and June 30 (beginning with FY2020) are (in \$000's):

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Defined Contribution Retirement Plan	\$6,471	\$5,384	\$6,533	\$6,474	\$6,550

Labor Relations

As of January 2024, there are approximately 1,000 full-time U.S. academic, other professional, and support staff employees (excluding part-time employees and adjunct faculty) of whom about 276 are represented by three unions. The American Association of University Professors ("AAUP") represents full-time and regular part-time faculty on the New York campuses, except for NYITCOM. The current contract between New York Institute of Technology and AAUP extends through August 31, 2027.

Facilities personnel are members of Building Material Teamsters Local 282 of the International Brotherhood of Teamsters and their contract with New York Institute of Technology extends through August 31, 2028. The custodial staff is represented by two chapters of Local 32BJ of the Service Employees International Union and their contracts with New York Institute of Technology extend through December 31, 2023 (with short-term extensions in place pending finalization of new terms). None of the 44 full-time faculty and staff outside the United States are represented by unions. The Institute considers relations with its employees to be very good.

Litigation and Contingent Liabilities

New York Institute of Technology is a party in certain pending civil lawsuits claiming damages in connection with contractual and other matters. The Institute does not currently expect the resolution of any pending or threatened disputes, singly or in the aggregate, to have a material adverse effect upon the financial position or operations of the Institute or its ability to fulfill its obligations under the Loan Agreement. Like numerous other universities across the country, New York Institute of Technology is a defendant in a purported class action suit seeking tuition refunds for the spring 2020 academic term as a result of the Institute's transition to remote education in response to the COVID-19 pandemic. New York Institute of

Technology believes there are good defenses to this matter, and has been contesting this action vigorously. In December 2022, the Institute made a Voluntary Self-Disclosure to the U.S. Office of Foreign Assets Control (OFAC) under its economic sanctions enforcement guidelines in connection with a potential violation of OFAC's Iranian sanctions regulations arising out of the Institute's enrollment of Iranian students at its Vancouver campus. Any enforcement action has been tabled pending NYIT's application for OFAC licenses. NYIT believes it has good arguments to reduce any potential OFAC penalties.

PART 6 – BONDHOLDERS' RISKS

The following is a discussion of certain risks that could affect payments to be made with respect to the Series 2024 Bonds. Such discussion is not exhaustive, should be read in conjunction with all other parts of this Official Statement and should not be considered as a complete description of all risks that could affect such payments. Prospective purchasers of the Series 2024 Bonds should analyze carefully the information contained in this Official Statement, including the appendices hereto, and additional information in the form of the complete documents summarized herein, copies of which are available as described in this Official Statement.

General

The Series 2024 Bonds are payable from payments to be made by the Institute under the Loan Agreement. The ability of the Institute to comply with its obligations under the Loan Agreement depends primarily upon the ability of the Institute to continue to attract sufficient tuition-paying students to its educational programs, to obtain sufficient revenues from related activities and to maintain sufficient creditworthiness. The Institute expects that revenues derived from its ongoing operations, together with other available resources, will at all times be sufficient to make the required payments on the Loan Agreement and the Institute will covenant under the Loan Agreement to make all such payments when due. There are certain risks, however, which might prevent the Institute from obtaining sufficient revenues from tuition and other sources to meet all of its obligations, including its obligations under the Loan Agreement. Purchasers of the Series 2024 Bonds should bear in mind that the occurrence of any number of events could adversely affect the ability of the Institute to generate such revenues. Future economic, demographic and other conditions, including the demand for educational services, the ability of the Institute to provide the services required by students, economic developments in the New York area and competition from other educational institutions, together with changes in costs, may adversely affect revenues and expenses and, consequently, the ability of the Institute to provide for payments. The future financial condition of the Institute could also be adversely affected by, among other things, legislation and regulatory actions, and a number of other conditions that are unpredictable.

Financial Assistance

The amount of available financial assistance is a significant factor in the decision of many students to attend a particular college or university. During the 2022-2023 academic year, approximately 95% of the Institute's undergraduates and, excluding the medical school, approximately 87% of all students enrolled at the New York campuses received some form of financial assistance. Approximately 82% of the medical students in New York also receive financial assistance. The level of financial assistance is directly affected by funding levels of federal, state and other financial aid programs. Any significant reduction in the level of financial assistance offered to prospective students could reduce the number of students enrolling at the Institute.

Investment Income

The Institute's investment program for endowment and similar funds operates under an investment policy statement and guidelines established by the Board, which delegates direct oversight for the investment program to the Investment Committee of the Board. The consolidated endowment pool is managed by external money managers appointed for the purpose by the Investment Committee. Although the portion of the Institute's endowment funds without donor restrictions and the payout therefrom are available for debt service payments on the Series 2024 Bonds, no assurance can be given that unforeseen developments in the securities markets will not have an adverse effect on the market value of those investments and the income generated therefrom.

Fundraising

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

Government Funding

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

Risks as Employer

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

Changes in Law

Changes in law may impose new or added financial or other burdens on the operations of the Institute. Developments may include: (i) legislative or regulatory requirements for maintaining status as an organization exempt from taxation as described in Section 501(c)(3) of the Code; or (ii) challenges to State and local exemptions from real property tax and other taxes. It is not possible to predict the scope or effect of future legislative or regulatory actions with respect to taxation of not-for-profit corporations. There can be no assurance that future changes in the laws and regulations will not materially adversely affect the operations and financial condition of the Institute by requiring it to pay income or real property taxes (or other *ad valorem* taxes).

Tax Related Risk

Tax-Exempt Status Change

Loss of tax-exempt status by the Institute could result in loss of the exclusion from federal gross income of interest on the Series 2024 Bonds and defaults in covenants regarding the Series 2024 Bonds and other related tax-exempt debt would likely be triggered. However, loss of tax-exempt status by the Institute would not cause a mandatory redemption or acceleration on the Series 2024 Bonds nor would it cause a change in the interest rates on the Series 2024 Bonds. The maintenance by the Institute of its Section 501(c)(3) tax-exempt status depends, in part, upon compliance with general rules in the Code and related United States Treasury regulations regarding the organization and operation of tax-exempt entities, including their operation for charitable and educational purposes and their avoidance of transactions that may cause their assets to inure to the benefit of private individuals. The Internal Revenue Service (“IRS”) has indicated that it is giving greater scrutiny to certain tax-exempt organizations, including colleges and universities.

Risk of Audit

The IRS has established an ongoing program to audit tax-exempt obligations to determine whether interest on such obligations should be included in gross income for federal income tax purposes. No assurance can be given that the IRS will not commence an audit of the Series 2024 Bonds. Bondholders of the Series 2024 Bonds are advised that, if an audit of the Series 2024 Bonds were commenced, in accordance with its current published procedures, the IRS is likely to treat DASNY as the taxpayer, and the Bondholders of the Series 2024 Bonds may not have a right to participate in such audit. Public awareness of any audit could adversely affect the market value and liquidity of the Series 2024 Bonds during the pendency of the audit, regardless of the ultimate outcome.

Additional Bonds

Additional Bonds may be issued under the Resolution and although separately secured, each applicable Loan Agreement may be secured on parity with the Series 2024 Bonds subject to compliance with the conditions contained in the Loan Agreement. See “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” attached hereto.

Additional Indebtedness

The Institute may issue, incur or assume additional indebtedness without limitation, subject to compliance with the conditions contained in the Loan Agreement. See “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS – Covenants” herein and “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT” attached hereto. Additional Indebtedness issued, incurred, assumed or guaranteed in accordance with the conditions described in the Loan Agreement may be secured by a security interest in the Pledged Revenues on parity with the security interest in the Pledged Revenues securing the Loan Agreement, subject to the prior execution and delivery of a commercially reasonable parity Intercreditor Agreement.

Certain Matters Relating to Enforceability of the Resolution and Loan Agreement

The obligation of the Institute to make payments on the Loan Agreement will be limited as the obligations of debtors typically are affected by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws or by equitable principles affecting the enforcement of creditors’ rights. If the Institute filed for the reduction of its debts in a proceeding under the federal Bankruptcy Code, the court could approve provisions modifying, eliminating or altering the rights of creditors generally, or any class of them, secured or unsecured. If the Institute should file a plan of reorganization (“Plan”), when confirmed by the court, such Plan binds all creditors who had notice or knowledge of the Plan and discharges all claims against the debtor as provided for in the Plan. No Plan may be confirmed unless certain conditions are met, among which are that the Plan is in the best interests of creditors, is feasible and has been accepted by each class of claims impaired thereunder. Each class of claims has accepted the Plan if at least two-thirds in dollar amount and more than one-half in number of the allowed claims of the class that are voted with respect to the Plan are cast in its favor. Even if the Plan is not so accepted, it may be confirmed if the court finds that the Plan is fair and equitable with respect to each class of non-accepting creditors impaired thereunder and does not discriminate unfairly.

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

Secondary Market for the Series 2024 Bonds

There can be no assurance that there will be a secondary market for purchase or sale of the Series 2024 Bonds. From time to time there may be no market for the Series 2024 Bonds depending upon prevailing market conditions, including the financial condition or market position of firms who may make the secondary market, the evaluation of the Institute’s capabilities and the financial condition and results of operations of the Institute.

No Debt Service Reserve Fund for the Series 2024 Bonds

The Series 2024 Bonds are secured as provided in “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS” herein. The Resolution permits, but does not require, the establishment of a debt service reserve fund to secure Bonds issued thereunder. There is no debt service reserve fund securing the Series 2024 Bonds. In the event that a debt service reserve fund is hereafter established for a Series of Bonds hereafter issued under the Resolution, such debt service reserve fund will secure only such Series of Bonds and will not secure the Series 2024 Bonds.

COVID-19

Since early calendar year 2020, the emergence of COVID-19 has had a notable impact on the Institute and the world. With the conclusion of public health emergency statuses by the US Government and the World Health Organization in early May 2023, it is expected that the pandemic’s most notable impacts are in the past. However, a resurgence of COVID-19 or the emergence of a new pandemic could have adverse impacts on the Institute’s operations, including revenues and expenses, and, more broadly, on global financial markets. Such impacts are not known or estimable.

Cybersecurity

Computer networks and data transmission and collection are vital to the efficient operation of the Institute. Despite the implementation of network security measures by the Institute, its information technology and infrastructure may be vulnerable to deliberate attacks by hackers, malware, ransomware, or computer viruses, or may otherwise be breached due to employee error, malfeasance, or other disruptions. Any such breach could compromise networks, and the information stored

thereon could be disrupted, accessed, publicly disclosed, lost or stolen. Although the Institute does not believe that its information technology systems are at a materially greater risk of cybersecurity attacks than other similarly-situated entities, any such disruption, access, disclosure, or other loss of information could result in reputational damage to the Institute and may have a material adverse effect on the Institute’s operations and financial condition. Further, as cybersecurity threats continue to evolve, the Institute may be required to expend significant additional resources to continue to modify and strengthen security measures, investigate, and remediate any vulnerabilities, or invest in new technology designed to mitigate security risks.

Bond Ratings

There is no assurance that any rating assigned to the Series 2024 Bonds at the time of issuance will not be lowered or withdrawn. A downward revision or withdrawal of any such rating may have a material adverse effect on the market price for, and marketability of, the Series 2024 Bonds in secondary market trading. In addition, a downgrade of any of the ratings assigned to the Series 2024 Bonds could have negative effects on the Institute’s ability to borrow funds for future capital improvements, including but not limited to the costs of any such borrowing.

Other Factors

Additional factors, including international, national and local trends or events outside the Institute’s control, may affect the finances or future operations of the Institute to an extent that cannot be determined at this time.

PART 7 – THE SERIES 2024 PROJECT

A portion of the proceeds of the Series 2024 Bonds will be used to finance the costs of (i) a complete interior renovation of a former classroom building to create the Institute’s new 20,000 square foot Biomedical Research Innovation and Imaging Center on the Long Island campus; (ii) infrastructure, façade, roof, mechanical system, flood mitigation, security and code compliance upgrades on both the Long Island and New York City campuses; (iii) interior renovations on both campuses of academic and administrative spaces, including labs, classrooms, offices and libraries; (iv) renovations of student and athletic spaces including lounges, locker rooms, athletic fields, and ball courts; and (v) various other renovation and deferred maintenance projects across the Institute’s New York campuses (collectively, the “Series 2024 Project”).

PART 8 – ESTIMATED SOURCES AND USES OF FUNDS

Estimated sources and uses of funds are as follows:

Estimated Sources of Funds	
Principal Amount.....	\$100,000,000
Plus: Original Issue Premium	<u>9,947,838</u>
Total Sources ⁽¹⁾	<u>\$109,947,838</u>
Estimated Uses of Funds	
Deposit to Construction Fund.....	\$102,497,530
Deposit to Capitalized Interest Account ⁽²⁾	6,428,803
Costs of Issuance ⁽³⁾	<u>1,021,505</u>
Total Uses ⁽¹⁾	<u>\$109,947,838</u>

⁽¹⁾ Totals may not foot due to rounding.
⁽²⁾ Interest is capitalized through July 1, 2025.
⁽³⁾ Includes underwriter’s discount, legal fees and associated costs relating to the Series 2024 Bonds.

PART 9 – DASNY

Background, Purposes and Powers

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

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

To carry out its programs, DASNY is authorized to issue and sell negotiable bonds and notes to finance the construction of facilities for such institutions, to issue bonds or notes to refund outstanding bonds or notes, and to lend funds to such institutions. As of December 31, 2023, DASNY had approximately \$55 billion aggregate principal amount of bonds and notes outstanding.

DASNY also is authorized to make tax-exempt leases, with its Tax-Exempt Leasing Program (TELP). As part of its operating activities, DASNY also administers a wide variety of grants authorized by the State for economic development, education, and community improvement, which are payable to both public and private grantees from proceeds of State Personal Income Tax Revenue Bonds issued by DASNY.

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

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

In connection with the powers described above, DASNY has the general power to acquire real and personal property, give mortgages, make contracts, operate certain facilities and fix and collect rentals or other charges for their use, contract with the holders of its bonds and notes as to such rentals and charges, borrow money, and adopt a program of self-insurance.

DASNY has a staff of approximately 475 employees located in four main offices (Albany, New York City, Buffalo and Rochester) and at approximately 40 field sites across the State.

Governance

DASNY is governed by an eleven-member board. Board members include the Commissioner of Education of the State, the Commissioner of Health of the State, the State Comptroller or one member appointed by him or her who serves until his or her successor is appointed, the Director of the Budget of the State, one member appointed by the Temporary President

of the State Senate, one member appointed by the Speaker of the State Assembly, and five members appointed by the Governor, with the advice and consent of the Senate, for terms of three years. The Commissioner of Education of the State, the Commissioner of Health of the State, and the Director of the Budget of the State each may appoint a representative to attend and vote at DASNY meetings. The members of DASNY serve without compensation but are entitled to reimbursement of expenses incurred in the performance of their duties.

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

The current members of DASNY are as follows:

LISA A. GOMEZ, *Chair*, Pelham.

Lisa A. Gomez was appointed as a Member of DASNY by the Governor on June 2, 2022. Ms. Gomez is CEO of L+M Development Partners, LLC (L+M). She previously served as Chief Operating Officer. L+M develops, builds and manages affordable housing with local agencies such as the New York City Department of Housing Preservation and Development and the New York City Housing Authority. Prior to joining L+M, Ms. Gomez held positions in the Bloomberg and Dinkins Administrations as well as with JP Morgan Chase & Co. and Silverstein Properties. Ms. Gomez has a B.A. from Louisiana State University.

GERARD ROMSKI, ESQ., *Vice-Chair*, Mount Kisco.

Gerard Ronski was reappointed as a Member of DASNY by the Temporary President of the State Senate on May 9, 2016. He is Counsel and Project Executive for “Arverne by the Sea,” where he is responsible for advancing and overseeing all facets of “Arverne by the Sea,” one of New York City’s largest mixed-use developments located in Queens, New York. Mr. Ronski is also of counsel to the New York City law firm of Rich, Intelisano & Katz, LLP. Mr. Ronski holds a Bachelor of Arts degree from the New York Institute of Technology and a Juris Doctor degree from Brooklyn Law School.

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

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

ROBERT J. RODRIGUEZ, Westchester.

Robert J. Rodriguez was appointed as a Member of DASNY by the Governor on June 10, 2023. Mr. Rodriguez serves as New York’s Secretary of State. He previously served as a member of the New York State Assembly for 11 years representing Assembly District 68. He was Co-Chair of the Legislative Task Force on Demographic Research and Reapportionment, founding Chair of the Assembly Sub-committee on Infrastructure and Member of Committees on Ways and Means, Housing, Labor, Banking, Corporations and Authorities, and Mental Health. Mr. Rodriguez also held positions at Public Financial Management, A.C. Advisory, Inc and Bloomberg L.P. Mr. Rodriguez has Bachelor of Arts in History and Political Science from Yale University and received his MBA in Finance from New York University Stern Business School.

ALFONSO L. CARNEY, JR., New York.

Alfonso L. Carney, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Carney is a principal of Rockwood Partners, LLC, which provides medical consulting services in New York City. He has served as Acting Chief Operating Officer and Corporate Secretary for the Goldman Sachs Foundation in New York. Mr. Carney has held senior level legal positions with Altria Group Inc., Philip Morris Companies Inc., Philip Morris Management Corporation, Kraft Foods, Inc., and General Foods Corporation. Mr. Carney holds a Bachelor’s degree in philosophy from Trinity College and a Juris Doctor degree from the University of Virginia School of Law. His term expired on March 31, 2016 and by law he continues to serve until a successor shall be chosen and qualified.

WELLINGTON Z. CHEN, Queens.

Wellington Z. Chen was appointed as a Member of DASNY by the Governor on June 20, 2018. Mr. Chen is the Executive Director of the Chinatown Partnership Development Corporation. In this capacity, he leads the Chinatown

Partnership in implementing initiatives in infrastructure, post 9/11 rebuilding and public space improvements in a comprehensive effort to improve the environmental and the business conditions. He is a graduate of the School of Architecture and Environmental Studies at The City College of New York. Mr. Chen's term expired on March 31, 2020 and by law he continues to serve until a successor shall be chosen and qualified.

JOAN M. SULLIVAN, Slingerlands.

Joan M. Sullivan was appointed as a Member of DASNY by the New York State Comptroller on March 26, 2019. Ms. Sullivan is President of On Wavelength Consulting LLC, a firm that assists governmental entities with development of public procurements and private companies with the preparation of effective responses to government solicitations. She possesses over 40 years of experience working in and for the government of New York State, including an expansive career at the NYS Office of State Comptroller where she last served as Executive Deputy Comptroller before accepting an appointment as Executive Director of The NYS Forum, Inc. Ms. Sullivan holds a Bachelor of Arts degree in Business Administration (Accounting) from Siena College.

JANICE McKINNIE, Buffalo.

Janice McKinnie was appointed as a Member of DASNY by the Speaker of the Assembly on June 12, 2020. Ms. McKinnie is the Executive Director of True Community Development Corporation where she has led various housing rehabilitation and development projects and has formed strategic alliances with local and regional community groups to promote affordable housing and economic growth within the area of Buffalo. She is also the owner of Developments By JEM, LLC, a construction and project development consulting firm and a NYS certified M/WBE business. Ms. McKinnie is a graduate of the State University College of Buffalo and holds a Master's degree in organizational leadership from Medaille College.

BETTY A. ROSA, *Commissioner of Education of the State of New York, Bronx; ex-officio.*

Dr. Betty A. Rosa was appointed by the Board of Regents to serve as Commissioner of Education and President of the University of the State of New York effective February 8, 2021. Previously, Dr. Rosa assumed the role of Interim Commissioner of Education and President of the University of the State of New York from August 14, 2020 through February 7, 2021. Dr. Rosa had served as a member of the Board of Regents and as Chancellor thereof from March 2016 through August 2020. She started her career with the NYC Department of Education as a paraprofessional and later served as a teacher, assistant principal, principal in the Bronx and, upon appointment, assumed the responsibilities of Superintendent of Community School District 8 then Senior Superintendent of the Bronx. Dr. Rosa is a nationally recognized education leader who has over 30 years of instructional and administrative experience with an expertise in inclusive education, cooperative teaching models, student achievement and policy implementation. She received a B.A. in psychology from the City College of New York and an Ed. M. and Ed. D. in Administration, Planning and Social Policy from Harvard University as well as two other Master of Science in Education degrees, one in Administration and Supervision and the other in Bilingual Education from the City College of New York and Lehman College respectively.

BLAKE G. WASHINGTON, *Budget Director of the State of New York, Albany; ex-officio.*

Blake G. Washington is the Budget Director for the State of New York, appointed by Governor Kathy Hochul. Mr. Washington is responsible for the development and management of the New York State budget and leads a team of public servants to administer the fiscal duties of the state, including economic and revenue forecasting, tax policy, fiscal planning, capital financing and management of the State's debt portfolio. Mr. Washington was previously employed by the New York State Assembly Ways and Means Committee for over 20 years, culminating with his service as Secretary to the Committee from 2015 through 2023. In that role, Mr. Washington advised the Assembly Speaker and the Assembly Majority on all budget and fiscal matters and served as the Assembly's lead negotiator on the New York State budget. He began his career in public service as a probation officer in Sullivan County, New York. Mr. Washington earned both his master's and bachelor's degrees from the State University of New York at Albany.

JAMES MCDONALD, M.D., *Commissioner of Health of the State of New York, Albany; ex-officio.*

James McDonald, M.D., was named Acting Commissioner starting January 1, 2023 and confirmed as Commissioner by the State Senate on June 10, 2023. Prior to that, Dr. McDonald served as the Medical Director of the State Department of Health's Office of Public Health and Interim Director of the Center for Community Health, part of the Office of Public Health. Before joining the State Department of Health, Dr. McDonald worked for 10 years at the Rhode Island Department of Health, most recently as Interim Director/Commissioner. Dr. McDonald earned his medical degree from Loyola Stritch School of

Medicine in Chicago. He earned his MPH from the University of North Carolina in Chapel Hill. Dr. McDonald is board certified in pediatrics as well as preventive medicine.

The principal staff of DASNY are as follows:

The office of President and chief executive officer is currently vacant. The Vice President will perform the duties of the President until such time as a new President is appointed and confirmed.

CHARLIE WILLIAMS is the Vice President of DASNY and assists the President in the administration and operation of DASNY. Mr. Williams coordinates policy and operations across all DASNY business lines and serves as chief advisor on all DASNY operational matters. Mr. Williams most recently served as Managing Director for Executive Direction at DASNY. Prior to that, he served as Deputy Budget Director for the NYS Division of Budget where he oversaw the budgets of approximately 125 state agencies and authorities in the areas of economic development, human services, housing, energy, environment, education, arts, agriculture, parks, mental hygiene, developmental disabilities, addiction services and public protection. He holds a Bachelor of Arts degree from State University of New York at Plattsburgh and a Master's degree in Public Administration from the Rockefeller College of the University at Albany.

KIMBERLY A. ELLIS is the Chief Financial Officer and Treasurer of DASNY. As Chief Financial Officer and Treasurer, Ms. Ellis is responsible for supervising DASNY's investment program, general accounting, accounts payable, accounts receivable, financial reporting functions, payroll and information services, as well as the development and implementation of financial policies, financial management systems and internal controls for financial reporting. Prior to her appointment to Chief Financial Officer and Treasurer, Ms. Ellis served in numerous senior positions within the Finance Division of DASNY, including as Deputy Financial Officer and Assistant Director of Investments, where she had direct involvement with the management of DASNY's financial operations, including DASNY's overall investment portfolio and the coordination and development of DASNY's annual operating budget and capital plans. Ms. Ellis holds a Bachelor of Science degree in Accounting from the State University of New York at Buffalo.

R. NADINE FONTAINE is General Counsel to DASNY. Ms. Fontaine is responsible for all legal services including legislation, litigation, contract matters, and the legal aspects of all DASNY financings. Ms. Fontaine is licensed to practice law in the States of New York and Connecticut, as well as the United States District Courts for the Southern District of New York, the Eastern District of New York, and the District of Connecticut. She has over twenty-seven years of combined legal experience in the private and public sector. Ms. Fontaine most recently served as First Assistant Counsel to the Governor and, prior thereto, served as Assistant Counsel to the Governor for Economic Development, Public Finance & Procurement and Assistant Counsel for Human Services. She holds a Bachelor of Arts degree from the State University of New York at Stony Brook University and a Juris Doctor degree from Pace University School of Law.

PORTIA LEE is the Managing Director of Public Finance and Portfolio Monitoring. She is responsible for supervising and directing DASNY bond issuance in the capital markets, implementing and overseeing financing programs, overseeing DASNY's compliance with continuing disclosure requirements and monitoring the financial condition of existing DASNY clients. Ms. Lee previously served as Senior Investment Officer at the New York State Comptroller's Office where she was responsible for assisting in the administration of the long-term fixed income portfolio of the New York State Common Retirement Fund, as well as the short-term portfolio, and the Securities Lending Program. Prior to that, Ms. Lee worked at Moody's Investors Service where she most recently served as Vice President and Senior Credit Officer in the Public Finance Housing Group. She holds a Bachelor of Arts degree from the State University of New York at Albany.

STEPHEN D. CURRO is the Managing Director of Construction. Mr. Curro is responsible for DASNY's construction groups, including design, project management, resource acquisition, contract administration, interior design, real property, sustainability and engineering, as well as other technical services. Mr. Curro joined DASNY in 2001 as Director of Technical Services, and most recently served as Director of Construction Support Services. He is a registered Professional Engineer in New York and has worked in the construction industry for more than 30 years. He holds a Bachelor of Science in Civil Engineering from the University of Rhode Island, a Master of Engineering in Structural Engineering from Rensselaer Polytechnic Institute and a Master of Business Administration from Rensselaer Polytechnic Institute's Lally School of Management.

SARA POTTER RICHARDS, is the Managing Director for Executive Direction. Ms. Richards works with all Members of the Executive Management team to coordinate policy and operations across DASNY business lines. She is responsible for coordinating the work of the DASNY Board of Directors and overseeing the Grants Administration Unit and the Office of Environmental Affairs. Ms. Richards began her DASNY career in the Office of General Counsel and has held a variety of

positions of increasing responsibility, most recently serving as Chief of Staff. She holds a Bachelor of Science degree from Ithaca College and a Juris Doctor degree from Albany Law School.

Claims and Litigation

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

There is not now pending any litigation against DASNY (i) restraining or enjoining the issuance or delivery of the Series 2024 Bonds nor (ii) challenging the validity of the Series 2024 Bonds or the proceedings and authority under which DASNY will issue the Series 2024 Bonds.

Other Matters

New York State Public Authorities Control Board

The New York State Public Authorities Control Board (the “PACB”) has authority to approve the financing and construction of any new or reactivated projects proposed by DASNY and certain other public authorities of the State. The PACB approves the proposed new projects only upon its determination that there are commitments of funds sufficient to finance the acquisition and construction of the projects. DASNY obtains the approval of the PACB for the issuance of all its bonds and notes.

Legislation

From time to time, bills are introduced into the State Legislature which, if enacted into law, would affect DASNY and its operations. DASNY is not able to represent whether such bills will be introduced or become law in the future. In addition, the State undertakes periodic studies of public authorities in the State (including DASNY) and their financing programs. Any of such periodic studies could result in proposed legislation which, if adopted, would affect DASNY and its operations.

Environmental Quality Review

DASNY complies with the New York State Environmental Quality Review Act and with the New York State Historic Preservation Act of 1980, and the respective regulations promulgated thereunder to the extent such acts and regulations are applicable.

Independent Auditors

The accounting firm of KPMG LLP audited the financial statements of DASNY for the fiscal year ended March 31, 2023. Copies of the most recent audited financial statements are available upon request at the offices of DASNY.

PART 10 – LEGALITY OF THE SERIES 2024 BONDS FOR INVESTMENT AND DEPOSIT

Under State law, the Series 2024 Bonds are securities in which all public officers and bodies of the State and all municipalities and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees, committees, conservators and other fiduciaries in the State may properly and legally invest funds in their control.

The Series 2024 Bonds may be deposited with the State Comptroller to secure deposits of State money in banks, trust companies and industrial banks.

PART 11 – NEGOTIABLE INSTRUMENTS

The Series 2024 Bonds are negotiable instruments as provided in the Act, subject to the provisions for registration and transfer contained in the Resolution and in the Series 2024 Bonds.

PART 12 – TAX MATTERS

In the opinion of Bryant Rabbino LLP, Bond Counsel to DASNY, under existing law and assuming continuing compliance by DASNY and the Institute with certain tax covenants described herein, and the accuracy and completeness of certain representations and certifications made by DASNY and the Institute described herein, (i) interest on the Series 2024 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and (ii) interest on the Series 2024 Bonds is not an item of tax preference for purposes of calculating the federal alternative minimum tax under the Code. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by DASNY, the Institute and others in connection with the Series 2024 Bonds, and Bond Counsel has assumed compliance by DASNY and the Institute with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2024 Bonds from gross income under Section 103 of the Code. In addition, in rendering its opinion, Bond Counsel has relied on the opinion of the Institute’s counsel regarding, among other matters, the current qualifications of the Institute as an organization described in Section 501(c)(3) of the Code.

In addition, Bond Counsel is of the opinion that under existing law interest on the Series 2024 Bonds is exempt from personal income taxes imposed by the State or any political subdivision thereof, including The City of New York.

Bond Counsel expresses no opinion regarding any other Federal, state or local tax consequences arising with respect to the Series 2024 Bonds or the ownership or disposition thereof, except as stated above. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement its opinion to reflect any action taken or not taken, or any facts or circumstances that may hereafter come to its attention, or changes in law or interpretation thereof that may hereafter occur, or for any other reason. Bond Counsel expresses no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel regarding federal, state, or local tax matters, including, without limitation, the exclusion from gross income for Federal income tax purposes of interest on the Series 2024 Bonds, or the exemption from personal income taxes of interest on the Series 2024 Bonds under state and local tax law.

Certain Ongoing Federal Tax Requirements and Covenants

The Code establishes certain requirements that must be met as of and subsequent to the issuance and delivery of the Series 2024 Bonds for interest thereon to be and remain excludable from gross income for federal income tax purposes. Included among these requirements are requirements regarding, among other matters, the use, expenditure and investment of the proceeds of the Series 2024 Bonds, the use of the facilities financed with the proceeds of the Series 2024 Bonds, the yield and other restrictions on investment of gross proceeds of the Series 2024 Bonds, and the arbitrage rebate requirement that certain earnings on gross proceeds of the Series 2024 Bonds be rebated to the United States Treasury. Failure to comply with the requirements of the Code applicable to the Series 2024 Bonds may cause interest on the Series 2024 Bonds to be included in gross income for purposes of federal income tax retroactive to the date of original execution and delivery of the Series 2024 Bonds, regardless of the date on which the event causing such inclusion occurs. DASNY and the Institute have covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Series 2024 Bonds from gross income under Section 103 of the Code.

Certain Collateral Federal Tax Consequences

Ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty and life insurance companies, certain foreign corporations doing business in the United States, certain S-corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit. Prospective purchasers should consult their tax advisers as to any possible collateral consequences of their ownership of, accrual or receipt of interest on, or disposition of the Series 2024 Bonds. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences.

Bond Premium

The excess, if any, of the tax adjusted basis of a maturity of any Series 2024 Bonds purchased as part of the initial public offering by a purchaser (other than a purchaser who holds such Series 2024 Bonds as inventory, stock in trade or for sale to customers in the ordinary course of business) over the amount payable at maturity constitutes “bond premium.” Owners of a maturity of the Series 2024 Bonds with bond premium (a “Premium Bond”) will be subject to requirements under the Code

relating to tax cost reduction associated with the amortization of bond premium and, under certain circumstances, the initial owner of a Premium Bond may realize taxable gain upon disposition of Premium Bonds even though sold or redeemed for an amount less than or equal to such owner's original cost of acquiring such Premium Bonds. In general, bond premium is amortized over the term of a Premium Bond for Federal income tax purposes in accordance with constant yield principles based on the owner's yield over the remaining term of such Premium Bond (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). The owner of a Premium Bond is required to decrease such owner's adjusted basis in such Premium Bond by the amount of amortizable bond premium attributable to each taxable year such Premium Bond is held. The amortizable bond premium on such Premium Bond attributable to a taxable year is not deductible for federal income tax purposes; however, bond premium attributable to a taxable year is treated as an offset to qualified stated interest received on such Premium Bond during such taxable year.

Prospective purchasers of Premium Bonds should consult their tax advisors with respect to the tax consequences of acquiring, owning and disposing of Premium Bonds.

Information Reporting and Backup Withholding

Information reporting requirements apply to interest paid on tax-exempt obligations, including the Series 2024 Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number and Certification," or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to "backup withholding," which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a "payor" generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a Series 2024 Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Series 2024 Bonds from gross income for Federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the owner's Federal income tax once the required information is furnished to the Internal Revenue Service.

Miscellaneous

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the Federal or state level, may adversely affect the tax-exempt status of interest on the Series 2024 Bonds under Federal or state law or otherwise prevent beneficial owners of the Series 2024 Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future, or enacted) and such decisions could affect the market price or marketability of the Series 2024 Bonds.

The proposed form of the opinion of Bond Counsel relating to the Series 2024 Bonds is set forth in Appendix E hereto.

PART 13 – STATE NOT LIABLE ON THE SERIES 2024 BONDS

The Act provides that notes and bonds of DASNY are not a debt of the State, that the State is not liable on them and that such notes and bonds are not payable out of any funds other than those of DASNY. The Resolution specifically provides that the Series 2024 Bonds are not a debt of the State and that the State is not liable on them.

PART 14 – COVENANT BY THE STATE

The Act states that the State pledges and agrees with the holders of DASNY's notes and bonds that the State will not limit or alter the rights vested in DASNY to provide projects, to establish and collect rentals therefrom and to fulfill agreements with the holders of DASNY's notes and bonds or in any way impair the rights and remedies of the holders of such notes or bonds until such notes or bonds and interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of such notes or bonds are fully met and discharged. Notwithstanding the State's pledges and agreements contained in the Act, the State may in the exercise of its sovereign power enact or amend its laws which, if determined to be both reasonable and necessary to serve an important public purpose, could have the effect of impairing these pledges and agreements with DASNY and with the holders of DASNY's notes or bonds.

PART 15 – LEGAL MATTERS

Certain legal matters incidental to the authorization and issuance of the Series 2024 Bonds by DASNY are subject to the approval of Bryant Rabbino LLP, New York, New York, Bond Counsel, whose approving opinion will be delivered with the Series 2024 Bonds. The proposed form of Bond Counsel's opinion is set forth in "APPENDIX E – FORM OF APPROVING OPINION OF BOND COUNSEL" attached hereto.

Certain legal matters will be passed upon for the Institute by its counsel, Cullen and Dykman LLP, Uniondale, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Katten Muchin Rosenman LLP, New York, New York.

PART 16 – UNDERWRITING

The Underwriter has agreed, subject to certain conditions, to purchase the Series 2024 Bonds from DASNY at an aggregate purchase price of \$109,488,512.66 (representing the principal amount of the Series 2024 Bonds, plus original issue premium of \$9,947,838.00 less an underwriting discount of \$459,325.34) and to make a public offering of Series 2024 Bonds at prices that are not in excess of the public offering prices (or less than the yields) stated on the inside cover page of this Official Statement. The Underwriter will be obligated to purchase all such Series 2024 Bonds if any are purchased.

The Series 2024 Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter.

The Underwriter has entered into a retail distribution arrangement with its affiliate Morgan Stanley Smith Barney LLC. As part of the distribution arrangement, the Underwriter may distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, the Underwriter may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the Series 2024 Bonds.

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

In the ordinary course of their various business activities, the Underwriter and its affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (which may include bank loans and/or credit default swaps) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve securities and instruments of DASNY and/or the Institute.

PART 17 – CONTINUING DISCLOSURE

In order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, the Institute will enter into a written agreement (the "Continuing Disclosure Agreement") for the benefit of the Holders of the Series 2024 Bonds with Digital Assurance Certification LLC, as disclosure dissemination agent and the Trustee. The proposed form of Continuing Disclosure Agreement is set forth in "APPENDIX F - FORM OF AGREEMENT TO PROVIDE CONTINUING DISCLOSURE" attached hereto.

In the past five years, the Institute has not failed to comply, in any material respects, with any previous continuing disclosure undertaking entered into in connection with any offerings.

PART 18 – RATINGS

Moody's Investors Service ("Moody's") has assigned a rating of "Baa2" (stable outlook) to the Series 2024 Bonds and S&P Global Ratings ("S&P") has assigned a rating of "BBB" (stable outlook) to the Series 2024 Bonds. Such ratings reflect only the views of such organizations and any desired explanation of the significance of such ratings should be obtained from the rating agencies at the following addresses: S&P, 55 Water Street, New York, New York 10041 and Moody's, 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. There is no assurance that such ratings will prevail for any given period of time or that they will not be revised downward or withdrawn entirely by any or all of such rating agencies if, in the judgment of any or all of them, circumstances so warrant. Any such downward revision or withdrawal of such rating or ratings may have an adverse effect on the market price of the Series 2024 Bonds.

PART 19 – MISCELLANEOUS

References in this Official Statement to the Act, the Resolution, the Series 2024 Resolution, the Series 2024 Certificate of Determination, the Security Agreement, the Assignment and the Loan Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series 2024 Resolution, the Series 2024 Certificate of Determination, the Security Agreement, the Assignment and the Loan Agreement for full and complete details of their provisions. Copies of the Resolution, the Series 2024 Resolution, the Series 2024 Certificate of Determination, the Security Agreement, the Assignment and the Loan Agreement will be on file with DASNY and the Trustee.

The agreements of DASNY with Holders of the Series 2024 Bonds are fully set forth in the Resolutions. Neither any advertisement of the Series 2024 Bonds nor this Official Statement is to be construed as a contract with purchasers of the Series 2024 Bonds.

Any statements in this Official Statement involving matters of opinion, whether or not expressly stated, are intended merely as expressions of opinion and not as representations of fact.

The information set forth herein relating to DASNY under the heading “PART 9 – DASNY” has been obtained from DASNY. All other information herein has been obtained by the Underwriter from the Institute and other sources deemed to be reliable by the Underwriter, and is not to be construed as a representation by DASNY or the Underwriter. In addition, DASNY does not warrant the accuracy of the statements contained herein relating to the Institute nor does it directly or indirectly guarantee, endorse or warrant (1) the creditworthiness or credit standing of the Institute, (2) the sufficiency of security for the Series 2024 Bonds or (3) the value or investment quality of the Series 2024 Bonds.

The information regarding DTC and DTC’s book-entry only system has been furnished by DTC.

“APPENDIX A – CERTAIN DEFINITIONS,” “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND THE SECURITY AGREEMENT,” “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION” and “APPENDIX E – FORM OF APPROVING OPINION OF BOND COUNSEL” attached hereto have been prepared by Bryant Rabbino LLP, New York, New York, Bond Counsel.

“APPENDIX B – CONSOLIDATED FINANCIAL STATEMENTS OF NEW YORK INSTITUTE OF TECHNOLOGY WITH INDEPENDENT AUDITORS’ REPORT THEREON” attached hereto contains the financial statements of the Institute as of and for the years ended June 30, 2023 and 2022 and the report thereon of Grant Thornton LLP, the Institute’s independent auditors.

“APPENDIX F – FORM OF AGREEMENT TO PROVIDE CONTINUING DISCLOSURE” has been prepared by Katten Muchin Rosenman LLP, LLP, New York, New York, counsel to the Underwriter.

The Institute has reviewed the parts of this Official Statement describing the Institute, the covenants of the Institute, bondholders’ risks, the principal and interest requirements, the Series 2024 Project, the estimated sources and uses of funds and “APPENDIX B – CONSOLIDATED FINANCIAL STATEMENTS OF NEW YORK INSTITUTE OF TECHNOLOGY WITH INDEPENDENT AUDITORS’ REPORT THEREON”. The Institute, as a condition to issuance of the Series 2024 Bonds, is required to certify that as of the date of this Official Statement and as of the date of issuance of the Series 2024 Bonds, such parts do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading.

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

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

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

By: /s/ Charlie Williams
Authorized Officer

APPENDIX A – CERTAIN DEFINITIONS

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CERTAIN DEFINITIONS

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

Act means the Dormitory Authority Act being Title 4 of Article 8 of the Public Authorities Law of the State, as amended, including without limitation by the Health Care Financing Consolidation Act, being Title 4–B of Article 8 of the Public Authorities Law of the State.

Additional Bonds, as used in the Loan Agreement, means one or more Series of additional bonds issued, executed, authenticated and delivered under the Resolution.

Additional Indebtedness means indebtedness of the Institution for borrowed money issued following the issuance of the Bonds. Additional Indebtedness shall not include payments in respect of equipment or other assets under any installment sale agreement, lease or similar arrangement.

Annual Administrative Fee means the fee payable during each Bond Year for the general administrative and supervisory expenses of the Issuer in the amount or amounts more particularly described in Schedule B to the Loan Agreement, as such Schedule B may be amended, modified or supplemented by the Issuer with the consent of the Institution.

Arbitrage Rebate Fund means the fund so designated, created and established pursuant to the Resolution.

Authorized Officer means in the case of the Issuer, the Institution or the Trustee, as the case may be, when used with reference to any act or document referenced under the Resolution, means any person authorized by a resolution of the party's governing board, the by-laws of the applicable party or any other corporate documentation to perform such act or execute such document.

Balloon Indebtedness means Long-Term Indebtedness that is part of an issue of Indebtedness twenty-five percent (25%) or more of which has its date of maturity within the same twelve (12) month period.

Book Entry Bond means a Bond authorized to be issued, and issued to and registered in the name of, a Depository for the participants in such Depository or the beneficial owner of such Bond.

Bond or Bonds means any of the bonds of the Issuer authorized and issued pursuant to the Resolution and to a Series Resolution.

Bond Counsel means Bryant Rabbino LLP, or an attorney or other law firm or firms appointed by the Issuer, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

Bond Year means, unless otherwise provided in a Series Resolution or a Certificate of Determination with respect to a Series of Bonds, a period of twelve (12) consecutive months beginning July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

Bondholder, Holder of Bonds or Holder or any similar term, when used with reference to a Bond or Bonds, means the registered owner of any Bond.

Business Day means, unless otherwise defined in connection with Bonds of a particular Series, any day which is not a Saturday, Sunday or a day on which the Trustee or banking institutions chartered by the State or the United States of America are legally authorized to close in The City of New York.

Certificate of Determination means a certificate of an Authorized Officer of the Issuer fixing terms, conditions and other details of Bonds in accordance with the delegation of power to do so under the Resolution or under a Series Resolution as such certificate may be amended or supplemented from time to time.

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

Collateral means (i) the Pledged Revenues or (ii) any Shared Collateral, as applicable.

Collateral Security means a security interest in or pledge of any personal property, tangible or intangible, or interest therein, given or made by the Institution to secure the Institution's obligations under a Loan Agreement.

Construction Fund means the fund so designated, created and established for a Project by or pursuant to a Series Resolution authorizing the issuance of a Series of Bonds for the purpose of paying or refinancing the Costs of such Project.

Consultant means an individual or entity, who shall be independent with respect to compliance with the Loan Agreement, appointed by the Institution, generally recognized as qualified to pass upon the matters under consideration and having a favorable reputation for skill and experience in such matters.

Cost or Costs of Issuance means the items of expense incurred in connection with the authorization, sale and issuance of the Bonds, which items of expense shall include, but not be limited to, document printing and reproduction costs, filing and recording fees, costs of credit ratings, initial fees and charges of the Trustee or a Depository, legal fees and charges, professional consultants' fees, fees and charges for execution, transportation and safekeeping of Bonds, premiums, fees and charges for insurance on Bonds, commitment fees or similar charges relating to a Credit Facility, a Liquidity Facility, costs and expenses in connection with the refunding of Bonds or other bonds or notes of the Issuer, costs and expenses incurred pursuant to a remarketing agreement and other costs, charges and fees, including those of the Issuer, in connection with the foregoing.

Cost or Costs of the Project means when used in relation to a Project, the costs and expenses incurred in connection with the Project, including, but not limited to, (i) costs and expenses of the acquisition of the title to or other interest in real property, including easements, rights-of-way and licenses, (ii) costs and expenses incurred for labor and materials and payments to contractors, builders and materialmen, for the acquisition, construction, reconstruction, rehabilitation, repair and improvement of the Project, (iii) the cost of surety bonds and insurance of all kinds, including premiums and other charges in connection with obtaining title insurance, that may be required or necessary prior to completion of the Project, which is not paid by a contractor or otherwise provided for, (iv) the costs and expenses for design, environmental inspections and assessments, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction of the Project, (v) costs and expenses required for the acquisition and installation of equipment or machinery, (vi) all other costs which the Institution shall be required to pay or cause to be paid for the acquisition, construction, reconstruction, rehabilitation, repair, improvement and equipping of the Project, (vii) any sums required to reimburse the Institution or the Issuer for advances made by them for any of the above items or for other costs incurred and for work done by them in connection with the Project (including interest on money borrowed from parties other than the Institution), (viii) interest on the Bonds, bonds, notes or other obligations of the Issuer issued to finance Costs of the Project that accrued prior to, during and for a reasonable period after completion of the acquisition, construction, reconstruction, rehabilitation, repair, improvement or equipping of the Project, and (ix) fees, expenses and liabilities of the Issuer incurred in connection with the Project or pursuant to the Resolution or to a Loan Agreement, a Credit Facility in connection with Bonds, a Liquidity Facility or a remarketing agreement in connection with Option Bonds or Variable Interest Rate Bonds.

Credit Facility means, with respect to a Series of Bonds, an irrevocable letter of credit, insurance policy, surety bond, loan agreement, or other agreement, facility or insurance or guaranty arrangement pursuant to which the Trustee is entitled to obtain money to pay the principal and Sinking Fund Installments of and interest on particular Bonds whether or not the Issuer is in default under the Resolution, which is issued or provided by:

(i) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank or a saving and loan association;

(ii) an insurance company or association chartered or organized under the laws of any state of the United States of America;

- (iii) the Government National Mortgage Association or any successor thereto;
- (iv) the Federal National Mortgage Association or any successor thereto; or
- (v) any other federal agency or instrumentality set forth in the Series Resolution authorizing the Series of Bonds.

Any such Credit Facility may also constitute a Liquidity Facility if it also meets the requirements of the definition of a Liquidity Facility contained in the Resolution

Debtor means the Institution for purposes of the Security Agreement.

Debt Service Fund means, when used in connection with a Series of Bonds, the fund so designated, created and established by or pursuant to the Series Resolution authorizing the issuance of such Series of Bonds.

Debt Service Coverage Ratio means (i) the sum of (A) Net Revenues Available for Debt Service plus (B) all funds of the Institution which are legally available to be used for the payment of the Debt Service Requirement for a Fiscal Year, divided by (ii) the Debt Service Requirement for such Fiscal Year (taking into account any interest rate protection agreements), all determined in accordance with generally accepted accounting principles, applied on a consistent basis, except as otherwise provided in the Loan Agreement.

Debt Service Requirement means, with reference to a specified period, the amounts payable with respect to principal of any and all Long-Term Indebtedness (including scheduled mandatory redemptions of principal) and the interest on such Long-Term Indebtedness, excluding interest funded from the proceeds thereof and interest on any Long-Term Indebtedness to be redeemed during such period that would accrue after such redemption, provided that the Debt Service Requirement in any Fiscal Year on Variable Rate Indebtedness and Balloon Indebtedness shall be determined in accordance with the following provisions:

(i) Variable Rate Indebtedness. With respect to Indebtedness which is Variable Rate Indebtedness, the interest on such Indebtedness shall be calculated at the rate which is equal to the average of the actual interest rates which were in effect (weighted according to the length of the period during which each such interest rate was in effect) for the most recent twelve-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a twelve-month period), except that (i) with respect to new Variable Rate Indebtedness (and the incurrence thereof) the interest on which is not includable in gross income of the holders thereof for Federal income tax purposes, the interest rate for such Indebtedness shall be, for the first twelve-month period, deemed to be equal to the average of the actual rates for the most recent twelve month period of the Securities Industry and Financial Markets Association Municipal Swap Index or similar such index, and (ii) with respect to new Variable Rate Indebtedness (and the incurrence thereof) the interest on which is includable in gross income of the holders thereof for Federal income tax purposes, the interest rate for such Indebtedness shall be, for the first twelve-month period, deemed to be equal to the average of the actual rates for the most recent twelve month period of one-month Secured Overnight Financing Rate (SOFR) or similar such index.

(ii) Balloon Indebtedness. For the purposes of determining the Debt Service Requirement in any Fiscal Year on Balloon Indebtedness, such Indebtedness shall be assumed to amortize on a level debt service basis over a period of 20 years or the remaining term of the Indebtedness, whichever is less, unless a binding commitment to refinance such Indebtedness upon (or prior to) maturity has been provided by a financial institution rated at least "A2" by Moody's or "A" from S&P, in which case such Indebtedness shall be assumed to mature in accordance with the terms of such binding commitment.

Defeasance Security means:

- (i) a Government Obligation of the type described in clauses (i), (ii), (iii) or (iv) of the definition of Government Obligation;
- (ii) a Federal Agency Obligation described in clauses (i) or (ii) of the definition of Federal Agency Obligation;

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

(iv) any other investments as provided in the applicable Series Resolution.

Notwithstanding the foregoing, for purposes of (i), (ii) and (iii) above, such term shall not include (1) any interest in a unit investment trust or mutual fund or (2) any obligation that is subject to redemption prior to maturity other than at the option of the holder thereof.

Depository or DTC means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Series Resolution authorizing a Series of Bonds or a Certificate of Determination relating to a Series of Bonds to serve as securities depository for the Bonds of such Series (or any successor thereto appointed pursuant to the Resolution).

Determination of Taxability means, when used with respect to a Tax Exempt Bond, a final determination by any court of competent jurisdiction or a final determination by the Internal Revenue Service to which the Issuer shall consent or from which no timely appeal shall have been taken, in each case to the effect that interest on such Bond is includable in the gross income of the Holder thereof for purposes of federal income taxation.

Electronic Means means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services under the Resolution.

EMMA means the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board or any successor repository for municipal securities disclosures.

Exempt Obligation means:

(i) an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, the interest on which is excludable from gross income under Section 103 of the Code, which is not a "specified private activity bond" within the meaning of Section 57(a)(5) of the Code and which, at the time an investment therein is made or such obligation is deposited in any fund or account under the Resolution, is rated, without regard to qualification of such rating by symbols such as "+" or "-" and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services;

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

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

Extraordinary Services and Extraordinary Expenses means all services rendered and all fees and expenses incurred by or due to the Trustee or any paying agent under the Resolution other than Ordinary Services and Ordinary Expenses, including reasonable fees and disbursements of Trustee's counsel.

Favorable Opinion of Bond Counsel means, with respect to any action the occurrence of which requires such an opinion, an unqualified opinion of Bond Counsel to the effect that such action is permitted under the Act and the Resolution and, with respect to any action relating to the Bonds, will not impair the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

Federal Agency Obligation means:

(i) an obligation issued by any federal agency or instrumentality which, at the time an investment therein is made or such obligation is deposited in any fund or account under the Resolution, is rated, without regard to qualification of such rating by symbols such as "+" or "-" and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services;

(ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by a federal agency which, at the time an investment therein is made or such obligation is deposited in any fund or account under the Resolution, is rated, without regard to qualification of such rating by symbols such as "+" or "-" and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services;

(iii) securities or receipts evidencing ownership interests in obligations or specified portions (such as principal or interest) of obligations described in clauses (i) or (ii) above;

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

(v) any other obligation issued by any federal agency or instrumentality permitted under the Issuer's investment guidelines that is approved in writing by both the Issuer and the Institution.

Fiscal Year means the period from July 1 of any calendar year through June 30 of the following calendar year or such other 12 month period as the Institution may from time to time adopt for accounting and financial reporting purposes.

Government Obligation means:

(i) a direct obligation of the United States of America;

(ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by the United States of America;

(iii) an obligation to which the full faith and credit of the United States of America are pledged;

(iv) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

Governmental Requirements means any present and future laws, rules, orders, ordinances, regulations, statutes, requirements and executive orders applicable to the Project, of the United States, the State and any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of any of them, now existing or hereafter created, and having or asserting jurisdiction over the Project or any part thereof, including without limitation, those relating to environmental matters.

Indebtedness means, without duplication, indebtedness for borrowed money incurred or guaranteed by the Institution, whether or not evidenced by notes, bonds, debentures or other similar evidences of indebtedness, including indebtedness under purchase money mortgages, capital leases, installment sales agreements and similar security arrangements which appear as debt on the annual audited financial statements of the Institution in accordance with generally accepted accounting principles then applicable to the Institution; provided, however, that neither Non-Recourse Indebtedness, nor principal payments made by the Institution on any Credit Facility repayment, nor any payments made by the Institution under any operating lease shall constitute Indebtedness for purposes of determining the Debt Service Coverage Ratio under the Loan Agreement. Indebtedness may be either Long-Term Indebtedness or Short-Term Indebtedness.

Institution means New York Institute of Technology, a corporation duly organized and existing under the laws of the State, which is an institution for higher education located in the State and authorized to confer degrees by law or by the Board of Regents of the State, or any successor thereto.

Intercreditor Agreement means, if any, an agreement by and among, *inter alia*, the Issuer, the Trustee, providers of Credit Facilities, if any, and any other applicable lenders, as creditors of the Institution, with respect to (i) the relative priorities of the liens upon the Shared Collateral, if any, (ii) limitations or conditions upon their respective rights to enforce or realize upon such liens, and (iii) the application of any money realized from the enforcement or other realization upon such liens, as the same may be amended, modified or supplemented from time to time.

Institution Documents means the Loan Agreement and the other documents to which the Institution is a party as set forth in Schedule E to the Loan Agreement.

Investment Agreement means a repurchase agreement or other agreement for the investment of money with a Qualified Financial Institution.

Issuer means the Dormitory Authority of the State of New York, a body corporate and politic constituting a public benefit corporation of the State created by the Act, or any body, agency or instrumentality of the State which shall succeed to the rights, powers, duties and functions of the Issuer.

Issuer Documents means the Resolution, the Loan Agreement and the other documents to which the Issuer is a party as set forth in Schedule F to the Loan Agreement.

Issuer Fee means the fee payable to the Issuer attributable to the issuance of the Bonds, as more particularly described in Schedule B attached to the Loan Agreement and made a part of the Loan Agreement.

Liens means any pledge, lien, charge, security interest or lease in the nature thereof (including any conditional sale agreement, equipment trust agreement or other title retention agreement) or other encumbrance of whatsoever nature that would have a material adverse effect on the ability of the Issuer to enforce its right and remedies under the Loan Agreement, any other Institution Document or the agreement, a line of credit or other agreement or arrangement pursuant to which money may be obtained by the Security Agreement.

Liquidity Facility means a letter of credit, a surety bond, a standby purchase agreement, a line of credit or other agreement or arrangement pursuant to which money may be obtained by the Trustee upon the terms and conditions contained therein for the purchase of Bonds tendered for purchase in accordance with the terms of the Series Resolution authorizing such Bonds or the Certificate of Determination relating to such Bonds.

Loan Agreement means, when used in connection with a Series of Bonds or the funds and accounts established in connection with a Series of Bonds, the Loan Agreement by and between the Issuer and the Institution entered into in connection with the issuance of such Series of Bonds, as the same from time to time shall have been amended, supplemented or otherwise modified as permitted by the Resolution and by such Loan Agreement.

Loan Repayments means the scheduled payments of principal of and interest on the loan to be paid by the Institution pursuant to the Loan Agreement.

Long-Term Indebtedness means indebtedness of the Institution for borrowed money with a maturity of greater than twelve months.

Main Campus or Long Island Campus means the Institution's campus located in both the incorporated Villages of Brookville and Old Westbury, Town of Oyster Bay, County of Nassau, consisting of administration buildings, educational buildings and classroom halls, library, health center facilities, athletic facilities and fields.

Maximum Annual Debt Service means as of any date of calculation, the highest Debt Service Requirement for any succeeding Fiscal Year.

Net Revenues Available For Debt Service shall mean, with respect to the Institution, as to any period of time, net operating income, or excess of operating revenue over operating expenses (including investment income, gifts and bequests, but excluding Restricted Funds and the income and other proceeds thereon to the extent restricted by the donor thereof to other than operating expenses) before depreciation, amortization and interest, as determined in accordance with generally accepted accounting principles consistently applied; provided, that no determination thereof shall take into account (i) any gain or loss resulting from either the extinguishment of Indebtedness or the sale, exchange or other disposition of capital assets not in the ordinary course of business, (ii) the net proceeds of insurance (other than business interruption insurance) and condemnation awards, (iii) any non-reoccurring accounting changes, (iv) unrealized gains or losses from investment (notwithstanding generally accepted accounting principles), or (v) any other non-operating or non-cash expenses.

New York City Campus shall have the meaning ascribed to it in Schedule A to the Loan Agreement.

Non-Recourse Indebtedness means Indebtedness of the Institution payable from specified revenue sources and not a general obligation of the Institution.

Opinion of Bond Counsel means an opinion of Bond Counsel to the effect that the action proposed to be taken will not cause interest on the Bonds to which such action relates to be includable in the gross income of the owners of such Bonds for purposes of federal income taxation and that such action is authorized or permitted by the Resolution and by the applicable Series Resolution and Certificate of Determination.

Option Bond means any Bond which by its terms may be or is required to be tendered by and at the option of the Holder thereof for redemption by the Issuer prior to the stated maturity thereof or for purchase by the Issuer prior to the stated maturity thereof or the maturity of which may be extended by and at the option of the Holder thereof in accordance with the Series Resolution authorizing such Bonds or the Certificate of Determination related to such Bonds.

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

Outstanding, when used in reference to Bonds, means, as of a particular date, all Bonds authenticated and delivered under the Resolution and under any applicable Series Resolution except:

- (i) any Bond canceled by the Trustee at or before such date;
- (ii) any Bond deemed to have been paid in accordance with the defeasance provisions of the Resolution;
- (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to the Resolution; and
- (iv) any Option Bond tendered or deemed tendered in accordance with the provisions of the Series Resolution authorizing such Bond or the Certificate of Determination relating to such Bond on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided in the Resolution and in the Series Resolution authorizing such Bond or the Certificate of Determination relating to such Bond.

Parity Indebtedness means any indebtedness for borrowed money issued, incurred, assumed or guaranteed by the Institution that is secured by Collateral Security that, pursuant to an Intercreditor Agreement or otherwise, is of

equal priority with the lien of such Collateral Security securing the Institution's obligations under one or more Loan Agreements.

Permitted Collateral means:

- (i) Government Obligations described in clauses (i), (ii) or (iii) of the definition of Government Obligation;
- (ii) Federal Agency Obligations described in clauses (i) or (ii) of the definition of Federal Agency Obligation;
- (iii) financial guaranty agreements, surety or other similar bonds or other instruments of an insurance company that has an equity capital of at least \$125,000,000 and is rated by Bests Insurance Guide or a Rating Service in the highest rating category; and
- (iv) any other obligations or securities permitted under the Issuer's investment guidelines and approved in writing by both the Institution and the Issuer.

Permitted Disposition means any transfer, sale or conveyance of any portion of the Institution's property that (a) is not part of the Main Campus, or (b) the effect of which will not materially adversely affect the Institution's operation as an institution of higher education or its ability to comply with its obligations under the Loan Agreement.

Permitted Encumbrances means:

- (i) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable or that are being contested in accordance with the Loan Agreement;
- (ii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien, security interest, encumbrance or charge or right in respect thereof placed on or with respect to the Project or the Main Campus or any part thereof (A) that does not exceed \$1,000,000 in the aggregate, (B) for which payment is not yet due and payable, or (C) payment of which is being disputed in accordance with the Loan Agreement;
- (iii) utility, access and other easements, rights of way and restrictions that will not materially interfere with or impair the Institution's use and enjoyment of the Main Campus and the Project, provided that as to any such matter an authorized representative of the Institution so certifies to the Issuer and the Trustee if requested;
- (iv) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to property similar in character to the Project or the Main Campus and as do not either singly or in the aggregate, materially impair the property affected thereby for the purpose for which it was acquired or purport to impose liabilities or obligations on the Issuer, provided that as to any such matter an authorized representative of the Institution so certifies to the Issuer and the Trustee if requested;
- (v) any matters now or hereafter of record that do not materially adversely affect the operation of the Project or the Main Campus;
- (vi) liens arising by reason of good faith deposits with the Institution in connection with the tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the Institution to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;
- (vii) any lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Institution to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance,

old age pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;

- (viii) any judgment lien against the Institution which does not otherwise result in an Event of Default;
- (ix) any purchase money security interest in movable personal property, including equipment leases and financing;
- (x) liens on property due to rights of governmental entities or third party payors for recoupment of excess reimbursement paid;
- (xi) a lien, restrictive declaration or performance mortgage with respect to the operation of the Project or the Main Campus arising by reason of a grant or other funding received by the Institution from The City of New York, the State, the United States, or any governmental agency or instrumentality;
- (xii) any lien, security interest, encumbrances or charge which exists in favor of the Trustee or to which the Trustee shall consent in writing;
- (xiii) any lease, license or other agreement granted for the siting and operation of telecommunications or similar equipment, for utility or similar infrastructure or services or otherwise granted in furtherance of the educational mission of the Institution or public safety or for any other use that will not have a material adverse effect on the Project or the Main Campus, but only to the extent that the foregoing does not impact the tax-exempt status of the Bonds;
- (xiv) any short term lease, license or other use or occupancy agreement that does not have a material adverse effect on the Project or the Main Campus, but only to the extent that the foregoing does not impact the tax-exempt status of the Bonds; and
- (xv) liens securing any transactions hereafter permitted under the Loan Agreement.

Permitted Investments means any of the following:

- (i) Government Obligations;
- (ii) Federal Agency Obligations;
- (iii) Exempt Obligations;
- (iv) uncollateralized demand deposits, including interest bearing money market accounts, time deposits, overnight bank deposits and other interest bearing deposits, and certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation and issued by a banking organization authorized to do business in the State;
- (v) collateralized demand deposits, including interest bearing money market accounts, time deposits, overnight bank deposits and other interest bearing deposits, and certificates of deposit that are (a) issued by a banking organization authorized to do business in the State that has an equity capital of not less than \$125,000,000, whose unsecured senior debt, or debt obligations fully secured by a letter or credit, contract, agreement or surety bond issued by it, are, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, rated by at least one Rating Service in at least the second highest rating category, and (b) fully collateralized by Permitted Collateral;
- (vi) commercial paper issued by a domestic corporation rated, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, in the highest short term rating category by at least one Rating Service and having maturities of not longer than two hundred seventy (270) days from the date of purchase;

(vii) bankers' acceptances issued by a bank rated, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, in the highest short term rating category by at least one Rating Service and having maturities of not longer than three hundred sixty five (365) days from the date they are purchased;

(viii) Investment Agreements that are fully collateralized by Permitted Collateral;

(ix) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, whose objective is to maintain a constant share value of \$1.00 per share and that is rated, at the time an investment therein is made or the same is deposited in any fund or account under the Resolution, in the highest short term rating category by at least one Rating Service; and

(x) any other investment permitted under the Issuer's investment guidelines that is approved in writing by both the Issuer and the Institution.

Pledged Revenues means all receipts, revenues, income and other moneys received or receivable by or on behalf of the Debtor, including, without limitation, tuition, fees, gifts, grants, bequests, contributions, donations and pledges whether in the form of money, securities or other personal property, revenues derived from the operation of the facilities of the Debtor, and all rights to receive the same, whether in the form of accounts, payment intangibles, contract rights, general intangibles, healthcare insurance receivables, chattel paper, deposit accounts, instruments, promissory notes or other rights, and the proceeds thereof, as such terms are presently or hereafter defined in the Uniform Commercial Code in effect from time to time in the State, and any insurance thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Debtor; *provided, however*, that Pledged Revenues shall not include any Restricted Funds received or receivable by or on behalf of the Debtor.

Project means the project referenced in a Loan Agreement and authorized to be financed or refinanced under the Act, which may include more than one part, financed in whole or in part from the proceeds of the sale of Bonds, as more particularly described in the Resolution, in or pursuant to a Series Resolution or in or pursuant to a Certificate of Determination relating to such Bonds.

Qualified Financial Institution means any of the following entities that has an equity capital of at least \$125,000,000 or whose obligations are unconditionally guaranteed by an affiliate or parent having an equity capital of at least \$125,000,000:

(i) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, and (a) that is on the Federal Reserve Bank of New York list of primary government securities dealers and (b) whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; *provided, however*, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(ii) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank, which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of the United States of America, any state of the United States of America or any foreign nation, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; *provided, however*, that no short term rating may be utilized to determine whether an entity

qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(iii) a corporation affiliated with or which is a subsidiary of any entity described in (i) or (ii) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; *provided, however*, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(iv) the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Issuer; or

(v) a corporation whose obligations, including any investments of any money held under the Resolution purchased from such corporation, are insured by an insurer that meets the applicable rating requirements set forth above.

Rating Service means Moody's Investors Service, Inc., S&P Global Rating Services, Fitch, Inc. and any other nationally recognized statistical rating organization or their respective successors and assigns.

Record Date means, unless the Series Resolution or the Certificate of Determination relating thereto provides otherwise, the fifteenth (15th) day (whether or not a Business Day) of the calendar month next preceding an interest payment date..

Redemption Price, when used with respect to a Bond, means the principal amount of such Bond plus the applicable premium, if any, payable upon redemption prior to maturity thereof pursuant to the Resolution or to the applicable Series Resolution or Certificate of Determination.

Refunding Bonds means all Bonds, whether issued in one or more Series of Bonds, authenticated and delivered on original issuance pursuant to the Resolution, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Resolution.

Refunding Indebtedness means any Long-Term Indebtedness incurred by the Institution to refund or replace, in whole or in part, any then-existing Long-Term Indebtedness.

Resolution means the New York Institute of Technology Revenue Bond Resolution, adopted by the Issuer on February 14, 2024, as from time to time amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions of the Resolution.

Restricted Funds means any (i) revenues of the medical clinic received or receivable by or on behalf of the Debtor; (ii) student health, dental, tuition and other insurances, to the extent that those revenues are pass-throughs to third-party service providers with contracts obligating them to serve Borrower's students; (iii) gifts, grants, scholarships, fellowships, bequests, donations and/or contributions heretofore or hereafter made, designated at the time of making thereof by the donor or maker as being for certain specific purposes inconsistent with the payment of debt service on the Bonds, and the income derived therefrom, to the extent required by virtue of such designation; or (iv) gifts, grants, scholarships, fellowships, bequests, donations and/or contributions heretofore or hereafter made, designated at the time of making thereof by the donor or maker as being restricted for use solely during a specific period of time, which time restrictions may be inconsistent with the payment of debt service on the Bonds during any particular period of time, and the income derived therefrom, to the extent required by virtue of such designation.

Restricted Gift means any gift, grant or bequest of money or other property to or for the benefit of the Institution, the use of which has been restricted by the donor or the grantor to paying any cost or expense that constitutes a Cost of the Project.

Revenues means, when used in connection with the Bonds of any particular Series:

(i) all payments received or receivable by the Issuer that pursuant to the Loan Agreement entered into in connection with such Series of Bonds are required to be paid to the Trustee, other than payments to the Trustee for any of the following: (A) the administrative costs and expenses or fees of the Trustee, (B) deposit to the Arbitrage Rebate Fund, or (C) deposit to any fund or account established by or pursuant to such Series Resolution for the payment of the purchase price of Option Bonds tendered or deemed to have been tendered for purchase, and (D) deposit to any fund or account established by or pursuant to such Series Resolution for repayment of advances made by a provider of a Credit Facility or a Liquidity Facility; and

(ii) all amounts received as a consequence of the enforcement of a Loan Agreement, including but not limited to amounts derived from the foreclosure or sale of or other realization upon any Collateral Security.

Secured Party means the Issuer for purposes of the Security Agreement.

Securities means (i) moneys, (ii) Government Obligations, (iii) Exempt Obligations, (iv) any bond, debenture, note, preferred stock or other similar obligation of any corporation incorporated in the United States, which security, at the time an investment therein is made or such security is deposited in any fund or account under the Resolution, is rated, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, “Aa” or better by Moody’s or “AA” or better by S&P or is rated with a comparable rating by any other nationally recognized rating service acceptable to an Authorized Officer of the Issuer and (v) common stock of any corporation incorporated in the United States of America whose senior debt, if any, at the time an investment in its stock is made or its stock is deposited in any fund or account established under the Resolution, is rated, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, “Aa” or better by Moody’s or “AA” or better by S&P or is rated with a comparable rating by any other nationally recognized rating service acceptable to an Authorized Officer of the Issuer and the providers of a Credit Facility.

Security Agreement means the agreement dated as of March 14, 2024, executed and delivered by the Institution to the Issuer for the purpose of granting a security interest in the Pledged Revenues as security for the Institution’s obligations under the Loan Agreement.

Serial Bond means any Bond so designated in a Series Resolution or a Certificate of Determination.

Series means all of the Bonds authenticated and delivered on original issuance and pursuant to the Resolution and to the Series Resolution authorizing such Bonds as a separate Series of Bonds or the Certificate of Determination relating thereto, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Resolution, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

Series Resolution means a resolution of the Issuer authorizing the issuance of one or more Series of Bonds adopted by the Issuer pursuant to the Resolution as it may be amended or supplemented from time to time.

Series 2024 Bonds means the Issuer’s New York Institute of Technology Revenue Bonds, Series 2024.

Series 2024 Resolution means the Series Resolution 2024-1 Authorizing Up To \$105,000,000 New York Institute of Technology Revenue Bonds adopted February 14, 2024.

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

Short-Term Indebtedness means indebtedness of the Institution for borrowed money with a maturity of twelve months or less.

Sinking Fund Installment means, as of any date of calculation, when used with respect to any Bonds of a Series, so long as any such Bonds are Outstanding, the amount of money required by the Resolution or by the Series Resolution pursuant to which such Bonds were issued or by the Certificate of Determination relating thereto to be paid on a single future July 1 (or such other date as provided in a Series Resolution or a Certificate of Determination with respect to a Series of Bonds) for the retirement of any Outstanding Bonds of said Series which mature after said future July 1, but does not include any amount payable by the Issuer by reason only of the maturity of a Bond, and said future July 1 is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Bonds are deemed to be Bonds entitled to such Sinking Fund Installment.

State means the State of New York.

Supplemental Resolution means any resolution of the Issuer amending or supplementing the Resolution, any Series Resolution or any Supplemental Resolution adopted and becoming effective in accordance with the terms and provisions of the Resolution.

Tax Certificate means the certificate of the Issuer and the Institution, including the appendices, schedules and exhibits thereto, executed in connection with the issuance of the Bonds in which the Issuer and the Institution make representations and agreements as to arbitrage and compliance with the provisions of Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986, or any similar certificate, agreement or other instrument made, executed and delivered in lieu of said certificate, in each case as the same may be amended or supplemented.

Tax Exempt Bond means any Bond as to which Bond Counsel has rendered an opinion to the effect that interest on it is excluded from gross income for purposes of federal income taxation.

Term Bond means any Bond so designated in a Series Resolution or a Certificate of Determination and payable from Sinking Fund Installments.

Trustee means the bank or trust company appointed as Trustee and paying agent for the Bonds pursuant to the Resolution and having the duties, responsibilities and rights provided for in the Resolution, and its successor or successors and any other bank or trust company which may at any time be substituted in its place pursuant to the Resolution.

Unassigned Rights means the rights of the Issuer to (a) execute and deliver supplements and amendments to the Resolution and the Loan Agreement, pursuant to the Resolution, (b) be held harmless and indemnified pursuant to the Loan Agreement, (c) receive any funds for its own use, whether as administration fees, indemnification, or otherwise under the Loan Agreement, (d) receive notices, Favorable Opinions of Bond Counsel and other documents as required under the Loan Agreement to be delivered to the Issuer; (e) require the Institution to take actions necessary to comply with the Loan Agreement; and (f) enforce any of the foregoing pursuant to the Loan Agreement.

Variable Interest Rate means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing such interest rate or rates specified in the Series Resolution authorizing such Bonds or the Certificate of Determination relating to such Bonds and which shall be based on:

(i) a percentage or percentages or other function of an objectively determinable interest rate or rates (e.g., a prime lending rate) which may be in effect from time to time or at a particular time or times; or

(ii) a stated interest rate that may be changed from time to time as provided in such Series Resolution or Certificate of Determination;

provided, however, that in each case such variable interest rate may be subject to a Maximum Interest Rate and a Minimum Interest Rate as provided in the Series Resolution authorizing such Bonds or the Certificate of Determination relating thereto, and that Series Resolution or Certificate of Determination shall also specify either (x) the particular period or periods of time or manner of determining such period or periods of time for which each variable interest rate shall remain in effect or (y) the time or times at which any change in such variable interest rate shall become effective or the manner of determining such time or times.

Variable Interest Rate Bond means any Bond which bears a Variable Interest Rate; *provided, however*, that a Bond, the interest rate on which shall have been fixed for the remainder of the term thereof, shall no longer be a Variable Interest Rate Bond.

Variable Rate Indebtedness means Long-Term Indebtedness for which the rate on interest payable may vary from time to time in accordance with the terms of such Indebtedness (without reference to default interest or any similar provisions for changes to the applicable interest rate).

Verification Report means, when used in connection with any Bonds for the payment of which Defeasance Securities and money has been deposited with the Trustee in accordance with the Resolution, a letter or other written report verifying the accuracy of the arithmetical computations which establish the adequacy of such money and Defeasance Securities for such purpose.

**APPENDIX B – CONSOLIDATED FINANCIAL STATEMENTS OF NEW YORK INSTITUTE OF TECHNOLOGY
WITH INDEPENDENT AUDITORS' REPORT THEREON**

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Financial Statements and Report of
Independent Certified Public
Accountants

New York Institute of Technology

June 30, 2023 and 2022

Contents

Page

Report of Independent Certified Public Accountants

3

Financial Statements

Statements of financial position

5

Statement of activities

6

Statement of activities

7

Statements of cash flows

8

Notes to financial statements

9

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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

To the Board of Trustees of
New York Institute of Technology

Opinion

We have audited the financial statements of New York Institute of Technology (the "Institute" or "NYIT"), which comprise the statements of financial position as of June 30, 2023 and 2022, and the related statements of activities and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Institute as of June 30, 2023 and 2022, and the results of its operations 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 of the financial statements in accordance with auditing standards generally accepted in the United States of America (US 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 Institute 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 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 financial statements that are free from material misstatement, whether due to fraud or error.

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

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the 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 US 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 financial statements.

In performing an audit in accordance with US GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the 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 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 Institute'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 financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Institute'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.

Grant Thornton LLP

Melville, New York
October 20, 2023

New York Institute of Technology

STATEMENTS OF FINANCIAL POSITION

June 30, 2023

	2023	2022
ASSETS		
Cash and cash equivalents	\$ 58,850,392	\$ 43,261,939
Grants receivable	3,336,351	6,574,347
Student accounts receivable, net of allowance of \$9,972,036 and \$10,091,390	4,515,150	3,850,423
Student loans receivable, net of allowance of \$74,233 and \$160,764	4,606,903	6,228,953
Contributions receivable, net	1,406,415	561,101
Investments, at fair value	130,297,889	131,194,696
Investments in real estate, at fair value	18,247,250	18,247,250
Other assets	5,322,908	5,737,998
Operating right-of-use assets	103,119,593	95,492,827
Property, plant and equipment, net	111,100,493	111,609,095
	<u> </u>	<u> </u>
Total assets	<u>\$ 440,803,344</u>	<u>\$ 422,758,629</u>
LIABILITIES AND NET ASSETS		
Liabilities		
Accounts payable and accrued liabilities	\$ 26,063,187	\$ 32,159,761
Deferred revenues	29,785,695	26,387,219
Refundable grants and U.S. Government loan funds	8,434,242	9,022,087
Operating lease obligations	118,521,412	110,958,873
Postretirement health benefits	5,123,272	5,786,964
Bonds payable	18,078,425	20,309,764
	<u> </u>	<u> </u>
Total liabilities	<u>206,006,233</u>	<u>204,624,668</u>
Commitments and contingencies		
Net assets		
Without donor restrictions	219,857,493	205,044,410
With donor restrictions	14,939,618	13,089,551
	<u> </u>	<u> </u>
Total net assets	<u>234,797,111</u>	<u>218,133,961</u>
	<u> </u>	<u> </u>
Total liabilities and net assets	<u>\$ 440,803,344</u>	<u>\$ 422,758,629</u>

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

New York Institute of Technology

STATEMENT OF ACTIVITIES

Year ended June 30, 2023

	Without Donor Restrictions	With Donor Restrictions	Total
Operating revenues			
Tuition and fees	\$ 240,038,533	\$ -	\$ 240,038,533
Grants and contracts	6,139,269	-	6,139,269
Government appropriations	621,025	-	621,025
Contributions	3,003,380	2,029,230	5,032,610
Training and public service	4,285,224	-	4,285,224
Endowment investment return designated for operations	4,158,966	223,874	4,382,840
Other investment return	1,152,111	-	1,152,111
Sales and services of auxiliaries	15,462,348	-	15,462,348
Other sources	5,904,784	20,050	5,924,834
Net assets released from restrictions and reclassifications	851,373	(851,373)	-
Total operating revenues	281,617,013	1,421,781	283,038,794
Operating expenses			
Instruction	125,107,979	-	125,107,979
Academic support	23,453,711	-	23,453,711
Student services	25,239,297	-	25,239,297
Research, training and public service	14,766,313	-	14,766,313
Auxiliary enterprises	14,405,102	-	14,405,102
Institutional support	66,496,396	-	66,496,396
Total operating expenses	269,468,798	-	269,468,798
Change in net assets from operations	12,148,215	1,421,781	13,569,996
Non-operating activities			
Endowment investment return, net of amounts designated for operations	746,264	429,286	1,175,550
Gain on Lease Settlement	1,125,366	-	1,125,366
Gain on disposition of property	597,500	-	597,500
Change in donor intent	1,000	(1,000)	-
Other components of net periodic benefit cost	1,992,973	-	1,992,973
Postretirement changes other than net periodic benefit cost	(1,798,235)	-	(1,798,235)
Change in net assets from non-operating activities	2,664,868	428,286	3,093,154
CHANGE IN NET ASSETS	14,813,083	1,850,067	16,663,150
Net assets			
Beginning of year	205,044,410	13,089,551	218,133,961
End of year	<u>\$ 219,857,493</u>	<u>\$ 14,939,618</u>	<u>\$ 234,797,111</u>

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

New York Institute of Technology

STATEMENT OF ACTIVITIES

Year ended June 30, 2022

	Without Donor Restrictions	With Donor Restrictions	Total
Operating revenues			
Tuition and fees	\$ 228,810,790	\$ -	\$ 228,810,790
Grants and contracts	17,573,053	-	17,573,053
Government appropriations	683,556	-	683,556
Contributions	1,358,663	664,731	2,023,394
Training and public service	3,847,103	-	3,847,103
Endowment investment return designated for operations	-	202,008	202,008
Other investment return	(3,074,692)	-	(3,074,692)
Sales and services of auxiliaries	14,229,571	-	14,229,571
Other sources	5,190,672	15,000	5,205,672
Net assets released from restrictions and reclassifications	596,287	(596,287)	-
Total operating revenues	269,215,003	285,452	269,500,455
Operating expenses			
Instruction	119,481,488	-	119,481,488
Academic support	22,539,636	-	22,539,636
Student services	27,293,107	-	27,293,107
Research, training and public service	14,436,188	-	14,436,188
Auxiliary enterprises	13,134,502	-	13,134,502
Institutional support	58,363,641	-	58,363,641
Total operating expenses	255,248,562	-	255,248,562
Change in net assets from operations	13,966,441	285,452	14,251,893
Non-operating activities			
Endowment investment return, net of amounts designated for operations	(2,479,573)	(552,106)	(3,031,679)
Loss from disposal of fixed assets	(1,526,441)	-	(1,526,441)
Reduction of Asbestos Liability from Land Sale	6,650,077	-	6,650,077
Gain on disposition of property	20,804,277	-	20,804,277
Other components of net periodic benefit cost	1,971,602	-	1,971,602
Postretirement changes other than net periodic benefit cost	(1,202,988)	-	(1,202,988)
Change in net assets from non-operating activities	24,216,954	(552,106)	23,664,848
CHANGE IN NET ASSETS	38,183,395	(266,654)	37,916,741
Net assets			
Beginning of year	166,861,015	13,356,205	180,217,220
End of year	<u>\$ 205,044,410</u>	<u>\$ 13,089,551</u>	<u>\$ 218,133,961</u>

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

New York Institute of Technology

STATEMENTS OF CASH FLOWS

Years ended June 30, 2023

	2023	2022
Cash flows from operating activities:		
Change in net assets	\$ 16,663,150	\$ 37,916,741
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation	17,258,693	20,310,713
Amortization of bond issuance costs	103,661	103,660
Accretion expense, net of asbestos obligation payments	79,680	62,595
Reduction of asset retirement obligation	-	(6,650,077)
Loss (gain) on investments	(6,710,501)	5,904,363
Loss (gain) on Lease Settlement	(1,125,366)	1,526,441
(Gain) loss on disposition of land	(597,500)	(20,804,277)
Contributions to endowed investment portfolio	(181,976)	(368,128)
Postretirement health benefits, net	(663,692)	(1,366,369)
Change in provision for student accounts receivable	(119,354)	(680,313)
Change in provision on student loans receivable	(86,531)	(93,593)
Change in operating assets and liabilities:		
Student accounts receivable	(545,373)	(375,792)
Grants receivable	3,237,996	(2,482,461)
Contributions receivable	(845,314)	291,423
Other assets	415,090	(488,578)
Operating right-of-use assets	(7,626,766)	11,562,202
Accounts payable and accrued liabilities	(4,496,764)	19,791,894
Deferred revenues	3,398,476	(89,982)
Operating lease obligations	7,562,539	(11,533,763)
Net cash provided by operating activities	<u>25,720,148</u>	<u>52,536,699</u>
Cash flows from investing activities:		
Purchases of investments	(150,639,341)	(200,629,522)
Sales of investments	158,246,649	179,145,525
Purchases of property, plant and equipment	(16,402,579)	(16,469,195)
Loans to students	(73,538)	(336,822)
Repayments of student loans	1,782,119	1,442,603
Net cash used in investing activities	<u>(7,086,690)</u>	<u>(36,847,411)</u>
Cash flows from financing activities:		
Repayments of principal indebtedness	(2,335,000)	(2,270,000)
Payments on capital lease obligations	(304,136)	(370,892)
Contributions to endowed investment portfolio	181,976	368,128
Net change in refundable grants and U.S. government loan funds	(587,845)	(613,862)
Net cash used in financing activities	<u>(3,045,005)</u>	<u>(2,886,626)</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	15,588,453	12,802,662
Cash and cash equivalents - beginning of year	<u>43,261,939</u>	<u>30,459,277</u>
Cash and cash equivalents - end of year	<u><u>\$ 58,850,392</u></u>	<u><u>\$ 43,261,939</u></u>
Supplemental disclosure of cash flow information and noncash investing and financing activities:		
Cash paid for interest	<u>\$ 727,962</u>	<u>\$ 829,157</u>
Noncash investing and financing transactions:		
Property, plant and equipment included within accounts payable and accrued expenses	<u><u>\$ 2,358,641</u></u>	<u><u>\$ 2,967,088</u></u>

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

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS
June 30, 2023 and 2022

NOTE 1 - ORGANIZATION

New York Institute of Technology (the "Institute") is an independent, private Institute offering a variety of undergraduate, graduate and doctoral degrees. The Institute operates two primary campuses located in Old Westbury and Manhattan, New York, with additional programs in Jonesboro, Arkansas, Vancouver, Canada and China. The Institute's schools - College of Arts and Sciences; College of Engineering and Computing Sciences; College of Osteopathic Medicine ("NYITCOM"); School of Architecture and Design; School of Health Professions; and School of Management offer career-oriented education in more than 80 programs using hands-on access to state-of-the-art technology in those fields. The Institute is exempt from federal income taxes under the provisions of Section 501(c)(3) of the Internal Revenue Code ("IRC").

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The financial statements of the Institute are prepared on the accrual basis of accounting in accordance with generally accepted accounting principles in the United States of America ("U.S. GAAP").

Net Assets

The net assets of the Institute and changes therein are classified and reported based on the existence or absence of donor-imposed restrictions, as follows:

Without Donor Restrictions - net assets that are not subject to donor-imposed restrictions and, therefore, are available to meet the Institute's objectives. Net assets without donor restrictions may also be designated by the Institute's Board of Trustees.

With Donor Restrictions - net assets that are subject to donor-imposed restrictions that expire with the passage of time; can be fulfilled and removed by the actions of the Institute pursuant to those restrictions; or which may be perpetual.

Cash and Cash Equivalents

The Institute considers all highly liquid financial instruments with original maturities of three months or less from the date of purchase to be cash equivalents. Cash and cash equivalents do not include cash held for long-term investment purposes.

Investments

Investments in equity and debt securities are stated at fair value based upon quoted market prices in the statement of financial position. Purchases and sales of securities are reflected on a trade-date basis. Interest is recognized as earned. Dividends are accrued based on the ex-dividend date. Interest and dividend income and unrealized and realized gains and losses on investments are recorded in the caption investment return within the accompanying statements of activities. Realized gains and losses are determined on an average-cost basis.

Fair value for certain limited partnerships and hedge funds are estimated by the respective external investment managers if market values are not readily ascertainable. For those investments that do not have readily determinable fair values, their estimated value may differ from the value that would have been used had a ready market for such investment existed. Investments in limited partnerships and hedge funds are carried at fair value which represents the Institute's share of the net assets of these investments at the end of the Institute's fiscal year. The Institute records its share of the net income or loss for the accounting period in proportion to its participating percentage in each investment.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

All investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and such changes could materially affect the amounts reported in the statement of financial position.

Investments in Real Estate

Investments in real estate consist of unimproved land and properties not used primarily for academic purposes and available for future sale. Due to the inherent uncertainty of real estate valuations, the appraised values or contracted sales values reflected in the financial statements may differ significantly from values that would be determined by negotiation between parties to a sales transaction, resulting in differences that could be material. Key assumptions used in valuing the appraisals include primarily a comparable sales approach, net of expenses and discount rate. For the year ended June 30, 2023 and 2022, the Institute recorded no change in the value of investments in real estate. The investments are classified as Level 3 under the fair value hierarchy given the unobservable inputs that are supported by limited market activity during fiscal years 2023 and 2022.

Grants Receivable

Grants are reported as revenue when expenses are incurred in accordance with the terms of the respective agreements. Grants receivable are due to be collected within one year. Any funds received by the Institute which have not yet been recognized as earned revenues under the terms of the respective grant contracts are reported as refundable grants on the accompanying consolidated statements of financial position.

Student Receivables and Allowance for Doubtful Accounts

Student accounts receivable are carried at the unpaid balance of the original amount billed to students and student loans receivable are carried at the amount of unpaid principal. Both receivables are less an estimate made for doubtful accounts based on a review of all outstanding amounts. Management determines the allowance for doubtful accounts by identifying troubled accounts and by using historical experience. Recoveries of student accounts and loans receivable previously written off are recognized as revenue when received.

Contributions, Grants and Beneficial Interest Revenue Recognition

The Institute recognizes revenue from contributions, grants and contracts in accordance with Topic 958, and accordingly, the Institute evaluates whether a transfer of assets is (1) an exchange transaction in which a resource provider is receiving commensurate value in return for the resources transferred or (2) a contribution. If the transfer of assets is determined to be an exchange transaction, the Institute applies guidance under Accounting Standards Codification ("ASC") 606. If the transfer of assets is determined to be a contribution, the Institute evaluates whether the contribution is conditional based upon whether the agreement includes both (1) one or more barriers that must be overcome before the Institute is entitled to the assets transferred and promised and (2) a right of return of assets transferred or a right of release of a promisor's obligation to transfer assets.

The Institute records contributions of cash and other assets when an unconditional promise to give is received from a donor. Contributions are recorded at the fair value of the assets received and are classified as either with donor restrictions or without donor restrictions, based upon the presence or absence of donor-imposed restrictions. The Institute reports gifts of cash or other assets as restricted support if they are received with donor restrictions 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 accompanying financial statements as net assets released from restrictions. The Institute reports pledges expected to be

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

collected within one year at net realizable value. Pledges to be paid to the Institute over a period of years are recorded at their estimated present value using a risk-adjusted rate, ranging from 3.4% - 13.6%.

Property, Plant and Equipment, net

Property, plant and equipment consisting of land; buildings and leasehold improvements; machinery, equipment, and furniture and software are stated at cost, net of accumulated depreciation. Depreciation is calculated using the straight-line method based on estimated useful lives of 20 to 40 years for buildings; the lesser of 10 to 20 years or the remaining estimated useful life of the term of the lease for leasehold improvements; and three to ten years for machinery, equipment, vehicles, furniture and software.

The Institute capitalizes certain computer software costs which, upon being placed into service, are amortized utilizing the straight-line method over periods not exceeding three years. Amortization of capitalized software is included in depreciation expense. Upon disposal, the asset cost and related accumulated depreciation or amortization are eliminated from the respective accounts and resulting gain or loss, if any, is included in the statement of activities.

Property, plant and equipment are reviewed for impairment whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. Impairment losses would be recognized if the carrying amount of the asset exceeds the undiscounted future cash flows expected to result from the use of the asset and its eventual disposal.

Deferred Revenues

The Institute derives its revenue primarily from student tuition and fees. Revenue is recorded on the accrual basis of accounting. Deferred revenues primarily represent payments received from students relating to registrations for the following fall semester. Such amounts are recognized as revenue during the subsequent fiscal year (Note 3).

Refundable U.S. Government Grants

Funds provided by the Federal government under the Federal Perkins Student Loan program are loaned to qualified students with repayments directed back to the school (via its loan processing agent). The government ended the Perkins loan program on September 30, 2017, and final loan disbursements ceased on June 30, 2018. As outstanding loans continue to be collected, the funds are ultimately refunded to the government and unremitted funds are recorded within the accompanying statement of financial position as a liability.

Asset Retirement Obligation

The Institute recognizes the cost associated with the eventual remediation and abatement of asbestos located within its facilities. The cost of the abatement is based upon the estimate of a contractor who specializes in such abatements. The Institute recognized a net increase/(decrease) in these obligations of \$79,680 and (\$6,712,672) for the years ended June 30, 2023 and 2022, respectively. The obligation amounted to \$1,594,363 and \$1,514,683 at June 30, 2023 and 2022, respectively, and is included within the caption accounts payable and accrued liabilities in the accompanying statement of financial position. The conditional asset retirement obligation was calculated using an inflationary rate of 3.0% and a credit adjusted discount rate of 5.3% for the period ended June 30, 2023 and 2022.

Tuition and Fees Revenue

In accordance with Financial Accounting Standards Board ("FASB") ASC Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), the Institute recognizes revenue when control of the promised goods or services are transferred to the Institute's students or outside parties in an amount that reflects the

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

consideration the Institute expects to be entitled to in exchange for those goods or services. The standard outlines a five-step model whereby revenue is recognized as performance obligations within a contract are satisfied.

ASC 606 also requires disclosures regarding revenue recognition to ensure an understanding as to the nature, amount, timing and uncertainty of revenue and cash flows arising from contracts with customers. The Institute has identified tuition and fees, state appropriations, and other revenues as revenue categories subject to the adoption of ASC 606. The Institute recognizes contracts with customers, as goods or services transferred or provided in accordance with ASC 606.

The carrying value of student receivables has been reduced by an estimated allowance for uncollectible accounts, based on historical collection experience, and therefore, approximates net realizable value. Receivables are written off in the period in which they are deemed to be uncollectible. Amounts received in advance are reported as deferred revenues (Note 3).

Scholarships, Tuition Grants and Aid

The Institute maintains a policy of offering qualified applicants admission to the Institute without regard to financial circumstances. The Institute provides institutional financial aid to those admitted on the basis of merit or need in the form of direct grants or employment during the academic year. The Institute participates in certain student loan and grant programs. Under some of these programs, the Institute is required to make matching contributions of funds at contractual percentage rates.

Allocation of Expenses

Certain expenses of the Institute that relate to more than one activity were allocated among the Institute's respective functional expense categories. Allocated costs are predominantly related to the operations of the physical campus, and therefore are allocated on a square-footage basis by location, if appropriate, or across all Institute spaces. Depreciation, amortization, and interest expenses are also allocated on a square-footage basis across all Institute spaces.

Advertising Expense

The Institute expenses all advertising costs during the period in which they are incurred. Total advertising expense for the years ended June 30, 2023 and 2022 totaled \$2,598,206 and \$2,645,698, respectively, and is included as institutional support in the accompanying statement of activities.

Measure of Operations

The statement of activities distinguishes between operating and non-operating activities. Operating activities to carry out the mission of the Institute include all revenues and expenses that are an integral part of the Institute's educational programs and supporting activities. Non-operating activities include realized and unrealized gains or losses on real estate; investment return, net of amounts designated for operations; losses from the disposal of fixed assets; other real estate costs and postretirement benefit changes. Certain other gains and losses considered to be of a more unusual or non-recurring nature are also included as part of non-operating activities.

Fair Value Measurements

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

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Fair value accounting 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. 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 following describes the hierarchy of inputs used to measure fair value and the primary valuation methodologies used by the Institute for financial instruments 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 terms of the assets or liabilities; and
- Level 3 - Pricing inputs are unobservable for the asset or liability and include situations where there is little, if any, market activity for the asset or liability. The inputs into the determination of fair value require significant management judgment or estimation. Investments that are included in this category generally include privately held investments and partnership interests.

Concentration of Credit Risk

Financial instruments which potentially subject the Institute to concentrations of credit risk consist principally of temporary cash investments, marketable securities and limited partnerships. Cash and investments are exposed to various risks, such as interest rate, market and credit risks. To minimize such risks, the Institute maintains its cash in various bank deposit accounts which, at times, may exceed federally insured limits, and in a diversified investment portfolio. At June 30, 2023 and 2022, the Institute's cash and investments were placed with high-credit quality financial institutions and, accordingly, the Institute does not expect non-performance.

Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates include allowance for doubtful student accounts and loans receivable; valuation of investments; valuation of right of use assets; a reserve for conditional asset retirement obligations; the liability for postretirement benefits; the liability for lease obligations and fair values of non-marketable investments, including real estate. Actual results could differ from those estimates.

Income Taxes

The Institute follows guidance that clarifies the accounting for uncertainty in tax positions taken or expected to be taken in a tax return, including issues relating to financial statement recognition and measurement. This guidance provides that the tax effects from an uncertain tax position can only be recognized in the financial statements if the position is "more-likely-than-not" to be sustained if the position were to be challenged by a taxing authority. The assessment of the tax position is based solely on the technical merits of the position, without regard to the likelihood that the tax position may be challenged.

New York Institute of Technology

NOTES TO FINANCIAL STATEMENTS - CONTINUED

June 30, 2023 and 2022

The Institute is exempt from federal income tax under IRC section 501(c)(3), though it is subject to tax on income unrelated to its exempt purpose, unless that income is otherwise excluded by the Code. The Institute has processes presently in place to ensure the maintenance of its tax-exempt status; to identify and report unrelated business income; to determine its filing and tax obligations in jurisdictions for which it has nexus; and to identify and evaluate other matters that may be considered tax positions. The Institute has determined that there are no material uncertain tax positions that require recognition or disclosure in the financial statements. In addition, the Institute has not recorded a provision for income taxes as it has no material tax liability from unrelated business income activities.

New Pronouncements

In June 2016, the Financial Accounting Standards Board (“FASB”) issued ASU 2016-13 Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (ASC 326). This standard replaced the incurred loss methodology with an expected loss methodology that is referred to as the current expected credit loss (“CECL”) methodology. CECL requires an estimate of credit losses for the remaining estimated life of the financial asset using historical experience, current conditions, and reasonable and supportable forecasts and generally applies to financial assets measured at amortized cost, including accounts and loan receivables. Financial assets measured at amortized cost will be presented at the net amount expected to be collected by using an allowance for credit losses. This standard is effective for fiscal years beginning after December 15, 2022 (i.e. fiscal year 2024), and requires a modified-retrospective approach. Early adoption is permitted. The Institute is currently evaluating the new guidance and has not determined the impact this standard may have on the financial statements.

NOTE 3 - REVENUE RECOGNITION

The Institute has various revenue streams that revolve mainly around student enrollment and instruction. Revenue is generated mainly through tuition, housing, meals and various fees associated with enrollment at the Institute. Generally, enrollment and instructional services are billed when a course or term begins and are paid within 30 days of the bill date.

Revenue is also generated through late fees and payment plan fees for tuition payments, as well as from student health insurance and dining services. Generally, this other fee revenue is recognized when the fee is charged to the student, which coincides with the completion of the specific performance obligation to the student.

In the following table, revenue is disaggregated by type of service provided:

For the Year Ended June 30, 2023:						Tuition and Fees
Revenues						\$ 312,019,286
Less: student aid						(71,980,753)
Contract price						\$ 240,038,533
	Housing and Residential	Catering and Food Service	De Seversky Mansion	Student Insurance	Other	Sales and Services of Auxiliaries
Revenues	\$ 3,429,505	\$ 1,009,661	\$ 3,494,652	\$ 7,551,619	\$	\$ 15,485,437
Less: student aid	(23,089)	-	-	-	-	(23,089)
Contract price	\$ 3,406,416	\$ 1,009,661	\$ 3,494,652	\$ 7,551,619	\$ -	\$ 15,462,348

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

For the Year Ended June 30, 2022:						Tuition and Fees
Revenues						\$ 299,403,138
Less: student aid						(70,592,348)
Contract price						\$ 228,810,790
	Housing and Residential	Catering and Food Service	De Seversky Mansion	Student Insurance	Other	Sales and Services of Auxiliaries
Revenues	\$ 3,355,344	\$ 639,723	\$ 3,302,856	\$ 6,931,962	\$ 110,000	\$ 14,339,885
Less: student aid	(110,314)	-	-	-	-	(110,314)
Contract price	\$ 3,245,030	\$ 639,723	\$ 3,302,856	\$ 6,931,962	\$ 110,000	\$ 14,229,571

Deferred revenue at June 30, 2023 and 2022 totaled \$29,785,695 and \$26,387,219, respectively, and primarily represents the Institute's performance obligation to transfer future enrollment and instructional services to students. The changes in deferred revenues were caused by normal timing differences between the satisfaction of performance obligations and customer payments. The related performance obligations are all expected to be satisfied within one year. The Institute has elected, as a practical expedient, not to disclose additional information about unsatisfied performance obligations for contracts with customers that have an expected duration of one year or less.

NOTE 4 - FINANCIAL ASSETS AND LIQUIDITY RESOURCES

The Institute's working capital and cash flows have seasonal variations during the year attributable to tuition billing and a concentration of contributions received at calendar and fiscal year end. To manage liquidity, the Institute can use a portion of the capital reserve fund or the quasi-endowment fund for general expenditures with the approval from the Institute's Board of Trustees, subject to investment liquidity provisions.

New York Institute of Technology

NOTES TO FINANCIAL STATEMENTS - CONTINUED

June 30, 2023 and 2022

The following reflects the Institute's financial assets as of June 30, 2023 and 2022, and the amounts of those financial assets that could readily be made available within one year to meet general expenditures. Amounts available include the Board-approved appropriation from the endowment fund for the following year. Amounts not available include contributions receivable that are subject to donor-imposed restriction upon receipt.

	<u>2023</u>	<u>2022</u>
Financial assets:		
Cash and cash equivalents	\$ 58,850,392	\$ 43,261,939
Grants receivable	3,336,351	6,574,347
Student accounts receivable, net	4,515,150	3,850,423
Student loans receivable, net	4,606,903	6,228,953
Contributions receivable, net	1,406,415	561,101
Investments, at fair value	130,297,889	131,194,696
Other assets	<u>866,153</u>	<u>506,525</u>
Financial assets, at period end	203,879,253	192,177,984
Less those available for general expenditures within one year, due to:		
Contractual or donor-imposed restrictions:		
Donor-restricted endowment	(11,390,722)	(10,780,460)
Contributions receivable due in greater than one year	(850,415)	(363,801)
Donor-restricted contributions receivable due within one year	(556,000)	(197,300)
Student loans receivable, net	(4,606,903)	(6,228,953)
Funds held in trust	(54,872)	(2,095)
Board designations:		
Quasi-endowment fund	(88,713,643)	(67,460,325)
Capital reserve fund	(30,326,355)	(52,949,087)
Endowment spending distribution:		
Fiscal year appropriation 2023 and 2022, respectively	<u>4,411,756</u>	<u>4,983,820</u>
Financial assets available to meet cash needs for general expenditures within one year	<u>71,788,950</u>	<u>59,179,783</u>
Liquidity resources:		
Line of credit	<u>8,243,505</u>	<u>8,944,065</u>
Financial assets and liquidity resources available to meet cash needs for general expenditures within one year including line of credit	<u>\$ 80,032,455</u>	<u>\$ 68,123,848</u>

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

NOTE 5 - INVESTMENTS

The fair value of investments at June 30, 2023 and 2022 is as follows:

	2023	2022
Money market funds	\$ 1,236,713	\$ 5,329,090
Mutual funds	30,798,115	19,406,576
Common stock	50,863,131	39,131,359
Corporate bonds	25,292,757	44,262,818
Hedge funds	7,645,568	8,481,327
Partnership and other investments	14,461,605	14,583,526
	<u>\$ 130,297,889</u>	<u>\$ 131,194,696</u>
Endowment investments	\$ 99,971,534	\$ 78,245,610
Capital reserve	30,326,355	52,949,086
	<u>\$ 130,297,889</u>	<u>\$ 131,194,696</u>

Investment return, net, for the years ended June 30, 2023 and 2022 is as follows:

	Endowment Investments	Capital Reserve	Total 2023
Investment income:			
Dividends and interest	\$ 2,148,690	\$ 1,329,024	\$ 3,477,714
Realized (loss)/gain	(284,550)	(2,208,945)	(2,493,495)
Unrealized gain/(loss)	4,551,529	2,137,363	6,688,892
Expenses	(857,279)	(105,331)	(962,610)
Net investment return	<u>\$ 5,558,390</u>	<u>\$ 1,152,111</u>	<u>\$ 6,710,501</u>
	Endowment Investments	Capital Reserve	Total 2022
Investment income:			
Dividends and interest	\$ 2,241,895	\$ 1,020,550	\$ 3,262,445
Realized (loss)/gain	7,053,067	22,677	7,075,744
Unrealized gain/(loss)	(11,754,879)	(4,051,146)	(15,806,025)
Expenses	(369,754)	(66,773)	(436,527)
Net investment return	<u>\$ (2,829,671)</u>	<u>\$ (3,074,692)</u>	<u>\$ (5,904,363)</u>

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

The following table summarizes the Institute's fair value hierarchy for its investments, measured at fair value, as of June 30, 2023:

	Level 1	Level 2	Total
Mutual funds	\$ 30,798,115	\$ -	\$ 30,798,115
Common stock	50,863,131	-	50,863,131
Corporate bonds	-	25,292,757	25,292,757
	<u>\$ 81,661,246</u>	<u>\$ 25,292,757</u>	106,954,003
Money market			1,236,713
Alternative investments at NAV			<u>22,107,173</u>
Investments, at fair value			<u>\$ 130,297,889</u>

The following table summarizes the Institute's fair value hierarchy for its investments, measured at fair value, as of June 30, 2022:

	Level 1	Level 2	Total
Mutual funds	\$ 19,406,576	\$ -	\$ 19,406,576
Common stock	39,131,359	-	39,131,359
Corporate bonds	-	44,262,818	44,262,818
	<u>\$ 58,537,935</u>	<u>\$ 44,262,818</u>	102,800,753
Money market			5,329,090
Alternative investments at NAV			<u>23,064,853</u>
Investments, at fair value			<u>\$ 131,194,696</u>

The Institute has entered into agreements with private equity and external investment managers, which include commitments to make periodic cash disbursements in future periods. The expected amounts of these disbursements as of June 30, 2023 and 2022 are broken out in the Net Asset Value ("NAV") table.

The Institute utilizes the "practical expedient" to estimate the fair value of investments in various investment funds that have a calculated value of their capital account or NAV in accordance with, or in a manner consistent with U.S. GAAP whereby there is limited market activity. The practical expedient is permitted under U.S. GAAP to estimate the fair value of an investment at the measurement date using the reported NAV without further adjustment unless the entity expects to sell the investment at a value other than NAV or if the NAV is not calculated in accordance with U.S. GAAP.

The Institute performs additional procedures including due diligence reviews on its investments in investment companies and other procedures with respect to the capital account or NAV provided to ensure conformity with U.S. GAAP. The Institute has assessed factors including, but not limited to, manager's 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.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

The Institute uses the NAV to determine the fair value of all the underlying investments, which do not have a readily determinable fair value and prepare their financial statement consistent with the measurement principles of an investment company or have the attributes of an investment company. The following tables list investments in limited partnerships, private equities and hedge funds by major category.

2023						
Category	Strategy	NAV in Funds	Number of Funds	Amount of Unfunded Commitments	Redemption Terms	Redemption Restrictions
Private equity and other	Funds with an investment diversification strategy	\$ 11,620,321	9	\$ \$10,449,087	None	Redemption at discretion of general partners and upon liquidation of fund
Private equity and other	Portfolio consisting of non-performing and re-performing mortgage credit loans	402	1	-	None	Redemption at discretion of general partners and upon liquidation of fund
Private equity and other	Real estate private equity, seeking high annual returns through direct property ownership, financing and operating public and private real estate	2,669,227	2	-	Quarterly with 95 days' notice	Redemption at discretion of general partners and upon liquidation of fund
Equity funds (non-registered)	Diversified portfolio of global equity and equity like investments	93,741	2	313,330	None	Redemption at discretion of general partners and upon liquidation of fund
Equity funds (non-registered)	Real estate private equity, seeking high annual returns through direct property ownership, financing and operating public and private real estate	77,913	2	1,645,864	None; close end fund	Redemption at discretion of general partners and upon liquidation of fund
Hedge funds	Diverse global equity and credit strategies with concentrations in event-driven, arbitrage, and value opportunities	7,645,569	1	N/A	Monthly, quarterly, bi-annually, and annually, with 30-90 days' notice	None
		<u>\$ 22,107,173</u>	<u>17</u>	<u>\$ 12,408,281</u>		

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

2022						
Category	Strategy	NAV in Funds	Number of Funds	Amount of Unfunded Commitments	Redemption Terms	Redemption Restrictions
Private equity and other	Funds with an investment diversification strategy	\$ 11,598,019	7	\$ 5,921,999	None	Redemption at discretion of general partners and upon liquidation of fund
Private equity and other	Portfolio consisting of non-performing and re-performing mortgage credit loans	2,885	1	-	None	Redemption at discretion of general partners and upon liquidation of fund
Private equity and other	Real estate private equity, seeking high annual returns through direct property ownership, financing and operating public and private real estate	2,745,054	2	-	Quarterly with 95 days' notice	Redemption at discretion of general partners and upon liquidation of fund
Equity funds (non-registered)	Diversified portfolio of global equity and equity like investments	114,186	2	313,330	None	Redemption at discretion of general partners and upon liquidation of fund
Equity funds (non-registered)	Real estate private equity, seeking high annual returns through direct property ownership, financing and operating public and private real estate	123,383	2	1,645,864	None; close end fund	Redemption at discretion of general partners and upon liquidation of fund
Hedge funds	Diverse global equity and credit strategies with concentrations in event-driven, arbitrage, and value opportunities	8,481,327	1	N/A	Monthly, quarterly, bi-annually, and annually, with 30-90 days' notice	None
		<u>\$ 23,064,853</u>	<u>15</u>	<u>\$ 7,881,193</u>		

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

NOTE 6 - STUDENT LOANS RECEIVABLE AND REFUNDABLE GOVERNMENT GRANTS

The Institute makes uncollateralized loans to students based on financial need. Student loans are funded mainly through Federal government loan programs.

The following is an analysis of gross student loans receivable aging as of June 30, 2023 and 2022:

	2023	2022
Past due:		
1-120 days	\$ 91,837	\$ 167,764
Greater than 120 days	64,307	97,614
Collections	395,793	1,293,568
	<u>551,937</u>	<u>1,558,946</u>
Current	4,129,199	4,830,771
	<u>4,681,136</u>	<u>6,389,717</u>
Total gross student loans receivable	4,681,136	6,389,717
Less: reserve	(74,233)	(160,764)
	<u>(74,233)</u>	<u>(160,764)</u>
Total student loans receivable, net	<u>\$ 4,606,903</u>	<u>\$ 6,228,953</u>

The Institute's receivable includes the amounts due from current and former students. Management regularly assesses the adequacy of the allowance for credit losses by performing ongoing evaluations of the student loan portfolio. Management's assessment includes review of general economic conditions; a detailed review of the aging of the student loan receivable detail and a review of the default rate by loan category in comparison to prior years; the financial condition of specific borrowers; the level of delinquent loans; the value of any collateral and, where applicable, the existence of any guarantees or indemnifications. The level of the allowance is adjusted based on the results of management's analysis.

Loans disbursed under the Federal government loan programs are able to be assigned to the Federal government in certain non-repayment situations. In these situations, the federal portion of the loan balance is guaranteed.

NOTE 7 - PROPERTY, PLANT AND EQUIPMENT, NET

Property, plant and equipment, net consist of the following at June 30, 2023 and 2022:

	2023	2022
Land	\$ 4,798,837	\$ 4,798,837
Buildings and leasehold improvements	252,791,077	241,017,807
Machinery, equipment, furniture and software	109,357,044	105,331,586
Construction in progress	6,319,835	5,368,472
	<u>(262,166,300)</u>	<u>(244,907,607)</u>
Less: accumulated depreciation	(262,166,300)	(244,907,607)
	<u>\$ 111,100,493</u>	<u>\$ 111,609,095</u>

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Depreciation expense for the years ended June 30, 2023 and 2022 amounted to \$17,258,693 and \$20,309,713, respectively.

NOTE 8 - BONDS PAYABLE

The following is a summary of bonds payable at June 30, 2023 and 2022:

	<u>2023</u>	<u>2022</u>
Dormitory Authority of the State of New York, taxable revenue bonds, Series 2016A (the "Series 2016A" bonds), 3.19% to 3.36%, maturing 2024	\$ 1,365,000	\$ 3,700,000
Dormitory Authority of the State of New York, taxable revenue bonds, Series 2020A (the "Series 2020A" bonds), 2.72% to 3.61%, maturing 2030	17,185,000	17,185,000
Less: Unamortized bond issuance costs	<u>(471,575)</u>	<u>(575,236)</u>
Total bonds payable	<u>\$ 18,078,425</u>	<u>\$ 20,309,764</u>

The Institute repaid \$2,335,000 and \$2,270,000 in debt principal on the Series 2016A bond during fiscal year 2023 and 2022, respectively. The schedule below shows future principal payments from the remaining Series 2016A bonds and the Series 2020A bonds.

<u>Years Ending June 30,</u>	
2024	\$ 2,410,000
2025	2,485,000
2026	2,560,000
2027	2,635,000
2028-2030	<u>8,460,000</u>
Total	<u>\$ 18,550,000</u>

The total outstanding debt is collateralized by many of the Institute's academic properties on the Old Westbury campus and by most streams of net operating revenues. The Institute is obligated to comply with some financial covenants in conjunction with its outstanding debt portfolio. The Institute was in compliance with all financial covenants at June 30, 2023 and 2022.

Deferred Interest Cost

Costs related to the issuance of the debt are deferred and amortized over the life of the related debt. At June 30, 2023 and 2022, net deferred bond issuance costs totaled \$471,575 and \$575,236, respectively. For the years ended June 30, 2023 and 2022, amortization expense amounted to \$103,661 and \$103,660, respectively.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

NOTE 9 - POSTRETIREMENT BENEFITS

The Institute sponsors defined benefit health care plans that provide postretirement medical benefits to all employees who meet certain eligibility requirements. The plans are pay-as-you-go. The Institute has a liability associated with its postretirement health benefits obligation recorded on the statement of financial position.

In fiscal 2013, the Institute changed the payment of postretirement benefits for existing employees to a fixed-reimbursement model, effective on January 1, 2013. No employee hired on or after September 1, 2013 is eligible for postretirement medical benefits under this plan. As a result, the Institute realized a reduction in the postretirement benefit obligation of \$34,272,262 in the non-operating expense line in 2013, and that amount is being amortized into operational expense over the remaining working lives of the affected employees.

The status of the plan at June 30, 2023 and 2022 is as follows:

	2023	2022
Change in accumulated postretirement benefit obligation:		
Benefit obligation at July 1	\$ (5,786,964)	\$ (7,153,333)
Service cost	(159,875)	(195,443)
Interest cost	(252,715)	(186,432)
Benefits paid	628,829	793,198
Actuarial gain	447,453	955,046
Benefit obligation at June 30	<u>\$ (5,123,272)</u>	<u>\$ (5,786,964)</u>
Change in plan assets:		
Fair value of plan assets at July 1	\$ -	\$ -
Contributions	628,829	793,198
Benefits paid	(628,829)	(793,198)
Fair value of plan assets at June 30	<u>\$ -</u>	<u>\$ -</u>
Funded status of the plan:		
Accumulated employer contribution in excess of net periodic benefit cost	\$ (10,334,178)	\$ (12,796,105)
Unrecognized prior service credit	7,129,679	9,556,474
Unrecognized net losses	(1,918,773)	(2,547,333)
Net accrued benefit liabilities, recognized in the statement of financial position	<u>\$ (5,123,272)</u>	<u>\$ (5,786,964)</u>
Cost recognized in the statement of activities:		
Service cost	\$ (159,875)	\$ (195,443)
Interest cost	(252,715)	(186,432)
Amortization of actuarial loss	(181,107)	(268,761)
Amortization of prior credit	2,426,795	2,426,795
Net postretirement credit	<u>\$ 1,833,098</u>	<u>\$ 1,776,159</u>
Changes other than net periodic postretirement benefit cost:		
Actuarial gain (loss)	\$ 447,453	\$ 955,046
Amortization of unrecognized amounts	(2,245,688)	(2,158,034)
Total changes other than net periodic postretirement benefits costs	<u>\$ (1,798,235)</u>	<u>\$ (1,202,988)</u>

The amortized components of net periodic benefit cost expected to be recognized in fiscal year 2024 are \$2,426,795 for the amortization of prior service credit and \$131,198 for the amortization of unrecognized net loss.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

The significant actuarial assumptions used in the determination of actuarial present value of the projected benefit obligation and net periodic pension costs are:

Weighted-average discount rate	5.533%
Healthcare cost trend rate	Trend rates were not applicable in this assumption
Measurement date	June 30, 2023

Benefits expected to be paid in cash for the next period beginning July 1 are as follows:

2024	\$ 462,739
2025	493,882
2026	512,649
2027	519,061
2028	494,800
2029-2032	2,334,843

Estimated employer contributions expected to be paid by the Institute during the fiscal year ending June 30, 2024 total \$462,739.

NOTE 10 - RETIREMENT PLAN

The Institute has a contributory defined contribution retirement plan funded through the Teachers Insurance and Annuity Association for substantially all full-time employees. Contributions are based on a percentage of the participants' salaries. Total contributions under this plan for the years ended June 30, 2023 and 2022 totaled \$6,550,257 and \$6,474,050, respectively.

NOTE 11 - ENDOWMENT

The Institute has endowment funds that are subject to an enacted version of the Uniform Prudent Management of Institutional Act of 2006 ("UPMIFA"). New York State adopted UPMIFA in September 2010 ("NYPMIFA").

The Institute's endowment consists of investments in 54 individual funds established for a variety of purposes. The endowment includes both donor-restricted endowment funds and funds designated by the Board of Trustees to function as endowments. Net assets associated with endowment funds, including funds designated by the Board of Trustees to function as endowments, are classified and reported based on the existence or absence of donor-imposed restrictions.

The Board of Trustees of the Institute has interpreted relevant New York law, absent explicit donor stipulations to the contrary, to act in good faith and with care that an ordinary person in a like position would exercise under similar circumstances in making determinations to appropriate or accumulate endowment funds, taking into account both its obligation to preserve the value of the endowment and its obligation to use the endowment to achieve the purposes for which it was donated. As a result of this interpretation, the Institute classifies as net assets with donor restrictions (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. The remaining portion of the donor-restricted endowment fund beyond the corpus continues to be classified as net assets with donor

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

restrictions until those amounts are appropriated for expenditure by the Institute in a manner consistent with the standard of prudence prescribed by New York law.

In accordance with NYPMIFA the Institute considers the following factors in making a determination to appropriate or accumulate donor-restricted funds:

- the duration and preservation of the fund;
- the purposes of the Institute and the donor-restricted endowment fund;
- general economic conditions;
- the possible effect of inflation or deflation;
- the expected total return from income and the appropriation of investments;
- other resources of the Institute; and
- the investment policy of the Institute.

The Institute has adopted investment policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment while seeking to maintain purchasing power of the endowment assets. Endowment assets include those assets of donor-restricted funds that the Institute must hold in perpetuity or for a donor-specific period(s) as well as board-designated funds. Under this policy, as approved by the Board of Trustees, the endowment assets are invested in a manner that is intended to produce a real return, net of inflation and investment management costs, of at least 6.5% over the long term. Actual returns in any given year may vary from this amount. Annually, the Institute approves the endowment distribution for the following fiscal year. The endowment distribution is based on a formula-driven model, intended to lend stability to the Institute's annual operating budget. The distribution is based on an amount ranging from 5.0% to 6.0% of a three-year moving average of endowment market values, lagged by one year. The Board approves the distribution annually as part of the budget process. Differences between the endowment distribution and actual endowment earnings appear in the non-operating section of the statement of activities. From time to time, the fair value of assets associated with an individual donor-restricted endowment fund may fall below the fund's historic dollar value. Under NYPMIFA, the Institute may spend below the historical dollar value of its endowment funds unless specific donors have stipulated to the contrary. There were no deficiencies of this nature at June 30, 2023 and 2022.

To satisfy its long-term rate-of-return objectives, the Institute 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 Institute targets a diversified asset allocation that places a greater emphasis on equity based and alternative investments to achieve its long-term objective within prudent risk constraints.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

At June 30, 2023, the endowment net asset composition by type of fund consisted of the following:

	Without Donor Restrictions	With Donor Restrictions			Total Funds
		Purpose Gifts and Accumulated Gains	Historic Book Value	Total	
Board-designated endowment funds	\$ 88,713,643	\$ -	\$ -	\$ -	\$ 88,713,643
Donor-restricted endowment funds	-	5,178,108	6,212,614	11,390,722	11,390,722
Total endowment funds	<u>\$ 88,713,643</u>	<u>\$ 5,178,108</u>	<u>\$ 6,212,614</u>	<u>\$ 11,390,722</u>	<u>\$100,104,365</u>

At June 30, 2022, the endowment net asset composition by type of fund consisted of the following:

	Without Donor Restrictions	With Donor Restrictions			Total Funds
		Purpose Gifts and Accumulated Gains	Historic Book Value	Total	
Board-designated endowment funds	\$ 67,460,325	\$ -	\$ -	\$ -	\$ 67,460,325
Donor-restricted endowment funds	-	4,748,822	6,031,638	10,780,460	10,780,460
Total endowment funds	<u>\$ 67,460,325</u>	<u>\$ 4,748,822</u>	<u>\$ 6,031,638</u>	<u>\$ 10,780,460</u>	<u>\$ 78,240,785</u>

Not included in the balances above at June 30, 2023 and 2022, are pledges to donor-restricted funds, net of allowance for doubtful accounts and discount to present value of \$164,557 and \$149,851, respectively.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Changes in endowment net assets for the fiscal year ended June 30, 2023 consisted of the following:

	With Donor Restrictions				Total Funds
	Without Donor Restrictions	Purpose Gifts and Accumulated Gains (Losses)	Historic Book Value	Total	
Endowment net assets at beginning of period	\$ 67,460,325	\$ 4,748,822	\$ 6,031,638	\$ 10,780,460	\$ 78,240,785
Investment return:					
Investment income	1,896,200	252,490	-	252,490	2,148,690
Management and administrative fees	(756,541)	(100,738)	-	(100,738)	(857,279)
Net appreciation (realized and unrealized)	3,765,572	501,407	-	501,407	4,266,979
Total investment return	4,905,231	653,159	-	653,159	5,558,390
Contributions, inclusive of reclassification of donor intent	507,055	-	181,976	181,976	689,031
Transfer from Capital reserve fund	20,000,000	-	-	-	20,000,000
Distribution for spending	(4,158,968)	(459,182)	-	(459,182)	(4,618,150)
Reinvested spending /change in donor restriction		235,309	(1,000)	234,309	234,309
Endowment net assets at end of year	88,713,643	5,178,108	6,212,614	11,390,722	100,104,365

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Changes in endowment net assets for the fiscal year ended June 30, 2022 consisted of the following:

		With Donor Restrictions			
	Without Donor Restrictions	Purpose Gifts and Accumulated Gains (Losses)	Historic Book Value	Total	Total Funds
Endowment net assets at beginning of period	\$ 89,941,867	\$ 5,297,459	\$ 5,663,510	\$ 10,960,969	\$ 100,902,836
Investment return:					
Investment income	1,963,165	278,730	-	278,730	2,241,895
Management and administrative fees	(324,041)	(45,713)	-	(45,713)	(369,754)
Net appreciation (realized and unrealized)	(4,118,697)	(583,115)	-	(583,115)	(4,701,812)
Total investment return	(2,479,573)	(350,098)	-	(350,722)	(2,829,671)
Contributions, inclusive of reclassification of donor intent	1,500	-	368,128	368,128	369,628
Transfer to Capital reserve fund	(20,000,000)	-	-	-	(20,000,000)
Distribution for spending	-	(457,960)	-	(457,960)	(457,960)
Reinvested spending /change in donor restriction	(3,469)	259,421	-	259,420	255,952
Endowment net assets at end of year	\$ 67,460,325	\$ 4,748,822	\$ 6,031,638	\$ 10,780,460	\$ 78,240,785

NOTE 12 - NET ASSETS WITH DONOR RESTRICTIONS

At June 30, 2023 and 2022, net assets with donor restrictions consisted of the following:

	2023	2022
Professorship	\$ 774,456	\$ 670,276
Professorship (held in perpetuity)	1,000,000	1,000,000
Scholarships	4,816,019	4,412,782
Scholarships (held in perpetuity)	5,212,613	5,031,637
Contributions receivable, net	1,241,858	411,250
Contributions receivable, net (held in perpetuity)	164,557	149,851
Other restricted activities	1,730,115	1,413,755
Total net assets with donor restrictions	\$ 14,939,618	\$ 13,089,551

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Net assets released from restrictions were as follows for the years ended June 30, 2023 and 2022:

	2023	2022
Scholarships	\$ 651,589	\$ 544,232
Academic Support	43,561	-
Research, Training, & Public Service	156,223	52,055
Total net assets released from restrictions	<u>\$ 851,373</u>	<u>\$ 596,287</u>

NOTE 13 - FUND-RAISING EXPENSES

In the accompanying statement of activities, institutional support includes fund-raising expenses for contributions, grants and contracts. For the years ended June 30, 2023 and 2022, the Institute incurred fund-raising expenses of \$2,470,698 and \$1,818,297, respectively.

NOTE 14 - LEASES

The Institute determines if an arrangement is a lease or contains a lease at inception of a contract. A contract is determined to be or contain a lease if the contract conveys the right to control the use of identified property, plant, or equipment (an identified asset) in exchange for consideration. The Institute determines these assets are leased because the Institute has the right to obtain substantially all of the economic benefit from and the right to direct the use of the identified asset. Assets in which the supplier or lessor has the practical ability and right to substitute alternative assets for the identified asset and would benefit economically from the exercise of its right to substitute the asset are not considered to be or contain a lease because the Institute determines it does not have the right to control and direct the use of the identified asset. The Institute's lease agreements do not contain any material residual value guarantees or material restrictive covenants. Leases result in the recognition of ROU assets and lease liabilities on the statement of financial position. ROU assets represent the right to use an underlying asset for the lease term, and lease liabilities represent the obligation to make lease payments arising from the lease, measured on a discounted basis. The Institute determines lease classification as operating or finance at the lease commencement date. ROU assets and lease liabilities for operating leases are included in the statement of financial position and presented separately based on the classification of the underlying lease arrangement. ROU assets and lease liabilities for financing leases are included within the captions property, plant and equipment, and accounts payable and accrued liabilities, respectively, in the statement of financial position.

At lease inception, the lease liability is measured at the present value of the lease payments over the lease term. The ROU asset equals the lease liability adjusted for any initial direct costs, prepaid or deferred rent, and lease incentives. For the initial and subsequent measurement of all lease liabilities, the discount rate was provided by appraisal from a widely recognized bank. Operating lease expense is generally recognized on a straight-line basis over the lease term.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

The Institute has entered into the following lease arrangements:

Finance Leases

These leases mainly consist of various equipment leases. Termination of the leases generally are prohibited unless there is a violation under the lease agreement. Future minimum lease payments under capital lease obligations beyond June 30, 2023 are as follows:

<u>Years Ending June 30,</u>	<u>Total</u>
2024	\$ 286,630
2025	<u>286,630</u>
Total minimum lease payments	573,260
Less: amount representing interest	<u>(19,245)</u>
Present value of its net minimum lease payments	<u>\$ 554,015</u>

Supplemental balance sheet information related to financial leases at June 30, 2023 and 2022 follows:

	<u>2023</u>	<u>2022</u>
ROU assets	\$ 1,072,693	\$ 1,840,956
Less: Accumulated amortization	<u>(670,433)</u>	<u>(1,066,564)</u>
	<u>\$ 402,260</u>	<u>\$ 774,392</u>
Weighted-average remaining lease term:	2 years	2.9 years
Weighted-average discount rate:	3.3%	3.37%

Operating Leases

The Institute has several non-cancellable operating leases for space in New York, Arkansas, and Vancouver, Canada, that expire in various years through 2036. Some of these leases require payment of real estate taxes and escalations. Total rent expense for the years ending June 30, 2023 and 2022 were \$16,184,683 and \$16,985,576, respectively.

Future minimum payments required under operating leases, and other commitments are as follows:

	<u>Total</u>
2024	\$ 18,161,123
2025	18,636,912
2026	18,741,454
2027	17,845,298
2028	17,619,626
Thereafter	<u>99,115,040</u>
Total future minimum payments and other commitments	<u>\$ 190,119,453</u>

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Supplemental balance sheet information related to financial leases at June 30, 2023 and 2022 follows:

	2023	2022
ROU assets	\$ 136,163,249	\$ 118,409,633
Less: Accumulated amortization	<u>(33,043,657)</u>	<u>(22,916,806)</u>
	<u>\$ 103,119,592</u>	<u>\$ 95,492,827</u>
Weighted-average remaining lease term:	10.3 years	10.2 years
Weighted-average discount rate:	3.86%	3.81%

The components of lease costs for the years ended June 30, 2023 and 2022 are as follows:

	2023	2022
Operating lease cost	\$ 13,561,009	\$ 16,253,948
Financing lease cost		
Amortization of ROU Asset	362,044	280,585
Interest on lease liabilities	23,165	35,322

Supplemental cash flow information related to leases for the years ended June 30, 2023 and 2022 follows:

	2023	2022
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$ 13,249,018	\$ 16,211,854
Financing cash flows from financing leases	\$ 304,136	\$ 410,275

Litigation

The Institute has been named as a defendant in various legal actions claiming damages in connection with various matters. Management believes, on the basis of its understanding and consideration of these matters, that these actions will not result in payments of amounts, if any, which would have a material adverse effect on the financial statements.

Line of Credit and Standby Letter of Credit

The Institute has one unsecured line of credit of \$10,000,000 with a commercial bank. The line is subject to renewal with consent from both parties. There were no borrowings under the line of credit at June 30, 2023 and 2022. Under the \$10,000,000 line of credit, expiring December 31, 2024, \$1,756,495 is reserved for open Standby Letters of Credit for security deposits. As of June 30, 2023, the net amount available for borrowing on the \$10,000,000 line of credit is \$8,243,505. The interest rate on the \$10,000,000 line of credit is SOFR plus 150 basis points.

COVID-19 Pandemic

The Higher Education Emergency Relief Fund ("HEERF") provides funding to institutions for emergency financial aid grants to students as well as funding to support the costs of shifting classes online and other institutional costs incurred related to the pandemic. The Coronavirus Aid, Relief, and Economic Securities

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

Act ("CARES") was signed into law on March 27, 2020 and provided the Institute with funding under HEERF I. The Coronavirus Response and Relief Supplemental Appropriations Act ("CRRSAA") was signed into law on December 27, 2020 and provided the Institute with funding under HEERF II. The American Rescue Plan ("ARP") was signed into law on March 11, 2022 and provided the Institute with funding under HEERF III. Each of these awards has a student aid portion and an institutional portion. The Department of Education provided required uses of the funds for both the student portion and institutional portion and until the conditions associated with those requirements are satisfied, revenue cannot be recognized, in accordance with ASU 2018-08.

For the years ended June 30, 2023 and 2022, the Institute recognized approximately \$0.0 million and \$12.2 million, respectively, in revenue under the provisions of these programs and is recorded as grants and contracts within the accompanying statement of activities.

Subsequent Events

The Institute has evaluated subsequent events and transactions that occurred after the statement of financial position date of June 30, 2023 through October 20, 2023, the date these financial statements were available to be issued and noted the following matters.

In July 2023, the Institute sold the remaining parcel of land that was part of the former Central Islip campus for a net sales price of \$5,277,950. The sale also resulted in a reduction to the conditional asset retirement obligation of \$251,541.

In September 2023, the Institute transferred \$18,015,774 to an irrevocable trust with an escrow agent to legally defease the remaining principal and interest balances for the Series 2016A and Series 2020A bonds. As a result, the liability for both bond issues has been removed from the Statement of Financial Position as of September 7, 2023.

No other matters were noted that would require recognition or disclosure in the financial statements.

New York Institute of Technology
NOTES TO FINANCIAL STATEMENTS - CONTINUED
June 30, 2023 and 2022

NOTE 15 - NATURAL CLASSIFICATION OF EXPENSES

The Institute allocates operation and maintenance of plant, depreciation and amortization, and interest expense based on proportional expenditures using estimates of building square footage and the functional use of each facility financed by debt. The Institute's primary program service is academic instruction. Expenses reported as academic support, student services, and institutional support are incurred in support of this primary program activity. Expenses by their natural classification and function are presented as follows for the fiscal years ended June 30, 2023 and 2022:

Natural Expense Category	Instruction	Academic support	Student services	Research, training and public service	Auxiliary enterprises	Institutional support	Operation and maintenance of plant	Total FY2023	Total FY2022
Salaries and wages	\$ 68,636,478	\$ 8,775,554	\$ 10,527,012	\$ 6,785,456	\$ 1,427,988	\$ 17,538,452	\$ 6,108,618	\$ 119,799,558	\$ 112,072,382
Benefits	20,773,709	3,093,139	3,449,294	1,748,217	457,046	5,212,053	2,196,001	36,929,459	36,467,505
Contract services and partner fees	6,119,211	1,296,879	345,969	931,274	406,429	4,603,521	3,362,503	17,065,786	16,028,784
Travel, conferences and hospitality	1,055,138	514,359	2,226,452	382,079	34,640	550,279	39,586	4,802,533	2,750,031
Professional services	60,809	14,525	2,285,347	4,929	-	2,214,782	189,037	4,769,429	3,674,282
Supplies	1,155,321	2,004,203	258,202	1,904,905	630,472	1,149,112	203,257	7,305,472	6,626,658
Licensing and software costs	477,148	3,647,015	81,115	100,621	5,091	2,497,792	48,189	6,856,971	6,419,762
Space rental	2,997,324	415,152	90,712	299,788	3,631,834	265,236	12,790,127	20,490,173	18,766,847
Depreciation and amortization	7,111,480	1,097,693	1,619,230	243,099	149,570	7,141,541	-	17,362,613	20,414,374
Insurance	121,141	7,324	-	668,008	7,173,370	3,050,405	-	11,020,248	10,120,616
Interest expense	281,512	43,453	64,098	9,623	5,921	282,702	-	687,309	755,115
Spending on CARES Act Grant	-	-	-	-	-	-	-	-	6,184,378
Sales and other taxes	2,163,696	-	-	-	-	405,249	-	2,568,945	2,449,479
Litigation	-	-	300,000	-	-	2,868,520	-	3,168,520	144,386
Other	282,959	454,482	1,588,655	300,853	168,698	4,824,481	2,473,100	10,093,228	7,270,052
Operation and maintenance of plant	13,872,053	2,089,933	2,403,211	1,387,461	314,043	13,892,271	(27,410,418)	6,548,554	5,103,911
Total	\$ 125,107,979	\$ 23,453,711	\$ 25,239,297	\$ 14,766,313	\$ 14,405,102	\$ 66,496,396	\$ -	\$ 269,468,798	\$ 255,248,562

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**APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT
AND THE SECURITY AGREEMENT**

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SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND SECURITY AGREEMENT

The following is a brief summary of certain provisions of the Loan Agreement and the Security Agreement. This summary does not purport to be complete and reference is made to the Loan Agreement and the Security Agreement for full and complete statements of such and all provisions. The headings below are not part of either the Loan Agreement or the Security Agreement, but have been added for ease of reference. Defined terms used herein shall have the meaning ascribed to them in Appendix A.

Loan Agreement

Operation of Project

The Institution shall continue to be duly authorized to do business in the State and will operate all portions of the Project as a facility or facilities of higher education throughout the term of the Loan Agreement.

(Section 2.3(a))

Pledges and Security Interests

All corporate action on the part of the Institution to authorize such pledges and security interests in the Collateral has been duly and validly taken. The Institution shall at all times, to the extent permitted by law, defend, preserve and protect such pledge and security interest and all of the rights of the Issuer and the Bondholders under the Loan Agreement and under the Resolution against all claims and demands of all persons whomsoever.

(Section 2.3(b))

Maintenance of Corporate Existence

The Institution shall maintain its corporate existence, will continue to operate as a not-for-profit institution of higher education, shall obtain, maintain and keep in full force and effect such governmental approvals, consents, licenses, permits and accreditations as may be necessary for the continued operation of the Institution as a not-for-profit institution of higher education providing such programs and services as it may from time to time determine, shall not dissolve or otherwise dispose of all or substantially all of its assets and shall not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it; *provided, however*, that if no Event of Default shall be continuing, then, upon prior written notice to the Issuer, the Institution may (i) sell or otherwise transfer all or substantially all of its assets to, or consolidate with or merge into, another organization or corporation which qualifies under Section 501(c)(3) of the Code, or any successor provision of federal income tax law, or (ii) permit one or more corporations or any other organization to consolidate with or merge into it, or (iii) acquire all or substantially all of the assets of one or more corporations or any other organization; *provided, further*, that in each case (a) the Institution provides a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee relating to any such sale, transfer, consolidation, merger or acquisition, (b) the surviving, resulting or transferee corporation, as the case may be, is incorporated under the laws of the State and qualified under Section 501(c)(3) of the Code or any successor provision of federal income tax law, and (c) the surviving, resulting or transferee corporation, as the case may be, assumes in writing all of the obligations of and restrictions on the Institution under the Loan Agreement and under the Institution Documents, furnishes to the Issuer a certificate to the effect that upon such sale, transfer, consolidation, merger or acquisition such corporation shall be in compliance with applicable laws, rules and regulations and each of the provisions of the Loan Agreement and shall meet the requirements of the Act and furnishes such other certificates and documents as the Issuer may reasonably request.

(Section 2.3(c))

Accounts and Records

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

(Section 2.3(d))

Limitation on Agreements

Except as expressly provided by the Loan Agreement or by the Resolution, the Institution shall not enter into any contracts or agreements or perform any act which may adversely affect any of the assurances, interests or rights of the Issuer or the Bondholders under the Loan Agreement or under the Resolution.

(Section 2.3(e))

Information Concerning Institution

The Institution, whenever requested by the Issuer, shall provide and certify or cause to be provided and certified subject to legal restrictions, if any, such information concerning the Institution, its finances and other related topics as the Issuer from time to time reasonably determines to be necessary or desirable, including information reasonably necessary or desirable to enable the Issuer to make any reports or obtain any approvals required by law, governmental regulation or the Resolution to effect any of the transactions contemplated by the Loan Agreement or by the Resolution.

The Institution shall, if and when requested by the Issuer, provide to the Issuer reports with respect to the status of the construction of the Project. The Institution shall also furnish to the Issuer: (i) annually, not later than 120 days after the end of the Institution's fiscal year, copies of the Institution's audited financial statements and (ii) such other statements, reports and schedules describing the finances, operation and management of the Institution and such other information as the Issuer may from time to time reasonably request.

The Institution shall deliver to the Issuer each year no later than 120 days after the end of the Institution's fiscal year a compliance certificate signed by the Treasurer, Chief Financial Officer or the President of the Institution in the form attached to the Loan Agreement, together with other statistical information required by the Issuer.

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

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

The Institution shall furnish to the Issuer and the Trustee notice of the commencement of any proceeding by or against the Institution commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law.

(Section 2.3(f))

Compliance with Certain Requirements

The Institution shall comply with (i) all Governmental Requirements which, if not complied with, could adversely affect the Institution, its operations or financial condition or title to its properties in any material respect, and (ii) any requirement of an insurance company providing insurance to or for the benefit of the Institution. Anything contained in the paragraph of the Loan Agreement summarized in this paragraph to the contrary notwithstanding, the Institution shall have the right to contest the validity of any Governmental Requirement or the application thereof at the Institution's sole cost and expense. During such contest, compliance with the contested Governmental Requirement may be deferred by the Institution, provided that prior to commencing any action or proceeding, administrative or judicial, contesting the Governmental Requirement, the Institution notifies the Issuer of the Institution's intention to contest such Governmental Requirement and, if the Issuer requests, shall furnish to the Issuer moneys or other security, reasonably satisfactory to the Issuer, securing compliance with the contested Governmental Requirement and payment of all interest, penalties, fines, fees and expenses resulting from or in connection with such contest or the failure of the Institution to comply with the contested Governmental Requirement. Any such action or proceeding instituted by the Institution shall be commenced as soon as is reasonably possible after the assertion of the applicability to the Project or any part thereof, of the contested Governmental Requirement by a governmental authority, and shall be prosecuted to final adjudication or other final disposition with reasonable dispatch. Notwithstanding the furnishing of any bond, deposit or other security, the Institution promptly shall comply with any such Governmental Requirement and compliance shall not be deferred if at any time the Project, or any part thereof, to which such contested Governmental Requirement relates, would be in substantial danger by reason of the Institution's noncompliance with such Governmental Requirement of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise subjected to any proceeding, equitable remedy, lien, charge, fee or penalty that would impair (i) the interests or security of the Issuer under the Loan Agreement or under the Resolution, (ii) the ability of the Issuer to enforce its rights under the Loan Agreement or under the Resolution, (iii) the ability of the Issuer to fulfill the terms of any covenants or perform any of its obligations under the Loan Agreement or under the Resolution or (iv) the ability of the Institution to fulfill the terms of any covenants or perform any of its obligations under the Loan Agreement or under the Resolution.

(Section 2.3(g))

Prohibition Against Liens

The Institution, throughout the term of the Loan Agreement, shall not permit or create or suffer to be permitted or created any Lien upon the Project or the Collateral or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Project or any part thereof except as provided below or clause (iii) of the definition of "Permitted Encumbrances".

Notwithstanding the provisions summarized in the immediately preceding paragraph, the Institution may in good faith contest any such Lien and, in such event, the Institution may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless, by the Institution's nonpayment of any such item or items, the Project or any part thereof may be subject to loss or forfeiture, in which event the Institution shall promptly secure payment of all such unpaid items by filing a bond thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to protect the Project or the Issuer's interest in any Collateral. Mechanics' Liens shall be discharged or bonded within ninety (90) days following the Institution's receipt of notice of the filing or perfection thereof.

(Section 2.3(h))

Restriction on Religious Use

With respect to the Project or any portion thereof, so long as any of the Bonds are outstanding, the Project or portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination.

(Section 2.3(i))

Sale of the Project

The Institution shall not transfer, sell or convey any interest in the Project or any part thereof or interest therein, including development rights unless (a) the Institution provides a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee relating to such action and (b) the transfer, sale or conveyance is a Permitted Disposition.

(Section 2.3(j))

Additional Covenants

The Institution shall comply with the additional covenants set forth in the Loan Agreement, and summarized below under the captions “Further Encumbrances”, “Additional Indebtedness” and “Debt Service Coverage Ratio”.

(Section 2.3(k))

Financing and Refinancing of Project

The Institution agrees, and covenants and warrants to the Issuer that the proceeds of the Bonds will be used to finance and/or refinance, as applicable, the Costs of the Project and other purposes authorized by the Resolution.

The Institution agrees that, whether or not there are sufficient moneys available to it under the provisions of the Resolution and under the Loan Agreement, the Institution shall complete the acquisition, design, construction, reconstruction, rehabilitation and improving or otherwise providing and furnishing and equipping of the Project, substantially in accordance with the description in the Loan Agreement and in the Official Statement. The Issuer makes no representation, express or implied, that the net proceeds of the Bonds will be sufficient to pay all costs to complete the Project. In the event that the moneys in the Construction Fund are not sufficient to pay in full all costs of the Project, the Institution agrees to pay all such sums as may be in excess of the moneys available therefor and necessary to complete the Project.

(Section 3.1)

Loan of Bond Proceeds

The Issuer agrees to loan the proceeds of the Bonds to the Institution in accordance with the provisions of the Loan Agreement. Such Bond proceeds shall be disbursed to the Institution in accordance with the provisions of the Loan Agreement and of the Resolution.

(Section 4.1)

Loan Payments and Other Amounts Payable

Except to the extent that moneys are available therefor under the Resolution or under the Loan Agreement, including moneys in the Debt Service Fund (other than moneys required to pay the Redemption Price or purchase price of Outstanding Bonds theretofore called for redemption or contracted to be purchased, plus interest accrued to the date of redemption or purchase), and excluding interest accrued but unpaid on investments held in the Debt Service Fund, the Institution unconditionally agrees to pay, so long as Bonds are Outstanding from its general funds or any other moneys legally available to it:

(i) On or before the date of delivery of the Bonds, the Issuer Fee agreed to by the Issuer and the Institution in connection with issuance of the Bonds;

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

(iii) On each Loan Repayment Date, Loan Repayments, subject to adjustment from time to time as a result of events including but not limited to prepayment(s) and interest rate adjustment(s), if applicable;

(iv) On or before any Redemption Date, the amount required to pay the Redemption Price or purchase price of such Bonds, together with the amount of any fees or expenses charged or incurred by the Issuer to effectuate the redemption or defeasance of such Bonds;

(v) On December 10 of each Bond Year one-half (1/2) of the Annual Administrative Fee payable during such Bond Year in connection with the Bonds, and on June 10 of each Bond Year the balance of the Annual Administrative Fee payable during such Bond Year; *provided, however*, that the Annual Administrative Fee with respect to the Bonds payable during the Bond Year during which such Annual Administrative Fee became effective shall be equal to the Annual Administrative Fee with respect to the Bonds multiplied by a fraction the numerator of which is the number of calendar months or parts thereof remaining in such Bond Year and the denominator of which is twelve (12);

(vi) Promptly upon demand by the Issuer or the Trustee, the difference between the amount on deposit in the Arbitrage Rebate Fund available to be rebated in connection with the Bonds or otherwise available therefor under the Resolution and the amount required to be rebated to the Department of the Treasury of the United States of America in accordance with the Code in connection with the Bonds;

(vii) Promptly after notice from the Issuer, but in any event not later than fifteen (15) days after such notice is given, the amount set forth in such notice as payable to the Issuer (A) for the Issuer Fee then unpaid, (B) to reimburse the Issuer for payments made by it and any expenses and liabilities incurred by the Issuer under the Loan Agreement, (C) to reimburse the Issuer for any external costs or expenses incurred by it attributable to the issuance of the Bonds or the financing or construction of a Project, including but not limited to any fees or other amounts payable by the Issuer under a Remarketing Agreement, a Credit Facility or a Liquidity Facility, (D) for the costs and expenses incurred by the Issuer to compel full and punctual performance by the Institution of all the provisions of the Loan Agreement or of the Resolution in accordance with the terms thereof and (E) for the fees and expenses of the Trustee and any paying agent in connection with performance of their duties under the Resolution; and

(viii) Promptly upon demand by the Trustee (a copy of which shall be furnished to the Issuer), all amounts required to be paid by the Institution as a result of an acceleration pursuant to the Loan Agreement.

In addition to the Loan Payments, throughout the Loan Term, the Institution shall pay to the Issuer as additional loan payments, within fifteen (15) days of the receipt of demand therefor, an amount equal to the sum of the out-of-pocket expenses of the Issuer and the members thereof actually incurred (i) by reason of the Issuer's financing of the Project, or (ii) in connection with the carrying out of the Issuer's duties and obligations under the Issuer Documents, the payment of which is not otherwise provided for under the Loan Agreement; or (iii) on account of any payments made by the Issuer for the purpose of fulfilling the Institution's obligations under the Loan Agreement.

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

Subject to the provisions of the Loan Agreement and of the Resolution, the Institution shall receive a credit against the amount required to be paid by the Institution during a Bond Year on account of any Sinking Fund Installments if, prior to the date notice of redemption is given pursuant to the Resolution with respect to Bonds to be redeemed through any Sinking Fund Installments during the next succeeding Bond Year, either (i) the Institution delivers to the Trustee for cancellation one or more Bonds and maturity to be so redeemed or (ii) the Trustee, at the written direction of the Issuer, has purchased one or more Bonds of the maturity to be so redeemed from amounts on deposit in the Debt Service Fund in accordance with the Resolution during such Bond Year. The amount of the credit shall be equal to the principal amount of the Bonds so delivered.

The Issuer directs the Institution, and the Institution agrees, to make certain payments required by the Loan Agreement directly to the Trustee for deposit and application in accordance with the Resolution, certain payments

directly to the Trustee for deposit in the Construction Fund or other fund established under the Resolution, as directed by the Issuer, and certain payments directly to the Issuer.

Notwithstanding any provisions in the Loan Agreement to the contrary (except as otherwise specifically provided for in this subdivision), all moneys paid by the Institution to the Trustee pursuant to the Loan Agreement or otherwise held by the Trustee (other than certain moneys received by the Trustee) shall be applied in reduction of the Institution's indebtedness to the Issuer under the Loan Agreement, first, with respect to interest and, then, with respect to the principal amount of such indebtedness, but only to the extent that, with respect to interest on such indebtedness, such moneys are applied by the Trustee for the payment of interest on Outstanding Bonds, and, with respect to the principal of such indebtedness, such moneys have been applied to, or are held for, payments in reduction of the principal amount of Outstanding Bonds and as a result thereof Bonds have been paid or deemed to have been paid in accordance with the Resolution. Except as otherwise provided in the Resolution and the preceding sentence of this paragraph, the Trustee shall hold such moneys in trust in accordance with the applicable provisions of the Resolution for the sole and exclusive benefit of the Holders of Bonds, regardless of the actual due date or applicable payment date of any payment to the Holders of Bonds.

The Issuer, for the convenience of the Institution, may, in its sole discretion, furnish to the Institution statements of the due date, purpose and amount of payments to be made pursuant to the Loan Agreement. Neither the failure to furnish such statements nor any error contained in such statements shall excuse non-payment of the amounts payable under the Loan Agreement at the time and in the manner provided by the Loan Agreement.

The Issuer shall have the right in its sole discretion to make on behalf of the Institution any such payment required pursuant to the Loan Agreement which has not been made by the Institution when due. No such payment by the Issuer shall limit, impair or otherwise affect the rights of the Issuer under the Loan Agreement arising out of the Institution's failure to make such payment and no payment by the Issuer shall be construed to be a waiver of any such right or of the obligation of the Institution to make such payment.

(Section 4.2)

Obligations of Institution under the Loan Agreement Unconditional

The Loan Agreement and the obligations of the Institution to make payments thereunder are general obligations of the Institution. The obligations of the Institution to make payments or cause the same to be made under the Loan Agreement shall be absolute and unconditional and the amount, manner and time of making such payments shall not be decreased, abated, postponed or delayed for any cause or by reason of the happening or non-happening of any event, irrespective of any defense or any right of set-off, recoupment or counterclaim which the Institution may otherwise have against the Issuer, the Trustee or any Holder of Bonds for any cause whatsoever including, without limiting the generality of the foregoing, failure of the Institution to complete the Project or the completion thereof with defects, failure of the Institution to occupy or use the Project, any declaration or finding that the Bonds are or the Resolution is invalid or unenforceable or any other failure or default by the Issuer or the Trustee; *provided, however*, that nothing in the Loan Agreement shall be construed to release the Issuer from the performance of any agreements on its part contained in the Loan Agreement or any of its other duties or obligations, and in the event the Issuer shall fail to perform any such agreement, duty or obligation, the Institution may, subject to the provisions of the Loan Agreement, institute such action as it may deem necessary to compel performance or to recover damages for the Issuer's willful misconduct.

(Section 4.3)

Security Interest

The Institution acknowledges that the payments by the Institution under the Loan Agreement are pledged as security for payment of the principal of, and Redemption Price of and interest on the Bonds. In addition, to secure payment of all loan payments and other sums owing by the Institution under the Loan Agreement and to secure the payment and performance of all debts, liabilities and obligations of the Institution under all of the Institution Documents, the Institution grants a security interest to the Issuer in the Collateral pursuant to the applicable Security Agreement and,

with respect to any Shared Collateral, subject to the provisions of an applicable Intercreditor Agreement. The security interest referred to in the Loan Agreement shall (except with respect to the Issuer's Unassigned Rights) be assigned by the Issuer to the Trustee.

(Section 4.6)

Maintenance and Modifications of Project by Institution

The Institution, throughout the term of the Loan Agreement, shall, at its own expense, hold, operate and maintain the Project in a careful, prudent and economical manner, and keep the same, with the appurtenances and every part and parcel thereof, in good repair, working order and safe condition and shall from time to time make all necessary and proper repairs, replacements and renewals so that at all times the operation of the Project may be properly and advantageously conducted. The Institution shall have the right to remove or replace any type of fixtures, furnishings and equipment in the Project which may have been financed by the proceeds of the sale of the Bonds provided that such fixtures, furnishings and equipment continue to be used for purposes permitted under the Tax Certificate or as otherwise permitted in a Favorable Opinion of Bond Counsel delivered by the Institution to the Issuer and the Trustee. The Institution shall pay at its own expense all extraordinary costs of maintaining, repairing and replacing the Project except insofar as funds are made available therefor from proceeds of insurance, condemnation or eminent domain awards.

(Section 5.1)

Liens, Utilities and Access

The Institution warrants, represents and covenants that the Project (i) is and will be kept free from any encumbrances, liens or commitments of any kind other than Permitted Encumbrances, (ii) is and will be serviced by all necessary utilities (including, to the extent applicable, without limitation, electricity, gas, water, sewer, steam, heating, air conditioning and ventilation) and (iii) to the extent applicable, has and will have its own separate and independent means of access, apart from any other property owned by the Institution or others; *provided, however*, that such access may be through common roads or walks owned by the Institution used also for other parcels owned by the Institution.

(Section 5.3)

Taxes, Assessments and Utility Charges

The Institution shall pay when due at its own expense, and hold the Issuer harmless from, all taxes, assessments, water and sewer charges and other impositions, if any, which may be levied or assessed upon the Institution or any of its property. The Institution shall file exemption certificates as required by law. The Institution agrees to exhibit to the Issuer within ten (10) days after written demand by the Issuer, certificates or receipts issued by the appropriate authority showing full payment of all taxes, assessments, water and sewer charges and other impositions; *provided, however*, the Institution may, in good faith, contest any such taxes, assessments and other charges. In the event of any such proceedings, the Institution shall pay such taxes, assessments or other charges so contested, or, at its option, allow the same to remain unpaid during the period of such proceedings and any appeal therefrom; *provided, however*, that (i) neither the Project nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings, and (ii) the Institution shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security, if any, as may be required in such proceedings.

(Section 5.4)

Insurance Required

The Institution agrees to maintain or cause to be maintained insurance with insurance companies or by means or self-insurance, insurance of such type, against such risks and in such amounts as are customarily carried by non-profit educational organizations located in the State of a nature similar to that of the Institution, which insurance shall include property damage, fire and extended coverage, public liability and property damage liability insurance

in amounts estimated to indemnify the reasonably anticipated damage, loss or liability, subject to reasonable deductible provisions. The Institution shall at all times also maintain worker's compensation coverage and disability benefits insurance coverage as required by the laws of the State. In the event the Institution fails to provide the insurance required by the Loan Agreement, the Issuer may elect at any time thereafter to procure and maintain the insurance required by the Loan Agreement at the expense of the Institution.

(Section 5.5)

Damage or Condemnation

Any insurance, condemnation or eminent domain proceeds received by the Institution shall either be: (i) applied to the cost of replacing, repairing, rebuilding, restoring or relocating the Project; (ii) paid to the Trustee for deposit to the Debt Service Fund and applied to the purchase or redemption of Outstanding Bonds; or (iii) used for any other purpose for which the Institution provides a Favorable Opinion of Counsel to the Issuer and the Trustee.

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

If any portion of the Project shall be damaged or destroyed (in whole or in part) at any time during the term of the Loan Agreement: (i) there shall be no abatement or reduction in the amounts payable by the Institution under the Loan Agreement (whether or not such portion of the Project is replaced, repaired, rebuilt, restored or relocated); and (ii) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate the Project or any portion of the Project.

(Section 6.1)

Investment of Funds

The Institution acknowledges that the Issuer shall direct the investment of moneys held under the Resolution as provided therein and that no representation or warranty has been made by the Issuer with respect to interest rates on, or the amount to be earned as a result of, any such investment. The Issuer shall regularly consult with the Institution regarding any investments of funds being held in the Construction Fund. Neither the Issuer nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of the Resolution in the manner provided therein, for any depreciation in value of any investment or for any loss, direct or indirect, resulting from any such investment. The Issuer agrees that it shall direct the making of investments as permitted by the Resolution as soon as practicable when moneys are legally available therefor.

(Section 7.6)

Arbitrage

The Institution covenants and agrees that it shall not perform any act or enter into any agreement or omit to take any action that would adversely affect its status as an organization described in Section 501(c)(3) of the Code and shall conduct its operations in a manner which conforms to the standards necessary to qualify the Institution as a charitable organization within the meaning of Section 501(c)(3) of the Code or any successor provisions of federal income tax law.

(Section 8.2)

Tax Exemption

The Issuer and the Institution covenant that they will comply with the provisions of the Code required to preserve the exclusion from gross income of interest on the Bonds for Federal income tax purposes, and shall not take or omit to take any action if such action or omission would cause the interest in the Bonds to be includable in gross income under Section 103 of Code.

The Issuer and the Institution each covenant that it will not take any action or fail to take any action which would cause any of its representations contained in the Tax Certificate to be untrue and shall comply with all its covenants contained in the Tax Certificate, unless the Issuer or the Institution, as applicable, provides the other party with a Favorable Opinion of Bond Counsel relating to the taking or failing to take such action or the failing to comply with its covenants under the Tax Certificate.

Except with a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee, neither the Institution nor any related party to the Institution (as defined in Treas. Reg. §1.150-1(b)) shall purchase any of the Bonds in an amount related to the obligation represented by the Loan Agreement.

The Issuer shall calculate rebate amount and shall retain in the Issuer's possession, so long as required by the Code, copies of all documents, reports and computations made by the rebate analyst in connection with the calculation of earnings and the rebate of all or a portion thereof to the Department of the Treasury of the United States of America, which shall be subject at all reasonable times to the inspection of the Institution and its agents and representatives, any of whom may make copies thereof.

(Section 8.3)

Events of Default and Remedies

As used in the Loan Agreement the term “**Event of Default**” shall mean:

(i) the Institution shall default in the timely payment of any amount payable pursuant to the Loan Agreement or the payment of any other amounts required to be delivered or paid by or on behalf of the Institution in accordance with the Loan Agreement and the Resolution, and such default continues for a period in excess of seven (7) days; or

(ii) the Institution defaults in the due and punctual performance of any other covenant contained in such Loan Agreement (other than those designated in (i) above) or breaches any representation made in the Loan Agreement and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given to the Institution by the Issuer or the Trustee; *provided, however*, that, if in the reasonable determination of the Issuer such default cannot be corrected within such thirty (30) day period but can be corrected by appropriate action, it shall not constitute an Event of Default if corrective action is instituted by the Institution within such period and is diligently pursued until the default is corrected; or

(iii) as a result of any default in payment or performance required of the Institution under the Loan Agreement or any other Event of Default under the Loan Agreement, whether or not declared, continuing or cured, the Issuer shall be in default in the payment or performance of any of its obligations under the Resolution or an “event of default” (as defined in the Resolution) shall have been declared under the Resolution so long as such default or event of default shall remain uncured or the Trustee, a provider of a Credit Facility or Liquidity Facility, if any, or Holders of the Bonds shall be seeking the enforcement of any remedy under the Resolution as a result thereof; or

(iv) the Institution shall (A) be generally not paying its debts as they become due, (B) file, or consent by answer or otherwise to the filing against it of a petition under the United States Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (C) make a general assignment for the benefit of its general creditors, (D) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (E) be adjudicated insolvent or be liquidated, (F) take corporate action for the purpose of any of the foregoing or (G) shall admit in writing its inability to pay its debts generally as they become due; or

(v) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Institution, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any

jurisdiction, or ordering the dissolution, winding-up or liquidation of the Institution, or any petition for any such relief shall be filed against the Institution and such petition shall not be dismissed or stayed within ninety (90) days; or

(vi) the charter or certificate of incorporation of the Institution or any license necessary to operate the Project shall be suspended or revoked; or

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

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

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

(x) an order of a court having jurisdiction shall be entered directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to the Institution, which order shall remain undismissed or unstayed for the earlier of (A) three (3) Business Days prior to the date provided for in such order for such sale, disposition or distribution or (B) an aggregate of thirty (30) days from the date such order shall have been entered; or

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

(xii) the occurrence and continuance of an event of default under (A) any Security Agreement; or (B) any agreement executed in connection with any Shared Collateral and, upon such default, (y) the principal of any indebtedness secured by such Shared Collateral may be declared to be due and payable or (z) the lien upon or pledge may be realized upon.

Upon the occurrence and continuance of an Event of Default, the Issuer may take any one or more of the following actions:

- (i) declare all sums payable by the Institution under the Loan Agreement immediately due and payable;
- (ii) withhold any and all payments, advances and reimbursements from the proceeds of Bonds or the Construction Fund or otherwise to which the Institution may otherwise be entitled under the Loan Agreement apply any such proceeds or moneys for such purposes as are authorized by the Resolution;
- (iii) maintain an action against the Institution under the Loan Agreement to recover any sums payable by the Institution or to require its compliance with the terms of the Loan Agreement or any Security Agreement;
- (iv) pursuant to the terms of any Security Agreement, take or cause to be taken any and all actions necessary to implement any available remedies with respect to Collateral under any Security Agreement; and
- (v) take any action necessary to enable the Issuer to realize on its Liens under the Loan Agreement or by law, and any other action or proceeding permitted by the terms of the Loan Agreement or by law.

All rights and remedies in the Loan Agreement given or granted to the Issuer are cumulative, non-exclusive and in addition to any and all rights and remedies that the Issuer may have or may be given by reason of any law, statute, ordinance or in equity or otherwise, and no failure to exercise or delay in exercising any remedy shall effect a waiver of the Issuer's right to exercise such remedy thereafter, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

At any time before the entry of a final judgment or decree in any suit, action or proceeding instituted on account of any Event of Default or before the completion of the enforcement of any other remedies under the Loan Agreement, the Issuer may annul any declaration made or action taken pursuant to the Loan Agreement and its consequences if such Event of Defaults shall be cured. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereto.

Notwithstanding any assignment of the Loan Agreement to the Trustee, the Issuer reserves the right to direct the Trustee to take any actions authorized by the Loan Agreement as shall be necessary to enforce the Issuer's Unassigned Rights.

(Section 9.1)

Termination

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

(Section 10.1)

Amendments, Changes and Modifications

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

(Section 11.4)

Further Assurances

The Institution, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as are necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, Pledged Revenues, moneys, securities, funds and security interests by the Loan Agreement or by the Resolution pledged, assigned or granted, or intended so to be, or which the Institution may after the date of the Loan Agreement become bound to pledge, assign or grant to the Issuer pursuant to the Loan Agreement.

(Section 11.7)

Further Encumbrances

The Institution shall not create or permit any additional Liens on the Main Campus, except for:

- (i) Permitted Encumbrances; and
- (ii) mortgages and/or security agreements that encumber the Main Campus in order to secure Additional Indebtedness, provided that the Institution contemporaneously grants to the Issuer and the Trustee as

further security for the Bonds a Mortgage and/or Security Agreement of equal priority with any such mortgage or security agreement securing the Additional Indebtedness, which shall constitute Shared Collateral and which then shall be subject to an Intercreditor Agreement.

(Section 2 of Schedule G to the Loan Agreement)

Additional Indebtedness

Except as otherwise described below, the Institution covenants that it will not issue, incur, assume or guarantee any Additional Indebtedness.

- (i) The Institution may issue, incur, assume or guarantee Additional Indebtedness (including Additional Bonds and indebtedness under a Credit Facility)) if the following conditions are satisfied: (1) the amount of additional Long-Term Indebtedness issued in any year is less than or equal to 10% of the value of the Institution's net assets without donor restrictions plus net assets with donor restrictions for purpose or time as reported on the most recent annual audited financial statements of the Institution, or (2) if the amount of such new Long-Term Indebtedness issued is in excess of 10% of the value of the Institution's net assets without donor restrictions plus net assets with donor restrictions for purpose or time as reported on the most recent annual audited financial statements of the Institution, then the Institution must provide a certificate of an Authorized Officer of the Institution and pro forma calculations to the Trustee, the Issuer and the Disclosure Dissemination Agent (as defined in the continuing disclosure agreement with respect to the Bonds) demonstrating that the Institution's required Debt Service Coverage Ratio would have been met, based on the annual audited financial statements of the Institution for the most recently ended Fiscal Year, except as noted below, taking into account the Debt Service Requirement on the Additional Indebtedness, provided that, for purposes of calculating such pro forma Debt Service Coverage Ratio, the Institution's projected Maximum Annual Debt Service shall be used to determine compliance instead of the then-applicable Debt Service Requirement, and provided further that, if the Additional Indebtedness is to finance a project or asset that is expected to generate additional revenues, then such revenues, net of anticipated expenses, may be included in the pro forma calculations of the Debt Service Coverage Ratio requirement.
- (ii) Additional Indebtedness issued, incurred, assumed or guaranteed in accordance with the conditions described in clause (i) above may be secured by a security interest in the Pledged Revenues on parity with the security interest in the Pledged Revenues securing the Loan Agreement, subject to the prior execution and delivery of a commercially reasonable parity Intercreditor Agreement.
- (iii) Notwithstanding the foregoing, the Institution may issue, incur, assume or guaranty (1) Non-Recourse Indebtedness without limitation provided that any assets pledged as collateral or for the repayment of such Indebtedness must have been acquired by the Institution after the issuance of the Bonds, (2) Refunding Indebtedness without limitation so long as the Institution provide the certificate noted in clause (i) above demonstrating that the Institution's required Debt Service Coverage Ratio would have been met for the most recently ended Fiscal Year, and (3) Short-Term Indebtedness in an amount up to \$30,000,000.

(Section 3 of Schedule G to the Loan Agreement)

Rate Covenant (Debt Service Coverage Ratio)

- (i) Subject to any governmental restrictions, its fiduciary obligations and limitations imposed by law ("Legal Limitations"), the Institution agrees to charge and collect rates and charges which, together with any other moneys legally available to it, shall provide moneys sufficient at all times: (a) to make the payments required by the Loan Agreement and comply with the Loan Agreement in all other respects, and (b) to satisfy all other obligations of the Institution in a timely fashion. Without limiting the generality of the foregoing and subject to Legal Limitations, the Institution shall charge and collect rates and charges that, together with any other moneys legally available to it in each Fiscal Year, will produce moneys at least sufficient to meet operating expenses for such Fiscal Year (excluding from revenues and expenses extraordinary items and excluding from expenses depreciation but including interest on and amortization of Long-Term Indebtedness).

(ii) The Institution will establish, charge and collect tuition, student fees and charges for services provided by the Institution and any auxiliary operations such that the Debt Service Coverage Ratio for each Fiscal Year shall be not less than 1.2:1. Within sixty (60) days after audited financial statements of the Institution are released for each Fiscal Year, the Institution shall furnish to the Trustee, the Issuer and the Disclosure Dissemination Agent (as defined in the continuing disclosure agreement with respect the Bonds) a letter stating whether the Debt Service Coverage Ratio was met for such Fiscal Year. If the Institution fails to meet the foregoing covenant for any Fiscal Year, it shall promptly retain a Consultant to make a report and recommendation with respect to such tuition, student fees and other charges, and with regard to operations of the Institution. Upon receipt of such report and recommendation from the Consultant, the Institution shall within ninety (90) days of the receipt of such report and recommendation describe in writing to the Trustee, the Issuer and the Disclosure Dissemination Agent (as defined in the continuing disclosure agreement with respect the Bonds) what action, if any, the Institution shall take upon the report and recommendation of the Consultant. Notwithstanding any other provision of the Loan Agreement, failure to maintain the required Debt Service Coverage Ratio for any Fiscal Year shall not result in an Event of Default under the Loan Agreement unless (A) the Institution shall have failed to take the foregoing steps, (B) the Institution shall have failed to maintain the required Debt Service Coverage Ratio for two consecutive Fiscal Years, or (C) the Debt Service Coverage Ratio shall have been less than 1:1.

(Section 4 of Schedule G to the Loan Agreement)

Liquidity Covenant

So long as the Bonds remain Outstanding, within sixty (60) days after audited financial statements of the Institution are released for each Fiscal Year, the Institution shall furnish to the Trustee, the Issuer and the Disclosure Dissemination Agent (as defined in the continuing disclosure agreement with respect the Bonds) a letter confirming that available assets as of the end of such Fiscal Year are at least equal to 40% of outstanding Long-Term Indebtedness. For purposes of the foregoing, “available assets” means the sum of all cash and cash equivalents, investments and assets held by or for the benefit of the Institution, including amounts held by any trustees under bond indenture agreements (exclusive of amounts held by trustees attributable to Non-Recourse Indebtedness) and other reserve funds held by any trustee or Credit Facility provider in respect of any Credit Facilities, less all funds held in perpetuity by the Institution, all as shown on the audited financial statements of the Institution, determined in accordance with generally accepted accounting principles then applicable to the Institution. If the Institution fails to meet the foregoing covenant for two consecutive Fiscal Years it shall promptly retain a Consultant to make a report and recommendation with respect to such available assets and with regard to operations of the Institution. Notwithstanding any other provision of the Loan Agreement, however, failure to maintain the foregoing minimum ratio shall not result in an Event of Default under the Loan Agreement.

(Section 5 of Schedule G to the Loan Agreement)

Security Agreement

Creation of Security Interest

As security for the payment of all liabilities and the performance of all obligations of the Debtor pursuant to the Loan Agreement, the Debtor does continuously pledge, grant a security interest in, and assign to the Secured Party the Pledged Revenues, together with the Debtor's right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues. In the event that the Debtor incurs any Additional Indebtedness while any of the Bonds are Outstanding, the pledge, security interest and assignment of the Pledged Revenues shall have the priority provided for in a commercially reasonable parity Intercreditor Agreement.

(Section 2)

Collection of Pledged Revenues

(a) Subject to the provisions of the Security Agreement and the terms of an Intercreditor Agreement entered into in connection with the incurrence of Additional Indebtedness by the Debtor, commencing on the date on which the Bonds are first issued and delivered and continuing until no Bonds are Outstanding, the Debtor shall deliver to the Trustee for deposit in accordance with the Resolution and the Series 2024 Resolution all Pledged Revenues (other than any amounts subject to Parity Indebtedness) within ten (10) days following the Debtor's receipt thereof unless and until there is on deposit in the Debt Service Fund an amount at least equal to the sum of (i) the interest coming due on or prior to the earlier of the next succeeding January 1 or July 1, (ii) the principal and Sinking Fund Installments of Outstanding Bonds payable on and prior to the next succeeding July 1, and (iii) the Redemption Price or purchase price of Outstanding Bonds theretofore called for redemption or contracted to be purchased and accrued interest thereon to the date of redemption or purchase. In the event that, pursuant to the applicable provisions of the Security Agreement, the Secured Party notifies the Debtor that account debtors are to make payments directly to the Secured Party or to the Trustee, such payments shall be made directly to the Secured Party or the Trustee notwithstanding anything contained in this paragraph, but the Debtor shall continue to deliver to the Trustee for deposit in accordance with the Resolution any payments received by the Debtor with respect to the Pledged Revenues.

(b) Notwithstanding anything to the contrary in paragraph (a) of this Section, in the event that, on or prior to the date on which a payment is to be made pursuant to the Loan Agreement on account of the principal, Sinking Fund Installments or Redemption Price of or interest on Outstanding Bonds, the Debtor has made such payment from its general funds or from any other money legally available to it for such purpose, the Debtor shall not be required solely by virtue of paragraph (a) of this Section, to deliver Pledged Revenues to the Trustee. Any Pledged Revenues collected by the Debtor that are not required to be paid to the Trustee pursuant to the Security Agreement shall be free and clear of the security interest granted thereby and may be disposed of by the Debtor for any of its corporate purposes provided that no Event of Default (as defined in the Security Agreement and the Loan Agreement) nor any event which but for the passage of time or the receipt of notice or both would be an Event of Default has occurred and is continuing.

(Section 3)

Consent to Pledge and Assignment

The Debtor consents to and authorizes the assignment, transfer or pledge by the Secured Party to the Trustee of the security interest in and pledge of the Pledged Revenues granted by the Debtor under the Security Agreement.

(Section 4)

Events of Default and Remedies

As used in the Security Agreement, the term “**Event of Default**” shall mean:

- (a) the occurrence of any Event of Default under the Loan Agreement; or
- (b) failure by the Debtor to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Security Agreement or under any other agreement between the Secured Party and the Debtor for a period of thirty (30) days after written notice requiring the same to be remedied shall have been given to the Debtor by the Secured Party or the Trustee; *provided, however*, that, if in the determination of the Secured Party such default cannot be corrected within such thirty (30) day period but can be corrected by appropriate action, it shall not constitute an Event of Default if corrective action is instituted by the Debtor within such period and is diligently pursued until the default is corrected; or
- (c) any representation or warranty given by the Debtor to the Secured Party under the Security Agreement shall be false or misleading in any material respect.

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

(Section 6)

UCC Filings

The Debtor shall file, or cause to be filed, the initial financing statements required to be recorded and filed, as the case may be, to perfect the security interest granted to the Secured Party by the Debtor in the Pledged Revenues and assigned by the Secured Party to the Trustee on the date of issuance of the Bonds. The Debtor further irrevocably appoints the Trustee to file, or cause to be filed, continuation statements therefor as to the security interest granted to the Secured Party by the Debtor in the Pledged Revenues and the rights to receive the same, pledged to the Secured Party under the Security Agreement and assigned by the Secured Party to the Trustee, and to file such continuation statements therefor pursuant to the Resolution. The Trustee shall forward to the Debtor, in due course, a copy of any such continuation statement filed on behalf of the Debtor as provided herein. The Debtor shall be responsible for the reasonable costs incurred by the Trustee in filing all continuation statements under the Security Agreement.

(Section 7)

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

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SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION

The following is a brief summary of certain provisions of the Resolution pertaining to the Series 2024 Bonds. This summary does not purport to be complete and reference is made to the Resolution for full and complete statements of such and all provisions. Defined terms used herein shall have the meanings ascribed to them in Appendix A or in the body of this Official Statement.

Resolution and Bonds Constitute a Contract

With respect to each Series of Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under the Resolution and under a Series Resolution by those who shall hold or own the same from time to time, the Resolution shall be deemed to be and shall constitute a contract among the Issuer, the Trustee and the Holders from time to time of such Bonds, and the pledge and assignment to the Trustee made in the Resolution and the covenants and agreements set forth to be performed by or on behalf of the Issuer shall be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds of that Series, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any such Bonds of that Series over any other Bonds of that Series except as expressly provided in or permitted by the Resolution.

(Section 2.2)

Pledge of Resolution

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

The pledges made by the Resolution are valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of the Bonds, the Revenues, all funds and accounts established by or pursuant to any Series Resolution which are pledged by the Resolution and the Issuer's security interests in the Collateral Security shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds of each Series shall be special limited obligations of the Issuer payable solely from and secured by a pledge of the proceeds from the sale of the Bonds of such Series, the Revenues, all the funds and accounts established by or pursuant to the Series Resolution authorizing the issuance of the Bonds of such Series which are pledged by the Resolution as provided therein and the Issuer's security interest in the Collateral Security pledged by the Resolution as provided therein.

The Bonds of each Series shall be separately secured one from another by the Loan Agreement entered into in connection with a particular Series of Bonds, the Revenues derived from such Loan Agreement, and the Collateral Security given to secure the Institution's obligations under such Loan Agreement, and only the Bonds of the Series in connection with which such Loan Agreement was entered into shall be secured by such Loan Agreement except as otherwise expressly permitted by the Resolution or the Series Resolution or Certificate of Determination relating to such Series and by the terms of the applicable Loan Agreement.

(Section 2.3)

Assignment of Rights and Remedies to Trustee

As security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of, and interest on, the Outstanding Bonds of a Series and for the performance of each other obligation of the Issuer under the Resolution and for the performance of each other obligation of the Institution thereunder, the Issuer grants, pledges and assigns to the Trustee, all of the Issuer's estate, right, title, interest and claim in, to and under (other than the Unassigned Rights and subject to the provisions of any Intercreditor Agreement) the related Loan Agreement and the Collateral Security for such Loan Agreement, together with all rights, powers, security interests, privileges, options and other benefits of the Issuer under such Loan Agreement and Collateral Security, including, without limitation, the immediate and continuing right to receive, enforce and collect (and to apply the same in accordance with the Resolution) all Revenues, insurance proceeds, sale proceeds and other payments and other security payable to or receivable by the Issuer, from time to time, under such Loan Agreement, including without limitation the right to declare the indebtedness under such Loan Agreement immediately due and payable and to foreclose, sell or otherwise realize upon such Collateral Security, and the right to make all waivers and agreements in the name and on behalf of the Issuer, as Trustee for the benefit of the Bondholders, and to perform all other necessary and appropriate acts under such Loan Agreement. Such assignment shall be made by the execution and delivery to the Trustee of documents of assignment in form and substance reasonably acceptable to the Trustee. The Trustee shall accept such grant, pledge and assignment which acceptance shall be evidenced in writing and signed by an Authorized Officer of the Trustee in form and substance reasonably satisfactory to the Issuer.

Notwithstanding anything to the contrary in the Resolution or the Loan Agreement, the Issuer shall have no obligation to and instead the Trustee, in accordance with the Resolution or the Loan Agreement, shall have the right, without any direction from or action by the Issuer, to take any and all steps, actions and proceedings, to enforce any or all rights of the Issuer under the Resolution and the Loan Agreement (other than the Issuer's Unassigned Rights), including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Institution under the Loan Agreement.

(Section 2.4)

Additional Obligations

The Issuer reserves the right to issue bonds, notes or any other obligations or otherwise incur indebtedness pursuant to other and separate resolutions or agreements of the Issuer, so long as such bonds, notes or other obligations are not, or such other indebtedness is not, except as permitted by the Resolution, entitled to a charge, lien or right prior or equal to the charge or lien created by the Resolution, or prior or equal to the rights of the Issuer and Holders of Bonds as provided by the Resolution.

(Section 3.5)

Authorization of Redemption

Bonds subject to redemption prior to maturity pursuant to the Resolution or to a Series Resolution or a Certificate of Determination shall be redeemable, in accordance with the Resolution, at such times, at such Redemption Prices and upon such terms as may otherwise be specified in the Resolution or in the Series Resolution authorizing such Series or the applicable Certificate of Determination.

(Section 5.1)

Optional Redemption

If permitted by the Series Resolution or Certificate of Determination relating to the Series of Bonds, the Institution shall give written notice, which notice has been acknowledged in writing by the Issuer, to the Trustee of its election or direction to redeem, of the Series and of the principal amounts of the Bonds of each maturity of such Series to be redeemed. The Series, maturities and principal amounts thereof to be redeemed at the election or direction of the Issuer shall be determined by the Institution in its request to the Trustee, subject to any limitations with respect thereto

contained in the Resolution or in the Series Resolution authorizing such Series or the applicable Certificate of Determination. Such notice shall be given to the Trustee at least forty-five (45) days prior to the date on which such Bonds are to be redeemed, or such lesser number of days as shall be acceptable to the Trustee. Unless the notice of redemption required by the Resolution provides that the redemption is subject to the condition that moneys for payment of the Redemption Price is available on the redemption date, such notice shall not be given unless prior to the date such notice is given the Trustee then holds money for payment of the Redemption Price sufficient to redeem, on the redemption dates at the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, all of the Bonds to be so redeemed. For purposes of determining the amount required to be paid pursuant to the preceding sentence when Variable Interest Rate Bonds are to be redeemed, the amount shall be determined in the manner established by the Series Resolution authorizing such Bonds or the Certificate of Determination applicable thereto.

(Section 5.2)

Mandatory Sinking Fund Redemption

Whenever by the terms of the Resolution or Certificate of Determination relating to the Series of Bonds the Trustee is required to redeem Bonds through the application of mandatory Sinking Fund Installments, unless otherwise provided in the applicable Series Resolution or Certificate of Determination, the Trustee shall select the Bonds of the Series and maturities to be redeemed in the manner summarized in the following paragraph, give the notice of redemption and pay out money for the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, in accordance with the terms of the Resolution.

(Section 5.3)

Selection of Bonds to Be Redeemed

Unless otherwise provided in the Series Resolution authorizing the issuance of Bonds of a Series or the Certificate of Determination relating to such Bonds or, if the Bonds are book-entry bonds, the operational procedures of the Depository, in the event of redemption of less than all of the Outstanding Bonds of like Series, maturity and tenor, the Trustee shall assign to each Outstanding Bond of the Series, maturity and tenor to be redeemed a distinctive number for each unit of the principal amount of such Bond equal to the lowest denomination in which the Bonds of such Series are authorized to be issued and shall select by lot, using such method of selection as it shall deem proper in its discretion, from the numbers assigned to such Bonds as many numbers as, at such unit amount equal to the lowest denomination in which the Bonds of such Series are authorized to be issued for each number, shall equal the principal amount of such Bonds to be redeemed. In making such selections the Trustee may draw the Bonds by lot (i) individually or (ii) by one or more groups, the grouping for the purpose of such drawing to be by serial numbers (or, in the case of Bonds of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued, by the numbers assigned thereto as summarized in the Resolution) which end in the same digit or in the same two digits. If in such a case, upon any drawing by groups, the total principal amount of Bonds drawn shall exceed the amount to be redeemed, the excess may be deducted from any group or groups so drawn in such manner as the Trustee may determine. The Trustee may in its discretion assign numbers to aliquot portions of Bonds and select part of any Bond for redemption. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; *provided, however,* that only so much of the principal amount of each such Bond of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued shall be redeemed as shall equal the lowest denomination in which the Bonds of such Series are authorized to be issued for each number assigned to it and so selected.

(Section 5.4)

Notice of Redemption

Whenever Bonds are to be redeemed, the Trustee shall give notice of the redemption of the Bonds in the name of the Issuer which notice shall specify: (i) the Bonds to be redeemed which shall be identified by the designation of the Bonds given in accordance with the Resolution, the maturity dates and interest rates of the Bonds to be redeemed and

the date such Bonds were issued; (ii) the numbers and other distinguishing marks of the Bonds to be redeemed, including CUSIP numbers; (iii) the redemption date; (iv) the Redemption Price; (v) the principal amount of each Bond to be redeemed; (vi) that, except in the case of Book-Entry Bonds, such Bonds will be redeemed at the principal corporate trust office of the Trustee giving the address thereof and the name and telephone number of a representative of the Trustee to whom inquiries may be directed; (vii) that no representation is made as to the correctness of the CUSIP number either as printed on the Bonds or as contained in such notice and that an error in a CUSIP number as printed on such Bond or as contained in such notice shall not affect the validity of the proceedings for redemption; and (viii) if the Issuer's obligation to redeem the Bonds is subject to conditions, a statement that describes the conditions to such redemption. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, and that, from and after such date, payment having been made or provided for, interest thereon shall cease to accrue. Any notice of redemption under the Resolution which states that it is conditional upon receipt by the Trustee of money sufficient to pay the Redemption Price of such Bonds or upon the satisfaction of any other condition, may be rescinded at any time before payment of such Redemption Price if any such condition so specified is not satisfied. Notice of such rescission shall be given by the Trustee to affected Bondholders as promptly as practicable upon the failure of such condition or the occurrence of such other event.

Such notice shall be given not less than twenty (20) days nor more than forty-five (45) days prior to the redemption date or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Certificate of Determination relating thereto, but in no event less than fifteen (15) days prior to the redemption date. Such notice shall be given to Bondholders in accordance with the Resolution and to EMMA. Upon giving such notice, the Trustee shall promptly certify to the Issuer that it has mailed or caused to be mailed such notice to the Holders of the Bonds to be redeemed in the manner provided in the Resolution. Such certificate shall be conclusive evidence that such notice was given in the manner required by the Resolution. The failure of any Holder of a Bond to be redeemed to receive such notice shall not affect the validity of the proceedings for the redemption of the Bonds.

(Section 5.5)

Payment of Redeemed Bonds

Notice having been given in the manner provided in the Resolution, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender of such Bonds, other than Book Entry Bonds of like Series, maturity and tenor to be redeemed in part, at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date. Payment of the Redemption Price shall be made, upon the request of the registered owner of one million dollars (\$1,000,000) or more in principal amount of Bonds to be redeemed, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has, at the time such Bonds are surrendered to the Trustee, directed in writing the Trustee to wire such Redemption Price. If there shall be called for redemption less than all of the principal amount of a registered Bond, the Issuer shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the registered Bond so surrendered, Bonds of like Series, maturity and tenor in any of the authorized denominations. If, on the redemption date, money for the redemption of all Bonds or portions thereof of any like Series, maturity and tenor to be redeemed, together with interest accrued and unpaid thereon to the redemption date, shall be held by the Trustee so as to be available therefor on such date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds shall no longer be considered to be Outstanding under the Resolution. If money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

(Section 5.6)

Purchase of Purchased Bonds

Whenever Bonds are to be purchased at the election of the Institution, written notice thereof and of the Bonds of the Series and maturity to be so purchased having been given by the Institution to the Issuer, the Trustee, and each applicable provider of a Credit Facility, the Trustee shall select the particular Bonds of such Series and maturity to be so purchased in the same manner as provided by the Resolution for the selection of Bonds to be redeemed in part. Promptly thereafter the Trustee shall give notice of the purchase of the Bonds at the times and in the manner provided in the Series Resolution authorizing such Bonds or the Certificate of Determination related thereto. The Trustee shall not give such notice unless prior to the date such notice is given, the Institution has caused to be delivered to the Trustee the written consent to such purchase of the Issuer and each applicable provider of a Credit Facility. All such purchases may be subject to conditions of the Issuer, the Trustee and any provider of a Credit Facility to the Institution's obligation to purchase such Bonds and shall be subject to the condition that money for the payment of the purchase price therefor is available on the date set for such purchase. Notice of purchase having been given in the manner required by the Series Resolution authorizing the Bonds to be so purchased or the Certificate of Determination relating thereto, then, if sufficient money to pay the purchase price of such Bonds is held by the Trustee, the purchase price of the Bonds or portions thereof so called for purchase shall become due and payable on the date set for purchase, upon presentation and surrender of such Bonds (other than Book Entry Bonds) to be purchased at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney. Payment of the purchase price of other than Book Entry Bonds shall be made, upon the request of the registered owner of one million dollars (\$1,000,000) or more in principal amount of Bonds to be so purchased, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has prior to the purchase date directed in writing the Trustee to wire such purchase price. Bonds so purchased shall be considered to be Outstanding and each such Bond so purchased that is not a Book Entry Bond shall be registered in the name or at the direction of the Institution.

(Section 5.7)

Establishment of Funds and Accounts

The following funds shall be established by the applicable Series Resolution in accordance with the Resolution, which funds shall be for the sole benefit of and solely secure the Series of Bonds authorized by such Series Resolution:

Construction Fund, if any;
 Debt Service Fund; and
 Debt Service Reserve Fund, if any.

The Issuer is authorized in connection with the issuance of a Series of Bonds to establish such other funds, together with accounts and subaccounts established within such funds, in connection with such Series of Bonds as the Issuer or the Trustee deems proper, necessary or desirable. In addition to the funds and accounts required to be established by or pursuant to each Series Resolution, the Resolution establishes an Arbitrage Rebate Fund to be held by the Trustee as custodian for the Issuer, which fund is not pledged to the payment of any Bonds.

All money at any time deposited in any such fund, account or subaccount created and pledged by the Resolution shall be held in trust for the benefit of the Holders of the Outstanding Bonds secured thereby, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes provided in the Resolution or in the applicable Series Resolution. Notwithstanding the foregoing provisions and except as otherwise provided in the Series Resolution or Certificate of Determination relating to such Series of Bonds, (i) the proceeds derived from the remarketing of Option Bonds tendered or deemed to have been tendered for purchase in accordance with the Series Resolution authorizing the issuance of such Bonds or the Certificate of Determination relating to such Bonds or derived from a Liquidity Facility relating to such Bonds, and any fund or account established by or pursuant to such Series Resolution for the payment of the purchase price of Option Bonds so tendered or deemed to have been tendered, shall not be held in trust for the benefit of the Holders of Bonds other than such Option Bonds and are pledged for the payment of the purchase price of such Option Bonds, and (ii) any fund or account established by or pursuant to such Series Resolution for repayment of advances made under a Liquidity Facility for payment of the purchase price of Option Bonds, shall not be held in trust

for the benefit of the Holders of Bonds other than such Option Bonds, and may be pledged to the provider of such Liquidity Facility.

(Section 6.1)

Application of Money in the Construction Fund

As soon as practicable after the delivery of a Series of Bonds, the Trustee shall deposit in the Construction Fund established in connection with such Series of Bonds, if any, the amount required to be deposited therein pursuant to the Resolution. In addition, the Trustee shall deposit in such Construction Fund all amounts paid by the Institution which by the terms of the Loan Agreement executed in connection with such Series of Bonds are required to be deposited therein for the acquisition, construction, reconstruction, renovation or equipment of any Project, including the proceeds of any insurance of condemnation award to be so applied.

Except as otherwise provided in the Resolution and in any applicable Series Resolution or Certificate of Determination, money deposited in a Construction Fund shall be used only to pay the Costs of Issuance of the Series of Bonds in connection with which such Construction Fund was established and the Costs of the Project for which such Construction Fund was established.

Payments for Costs of Issuance shall be made by the Trustee upon receipt of, and in accordance with, a certificate or certificates signed by an Authorized Officer of the Issuer stating the names of the payees and the respective amounts of each such payment. Payments for the Costs of the Project shall be made by the Trustee upon receipt of, and in accordance with, a certificate or certificates signed by the Issuer, each substantiated by a certificate filed with the Issuer signed by an Authorized Officer of the Institution stating that amounts were incurred or expended on Costs of the Project, except that payments to pay interest on Bonds shall be made by the Trustee upon receipt of, and in accordance with, the direction of the Issuer directing the Trustee to transfer such amount from the Construction Fund to the applicable Debt Service Fund.

Upon receipt by the Trustee of a certificate of completion signed by an Authorized Officer of the Institution in the form set forth in the Loan Agreement (which certificate shall not be required if no money is remaining in the Construction Fund), the money, then remaining in the Construction Fund, after making provision in accordance with the direction of the Issuer for the payment of any Costs of Issuance and Costs of the Project then unpaid, shall be paid or applied by the Trustee as follows and in the following order of priority: first: upon the direction of an Authorized Officer of the Issuer, to the Arbitrage Rebate Fund, the amount set forth in such direction; second: to restore the Debt Service Reserve Fund (if any) to the Debt Service Reserve Fund Requirement; and third: to the applicable Debt Service Fund, to be applied in accordance with the Resolution, any balance remaining.

(Section 6.3)

Deposit and Allocation of Revenues

All Revenues and any other money required by any of the provisions of a Loan Agreement to be paid to the Trustee shall, upon receipt thereof, be deposited or paid by the Trustee to the applicable Debt Service Fund except for the following: (i) amounts paid to the Trustee for any of the following purposes: (x) to pay the Costs of Issuance of the Bonds, and other costs in connection with the issuance of the Bonds; (y) to pay amounts required to be rebated to the Department of the Treasury of the United States of America in accordance with the Code in connection with the Bonds; and (z) to pay the fees and expenses of the Trustee in connection with performance of its duties under the Resolution; and (ii) amounts required to be paid by the Institution to the Trustee pursuant to any section of the Loan Agreement that specifically provides for the deposit of such payments into a fund, other than the Debt Service Fund, established under the Resolution or pursuant to the applicable Series Resolution or Certificate of Determination relating thereto.

(Section 6.4)

Debt Service Fund

The Trustee shall pay out of the Debt Service Fund established in connection with Bonds of a Series, when due: the interest due and payable on the Outstanding Bonds of such Series; the principal due and payable on the Outstanding Bonds of such Series; the Sinking Fund Installments or other amounts related to a mandatory redemption, if any, due and payable on the Outstanding Bonds of such Series; and in connection with the optional redemption of Bonds of a Series pursuant to the Resolution and subject to the satisfaction of any conditions contained in the notice of redemption given pursuant to the Resolution, the Redemption Price, together with interest accrued and unpaid thereon, on the redemption date.

The Issuer may, at any time subsequent to July 1 (or such other date as provided in a Series Resolution or a Certificate of Determination with respect to a Series of Bonds) of any Bond Year but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, direct the Trustee to purchase, with money on deposit in the Debt Service Fund established in connection with the Bonds of a Series at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds of such Series and maturity to be redeemed from such Sinking Fund Installment. In addition, the Institution pursuant to a Loan Agreement may deliver, at any time subsequent to July 1 (or such other date as provided in a Series Resolution or a Certificate of Determination with respect to a Series of Bonds) of any Bond Year, but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, to the Trustee for cancellation one or more Term Bonds of such Series and maturity to be so redeemed on such date from such Sinking Fund Installment. Any Term Bond so purchased and any Term Bond so delivered to the Trustee shall be canceled upon receipt thereof by the Trustee and evidence of such cancellation shall be given to the Issuer. The principal amount of each Term Bond so canceled shall be credited against the Sinking Fund Installment due on such date; *provided, however*, that such Term Bond is canceled by the Trustee prior to the date on which notice of redemption is given.

The Trustee, after making all payments from the Debt Service Fund as provided in the Resolution, shall promptly notify the Issuer and the Institution of any balance of Revenues remaining in the Debt Service Fund on the first day of the next succeeding Bond Year. The balance, if any, of the Revenues then remaining shall be applied in the following order of priority: first there shall be paid to the Issuer, unless otherwise paid, such amounts as are payable to the Issuer for: (i) all expenditures reasonably and necessarily incurred by the Issuer in connection with the financing of the Project, including expenses incurred by the Issuer to compel full and punctual performance of all the provisions of any Loan Agreement in accordance with the terms thereof, and (ii) any unpaid fees or other amounts payable to the Issuer under the Loan Agreement; but only upon receipt by the Trustee of a certificate signed by the Issuer, stating in reasonable detail the amounts payable to the Issuer pursuant to this paragraph; second, upon the direction of the Issuer, be paid by the Trustee to the Institution, in the respective amounts set forth in such direction. Any amounts paid to the Institution shall be free and clear of any pledge, lien, encumbrance or security interest created by the Resolution or by the applicable Series Resolution or the applicable Loan Agreement; and third, be retained in the Debt Service Fund.

(Section 6.5)

Arbitrage Rebate Fund

The Trustee shall deposit to the Arbitrage Rebate Fund any money delivered to it by the Institution for deposit therein and, notwithstanding any other provisions of the Resolution, shall transfer to the Arbitrage Rebate Fund, in accordance with the directions of an Authorized Officer of the Issuer, money on deposit in any other funds held by the Trustee under the Resolution at such times and in such amounts as shall be set forth in such directions.

Money on deposit in the Arbitrage Rebate Fund shall be applied by the Trustee in accordance with the direction of an Authorized Officer of the Issuer to make payments to the Department of the Treasury of the United States of America at such times and in such amounts determined to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Money in excess of the amount required to be so rebated shall be deposited to any fund or account established under the Resolution in accordance with the written direction of an Authorized Officer of the Issuer.

The amount which may be required by the Code to be rebated to the Department of the Treasury of the United States of America with respect to each Series of Bonds shall be determined as provided in the applicable Loan Agreement

and the Issuer shall direct the Trustee to (i) transfer from any other of the funds and accounts held by the Trustee under the Resolution and deposit to the applicable Arbitrage Rebate Fund such amount as the Issuer shall have determined to be necessary in order to enable it to comply with its obligation to rebate money to the Department of the Treasury of the United States of America with respect to each Series of Bonds and (ii) if and to the extent required by the Code, pay out of such Arbitrage Rebate Fund to the Department of the Treasury of the United States of America the amount, if any, required by the Code to be rebated thereto.

(Section 6.6)

Application of Moneys in Certain Funds for Retirement of Bonds

Notwithstanding any other provisions of the Resolution, if at any time the money held in the Debt Service Fund established in connection with a Series of Bonds for the payment of the principal and Sinking Fund Installments of the Bonds of such Series, together with the money held in the Debt Service Reserve Fund established for such Bonds, are sufficient to pay the principal or Redemption Price of all Outstanding Bonds of such Series and the interest accrued and unpaid and to accrue on such Bonds to the next date of redemption when all such Bonds are redeemable, or to make provision pursuant to the Resolution for the payment of such Bonds at the maturity or redemption dates thereof, the Trustee shall so notify the Issuer and the Institution. Upon receipt of such notice, the Issuer may advise the Institution that no further payments on account of principal and interest are due under the Loan Agreement and further (upon the receipt of written instructions from an Authorized Officer of the Institution) may (i) direct the Trustee to redeem all such Bonds, whereupon the Trustee shall proceed to redeem or provide for the redemption of such Bonds in the manner provided in the Resolution, or (ii) give the Trustee irrevocable instructions in accordance with the Resolution and make provision for the payment of such Bonds at the maturity or redemption dates thereof in accordance therewith.

(Section 6.7)

Transfer of Investments

Whenever money in any fund or account established under the Resolution is to be paid in accordance with the Resolution to another such fund or account, such payment may be made, in whole or in part, by transferring to such other fund or account investments held as part of the fund or account from which such payment is to be made, whose value, together with the money, if any, to be transferred, is at least equal to the amount of the payment then to be made; *provided, however*, that no such transfer of investments would result in a violation of any investment standard or guideline applicable to such fund.

(Section 6.8)

Security for Deposits

The Trustee shall continuously and fully secure all money held under the Resolution by it for the benefit of the Issuer and the Holders of the Bonds with Permitted Collateral having a market value equal to the amount of money secured thereby; *provided, however*, (a) that if the securing of such money is not permitted by applicable law, then in such other manner as may then be required or permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, and (b) that it shall not be necessary for the Trustee to give security for the deposit of any money with them pursuant to the Resolution and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on any Bonds, or for the Trustee to give security for any money which shall be represented by obligations purchased or other investments made under the provisions of the Resolution as an investment of such money. The Trustee shall include in its monthly report provided pursuant to the Resolution a statement showing the amount of money held by the Trustee pursuant to the Resolution on the date of such report, the Permitted Collateral pledged by the Trustee to secure such amount and market value of such Permitted Collateral on the date of such report.

(Section 7.1)

Investment of Funds and Accounts

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

In lieu of the investments of money in obligations described above, the Trustee shall, to the extent permitted by law, upon direction of the Issuer given or confirmed in writing, by the Issuer, invest money in a Construction Fund or Debt Service Reserve Fund in any Permitted Investment; *provided, however*, that each such investment shall permit the money so deposited or invested to be available for use at the times at which the Issuer reasonably believes such money will be required for the purposes of the Resolution, *provided, further*, that (x) any Permitted Collateral required to secure any Permitted Investment shall have a market value, determined by the Trustee or its agent periodically, but no less frequently than weekly, at least equal to the amount deposited or invested including interest accrued thereon, (y) the Permitted Collateral shall be deposited with and held by the Trustee or an agent of the Trustee approved by an Authorized Officer of the Issuer, and (z) the Permitted Collateral shall be free and clear of claims of any other person.

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

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

Notwithstanding anything to the contrary in the Resolution, the Issuer, in its discretion, may direct the Trustee to, and the Trustee shall, sell, present for redemption or exchange any investment held by the Trustee pursuant to the Resolution and the proceeds thereof may be reinvested as provided therein. Except as otherwise provided in the Resolution, the Trustee shall sell at the best price obtainable, or present for redemption or exchange, any investment held by it pursuant to the Resolution whenever it shall be necessary in order to provide money to meet any payment or transfer from the fund or account in which such investment is held. The Trustee shall advise the Issuer and the Institution in writing, on or before the fifteenth (15th) day of each calendar month, of the amounts required to be on deposit in each fund and account under the Resolution and of the details of all investments held for the credit of each fund and account in its custody under the provisions of the Resolution as of the end of the preceding month and as to whether such investments comply with the Resolution. The details of such investments shall include the par value, if any, the cost and the current market value of such investments as of the end of the preceding month. The Trustee shall also describe all withdrawals, substitutions and other transactions occurring in each such fund and account in the previous month.

No part of the proceeds of any Series of Bonds or any other funds of the Issuer shall be used directly or indirectly to acquire any securities or investments the acquisition of which would cause any Bond to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

(Section 7.2)

Liability for Investments

Neither the Issuer nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of the Resolution, in the manner provided therein, for any depreciation in value of any such investment, or for any loss, direct or indirect, resulting from any such investment.

(Section 7.3)

Payment of Principal and Interest

Solely and exclusively from the property pledged pursuant to the Resolution, the Issuer shall pay or cause to be paid the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on every Bond of each Series on the dates and in the manner provided in the Bonds according to the true intent and meaning thereof.

(Section 8.1)

Further Assurance

The Issuer, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, pledges and assignments by the Resolution and by the applicable Series Resolution created or made or intended to be created or made, or which the Issuer may become bound to pledge or assign.

(Section 8.4)

Accounts and Reports

The Trustee, on behalf of the Issuer, shall keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to each Series of Bonds. Such books and accounts, at reasonable hours and subject to the reasonable rules and regulations of the Trustee, shall be subject to inspection by the Institution, the Issuer or of any Holder of a Bond or his representative duly authorized in writing. The Trustee shall annually prepare a report which shall be furnished to the Issuer, any provider of a Credit Facility and the Institution. Such report shall include at least: a statement of all funds (including investments thereof) held by the Trustee pursuant to the provisions of the Resolution and of each Series Resolution; a statement of the Revenues collected in connection with the Resolution and with each Series Resolution; and complete and correct entries of the transactions relating to each Series of Bonds. A copy of such report shall, upon receipt of a written request therefor, and payment of any reasonable fee or charge made in connection therewith, be furnished to the registered owner of a Bond or any beneficial owner of a Book Entry Bond requesting the same.

(Section 8.5)

Creation of Liens

Except as permitted by the Resolution with respect to any Shared Collateral or the Revenues, the Issuer shall not create, cause to be created or suffer or permit the creation of any lien or charge prior or equal to that securing the Bonds or the proceeds from the sale of the Bonds, the Revenues, the Issuer's security interest in the Collateral Security and the funds and accounts established by the Resolution or pursuant to any Series Resolution; *provided, however*, that nothing contained in the Resolution shall prevent the Issuer from issuing bonds, notes or other obligations or otherwise incurring indebtedness under another and separate resolution or otherwise so long as the charge or lien created by such resolution, except as permitted by the Resolution with respect to Shared Collateral or the Revenues, is not prior or equal to the charge or lien created by the Resolution.

(Section 8.6)

Enforcement of Duties and Obligations of the Institution; Obligations of the Issuer

The Issuer covenants that, at the written request of the Trustee, it shall take all legally available action to cause the Institution to fully perform all duties and acts and to fully comply with the covenants of the Institution required by the Loan Agreement in the manner and at the times provided in the Loan Agreement, provided that the Issuer shall be furnished with satisfactory security or indemnity for the reimbursement of all expenses and to protect it against all liability in connection with any such action. None of the provisions of the Resolution shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of

any of its rights or powers thereunder, unless payable from the Revenues, or unless the Issuer shall first have been adequately indemnified to its satisfaction against the cost, expense, and liability which may be incurred thereby.

The Loan Agreement sets forth covenants and obligations of the Issuer and the Institution, and reference is by the Resolution made to the same for a detailed statement of said covenants and obligations. Notwithstanding anything to the contrary in the Resolution or the Loan Agreement, the Issuer shall have no obligation to and instead the Trustee, in accordance with the Resolution, shall have the right, without further direction from or action by the Issuer, to take any and all steps, actions and proceedings, to enforce any or all rights of the Issuer under the Resolution and the Loan Agreement (other than the Issuer's Unassigned Rights), including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Institution under the Loan Agreement.

(Section 8.7)

Offices for Payment and Registration of Bonds

The Issuer shall at all times maintain an office or agency in the State where Bonds may be presented for payment, registration, transfer or exchange and the Trustee is appointed as its agent to maintain such office or agency for the registration, transfer or exchange of Bonds.

(Section 8.9)

Amendment of Loan Agreement

Each Loan Agreement may, without the consent of the Holders of Bonds, be amended, changed, modified, altered or supplemented for any one or more of the following purposes: (i) to add an additional covenant or agreement for the purpose of further securing the payment of the Institution's obligations under the Loan Agreement that is not contrary to or inconsistent with the covenants and agreements of the Institution contained in the Loan Agreement; (ii) to prescribe further limitations and restrictions upon the Institution's right to incur, issue, assume or guaranty indebtedness that are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect; (iii) to surrender any right, power or privilege reserved to or conferred upon the Institution, if surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Institution contained in the Loan Agreement; (iv) to make changes necessary or appropriate in connection with the acquisition, construction, reconstruction, rehabilitation and improvement, or otherwise providing, furnishing and equipping of any Project, to amend the description of any Project or to add an additional Project; (v) to establish, amend or modify the Issuer Fee or the Annual Administrative Fee payable by the Institution in connection with the Bonds of a Series; or (vi) with the prior written consent of the Trustee, to cure any ambiguity, or to correct or supplement any provisions contained in the Loan Agreement which may be defective or inconsistent with any other provisions contained in the Resolution or in the Loan Agreement or to amend, modify or waive any other provision of the Loan Agreement, provided that the same does not adversely affect the interests of the Bondholders in any material respect.

The Loan Agreement relating to a Series of Bonds may not be amended, changed, modified, altered or terminated, nor may any provision thereof be waived, without the consent of the Holders of Outstanding Bonds of such Series if such amendment, change, modification, alteration, termination or waiver (i) reduces the amount of Revenues payable by the Institution under the Loan Agreement on any date or delays the date on which payment is to be made, (ii) modifies the events which constitute Events of Default under the Loan Agreement, (iii) diminishes, limits or conditions the rights or remedies of the Issuer under the Loan Agreement upon the occurrence of an Event of Default thereunder, or (iv) adversely affects the rights of the Bondholders in any material respect.

No amendment, change, modification, alteration, termination or waiver described in the immediately preceding paragraph shall take effect unless the prior written consent of the Holders of at least a majority in principal amount of the Bonds then Outstanding of the affected Series; *provided, however*, that if such amendment, change, modification, alteration, termination or waiver will, by its terms, not take effect so long as any Bonds of any specified maturity of such Series remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this provision.

Bonds owned or held by or for the account of the Issuer or the Institution shall not be deemed Outstanding for the purpose of consent, and neither the Issuer nor the Institution shall be entitled with respect to such Bonds to give any such consent. At the time of any consent, the Trustee shall be provided with certificates of the Issuer and the Institution in accordance with the Resolution.

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

No amendment, change, modification or termination of a Loan Agreement, or waiver of a provision thereof shall be made other than pursuant to a written instrument signed by the parties thereto. No such amendment, change, modification, alteration or waiver shall become effective unless there has been delivered to the Trustee an opinion of Bond Counsel that any such amendment, change, modification, alteration or waiver complies with the provisions of the Resolution. A copy of each such amendment, change, modification, termination or waiver shall be filed with the Trustee.

For the purposes of the Resolution, a Series shall be deemed to be adversely affected by an amendment, change, modification, alteration or termination of the Loan Agreement or the waiver of any provision thereof if the same adversely affects or diminishes the rights of the Holders of the Bonds of such Series in any material respect, which determination shall be made without regard to the existence of any Credit Facility issued in connection with such Bonds. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of any particular Series would be adversely affected in any material respect by any amendment, change, modification, alteration, termination or waiver and any such determination shall be binding and conclusive on the Institution, the Issuer and all Holders of Bonds.

The Trustee shall be entitled to rely upon an opinion of counsel or an opinion or report of engineers, accountants or other experts, in each case reasonably satisfactory to the Trustee, with respect to whether any amendment, change, modification, alteration, termination or waiver adversely affects the interests of any Holders of Bonds then Outstanding in any material respect.

(Section 8.10)

General

The Issuer shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions of the Resolution in accordance with the terms of such provisions.

Upon the date of issuance of Bonds, all conditions, acts and things required by this Resolution and by the statutes of the State to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds, shall exist, have happened and have been performed and the issuance of such Bonds, together with all other indebtedness of the Issuer, shall be within every debt and other limit prescribed by the laws of the State.

(Section 8.11)

Responsibilities of Trustee

The recitals of fact contained in the Resolution and in each Series Resolution and in the Bonds shall be taken as the statements of the Issuer and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of the Resolution, of any Series Resolution or of any Bonds, or in respect of the security afforded by the Resolution or by each Series Resolution, and the Trustee shall incur no

responsibility in respect thereof. The Trustee shall be under no responsibility or duty with respect to: (i) the issuance of the Bonds for value; (ii) the application of the proceeds thereof except to the extent that such proceeds are received by it in its capacity as Trustee; or (iii) the application of any money paid to the Issuer or others in accordance with the Resolution and with each Series Resolution except as to the application of any money paid to it in its capacity as Trustee. The Trustee shall not be liable in connection with the performance of its duties under the Resolution and under each Series Resolution except for its own negligence or default.

The duties and obligations of the Trustee shall be determined by the express provisions of the Resolution and of each Series Resolution and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Resolution and in each Series Resolution. In case an Event of Default has occurred and has not been cured, the Trustee shall exercise such rights and powers vested in it in the Resolution and under each applicable Series Resolution, and use the same degree of care and skill in its exercise as a reasonable and prudent person would use, under the circumstances, in the conduct of his or her own affairs.

The Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the Resolution or by any Series Resolution.

(Section 9.2)

Property Held in Trust

All money and securities conveyed to or held by the Trustee, except for amounts held in the Arbitrage Rebate Fund, at any time pursuant to the terms of the Resolution and of each Series Resolution shall be and are assigned, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions of the applicable Series Resolution.

The Trustee shall hold all money in the Arbitrage Rebate Fund as the agent of the Issuer and shall not disburse amounts therefrom except pursuant to the written instructions of an Authorized Officer of the Issuer.

(Section 9.3)

Evidence on which the Trustee May Act

The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document reasonably believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may or may not be of counsel to the Issuer, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith.

Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under the Resolution and under any Series Resolution, such matter (unless other evidence in respect thereof be specifically prescribed by the Resolution) may be deemed to be conclusively proved and established by a certificate signed by an Authorized Officer of the Issuer or, with the permission of the an Authorized Officer of Issuer, signed by an Authorized Officer of the Institution. Such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of the Resolution and of the Series Resolution upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided in the Resolution and in each Series Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision of the Resolution and of any Series Resolution by the Issuer to the Trustee shall be sufficiently executed if executed in the name of the Issuer by an Authorized Officer.

(Section 9.4)

Compensation

Unless otherwise provided by contract with the Trustee, the Institution, as provided in the Loan Agreement, shall pay to the Trustee, from time to time, reasonable compensation for all services rendered by it under the Resolution and under the applicable Series Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under the Resolution and under the applicable Series Resolution. The Trustee shall be entitled to receive and collect such compensation from the Institution as provided in the Loan Agreement and, upon the occurrence of an Event of Default and except as otherwise set forth in a Series Resolution or Certificate of Determination, shall have a lien therefor on any and all funds at any time held by it under the Resolution and under the applicable Series Resolution (other than the Arbitrage Rebate Fund and any fund or account established for the payment of the principal or Redemption Price of or interest on Option Bonds or the purchase price of Option Bonds tendered for purchase) prior to any of the Bonds for which such services have been rendered; *provided, however*, the Trustee shall not be entitled to compensation for any expenses, charges, counsel fees or other disbursements incurred in connection with or incident to its resignation or removal as provided in the Resolution. The Institution shall, pursuant to its obligations under the Loan Agreement, indemnify and save the Trustee harmless against any liabilities which the Trustee may incur in the exercise and performance of its powers and duties under the Resolution and under the Applicable Series Resolution and which are not due to the Trustee's negligence or default. None of the provisions contained in the Resolution or in any Series Resolution shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it. The Trustee shall not be required to take any action pursuant to the Resolution unless and until it shall have been indemnified and saved harmless against any liabilities and all reasonable expenses, charges, counsel fees and other disbursements, including those of the Trustee's attorneys, agents and employees, incurred in connection with or as a result of taking such action.

(Section 9.5)

Permitted Acts

The Trustee may become the owner of or may deal in Bonds as fully and with the same rights as if it were not such Trustee. The Trustee may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the Issuer or any committee formed to protect the rights of Holders of Bonds or to effect or aid in any reorganization growing out of the enforcement of the Resolution or of the Bonds or any Series Resolution whether or not such committee shall represent the Holders of a majority in principal amount of the Outstanding Bonds in respect of which any such action is taken.

(Section 9.6)

Resignation of Trustee

The Trustee, or any successor thereof, may at any time resign and be discharged of its duties and obligations under the Resolution and under each Series Resolution by giving not less than sixty (60) days written notice to the Issuer, any provider of a Credit Facility and the Institution, which notice shall specify the date when such resignation shall take effect, and, unless otherwise provided in the Resolution, mail to the registered owners of the Bonds a copy of such notice, by first class mail, postage prepaid, at their last known addresses, if any, appearing on the registration books of the Issuer. Such resignation shall take effect upon the date specified in such notice unless previously a successor shall have been appointed as provided in the Resolution, in which event such resignation shall take effect immediately on the appointment of such successor; *provided, however*, that such resignation shall not take effect until a successor Trustee has been appointed and has accepted such appointment pursuant to the Resolution.

(Section 9.7)

Removal of Trustee

The Trustee, or any successor thereof, may be removed at any time by the Holders of a majority in principal amount of the Outstanding Bonds, excluding any Bonds held by or for the account of the Issuer or the Institution, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to the Issuer. The Trustee, or any successor thereof, may also be removed at any time for cause or any breach of trust or for acting or proceeding in violation of, or failing to act or proceed in accordance with, any provisions of the Resolution or of any Series Resolution with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon application by the Issuer, or the Holders of not less than twenty per centum (20%) in aggregate principal amount of Bonds then Outstanding, excluding any Bonds held by or for the account of the Issuer or the Institution. The Trustee may also be removed at any time, other than during the continuance of an event of default under the Resolution, by the Issuer, by an instrument in writing signed and acknowledged by the Issuer. No removal of the Trustee under the Resolution shall take effect until a successor Trustee has been appointed. A copy of each instrument or order providing for the removal of the Trustee, or any successor thereof, shall be delivered by the Issuer to the Trustee, each provider of a Credit Facility or such successor thereof and the Institution.

(Section 9.8)

Successor Trustee

In case the Trustee, or any successor thereof, shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the Issuer shall forthwith appoint a Trustee, with written notice to each Rating Service rating the Bonds then Outstanding, to act as Trustee. Copies of any resolution or other instrument of the Issuer providing for any such appointment shall be delivered by the Issuer to the Trustee so appointed, the predecessor Trustee, any provider of a Credit Facility and the Institution. The successor Trustee shall: (a) give notice of any such appointment not later than thirty (30) days after such appointment to the registered owner of the Bonds as provided in the Resolution; and (b) submit the notice of its appointment to EMMA.

If in a proper case no appointment of a successor shall be made within forty-five (45) days after the giving of written notice in accordance with the Resolution or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Bondholder may apply to any court of competent jurisdiction for the appointment of such a successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor appointed under the provisions of the Resolution shall be a bank located in the State having trust powers or a trust company organized under the laws of the State or national banking association having trust powers located in the State having a capital and surplus aggregating at least \$100,000,000, if there be such a bank having trust powers or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms and authorized by law to perform all the duties required by the Resolution and by each Series Resolution.

(Section 9.9)

Transfer of Rights and Property to Successor Trustee

Any successor appointed under the provisions of the Resolution shall execute, acknowledge and deliver to its predecessor, and also to the Issuer, an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance shall become fully vested with all money, estates, properties, rights, powers, duties and obligations of its predecessor under the Resolution and under each Series Resolution, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request by the Issuer or of such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of such Trustee in and to any property held by it under the Resolution, and shall pay over, assign and deliver to such successor any money or other properties subject to the trusts and conditions set forth therein. Should any deed, conveyance or instrument in writing from the Issuer be required by such successor for more

fully and certainly vesting in and confirming to it any such money, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer.

(Section 9.10)

Merger or Consolidation of the Trustee

Any company into which the Trustee may be merged or with which it may be consolidated or any company resulting from any merger or consolidation to which it shall be a party or any company to which such Trustee may sell or transfer any portion of its corporate trust business, provided such company shall be a bank having trust powers or trust company or national banking association qualified to be a successor to such Trustee under the provisions of the Resolution, shall be the successor to such Trustee, without any further act, deed or conveyance, with respect to the corporate trust business so transferred.

(Section 9.11)

Modification and Amendment without Consent

The Issuer may, without the consent of Bondholders and except in the case of subparagraph (h) below, without the consent of the Trustee, adopt at any time or from time to time Series Resolutions or Supplemental Resolutions for any one or more of the following purposes: (a) to provide for the issuance of a Series of Bonds pursuant to the provisions of the Resolution and to prescribe the terms and conditions pursuant to which such Bonds may be issued, paid or redeemed; (b) to add additional covenants and agreements of the Issuer for the purpose of further securing the payment of the Bonds, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the Issuer contained in the Resolution; (c) to prescribe further limitations and restrictions upon the issuance of Bonds and the incurring of indebtedness by the Issuer which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect; (d) to surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of the Resolution, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Issuer contained in the Resolution; (e) to confirm, as further assurance, any pledge under the Resolution and the subjection to any lien, claim or pledge created or to be created by the provisions of the Resolution, of the Revenues or any pledge of any other money, securities or funds; (f) to modify any of the provisions of the Resolution or any previously adopted Series Resolution or Supplemental Resolution in any other respects, provided that such modifications shall not be effective until after all Bonds of any Series of Bonds Outstanding as of the date of adoption of such Supplemental Resolution or Series Resolution shall cease to be Outstanding, and all Bonds issued under such resolutions shall contain a specific reference to the modifications contained in such subsequent Resolutions; (g) to modify or amend a Project; or (h) with the consent of the Trustee, to cure any ambiguity or defect or inconsistent provision in the Resolution or to insert such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable; provided that any such modifications are not contrary to or inconsistent with the Resolution as theretofore in effect, or to modify any of the provisions of the Resolution or of any previously adopted Series Resolution or Supplemental Resolution in any other respect, provided that such modification shall not adversely affect the interests of the Bondholders in any material respect. Any Series Resolutions or Supplemental Resolution adopted pursuant to the provisions summarized above shall become effective in accordance with its terms upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Issuer and with respect to any Series Resolution or Supplemental Resolution relating to a Series of Bonds secured by a Credit Facility, providing a written copy thereof to the provider of such Credit Facility.

(Section 10.1)

Supplemental Resolutions Effective With Consent of Bondholders

The provisions of the Resolution and of a Series Resolution may also be modified or amended at any time or from time to time by a Supplemental Resolution, subject to the consent of the Bondholders in accordance with and subject to the provisions of the Resolution, such Supplemental Resolution to become effective upon the filing with the Trustee

of a copy thereof certified by the Issuer. The Trustee shall, upon its becoming effective, transmit a copy of such Supplemental Resolution to the Institution and to each Rating Service(s) rating the affected Bonds then Outstanding.

(Section 10.2)

General Provisions Relating to Series Resolutions and Supplemental Resolutions

The Resolution shall not be modified or amended in any respect except in accordance with and subject to the provisions of the Resolution. Nothing contained in the Resolution shall affect or limit the rights or obligations of the Issuer to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions thereof or the right or obligation of the Issuer to execute and deliver to the Trustee any instrument elsewhere in the Resolution provided or permitted to be delivered to the Trustee.

A copy of every Series Resolution and Supplemental Resolution adopted by the Issuer, when filed with the Trustee, shall be accompanied by an opinion of Bond Counsel stating that such Series Resolution or Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted thereby and is valid and binding upon the Issuer and enforceable in accordance with its terms. The Trustee shall transmit a copy of such Series Resolution or Supplemental Resolution to the Institution and with respect to any Series Resolution or Supplemental Resolution relating to a Series of Bonds secured by a Credit Facility, providing a written copy thereof to the provider of such Credit Facility.

The Trustee is authorized to accept delivery of a certified copy of any Series Resolution or Supplemental Resolution permitted or authorized pursuant to the Resolution and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee shall be fully protected in relying on the opinion of Bond Counsel that such Series Resolution or Supplemental Resolution is authorized or permitted by the provisions of the Resolution.

No Series Resolution or Supplemental Resolution changing, amending or modifying any of the rights or obligations of the Trustee shall become effective without the written consent of the Trustee.

(Section 10.3)

Powers of Amendment

Any modification or amendment of the Resolution and of the rights and obligations of the Issuer and of the Holders of the Bonds of a Series under the Resolution, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in the Resolution, (i) of the Holders of at least a majority in principal amount of the Bonds of such Series Outstanding at the time such consent is given, or (ii) in case the modification or amendment changes the amount or date of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds of the particular Series, maturity and interest rate entitled to such Sinking Fund Installment, Outstanding at the time such consent is given. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment. For the purposes of the Resolution section summarized herein, a Series shall be deemed to be affected by a modification or amendment of the Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series in any material respect.

The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, the Bonds of any particular Series or maturity would be affected by any modification or amendment of the Resolution and any such determination shall be binding and conclusive on the Issuer and all Holders of Bonds; *provided, however*, that such determination shall be made without regard to the existence of any Credit Facility issued in connection with such Bonds.

The Trustee shall be entitled to rely upon an opinion of counsel or an opinion or report of engineers, accountants or other experts, in each case reasonably satisfactory to the Trustee, as conclusive evidence as to whether the Bonds of any particular Series or maturity would be so affected by any such modification or amendment of the Resolution. The Trustee shall transmit a copy of such Supplemental Resolution to the Institution upon its becoming effective.

(Section 11.1)

Consent of Bondholders

The Issuer may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of the Resolution summarized in the preceding section to take effect when and as provided in the Resolution. A certified copy of such Supplemental Resolution shall be filed with the Trustee and a notice of such adoption, including the Supplemental Resolution and a statement that such Supplemental Resolution shall not take effect until the required percentages of Bondholders have consented thereto, shall be submitted to EMMA. A copy of such Supplemental Resolution shall, upon receipt of a written request therefor, be furnished to the registered owner of a Bond or any beneficial owner of a Book Entry Bond requesting the same. At the option of the Issuer, a copy of such Supplemental Resolution, together with a request to the Bondholders of a Series of Bonds affected thereby for their consent thereto in form satisfactory to the Trustee, may, unless otherwise provided in the Resolution, be mailed by the Trustee to the Bondholders (but failure to mail such copy and request to any particular Bondholder shall not affect the validity of the Supplemental Resolution when consented to as provided in the Resolution).

Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in the Resolution and (b) an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Issuer in accordance with the provisions thereof, is authorized or permitted thereby, and is valid and binding upon the Issuer and enforceable in accordance with its terms, and (ii) a notice shall have been given in accordance with the Resolution. Each such consent shall be effective only if accompanied by proof of the holding or owning at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by the Resolution. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with the Resolution shall be conclusive proof that the consents have been given by the Holders of the Bonds described in the certificate or certificates of the Trustee. Any consent given by a Bondholder shall be binding upon the Bondholder giving such consent and, anything in the Resolution to the contrary notwithstanding, upon any subsequent Bondholder and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Bondholder giving such consent or a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Issuer and the Trustee a written statement that such Holders of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been so filed. At any time thereafter notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Issuer on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in the Resolution, shall be given to: (1) the Bondholders by the Trustee in accordance with the provisions of the Resolution; and (2) by filing a copy of such notice with EMMA. The Trustee shall prepare a certificate as proof of the giving of such notice as required by the Resolution. A transcript, consisting of the papers required or permitted by the Resolution to be filed with or prepared by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Issuer, the Trustee, and the Holders of all Bonds upon the Trustee's execution of the certificate of proof of the giving of such notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution is rendered in a legal action or equitable proceeding for such purpose commenced within the thirty (30) day period beginning on the date of the Trustee's execution of the proof of giving such notice; *provided, however*, that the Issuer and the Trustee during such thirty (30) day period and any such further period during which any such action or proceeding may be pending shall be entitled in their reasonable discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

For the purposes of the Resolution, the purchasers of the Bonds of a Series, including those purchasing as underwriters, placement agent or remarketing agent, for resale or otherwise, upon such purchase, may consent to a modification or amendment permitted by the Resolution in the manner provided therein, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; *provided, however*, that, if such consent is given by a purchaser who is purchasing as an underwriter or for resale or a placement agent, the nature of the modification or amendment and the provisions for the purchaser consenting thereto shall be described in the official statement, prospectus, offering memorandum or other offering document (or if there is no such offering document, the purchase or placement agreement, if any) prepared in connection with the primary offering, reoffering, resale or private placement of the Bonds of such Series by the Issuer.

(Section 11.2)

Modifications by Unanimous Consent

The terms and provisions of the Resolution and the rights and obligations of the Issuer and of the Holders of the Bonds may be modified or amended in any respect upon the adoption and filing with the Trustee by the Issuer of a copy of a Supplemental Resolution certified by an Authorized Officer of the Issuer and the consent of the Holders of all of the Bonds then Outstanding, such consent to be given as provided in the Resolution, except that no notice to the Bondholders shall be required.

(Section 11.3)

Trustee to Exercise Powers of Statutory Trustee

The Trustee is vested with all of the rights, powers and duties of a trustee appointed by Bondholders pursuant to Section 1686 of the Act which are not inconsistent with the provisions of the Resolution and the right of Bondholders to appoint a trustee pursuant to Section 1686 of the Act is by the Resolution abrogated in accordance with the provisions of subdivision 4(g) of Section 1682 of the Act.

(Section 12.1)

Events of Default

An event of default shall exist under the Resolution and under a Series Resolution (referred to in the Resolution as an “event of default”) if with respect to the Bonds of a Series to which the Series Resolution relates:

- (a) payment of the principal, Sinking Fund Installments or Redemption Price of any Bond of such Series shall not be made by the Issuer when the same shall otherwise become due and payable; or
- (b) payment of an installment of interest on any Bond of such Series shall not be made by the Issuer when the same shall become due and payable; or
- (c) a Determination of Taxability shall have occurred and be continuing; or
- (d) the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Resolution or in the Bonds of such Series or in any Series Resolution on the part of the Issuer to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds, or if such default is not capable of being cured within thirty (30) days, if the Issuer fails to commence within said thirty (30) days and diligently prosecute the cure thereof; or

(e) an “Event of Default” as defined in a Loan Agreement shall have occurred and be continuing and all sums payable by the Institution under the Loan Agreement shall have been declared to be immediately due and payable, which declaration shall not have been annulled.

(Section 12.2)

Acceleration of Maturity

Upon the happening and continuance of any event of default specified in the Resolution, other than an event of default summarized in paragraph (c) of the preceding section, then and in every such case the Trustee, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of each Series, shall, by a notice in writing to the Issuer and each Rating Service then rating the Outstanding Bonds of such Series, declare the principal of and interest on all of the Outstanding Bonds of such Series to be immediately due and payable. At the expiration of thirty (30) days after notice of such declaration has been given, such principal and interest on all of the Outstanding Bonds of such Series shall become and be immediately due and payable, anything in the Resolution or in the Series Resolution or in the Bonds to the contrary notwithstanding. At any time after the principal of the Bonds of such Series shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Resolution, the Trustee shall, with the written consent of the Holders of not less than twenty-five per centum (25%) in principal amount of the Bonds of such Series not then due by their terms and then Outstanding, by written notice to the Issuer, annul such declaration and its consequences if: (i) money shall have accumulated in the Debt Service Funds sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds of such Series (except the interest accrued on such Bonds since the last interest payment date); (ii) money shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee; (iii) all other amounts then payable by the Issuer under the Resolution and under each applicable Series Resolution (other than principal amounts payable only because of a declaration and acceleration under the Resolution) shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other default known to the Trustee in the observance or performance of any covenant, condition or agreement contained in the Resolution or in any applicable Series Resolution or in the Bonds of such Series (other than a default in the payment of the principal of such Bonds then due only because of a declaration under the Resolution) shall have been remedied to the reasonable satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

(Section 12.3)

Enforcement of Remedies

Upon the happening and continuance of any Event of Default specified in the Resolution, then and in every such case, the Trustee may proceed, and, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall proceed (subject to the provisions of the Resolution relating to the compensation of the Trustee) to protect and enforce its rights and the rights of the Bondholders under the Resolution or under any Series Resolution or under the laws of the State by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant contained under the Resolution or under any Series Resolution or in aid or execution of any power granted in the Resolution or in any Series Resolution or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy under the Resolution and under each Series Resolution the Trustee shall be entitled to sue for, enforce payment of, and receive any and all amounts then, or during any default becoming, and at any time remaining, due from the Issuer for principal or interest or otherwise under any of the provisions of the Resolution or of any Series Resolution or of the Bonds of a Series, with interest on overdue payments of the principal of or interest on the Bonds at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings under the Resolution and under any Series Resolution and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders of such Bonds, and to recover and enforce judgment or decree against the Issuer but solely as provided in the Resolution, in any Series Resolution and in such

Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the money adjudged or decreed to be payable.

(Section 12.4)

Priority of Payments After Default

If at any time the money held by the Trustee under each Series Resolution shall not be sufficient to pay the principal of and interest on the Bonds of the applicable Series as the same become due and payable (either by their terms or by acceleration of maturity), such money together with any money then available or thereafter becoming available for such purpose, whether through exercise of the remedies, shall be applied (after first depositing in the Arbitrage Rebate Fund all amounts required to be deposited therein and then paying all amounts owing to the Trustee under the Resolution) as follows:

(A) Unless the principal of all the Bonds of the applicable Series has become or been declared due and payable, all such money shall be applied:

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

Second: To the payment to the persons entitled thereto of the unpaid principal, Sinking Fund Installments or Redemption Price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates and, if the amount available shall not be sufficient to pay in full all amounts due on any date, then to the payment thereof ratably, according to the amount of principal, Sinking Fund Installments or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

(B) If the principal of all of the Bonds of the applicable Series has become or been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or preference except as to the difference in the respective rates of interest specified in the Bonds

Whenever money is to be applied by the Trustee pursuant to the provisions summarized in this section “Priority of Payment After Default”, such money shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. The setting aside of such money in trust for application in accordance with the provisions summarized in the preceding paragraphs shall constitute proper application by the Trustee, and the Trustee shall incur no liability whatsoever to the Issuer, to any Holder of Bonds or to any other person for any delay in applying any such money so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of the Resolution as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such money, it shall fix the date (which shall be on an interest payment date unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date. The Trustee shall not be required to make payment to the Holder of any Bond unless such Bond shall be presented to the Trustee for appropriate endorsement.

Amounts held by the Trustee after payments to be made pursuant to the provisions summarized in the preceding paragraphs have been made and no Bonds of the applicable Series are Outstanding shall be paid and applied in accordance with the Resolution.

(Section 12.5)

Bondholders' Direction of Proceeding

Anything in the Resolution to the contrary notwithstanding, the Holders of a majority in principal amount of the Outstanding Bonds of a Series shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee under the Resolution and under each Series Resolution, provided such direction shall be in accordance with law and the provisions of the Resolution and of each Series Resolution, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Bondholders not parties to such direction.

(Section 12.7)

Limitation of Rights of Individual Bondholders

No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust under the Resolution, or for any other remedy under the Resolution unless such Holder previously shall have given to the Trustee written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of a Series affected thereby, shall have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted by the Resolution or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of the Resolution or for any other remedy under the Resolution and in equity or at law. It is understood and intended that no one or more Holders of the Bonds of a Series secured by the Resolution and by a Series Resolution shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of the Resolution or of such Series Resolution or to enforce any right under the Resolution or such Series Resolution except in the manner in the Resolution and such Series Resolution provided, and that all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of the Outstanding Bonds of such Series. Notwithstanding any other provision of the Resolution, the Holder of any Bond shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the stated maturity expressed in such Bond (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

(Section 12.8)

Remedies Not Exclusive

No remedy conferred in the Resolution upon or reserved to the Trustee or to the Bondholders is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or existing or future law or in equity or by statute.

(Section 12.10)

Waiver and Non-Waiver of Default

No delay or omission of the Trustee or any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein.

Every power and remedy given by the Resolution to the Trustee and the Bondholders, respectively, may be exercised from time to time and as often as may be deemed expedient.

The Trustee, upon written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of the Resolution or before the completion of the enforcement of any other remedy under the Resolution.

(Section 12.11)

Notice of Event of Default

The Trustee shall give notice of each event of default under the Resolution known to the Trustee to the Institution and to any provider of a Credit Facility, within five (5) days after knowledge of the occurrence thereof and to the Holders of Bonds within thirty (30) days after knowledge of the occurrence thereof, unless such event of default shall have been remedied or cured before the giving of such notice; *provided, however*, that, except in the case of default in the payment of the principal, Sinking Fund Installments or Redemption Price of, or interest on, any of the Bonds, the Trustee shall be protected in withholding notice thereof to the Holders of Bonds if and so long as the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Bonds. Each such notice of event of default shall be given by the Trustee (i) to Bondholders in accordance with the provisions of the Resolution; (ii) by giving written notice thereof to any provider of a Credit Facility and to such other persons as is required by law; and (iii) by filing a copy of such notice with EMMA.

(Section 12.12)

Defeasance

(a) If the Issuer shall pay or cause to be paid to the Holders of Bonds of a Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, in the Resolution, and in the applicable Series Resolution and Certificate of Determination, then the pledge of the Revenues or other money and securities pledged to such Bonds and all other rights granted by the Resolution to such Bonds shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Issuer, execute and deliver such documents to evidence such discharge and satisfaction as may be reasonably required by the Issuer, and all money or securities held by it pursuant hereto and to the applicable Series Resolution which are not required for the payment or redemption of Bonds of such Series shall be paid or delivered by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Issuer; and second, to the Issuer the amount certified by an Authorized Officer of the Issuer to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Issuer or pursuant to any indemnity; and, then, the balance thereof to the Institution. Such money and securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

(b) Bonds for the payment or redemption of which money shall have been set aside and shall be held in trust by the Trustee (through deposit of money for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subdivision (a) above. All Outstanding Bonds of any Series or any maturity within a Series or a portion of a maturity within a Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) above if: (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to give as provided in the Resolution notice of redemption on said date of such Bonds; (ii) there shall have been deposited with the Trustee either money in an amount which shall be sufficient, or Defeasance Securities purchased with money the principal of and interest on which when due will provide money which, together with cash, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be; (iii) the Issuer shall have given the Trustee, in form satisfactory to it, irrevocable instructions to give, as soon as practicable, a notice to the Holders of such Bonds in accordance with

the provisions of the Resolution that the deposit required by clause (ii) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with the Resolution and stating such maturity or redemption date upon which money is to be available for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; and (iv) the Trustee shall have received a Verification Report or other documentation reasonably acceptable to each of the Trustee and the Issuer as to the sufficiency of the cash or Government Obligations on deposit in accordance with the provisions of this subparagraph (b).

The Trustee shall give written notice to each Rating Service then rating said Bonds of the Issuer's selection of the Series and maturity the payment of which is to be made in accordance with the Resolution. The Trustee shall select the Bonds of like Series and maturity payment of which shall be made in accordance with the Resolution. Neither Defeasance Securities nor money deposited with the Trustee pursuant to the defeasance provisions nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; *provided, however*, that any money received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest to become due on said Bonds on and prior to such redemption date or maturity date of the Resolution, as the case may be; *provided, further*, that money and Defeasance Securities may be withdrawn and used by the Issuer for any purpose upon (i) the simultaneous substitution therefor of either money in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide money which without regard to reinvestment, together with the money, if any, held by or deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (ii) receipt by the Trustee of a Verification Report or other documentation reasonably acceptable to each of the Trustee and the Issuer as to the sufficiency of the cash or Government Obligations being substituted. Any income or interest earned by, or increment to, the investment of any such money so deposited, shall, to the extent certified by the Trustee to be in excess of the amounts required to pay the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on such Bonds, as realized, be paid by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Issuer; and second to the Issuer the amount certified by an Authorized Officer of the Issuer to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Issuer or pursuant to any indemnity; and, then, the balance thereof to the Institution. Such money and securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

(c) For the purpose of determining whether an Option Bonds shall be deemed to have been paid in accordance with the defeasance provisions, there shall be deposited with the Trustee money in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; *provided, however*, that if, at the time a deposit is made with the Trustee pursuant to paragraph (b) above, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this paragraph (c). If any portion of the money deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose, the Trustee shall, if requested by the Issuer, pay the amount of such excess as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Issuer; second, to the Issuer the amount certified by an Authorized Officer of the Issuer to be then due or past due pursuant to a Loan Agreement for fees and expenses of the Issuer or pursuant to any indemnity; and, then, the balance thereof to the Institution. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by any Series Resolution or Loan Agreement.

(d) For the purpose of determining whether Variable Interest Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, in accordance with paragraph (b) above, such determination shall be made in accordance with the provisions of the Series Resolution or the Certificate of Determination relating to such Series of Bonds.

(Section 13.1)

**APPENDIX E – FORM OF APPROVING OPINION
OF BOND COUNSEL**

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FORM OF APPROVING OPINION OF BOND COUNSEL

Upon delivery of the Series 2024 Bonds in definitive form, Bryant Rabbino LLP, New York, New York, Bond Counsel to DASNY, proposes to render its final approving opinion in substantially the following form:

March __, 2024

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207

Ladies and Gentlemen:

We have acted as Bond Counsel to the Dormitory Authority of the State of New York (the “Authority”), a body corporate and politic of the State of New York (the “State”), constituting a public benefit corporation created and existing under the Dormitory Authority Act, being Chapter 524 of the Laws of New York of 1944, as amended (the “Dormitory Authority Act”), in connection with the issuance of the Authority’s \$100,000,000 aggregate principal amount of New York Institute of Technology Revenue Bonds, Series 2024 (the “Bonds”).

The Bonds are issued under and pursuant to the Dormitory Authority Act and the New York Institute of Technology Revenue Bond Resolution (the “Bond Resolution”), adopted by the Authority on February 14, 2024, as supplemented by the Series 2024-1 Resolution Authorizing Up To \$105,000,000 New York Institute of Technology Revenue Bonds (the “Series 2024A Resolution”, and together with the Bond Resolution, the “Resolutions”), adopted by the Authority on February 14, 2024. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Resolutions.

The Bonds are dated, mature, are payable, bear interest and are subject to redemption as provided in the Resolutions and the Certificate of Determination of the Authority fixing the terms and details of the Bonds.

We are of the opinion that:

1. The Authority has been duly created and is validly existing under the Dormitory Authority Act and has the right, power and authority to adopt the Resolutions and the Resolutions have been duly and lawfully adopted by the Authority, are in full force and effect and are valid and binding upon the Authority and enforceable in accordance with their respective terms.

2. The Resolutions create the valid pledge which they purport to create of the proceeds of the sale of the Bonds, the applicable Revenues and all funds and accounts established by the Resolutions and relating to the Bonds other than the Arbitrage Rebate Fund relating to the Bonds, including the investments thereof and the proceeds of such investments, if any, subject only to the provisions of the Resolutions permitting the application thereof to the purposes and on the terms and conditions set forth in the Resolutions.

3. The Authority is duly authorized and entitled to issue the Bonds, and upon the execution and delivery thereof and upon authentication by Manufacturers and Traders Trust Company, as Trustee under the Bond Resolution, the Bonds will be duly and validly authorized and issued by the Authority and are valid and binding special obligations of the Authority, entitled to the benefit of the Resolutions.

4. The Bonds are not a debt of the State of New York, and the State of New York is not liable thereon, nor shall the Bonds be payable out of funds of the Authority other than those pledged for the payment of the Bonds.

5. The Loan Agreement relating to the Bonds, dated as of March __, 2024 (the “Loan Agreement”), between the Authority and New York Institute of Technology (the “Institute”), has been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery thereof by the Institute and the enforceability of the same against the Institute, constitutes a legal, valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.

6. The Security Agreement related to the Bonds, dated as of March __, 2024 (the “Security Agreement”), between the Authority and the Institute has been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery thereof by the Institute and the enforceability of the same against the Institute, constitutes a legal, valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.

7. Under existing statutes and court decisions, (i) interest on the Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code.

The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Bonds in order that interest on the Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the Federal government. Noncompliance with such requirements may cause interest on the Bonds to become included in gross income for Federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. In rendering this opinion, we have relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Authority, the Institute and others in connection with the Bonds, and we have assumed compliance by the Authority and the Institute with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code. In addition, we have relied on the opinion of counsel to the Institute regarding, among other matters, the current qualifications of the Institute as an organization described in Section 501(c)(3) of the Code. For any the Bonds having original issue discount (“OID”), OID that has accrued and is properly allocable to the owners of such the Bonds under Section 1288 of the Code is excludable from gross income for Federal income tax purposes to the same extent as other interest on the Bonds.

8. Under existing statutes, interest on the Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

Except as stated in paragraphs 7 and 8, we express no opinion regarding any other Federal or state tax consequences with respect to the Bonds. We render this opinion under existing statutes and court decisions as of the issue date, and assume no obligation to update, revise or supplement our opinion to reflect any action hereafter taken or not taken, or any facts or circumstances that may hereafter come to our attention, or changes in law or in interpretations thereof that may hereafter occur, or for any other reason. We express no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for Federal income tax purposes of interest on the Bonds, or the exemption from personal income taxes of interest on the Bonds under state and local tax law.

In rendering this opinion, we are advising you that the enforceability of rights and remedies with respect to the Bonds, the Resolutions, the Loan Agreement and the Security Agreement may be limited by bankruptcy, insolvency and other laws affecting creditors’ rights or remedies heretofore or hereafter

enacted and is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

We have examined an executed Bond and, in our opinion, the forms of said Bonds and their execution are regular and proper.

Yours truly,

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APPENDIX F - FORM OF AGREEMENT TO PROVIDE CONTINUING DISCLOSURE

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AGREEMENT TO PROVIDE CONTINUING DISCLOSURE
DORMITORY AUTHORITY OF THE STATE OF NEW YORK
NEW YORK INSTITUTE OF TECHNOLOGY REVENUE BONDS,
SERIES 2024

This **AGREEMENT TO PROVIDE CONTINUING DISCLOSURE** (the “Disclosure Agreement”), dated as of March 14, 2024, is executed and delivered by New York Institute of Technology (the “Obligated Person”), Manufacturers and Traders Trust Company, as trustee (the “Trustee”) and Digital Assurance Certification, L.L.C. (“DAC”), as exclusive Disclosure Dissemination Agent (the “Disclosure Dissemination Agent”) for the benefit of the Holders (hereinafter defined) of the Bonds (hereinafter defined) issued by the Dormitory Authority of the State of New York (the “Issuer” or “DASNY”) and in order to provide certain continuing disclosure with respect to the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”).

The services provided under this Disclosure Agreement solely relate to the execution of instructions received from the parties hereto through use of the DAC system and are not intended to constitute “advice” within the meaning of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”). DAC is not obligated hereunder to provide any advice or recommendation to the Issuer, the Obligated Person or anyone on the Issuer’s or the Obligated Person’s behalf regarding the “issuance of municipal securities” or any “municipal financial product” as defined in the Act and nothing in this Disclosure Agreement shall be interpreted to the contrary.

SECTION 1. Definitions. Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Resolution (hereinafter defined). The capitalized terms shall have the following meanings:

“Annual Filing Date” means the date, set in Sections 2(a) and 2(f) of this Disclosure Agreement, by which the Annual Report is to be filed with the MSRB.

“Annual Financial Information” means annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(a) of this Disclosure Agreement.

“Annual Report” means an Annual Report described in and consistent with Section 3 of this Disclosure Agreement.

“Audited Financial Statements” means the financial statements (if any) of the Obligated Person for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(b) of this Disclosure Agreement.

“Bonds” means the bonds as listed on the attached Exhibit A, with the 9-digit CUSIP numbers relating thereto.

“Certification” means a written certification of compliance signed by the Disclosure Representative stating that the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure delivered to the Disclosure Dissemination Agent is the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure required to be or voluntarily submitted to the MSRB under this Disclosure Agreement. A Certification shall accompany each such document submitted to the Disclosure Dissemination Agent by the Obligated Person and include the full name of the Bonds and the 9-digit CUSIP numbers for all Bonds to which the document applies.

“Disclosure Dissemination Agent” means Digital Assurance Certification, L.L.C., acting in its capacity as Disclosure Dissemination Agent hereunder, or any successor Disclosure Dissemination Agent designated in writing by the Obligated Person pursuant to Section 9 hereof.

“Disclosure Representative” means the chief financial officer of the Obligated Person or his or her designee, or such other person as the Obligated Person shall designate in writing to the Disclosure Dissemination Agent from time to time as the person responsible for providing Information to the Disclosure Dissemination Agent.

“Failure to File Event” means the Obligated Person’s failure to file an Annual Report on or before the Annual Filing Date.

“Financial Obligation” means a (i) a debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). 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.

“Force Majeure Event” means: (i) acts of God, war or terrorist action; (ii) failure or shut-down of the Electronic Municipal Market Access System maintained by the MSRB; or (iii) to the extent beyond the Disclosure Dissemination Agent’s reasonable control, interruptions in telecommunications or utilities services, failure, malfunction or error of any telecommunications, computer or other electrical, mechanical or technological application, service or system, computer virus, interruptions in Internet service or telephone service (including due to a virus, electrical delivery problem or similar occurrence) that affect Internet users generally, or in the local area in which the Disclosure Dissemination Agent or the MSRB is located, or acts of any government, regulatory or any other competent authority the effect of which is to prohibit the Disclosure Dissemination Agent from performance of its obligations under this Disclosure Agreement.

“Holder” means any person (a) having the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) or (b) treated as the owner of any Bonds for federal income tax purposes.

“Information” means collectively, the Annual Reports, the Audited Financial Statements (if any), the Notice Event notices, the Failure to File Event notices, the Voluntary Event Disclosures and the Voluntary Financial Disclosures.

“Issuer” means the Dormitory Authority of the State of New York, as conduit issuer of the Bonds.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the United States Securities Exchange Act of 1934, as amended.

“Notice Event” means any of the events enumerated in paragraph (b)(5)(i)(C) of the Rule and listed in Section 4(a) of this Disclosure Agreement.

“Obligated Person” means any person who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), as shown on Exhibit A.

“Official Statement” means that Official Statement prepared by the Issuer and the Obligated Person in connection with the Bonds, as listed on Exhibit A.

“Resolution” means DASNY’s bond resolution(s) pursuant to which the Bonds were issued.

“Trustee” means Manufacturers and Traders Trust Company and its successors and assigns.

“Voluntary Event Disclosure” means information of the category specified in any of subsections (e)(vi)(1) through (e)(vi)(11) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(a) of this Disclosure Agreement.

“Voluntary Financial Disclosure” means information of the category specified in any of subsections (e)(vii)(1) through (e)(vii)(9) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(b) of this Disclosure Agreement.

SECTION 2. Provision of Annual Reports.

(a) The Obligated Person shall provide, annually, an electronic copy of the Annual Report and Certification to the Disclosure Dissemination Agent, together with a copy for the Trustee, not later than 120 days after the end of each fiscal year of the Obligated Person (or any time thereafter following a Failure to File Event as described in this Section), commencing with the fiscal year ending June 30, 2024, such date and each anniversary thereof, the “Annual Filing Date.” Promptly upon receipt of an electronic copy of the Annual Report and the Certification, the Disclosure Dissemination Agent shall provide the Annual Report to the MSRB through its Electronic Municipal Market Access (“EMMA”) System for municipal securities disclosures. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 3 of this Disclosure Agreement.

(b) If on the fifteenth (15th) day prior to the Annual Filing Date, the Disclosure Dissemination Agent has not received a copy of the Annual Report and Certification, the Disclosure Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail), to remind the Obligated Person of its undertaking to provide the Annual Report pursuant to Section 2(a). Upon such reminder, the Obligated Person shall, not later than two (2) business days prior to the Annual Filing Date, either: (i) provide the Disclosure Dissemination Agent with an electronic copy of the Annual Financial Information, Audited Financial Statements, if available, and unaudited financial statements, if Audited Financial Statements are not available in accordance with subsection (d) below and the Certification, or (ii) instruct the Disclosure Dissemination Agent in writing, with a copy to the Trustee, that a Failure to File Event may occur, state the date by which the Annual Financial Information and Audited Financial Statements for such year are expected to be provided, and, at the election of the Obligated Person, instruct the Disclosure Dissemination Agent to send a notice to the MSRB in substantially the form attached as Exhibit B on the Annual Filing Date, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(c) If the Disclosure Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on the Annual Filing Date (or, if such Annual Filing Date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a Failure to File Event shall have occurred and the Obligated Person hereby irrevocably directs the Disclosure Dissemination Agent to immediately send a notice to the MSRB in substantially the form attached as Exhibit B without reference to the anticipated filing date for the Annual Report, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(d) If Audited Financial Statements of the Obligated Person are prepared but not available prior to the Annual Filing Date, the Obligated Person shall provide unaudited financial statements for filing prior to the Annual Filing Date in accordance with Section 3(b) hereof and, when the Audited Financial Statements are available, provide in a timely manner an electronic copy to the Disclosure Dissemination Agent, accompanied by a Certification, together with a copy for the Trustee, for filing with the MSRB.

(e) The Disclosure Dissemination Agent shall:

(i) verify the filing specifications of the MSRB each year prior to the Annual Filing Date;

- (ii) upon receipt, promptly file each Annual Report received under Section 2(a) and 2(b) with the MSRB;
- (iii) upon receipt, promptly file each Audited Financial Statement received under Section 2(d) with the MSRB;
- (iv) upon receipt, promptly file the text of each Notice Event received under Sections 4(a) and 4(b)(ii) with the MSRB, identifying the Notice Event as instructed pursuant to Section 4(a) or 4(b)(ii) (being any of the categories set forth below) when filing pursuant to Section 4(c) of this Disclosure Agreement:
 - 1. Principal and interest payment delinquencies;
 - 2. Non-Payment related defaults, if material;
 - 3. Unscheduled draws on debt service reserves reflecting financial difficulties;
 - 4. Unscheduled draws on credit enhancements reflecting financial difficulties;
 - 5. Substitution of credit or liquidity providers, or their failure to perform;
 - 6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations with respect to the tax status of the security or other material events affecting the tax status of the security;
 - 7. Modifications to rights of security holders, if material;
 - 8. Bond calls, if material, and Tender offers;
 - 9. Defeasances;
 - 10. Release, substitution, or sale of property securing repayment of the securities, if material;
 - 11. Ratings changes;
 - 12. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;
 - 13. The consummation of a merger, consolidation or acquisition involving the Obligated Person, or the sale of all or substantially all of the assets of the Obligated Person, 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;
 - 14. Appointment of a successor or additional trustee, or the change of name of a trustee, if material;
 - 15. Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material; and

16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties;
- (v) upon receipt (or irrevocable direction pursuant to Section 2(c) of this Disclosure Agreement, as applicable), promptly file a completed copy of Exhibit B to this Disclosure Agreement with the MSRB, identifying the filing as “Failure to provide annual financial information as required” when filing pursuant to Section 2(b)(ii) or Section 2(c) of this Disclosure Agreement;
 - (vi) upon receipt, promptly file the text of each Voluntary Event Disclosure received under Section 7(a) with the MSRB, identifying the Voluntary Event Disclosure as instructed by the Obligated Person pursuant to Section 7(a) (being any of the categories set forth below) when filing pursuant to Section 7(a) of this Disclosure Agreement:
 1. “amendment to continuing disclosure undertaking;”
 2. “change in Obligated Person;”
 3. “notice to investors pursuant to bond documents;”
 4. “certain communications from the Internal Revenue Service;”
 5. “secondary market purchases;”
 6. “bid for auction rate or other securities;”
 7. “capital or other financing plan;”
 8. “litigation/enforcement action;”
 9. “change of tender agent, remarketing agent, or other on-going party;”
 10. “derivative or other similar transaction;” and
 11. “other event-based disclosures;”
 - (vii) upon receipt, promptly file the text of each Voluntary Financial Disclosure received under Section 7(b) with the MSRB, identifying the Voluntary Financial Disclosure as instructed by the Obligated Person pursuant to Section 7(b) (being any of the categories set forth below) when filing pursuant to Section 7(b) of this Disclosure Agreement:
 1. “quarterly/monthly financial information;”
 2. “change in fiscal year/timing of annual disclosure;”
 3. “change in accounting standard;”
 4. “interim/additional financial information/operating data;”
 5. “budget;”
 6. “investment/debt/financial policy;”

7. “information provided to rating agency, credit/liquidity provider or other third party;”
 8. “consultant reports;” and
 9. “other financial/operating data;”
- (viii) provide the Obligated Person evidence of the filings of each of the above when made, which shall be by means of the DAC system, for so long as DAC is the Disclosure Dissemination Agent under this Disclosure Agreement.

(f) The Obligated Person may adjust the Annual Filing Date upon change of its fiscal year by providing written notice of such change and the new Annual Filing Date to the Disclosure Dissemination Agent, the Trustee and the MSRB, provided that the period between the existing Annual Filing Date and new Annual Filing Date shall not exceed one year.

(g) Any Information received by the Disclosure Dissemination Agent before 6:00 p.m. Eastern time on any business day that it is required to file with the MSRB pursuant to the terms of this Disclosure Agreement and that is accompanied by a Certification and all other information required by the terms of this Disclosure Agreement will be filed by the Disclosure Dissemination Agent with the MSRB no later than 11:59 p.m. Eastern time on the same business day; provided, however, the Disclosure Dissemination Agent shall have no liability for any delay in filing with the MSRB if such delay is caused by a Force Majeure Event provided that the Disclosure Dissemination Agent uses reasonable efforts to make any such filing as soon as possible.

SECTION 3. Content of Annual Reports.

Each Annual Report shall contain:

(a) Annual Financial Information with respect to the Obligated Person which shall include operating data and financial information of the type included in the Official Statement for the Bonds as described in “PART 5—THE INSTITUTE” under the headings “OPERATING INFORMATION” and “ANNUAL FINANCIAL STATEMENT INFORMATION” relating to: (1) *student admissions*, similar to that set forth in the tables titled “**New Undergraduate Freshman and Transfer Student Application and Enrollment for the New York Campuses for Academic Years,**” “**Graduate Application and Enrollment for the New York Campuses for Academic Years**” and “**NYITCOM Application and First-Year Student Enrollment for Academic Years;**” (2) *student enrollment*, similar to that set forth in the table titled “**Total New York Institute of Technology Student Enrollment For Academic Years;**” (3) *tuition and other student charges*, similar to that set forth in the tables under the subheading, “Tuition and Fees;” (4) *financial aid*, similar to that set forth in the tables under the subheading “Financial Aid Programs;” (5) *faculty*, similar to that set forth in the three tables under the heading, “Faculty;” (6) *employee relations*, including material information about union contracts and, unless such information is included in the Audited Financial Statements, retirement plans; (7) *endowment and similar funds*, unless such information is included in the Audited Financial Statements; (8) *plant values*, unless such information is included in the Audited Financial Statements; and (9) *outstanding long-term indebtedness*, unless such information is included in the Audited Financial Statements; together with a narrative explanation as may be necessary to avoid misunderstanding regarding the presentation of such Annual Financial Information concerning the Obligated Person; and

(b) Audited Financial Statements prepared in accordance with generally accepted accounting principles (“GAAP”) or alternate accounting principles as described in the Official Statement will be included in the Annual Report. If Audited Financial Statements are not available, the Obligated Person shall be in compliance under this Disclosure Agreement if unaudited financial statements, prepared in accordance with GAAP or alternate accounting principles as described in the Official Statement, are included in the Annual Report. Audited Financial Statements (if any) will be provided pursuant to Section 2(d).

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Obligated Person is an “obligated person” (as defined by the Rule), which have been previously filed with the Securities and Exchange Commission or are available from the MSRB Internet Website. If the document incorporated by reference is a Final Official Statement, it must be available from the MSRB. The Obligated Person will clearly identify each such document so incorporated by reference.

Any Annual Financial Information containing modified operating data or financial information shall include an explanation, in narrative form, of such modifications.

SECTION 4. Reporting of Notice Events.

(a) The occurrence of any of the following events with respect to the Bonds constitutes a Notice Event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations with respect to the tax status of the security or other material events affecting the tax status of the security;
7. Modifications to rights of the security holders, if material;
8. Bond calls, if material, and Tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the securities, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;

Note to subsection (a)(12) of this Section 4: For the purposes of the event described in subsection (a)(12) of this Section 4, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person 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 Obligated Person, 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 Obligated Person.

13. The consummation of a merger, consolidation or acquisition involving the Obligated Person, or the sale of all or substantially all of the assets of the Obligated Person, 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;

14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.

The Obligated Person shall, in a timely manner not in excess of ten (10) business days after its occurrence, notify the Trustee and the Disclosure Dissemination Agent in writing upon the occurrence of a Notice Event. Upon actual knowledge of the occurrence of a Notice Event, the Trustee shall promptly notify the Obligated Person and also shall notify the Disclosure Dissemination Agent in writing of the occurrence of such Notice Event. Each such notice shall instruct the Disclosure Dissemination Agent to report the occurrence pursuant to subsection (c) and shall be accompanied by a Certification. Such notice or Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the desired text of the disclosure, the written authorization for the Disclosure Dissemination Agent to disseminate such information, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(b) The Disclosure Dissemination Agent is under no obligation to notify the Obligated Person or the Disclosure Representative of an event that may constitute a Notice Event. In the event the Disclosure Dissemination Agent so notifies the Obligated Person or the Disclosure Representative, such notified party will within two (2) business days of receipt of such notice (but in any event not later than the tenth business day after the occurrence of the Notice Event, if the Obligated Person determines that a Notice Event has occurred), instruct the Disclosure Dissemination Agent that (i) a Notice Event has not occurred and no filing is to be made or (ii) a Notice Event has occurred and the Disclosure Dissemination Agent is to report the occurrence pursuant to subsection (c) of this Section 4, together with a Certification. Such Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, contain the written authorization of the Obligated Person for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(c) If the Disclosure Dissemination Agent has been instructed as prescribed in subsection (a) or as prescribed in subsection (b) of this Section 4 to report the occurrence of a Notice Event, the Disclosure Dissemination Agent shall promptly file a notice of such occurrence with MSRB, in accordance with Section 2(e)(iv) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

SECTION 5. CUSIP Numbers.

Whenever providing information to the Disclosure Dissemination Agent, including but not limited to Annual Reports, documents incorporated by reference in the Annual Reports, Audited Financial Statements, Notice Event notices and Voluntary Event Disclosure, the Obligated Person shall indicate the full name of the Bonds and the 9-digit CUSIP numbers for the Bonds as to which the provided information relates.

SECTION 6. Additional Disclosure Obligations.

The Obligated Person acknowledges and understands that other state and federal laws, including but not limited to the United States Securities Act of 1933, as amended, and Rule 10b-5 promulgated under the United States Securities Exchange Act of 1934, as amended, may apply to the Obligated Person, and that the duties and responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement do not extend to providing legal advice regarding such laws. The Obligated Person acknowledges and understands that the duties of the

Disclosure Dissemination Agent relate exclusively to execution of the mechanical tasks of disseminating information as described in this Disclosure Agreement.

SECTION 7. Voluntary Filing.

(a) The Obligated Person may instruct the Disclosure Dissemination Agent to file a Voluntary Event Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Event Disclosure (which shall be any of the categories set forth in Section 2(e)(vi) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(a) to file a Voluntary Event Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Event Disclosure with the MSRB in accordance with Section 2(e)(vi) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-2.

(b) The Obligated Person may instruct the Disclosure Dissemination Agent to file a Voluntary Financial Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Financial Disclosure (which shall be any of the categories set forth in Section 2(e)(vii) of this Disclosure Agreement), include the desired text of the disclosure, contain the written authorization for the Disclosure Dissemination Agent to disseminate such information, if applicable, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(b) to file a Voluntary Financial Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Financial Disclosure with the MSRB in accordance with Section 2(e)(vii) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-3.

(c) The parties hereto acknowledge that neither the Issuer nor the Obligated Person is obligated pursuant to the terms of this Disclosure Agreement to file any Voluntary Event Disclosure pursuant to Section 7(a) hereof or to file any Voluntary Financial Disclosure pursuant to Section 7(b) hereof.

(d) Nothing in this Disclosure Agreement shall be deemed to prevent the Obligated Person from disseminating any other information through the Disclosure Dissemination Agent using the means of dissemination set forth in this Section 7, or including any other information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement. If the Obligated Person chooses to include any information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement or to file a Voluntary Event Disclosure or a Voluntary Financial Disclosure, the Obligated Person shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report, Voluntary Financial Disclosure, Voluntary Event Disclosure, Failure to File Event Notice or Notice Event notice.

SECTION 8. Termination of Reporting Obligation.

The obligations of the Obligated Person and the Disclosure Dissemination Agent under this Disclosure Agreement shall terminate with respect to the Bonds upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Obligated Person is no longer an Obligated Person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Disclosure Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required.

SECTION 9. Disclosure Dissemination Agent.

The Obligated Person hereby appoints DAC as exclusive Disclosure Dissemination Agent under this Disclosure Agreement. The Obligated Person may, upon thirty (30) days written notice to the Disclosure Dissemination Agent and the Trustee, replace or appoint a successor Disclosure Dissemination Agent. Upon termination of DAC's services as Disclosure Dissemination Agent, whether by notice of the Obligated Person or DAC, the Obligated Person agrees to appoint a successor Disclosure Dissemination Agent or, alternatively, agrees to assume

all responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. Notwithstanding any replacement or appointment of a successor, the Obligated Person shall remain liable until payment in full for any and all sums owed and payable to the Disclosure Dissemination Agent. The Disclosure Dissemination Agent may resign at any time by providing thirty (30) days' prior written notice to the Obligated Person.

SECTION 10. Remedies in Event of Default.

In the event of a failure of the Obligated Person or the Disclosure Dissemination Agent to comply with any provision of this Disclosure Agreement, the Holders' rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the parties' obligations under this Disclosure Agreement. Any failure by a party to perform in accordance with this Disclosure Agreement shall not constitute a default on the Bonds or under any other document relating to the Bonds, and all rights and remedies shall be limited to those expressly stated herein.

SECTION 11. Duties, Immunities and Liabilities of Disclosure Dissemination Agent.

(a) The Disclosure Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Obligated Person has provided such information to the Disclosure Dissemination Agent as provided in this Disclosure Agreement. The Disclosure Dissemination Agent shall have no duty with respect to the content of any disclosures or notices made pursuant to the terms hereof. The Disclosure Dissemination Agent shall have no duty or obligation to review or verify any Information, or any other information, disclosures or notices provided to it by the Obligated Person and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Obligated Person, the Holders of the Bonds or any other party. The Disclosure Dissemination Agent shall have no responsibility for the Obligated Person's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Obligated Person has complied with this Disclosure Agreement. The Disclosure Dissemination Agent may conclusively rely upon certifications of the Obligated Person at all times.

THE OBLIGATED PERSON AGREES TO INDEMNIFY AND SAVE THE DISCLOSURE DISSEMINATION AGENT, THE ISSUER AND THE TRUSTEE AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS AGAINST ANY LOSS, EXPENSE AND LIABILITY WHICH THEY MAY INCUR ARISING OUT OF OR IN THE EXERCISE OR PERFORMANCE OF THEIR POWERS AND DUTIES HEREUNDER, INCLUDING THE COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) OF DEFENDING AGAINST ANY CLAIM OF LIABILITY, BUT EXCLUDING LOSSES, EXPENSES AND LIABILITIES DUE TO THE DISCLOSURE DISSEMINATION AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND THE TRUSTEE'S (AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS') NEGLIGENCE OR WILLFUL MISCONDUCT.

The obligations of the Obligated Person under this Section shall survive resignation or removal of the Disclosure Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Disclosure Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and it shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The fees and expenses of such counsel shall be payable by the Obligated Person.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an electronic format through the EMMA System and accompanied by identifying information as prescribed by the MSRB.

SECTION 12. No Issuer or Trustee Responsibility.

The Obligated Person and the Disclosure Dissemination Agent acknowledge that neither the Issuer nor the Trustee have undertaken any responsibility, and shall not be required to undertake any responsibility, with respect to any reports, notices or disclosures required by or provided pursuant to this Disclosure Agreement other than those notices required under Section 4 hereof, and shall have no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures other than those notices required under Section 4 hereof. DASNY (as conduit issuer) is not, for purposes of and within the meaning of the Rule, (i) committed by contract or other arrangement to support payment of all, or part of, the obligations on the Bonds, or (ii) a person for whom annual financial information and notices of material events will be provided. The Trustee shall be indemnified and held harmless in connection with this Disclosure Agreement to the same extent provided in the Resolution for matters arising thereunder.

SECTION 13. Amendment; Waiver.

Notwithstanding any other provision of this Disclosure Agreement, the Obligated Person, the Trustee and the Disclosure Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to each of the Obligated Person, the Trustee and the Disclosure Dissemination Agent to the effect that such amendment or waiver does not materially impair the interests of Holders of the Bonds and would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule; provided none of the Obligated Person, the Trustee or the Disclosure Dissemination Agent shall be obligated to agree to any amendment modifying their respective duties or obligations without their consent thereto.

Notwithstanding the preceding paragraph, the Obligated Person, the Trustee and the Disclosure Dissemination Agent shall have the right to amend this Disclosure Agreement for any of the following purposes:

(i) to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time;

(ii) to add or change a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;

(iii) to evidence the succession of another person to the Obligated Person or the Trustee and the assumption by any such successor of the covenants of the Obligated Person or the Trustee hereunder;

(iv) to add to the covenants of the Obligated Person or the Disclosure Dissemination Agent for the benefit of the Holders, or to surrender any right or power herein conferred upon the Obligated Person or the Disclosure Dissemination Agent;

(v) for any purpose for which, and subject to the conditions pursuant to which, amendments may be made under the Rule, as amended or modified from time to time, or any formal authoritative interpretations thereof by the Securities and Exchange Commission.

SECTION 14. Beneficiaries.

This Disclosure Agreement shall inure solely to the benefit of the Obligated Person, the Trustee, the Disclosure Dissemination Agent, the underwriter, and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 15. Governing Law.

This Disclosure Agreement shall be governed by the laws of the State of New York (without regard to its conflicts of laws provisions).

SECTION 16. Counterparts.

This Disclosure 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.

[remainder of page intentionally left blank]

The Disclosure Dissemination Agent, the Trustee and the Obligated Person have caused this Disclosure Agreement to be executed, on the date first written above, by their respective officers duly authorized.

DIGITAL ASSURANCE CERTIFICATION, L.L.C.,
as Disclosure Dissemination Agent

By: _____
Name: _____
Title: _____

NEW YORK INSTITUTE OF TECHNOLOGY,
as Obligated Person

By: _____
Name: _____
Title: _____

**MANUFACTURERS AND TRADERS TRUST
COMPANY,** as Trustee

By: _____
Name: _____
Title: _____

EXHIBIT A**NAME AND CUSIP NUMBERS OF BONDS**

Name of Issuer:	Dormitory Authority of the State of New York
Obligated Person(s):	New York Institute of Technology
Name of Bond Issue:	New York Institute of Technology Revenue Bonds, Series 2024
Date of Issuance:	March 14, 2024
Date of Official Statement:	February 27, 2024

Series 2024

<u>Maturity</u>	<u>CUSIP No.</u>
2027	65000BR59
2028	65000BR67
2029	65000BR75
2030	65000BR83
2031	65000BR91
2032	65000BS25
2033	65000BS33
2034	65000BS41
2035	65000BS58
2036	65000BS66
2037	65000BS74
2038	65000BS82
2039	65000BS90
2040	65000BT24
2041	65000BT32
2042	65000BT40
2043	65000BT57
2044	65000BT65
2049	65000BT73
2054	65000BT81

EXHIBIT B

NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Dormitory Authority of the State of New York
Obligated Person(s): New York Institute of Technology
Name of Bond Issue: New York Institute of Technology Revenue Bonds, Series 2024
Date of Issuance: March 14, 2024

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the Obligated Person has not provided an Annual Report with respect to the above-named Bonds as required by the Agreement to Provide Continuing Disclosure, dated as of March 14, 2024, by and among the Obligated Person, Manufacturers and Traders Trust Company, as Trustee and Digital Assurance Certification, L.L.C., as Disclosure Dissemination Agent. The Obligated Person has notified the Disclosure Dissemination Agent that it anticipates that the Annual Report will be filed by _____.

Dated: _____

Digital Assurance Certification, L.L.C., as Disclosure
Dissemination Agent, on behalf of the Obligated Person

cc: Obligated Person

EXHIBIT C-1
EVENT NOTICE COVER SHEET

This cover sheet and accompanying "event notice" will be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer's and Obligated Person's Names:

Six-Digit CUSIP Number:

or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

Number of pages attached: _____

Description of Notice Events (Check One):

1. _____ "Principal and interest payment delinquencies;"
2. _____ "Non-Payment related defaults, if material;"
3. _____ "Unscheduled draws on debt service reserves reflecting financial difficulties;"
4. _____ "Unscheduled draws on credit enhancements reflecting financial difficulties;"
5. _____ "Substitution of credit or liquidity providers, or their failure to perform;"
6. _____ "Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations with respect to the tax status of the security or other material events affecting the tax status of the security;"
7. _____ "Modifications to rights of securities holders, if material;"
8. _____ "Bond calls, if material, and Tender offers;"
9. _____ "Defeasances;"
10. _____ "Release, substitution, or sale of property securing repayment of the securities, if material;"
11. _____ "Rating changes;"
12. _____ "Bankruptcy, insolvency, receivership or similar event of the Obligated Person;"
13. _____ "The consummation of a merger, consolidation or acquisition involving the Obligated Person, or the sale of all or substantially all of the assets of the Obligated Person, 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;"
14. _____ "Appointment of a successor or additional trustee, or the change of name of a trustee, if material;"
15. _____ "Incurrence of a financial obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Obligated Person, any of which affect security holders, if material;" and
16. _____ "Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Obligated Person, any of which reflect financial difficulties."

_____ Failure to provide annual financial information as required.

I hereby represent that I am authorized by the Obligated Person or its agent to distribute this information publicly:

Signature:

Name: _____ Title: _____

Digital Assurance Certification, L.L.C.
 390 N. Orange Avenue
 Suite 1750
 Orlando, FL 32801
 407-515-1100

Date:

EXHIBIT C-2
VOLUNTARY EVENT DISCLOSURE COVER SHEET

This cover sheet and accompanying “voluntary event disclosure” will be sent to the MSRB, pursuant to the Agreement to Provide Continuing Disclosure dated as of March 14, 2024 by and among the Obligated Person, the Trustee and DAC.

Issuer’s and Obligated Person’s Names:

Six-Digit CUSIP Number:

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

Number of pages attached: _____

Description of Voluntary Event Disclosure (Check One):

- 1. _____ “amendment to continuing disclosure undertaking;”
- 2. _____ “change in obligated person;”
- 3. _____ “notice to investors pursuant to bond documents;”
- 4. _____ “certain communications from the Internal Revenue Service;”
- 5. _____ “secondary market purchases;”
- 6. _____ “bid for auction rate or other securities;”
- 7. _____ “capital or other financing plan;”
- 8. _____ “litigation/enforcement action;”
- 9. _____ “change of tender agent, remarketing agent, or other on-going party;”
- 10. _____ “derivative or other similar transaction;” and
- 11. _____ “other event-based disclosures.”

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

Name: _____ Title: _____

Digital Assurance Certification, L.L.C.
390 N. Orange Avenue
Suite 1750
Orlando, FL 32801
407-515-1100

Date:

EXHIBIT C-3
VOLUNTARY FINANCIAL DISCLOSURE COVER SHEET

This cover sheet and accompanying “voluntary financial disclosure” will be sent to the MSRB, pursuant to the Agreement to Provide Continuing Disclosure dated as of March 14, 2024 by and among the Obligated Person, the Trustee and DAC.

Issuer’s and Obligated Person’s Names:

Six-Digit CUSIP Number:

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

Number of pages attached: _____

Description of Voluntary Financial Disclosure (Check One):

- 1. _____ “quarterly/monthly financial information;”
- 2. _____ “change in fiscal year/timing of annual disclosure;”
- 3. _____ “change in accounting standard;”
- 4. _____ “interim/additional financial information/operating data;”
- 5. _____ “budget;”
- 6. _____ “investment/debt/financial policy;”
- 7. _____ “information provided to rating agency, credit/liquidity provider or other third party;”
- 8. _____ “consultant reports;” and
- 9. _____ “other financial/operating data.”

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

Name: _____ Title: _____

Digital Assurance Certification, L.L.C.
390 N. Orange Avenue
Suite 1750
Orlando, FL 32801
407-515-1100

Date:

