

*In the opinion of Nixon Peabody LLP, Rochester, New York, Bond Counsel, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by the Issuer and the University described herein, interest on the Series 2023A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Bond Counsel is also of the opinion that interest on the Series 2023A Bonds is not treated as a preference item in calculating the alternative minimum tax imposed under the Code. Bond Counsel is further of the opinion that interest on the Series 2023A Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision of the State of New York. Interest on the Series 2023B Bonds is not excluded from gross income for federal income tax purposes and is not exempt from personal income taxes imposed by the State of New York or any political subdivision thereof. See "TAX MATTERS—SERIES 2023A BONDS" and "TAX MATTERS—SERIES 2023B BONDS" herein regarding certain other tax considerations.*

**\$397,625,000**

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**  
**REVENUE BONDS**  
**(UNIVERSITY OF ROCHESTER PROJECT), SERIES 2023**



UNIVERSITY OF  
ROCHESTER

*consisting of:*

**\$296,880,000**

**Series 2023A**

**(Tax-Exempt)**

**\$100,745,000**

**Series 2023B**

**(Taxable)**

**Dated: Date of Delivery**

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

The Monroe County Industrial Development Corporation Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A (the "Series 2023A Bonds") and the Monroe County Industrial Development Corporation Taxable Revenue Bonds (University of Rochester Project), Series 2023B (the "Series 2023B Bonds" and, together with the Series 2023A Bonds, the "Series 2023 Bonds") will be issued pursuant to an Indenture of Trust, dated as of December 1, 2023 (the "Indenture"), by and between the Monroe County Industrial Development Corporation (the "Issuer") and Manufacturers and Traders Trust Company, as trustee (the "Trustee"), and are payable from and secured by (i) a pledge and assignment to the Trustee of certain payments to be made under a Loan Agreement, dated as of December 1, 2023 (the "Loan Agreement"), by and between the Issuer and the University of Rochester (the "University"), and (ii) the funds and accounts (except the Rebate Fund) held by the Trustee under the Indenture. The Loan Agreement is a general obligation of the University and requires the University to pay, among other things, amounts sufficient to pay the principal and Redemption Price of and interest on the Series 2023 Bonds as such payments become due. To evidence the loan of the proceeds of the Series 2023 Bonds by the Issuer to the University, the University will make and deliver its Series 2023A Promissory Note, in the principal amount of the Series 2023A Bonds and its Series 2023B Promissory Note, in the principal amount of the Series 2023B Bonds. See "SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2023 BONDS" herein.

**The Series 2023 Bonds are subject to redemption and purchase in lieu of redemption prior to maturity as described herein under the heading "THE SERIES 2023 BONDS — Redemption and Purchase in Lieu of Redemption Prior to Maturity."**

The proceeds of the sale of the Series 2023A Bonds, together with other available funds of the University, will be used to (I) finance the Series 2023A Facility (as defined herein); (II) fund capitalized interest on a portion of the Series 2023A Bonds; and (III) pay certain costs and expenses incidental to the issuance of the Series 2023A Bonds. The proceeds of the sale of the Series 2023B Bonds, together with other available funds of the University, will be used to (I) finance the Series 2023B Facility (as defined herein); and (II) pay certain costs and expenses incidental to the issuance of the Series 2023 Bonds. See "THE PROJECT" herein.

The Series 2023 Bonds will be issued as registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, which will act as securities depository (as defined herein) for the Series 2023 Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple of \$5,000 in excess thereof. Purchasers will not receive certificates representing their ownership interest in the Series 2023 Bonds. Interest on the Series 2023 Bonds will be payable on July 1, 2024, and semi-annually thereafter on January 1 and July 1 in each year until maturity.

The Series 2023 Bonds are special and limited obligations of the Issuer and do not constitute a debt or pledge of the faith and credit of the Issuer, the State of New York, or any taxing authority or political subdivision thereof, including Monroe County, New York, for the payment of the principal or Redemption Price thereof or interest thereon. The Issuer has no taxing authority.

The Series 2023 Bonds are offered when, as and if issued by the Issuer and accepted by the Underwriters, subject to prior sale, withdrawal or modification of the offer, the receipt of the approving opinion as to the validity of the Series 2023 Bonds of Nixon Peabody LLP, Rochester, New York, Bond Counsel, and certain conditions. Certain legal matters will be passed upon for the University by its counsel, Bond, Schoeneck & King, PLLC, Rochester, New York. Certain legal matters will be passed upon for the Issuer by its counsel, Nixon Peabody LLP, Rochester, New York. Certain legal matters will be passed upon for the Underwriters by their counsel, Katten Muchin Rosenman LLP, New York, New York. It is anticipated that the Series 2023 Bonds will be available for delivery in New York, New York, or as may be agreed upon, on or December 19, 2023.

**Barclays**

**BofA Securities**

**Morgan Stanley**

**Siebert Williams Shank & Co.**

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

**\$296,880,000**

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION  
TAX-EXEMPT REVENUE BONDS  
(UNIVERSITY OF ROCHESTER PROJECT), SERIES 2023A**

\$144,820,000 5.000% Bond due July 1, 2034, Price 117.745<sup>C</sup>, Yield 2.860% CUSIP Number 61075TWS3<sup>†</sup>  
\$152,060,000 5.000% Bond due July 1, 2053, Price 106.553<sup>C</sup>, Yield 4.160% CUSIP Number 61075TWT1<sup>†</sup>

**\$100,745,000**

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION  
TAXABLE REVENUE BONDS  
(UNIVERSITY OF ROCHESTER PROJECT), SERIES 2023B**

\$100,745,000 5.130% Bond due July 1, 2033, Price 100.000, Yield 5.130% CUSIP Number 61075TWU8<sup>†</sup>

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<sup>†</sup> Copyright, American Bankers Association (“ABA”). CUSIP (Committee on Uniform Securities Identification Procedures) data herein are provided by CUSIP Global Services, which is managed on behalf of the ABA by FactSet Research Systems Inc. CUSIP numbers on the inside cover pages of this Official Statement have been assigned by an independent company not affiliated with the Issuer, the University, the Underwriters or the Trustee, and such parties are not responsible for the selection or use of the CUSIP numbers. The CUSIP numbers are included solely for the convenience of holders of the Series 2023 Bonds and no representation is made as to the correctness of the CUSIP numbers printed above. CUSIP numbers assigned to the Series 2023 Bonds may be changed during the term of the Series 2023 Bonds based on a number of factors including but not limited to the refunding or defeasance in whole or in part of such Series 2023 Bonds or the use of secondary market financial products applicable to all or a portion of the Series 2023 Bonds. None of the Issuer, the University, the Underwriters or the Trustee has agreed to, nor is there any duty or obligation to, update this Official Statement to reflect any change or correction in the CUSIP numbers printed above.

<sup>C</sup> Priced at the stated yield to the first optional call date of July 1, 2033, at a redemption price of 100%.

THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, IS NOT TO BE DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SERIES 2023 BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.

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No dealer, broker, salesperson or other person has been authorized by the Issuer, the University or the Underwriters to give any information or to make any representations with respect to the Series 2023 Bonds, other than those contained in this Official Statement, and if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of the Series 2023 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the Issuer, the University, The Depository Trust Company and other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by the Issuer (except for the statements under the captions “INTRODUCTION – The Issuer,” “THE ISSUER” and “LITIGATION – The Issuer” (only insofar as such information pertains to the Issuer)) or the Underwriters (except for the statements under the caption “UNDERWRITING”). The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the matters described herein since the date hereof.

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

The Series 2023 Bonds are not and will not be registered under the Securities Act of 1933, as amended, or under any state securities laws, and the Indenture has not been and will not be qualified under the Trust Indenture Act of 1939, as amended, because of available exemptions therefrom. Neither the Securities and Exchange Commission nor any federal, state, municipal or other governmental agency will pass upon the accuracy, completeness or adequacy of this Official Statement.

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

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## **INFORMATION CONCERNING OFFERING RESTRICTIONS IN CERTAIN JURISDICTIONS OUTSIDE THE UNITED STATES**

REFERENCES IN THIS SECTION TO THE “ISSUER” MEAN MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION AND REFERENCES TO “BONDS” OR “SECURITIES” MEAN THE MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION TAXABLE REVENUE BONDS (UNIVERSITY OF ROCHESTER PROJECT), SERIES 2023B OFFERED HEREBY.

### **MINIMUM UNIT SALES**

THE BONDS WILL TRADE AND SETTLE ON A UNIT BASIS (ONE UNIT EQUALING ONE BOND OF \$5,000 PRINCIPAL AMOUNT). FOR ANY SALES MADE OUTSIDE THE UNITED STATES, THE MINIMUM PURCHASE AND TRADING AMOUNT IS 30 UNITS (BEING 30 BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF \$150,000).

### **NOTICE TO PROSPECTIVE INVESTORS IN THE EUROPEAN ECONOMIC AREA**

THE BONDS ARE NOT INTENDED TO BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE AND SHOULD NOT BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO ANY RETAIL INVESTOR IN THE EUROPEAN ECONOMIC AREA. FOR THE PURPOSES OF THIS PROVISION:

(A) THE EXPRESSION “RETAIL INVESTOR” MEANS A PERSON WHO IS ONE (OR MORE) OF THE FOLLOWING: (I) A RETAIL CLIENT AS DEFINED IN POINT (11) OF ARTICLE 4(1) OF DIRECTIVE 2014/65/EU (AS AMENDED, “MIFID II”); OR (II) A CUSTOMER WITHIN THE MEANING OF DIRECTIVE (EU) 2016/97 (AS AMENDED, THE “INSURANCE DISTRIBUTION DIRECTIVE”), WHERE THAT CUSTOMER WOULD NOT QUALIFY AS A PROFESSIONAL CLIENT AS DEFINED IN POINT (10) OF ARTICLE 4(1) OF MIFID II; OR (III) NOT A QUALIFIED INVESTOR AS DEFINED IN REGULATION (EU) 2017/1129 (AS AMENDED, THE “PROSPECTUS REGULATION”); AND

(B) THE EXPRESSION “OFFER” INCLUDES THE COMMUNICATION IN ANY FORM AND BY ANY MEANS OF SUFFICIENT INFORMATION ON THE TERMS OF THE OFFER AND THE BONDS TO BE OFFERED SO AS TO ENABLE AN INVESTOR TO DECIDE TO PURCHASE OR SUBSCRIBE FOR THE BONDS.

NO KEY INFORMATION DOCUMENT REQUIRED BY REGULATION (EU) NO 1286/2014 (AS AMENDED, THE “PRIIPS REGULATION”) FOR OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO RETAIL INVESTORS IN THE EEA HAS BEEN PREPARED AND THEREFORE OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO ANY RETAIL INVESTOR IN THE EEA MAY BE UNLAWFUL UNDER THE PRIIPS REGULATION.

THIS OFFICIAL STATEMENT HAS BEEN PREPARED ON THE BASIS THAT ANY OFFER OF THE BONDS IN ANY MEMBER STATE OF THE EUROPEAN ECONOMIC AREA WILL BE MADE PURSUANT TO AN EXEMPTION UNDER THE EEA PROSPECTUS REGULATION FROM THE REQUIREMENT TO PUBLISH A PROSPECTUS FOR OFFERS OF THE BONDS. THIS OFFICIAL STATEMENT IS NOT A PROSPECTUS FOR THE PURPOSES OF THE EEA PROSPECTUS REGULATION.

### **NOTICE TO PROSPECTIVE INVESTORS IN THE UNITED KINGDOM**

THE BONDS ARE NOT INTENDED TO BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE AND SHOULD NOT BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO ANY RETAIL INVESTOR IN THE UNITED KINGDOM. FOR THE PURPOSES OF THIS PROVISION:

(A) THE EXPRESSION “RETAIL INVESTOR” MEANS A PERSON WHO IS ONE (OR MORE) OF THE FOLLOWING: (I) A RETAIL CLIENT, AS DEFINED IN POINT (8) OF ARTICLE 2 OF REGULATION (EU) NO 2017/565 AS IT FORMS PART OF DOMESTIC LAW BY VIRTUE OF THE EUROPEAN UNION (WITHDRAWAL) ACT 2018 (“EUWA”); OR (II) A CUSTOMER WITHIN THE MEANING OF THE PROVISIONS OF THE FSMA2 AND ANY RULES OR REGULATIONS MADE UNDER THE FSMA TO

IMPLEMENT DIRECTIVE (EU) 2016/97, WHERE THAT CUSTOMER WOULD NOT QUALIFY AS A PROFESSIONAL CLIENT, AS DEFINED IN POINT (8) OF ARTICLE 2(1) OF REGULATION (EU) NO 600/2014 AS IT FORMS PART OF DOMESTIC LAW BY VIRTUE OF THE EUWA; OR (III) NOT A QUALIFIED INVESTOR AS DEFINED IN ARTICLE 2 OF REGULATION (EU) 2017/1129 AS IT FORMS PART OF DOMESTIC LAW BY VIRTUE OF THE EUWA; AND

(B) THE EXPRESSION “OFFER” INCLUDES THE COMMUNICATION IN ANY FORM AND BY ANY MEANS OF SUFFICIENT INFORMATION ON THE TERMS OF THE OFFER AND THE BONDS TO BE OFFERED SO AS TO ENABLE AN INVESTOR TO DECIDE TO PURCHASE OR SUBSCRIBE FOR THE BONDS.

NO KEY INFORMATION DOCUMENT REQUIRED BY REGULATION (EU) NO 1286/2014 AS IT FORMS PART OF DOMESTIC LAW BY VIRTUE OF THE EUWA (THE “UK PRIIPS REGULATION”) FOR OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO RETAIL INVESTORS IN THE UK HAS BEEN PREPARED AND THEREFORE OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO ANY RETAIL INVESTOR IN THE UK MAY BE UNLAWFUL UNDER THE UK PRIIPS REGULATION.

THIS OFFICIAL STATEMENT HAS BEEN PREPARED ON THE BASIS THAT ANY OFFER OF THE BONDS IN THE UNITED KINGDOM WILL BE MADE PURSUANT TO AN EXEMPTION UNDER THE UK PROSPECTUS REGULATION FROM THE REQUIREMENT TO PUBLISH A PROSPECTUS FOR OFFERS OF THE BONDS. THIS OFFICIAL STATEMENT IS NOT A PROSPECTUS FOR THE PURPOSES OF THE UK PROSPECTUS REGULATION.

ANY INVITATION OR INDUCEMENT TO ENGAGE IN INVESTMENT ACTIVITY (WITHIN THE MEANING OF SECTION 21 OF THE FSMA) IN CONNECTION WITH THE ISSUE OR SALE OF THE BONDS, HAS ONLY BEEN, AND WILL ONLY BE, COMMUNICATED OR CAUSED TO BE COMMUNICATED IN CIRCUMSTANCES IN WHICH SECTION 21(1) OF THE FSMA DOES NOT APPLY TO THE ISSUER. ANYTHING DONE IN RELATION TO THE BONDS IN, FROM OR OTHERWISE INVOLVING THE UNITED KINGDOM, HAS BEEN, AND MAY ONLY BE DONE, IN COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF THE FSMA.

#### **NOTICE TO PROSPECTIVE INVESTORS IN CANADA**

THE BONDS MAY BE SOLD IN CANADA ONLY TO PURCHASERS PURCHASING, OR DEEMED TO BE PURCHASING, AS PRINCIPAL THAT ARE ACCREDITED INVESTORS, AS DEFINED IN NATIONAL INSTRUMENT 45-106 PROSPECTUS EXEMPTIONS OR SUBSECTION 73.3(1) OF THE SECURITIES ACT (ONTARIO), AND ARE PERMITTED CLIENTS, AS DEFINED IN NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS. ANY RESALE OF THE BONDS MUST BE MADE IN ACCORDANCE WITH AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE PROSPECTUS REQUIREMENTS OF APPLICABLE SECURITIES LAWS.

SECURITIES LEGISLATION IN CERTAIN PROVINCES OR TERRITORIES OF CANADA MAY PROVIDE A PURCHASER WITH REMEDIES FOR RESCISSION OR DAMAGES IF THIS OFFICIAL STATEMENT (INCLUDING ANY AMENDMENT THERETO) CONTAINS A MISREPRESENTATION, PROVIDED THAT THE REMEDIES FOR RESCISSION OR DAMAGES ARE EXERCISED BY THE PURCHASER WITHIN THE TIME LIMIT PRESCRIBED BY THE SECURITIES LEGISLATION OF THE PURCHASER’S PROVINCE OR TERRITORY. THE PURCHASER SHOULD REFER TO ANY APPLICABLE PROVISIONS OF THE SECURITIES LEGISLATION OF THE PURCHASER’S PROVINCE OR TERRITORY FOR PARTICULARS OF THESE RIGHTS OR CONSULT WITH A LEGAL ADVISOR.

PURSUANT TO SECTION 3A.3 OF NATIONAL INSTRUMENT 33-105 UNDERWRITING CONFLICTS (“NI 33-105”), THE UNDERWRITER IS NOT REQUIRED TO COMPLY WITH THE DISCLOSURE REQUIREMENTS OF NI 33-105 REGARDING UNDERWRITER’S CONFLICTS OF INTEREST IN CONNECTION WITH THIS OFFERING.

## TABLE OF CONTENTS

INTRODUCTION .....	1
THE SERIES 2023 BONDS.....	3
SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2023 BONDS .....	12
THE ISSUER.....	12
THE PROJECT.....	13
SOURCES AND USES OF BOND PROCEEDS .....	14
BONDHOLDERS’ RISKS .....	14
CONTINUING DISCLOSURE OBLIGATIONS .....	19
TAX MATTERS.....	19
CONSIDERATIONS FOR ERISA AND OTHER U.S. BENEFIT PLAN INVESTORS .....	26
INDEPENDENT ACCOUNTANTS .....	28
RATINGS .....	28
LITIGATION.....	28
LEGAL MATTERS.....	29
FINANCIAL ADVISOR .....	29
UNDERWRITING .....	29
MISCELLANEOUS .....	30
APPENDIX A – Certain Information Concerning the University and the Hospital/Medical Center .....	A-1
APPENDIX B – Consolidated Financial Statements of University of Rochester and Related Entities and Report of Independent Auditors.....	B-1
APPENDIX C – Form of the Indenture.....	C-1
APPENDIX D – Form of the Loan Agreement.....	D-1
APPENDIX E – Form of Approving Opinion of Bond Counsel .....	E-1

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### Note Regarding Forward Looking Statements

If and when included in this Official Statement, the words “expects,” “forecasts,” “projects,” “intends,” “anticipates,” “estimates,” “assumes,” and analogous expressions are intended to identify forward-looking statements as defined in the Securities Act of 1933, as amended, and such statements inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those that have been projected. Such risks and uncertainties include, among others, changes in economic and business conditions, changes in political, social and economic conditions, regulatory initiatives and compliance with governmental regulations, litigation and various other events, conditions and circumstances, many of which are beyond the control of the University or the Issuer. Such forward-looking statements speak only as of the date of this Official Statement. The University and the Issuer disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any changes in the University’s or the Issuer’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

**OFFICIAL STATEMENT**  
**of the**  
**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**  
**Relating to**  
**\$397,625,000**  
**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**  
**REVENUE BONDS**  
**(UNIVERSITY OF ROCHESTER PROJECT), SERIES 2023**

*consisting of:*

<b>\$296,880,000</b>	<b>\$100,745,000</b>
<b>Series 2023A</b>	<b>Series 2023B</b>
<b>(Tax-Exempt)</b>	<b>(Taxable)</b>

**INTRODUCTION**

The purpose of this Official Statement, including the cover page, the inside cover page and the appendices attached hereto, is to provide information in connection with the issuance by the Monroe County Industrial Development Corporation (the “Issuer”) of its \$296,880,000 aggregate principal amount of Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A (the “Series 2023A Bonds”) and \$100,745,000 aggregate principal amount of Taxable Revenue Bonds (University of Rochester Project), Series 2023B (the “Series 2023B Bonds”) and, together with the Series 2023A Bonds, the “Series 2023 Bonds.” The following is a brief description of certain information concerning the Series 2023 Bonds, the Issuer and the University of Rochester (the “University”). A more complete description of such information and additional information that may affect decisions to invest in the Series 2023 Bonds is contained throughout this Official Statement, which should be read in its entirety. Capitalized terms used in this Official Statement shall have the meanings specified in “APPENDIX C – Form of the Indenture.” Capitalized terms not otherwise defined in this Official Statement have the meanings provided in the specified documents.

**Purpose of the Issue**

The proceeds of the sale of the Series 2023A Bonds, together with other available funds of the University, will be used to (I) finance the Series 2023A Facility (as defined herein); (II) fund capitalized interest on a portion of the Series 2023A Bonds; and (III) pay certain costs and expenses incidental to the issuance of the Series 2023A Bonds.

The proceeds of the sale of the Series 2023B Bonds, together with other available funds of the University, will be used to (I) finance the Series 2023B Facility (as defined herein); and (II) pay certain costs and expenses incidental to the issuance of the Series 2023 Bonds.

**Authorization of the Series 2023 Bonds**

The Series 2023 Bonds are authorized to be issued pursuant to a resolution of the Issuer adopted on October 11, 2023 (the “Resolution”). The Series 2023 Bonds will be issued under an Indenture of Trust, dated as of December 1, 2023 (the “Indenture”), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”). See “THE SERIES 2023 BONDS” herein.

**The Issuer**

The Issuer is a not-for-profit corporation constituting a local development corporation duly organized and existing under the laws of the State of New York (the “State”). See “THE ISSUER” herein.

## **The University and the Hospital/Medical Center**

The University is an independent, coeducational, nonsectarian, nonprofit institution of higher education and research chartered by the Board of Regents of the State. The University is located in Rochester, New York. The University Medical Center, an integrated division of the University, consists of Strong Memorial Hospital (the “Hospital”) and affiliates. The Hospital is the largest acute care general hospital in Rochester, New York and serves both as a general regional/national tertiary and quaternary care hospital and a specialized referral center for a 14-county area. The Hospital is currently licensed to operate over 886 beds. See “APPENDIX A – Certain Information Concerning the University and the Hospital/Medical Center” and “APPENDIX B – Consolidated Financial Statements of University of Rochester and Related Entities and Report of Independent Auditors.”

### **Limited Obligations of the Issuer**

THE SERIES 2023 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE ISSUER. THE ISSUER IS OBLIGATED TO PAY PRINCIPAL AND REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2023 BONDS SOLELY FROM THE TRUST ESTATE UNDER THE TERMS OF THE INDENTURE AND AVAILABLE FOR SUCH PAYMENT. THE SERIES 2023 BONDS ARE NOT A DEBT OF THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, NEW YORK (“MONROE COUNTY”), AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, SHALL BE LIABLE THEREON. THE SERIES 2023 BONDS SHALL NOT BE PAYABLE FROM ANY OTHER FUNDS OF THE ISSUER. THE ISSUER HAS NO TAXING POWERS.

### **General**

The Series 2023 Bonds will be equally and ratably secured as to principal, premium, if any, and interest by the Indenture. The Indenture constitutes a first lien on the Trust Estate (as defined in the Indenture).

The Series 2023 Bonds are special and limited obligations of the Issuer. The principal and Redemption Price of and interest on the Series 2023 Bonds are payable solely from the revenues received by the Issuer pursuant to the Loan Agreement (other than with respect to the Unassigned Rights) and all funds and accounts (excluding monies held for the redemption of the Series 2023 Bonds, notice of the redemption of which has been given, or in the Rebate Fund) established by the Indenture. Pursuant to the Loan Agreement, dated as of December 1, 2023 (the “Loan Agreement”), by and between the University and the Issuer, the University is obligated to make payments equal to debt service on the Series 2023 Bonds. The aforementioned revenues consist of the payments required to be made by the University under the Loan Agreement with respect to the Series 2023 Bonds on account of the principal and Redemption Price of and interest on the Series 2023 Bonds. To evidence the loan of the proceeds of the Series 2023 Bonds by the Issuer to the University, the University will make and deliver its Series 2023A Promissory Note, in the principal amount of the Series 2023A Bonds and its Series 2023B Promissory Note, in the principal amount of the Series 2023B Bonds (collectively, the “Promissory Notes”).

Pursuant to the Indenture, the Issuer will pledge and assign to the Trustee, as security for the Series 2023 Bonds, all of the Issuer’s right, title and interest in the Loan Agreement and the Promissory Notes (except the Issuer’s Unassigned Rights), including all loan payments under the Loan Agreement and the Promissory Notes. Pursuant to such assignment, loan payments made by the University under the Loan Agreement and the Promissory Notes are to be paid directly to the Trustee.

The purchase of the Series 2023 Bonds involves a degree of risk. Prospective purchasers should carefully consider the entire Official Statement, including the information under the caption “BONDHOLDERS’ RISKS” herein.

The Series 2023 Bonds will be sold and delivered by the Issuer to the Underwriters on a negotiated basis pursuant to a bond purchase contract by and among the Issuer, the University and the Underwriters. See “UNDERWRITING” herein.

The following summaries are not comprehensive or definitive. All references to the Series 2023 Bonds, the Indenture and the Loan Agreement are qualified in their entirety by the definitive forms thereof. Copies of the documents are available for inspection at the principal corporate trust office of the Trustee currently located at 285 Delaware, 3rd Floor, Buffalo, New York 14202.



## THE SERIES 2023 BONDS

### Authorization

The Series 2023 Bonds are authorized to be issued pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York, as amended (the “Act”), the Issuer’s Certificate of Incorporation, Resolution No. 288 of 2009 of the Monroe County Legislature and the Resolution.

### General

The Series 2023 Bonds will mature on July 1 of the years and in the amounts shown on the inside cover page hereof. The Series 2023 Bonds will be dated the date of their delivery and will bear interest from such date. Interest on the Series 2023 Bonds will be payable on July 1, 2024, and semi-annually thereafter on each January 1 and July 1 (each a “Bond Payment Date”) at the rates per annum set forth on the inside cover pages hereof. The Series 2023 Bonds shall be issued in book-entry form in denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof.

The Series 2023 Bonds will be issued as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”). DTC will act as the securities depository (the “Securities Depository”) for the Series 2023 Bonds. Purchasers will not receive certificates representing their interest in the Series 2023 Bonds. Beneficial interests in the Series 2023B Bonds may be held through DTC, Clearstream Banking, S.A. (“Clearstream”) or Euroclear Bank SA/NV (“Euroclear”) as operator of the Euroclear System, directly as a participant or indirectly through organizations that are participants in such system. See “Book-Entry Only System” and “Global Clearance Procedures” below for a description of DTC, Clearstream, Euroclear as operator of the Euroclear System, and certain of their responsibilities.

Subject to the provisions of the Indenture, the principal of and premium, if any, on the Series 2023 Bonds shall be payable in lawful money of the United States of America at the Office of the Trustee, or of its successor in trust. Interest on Series 2023 Bonds due on any Bond Payment Date shall be payable to the Person in whose name such Series 2023 Bond is registered at the close of business on the Regular Record Date with respect to such Bond Payment Date, irrespective of any transfer or exchange of such Series 2023 Bond subsequent to such Regular Record Date and prior to such Bond Payment Date, unless the Issuer shall default in the payment of interest due on such Bond Payment Date. In the event of any such default, such defaulted interest shall be payable to the Person in whose name such bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest established by notice mailed by the Trustee to the Owners of Series 2023 Bonds not less than fifteen (15) days preceding such Special Record Date. Such notices shall be mailed to the Persons in whose names the Series 2023 Bonds are registered at the close of business on the fifth (5th) day preceding the date of mailing. Payment of interest on the Series 2023 Bonds will be made by (i) check or draft mailed to the address of the Person in whose name such Series 2023 Bonds are registered, as such address appears on the registration books maintained by the Trustee, or (ii) at such other address furnished to the Trustee in writing by the Holder at least five (5) Business Days prior to the date of payment, or at the election of an Owner of at least \$1,000,000 aggregate principal amount of Series 2023 Bonds, by bank wire transfer to a bank account maintained by such Owner in the United States of America designated in written instructions delivered to the Trustee at least five (5) Business Days prior to the date of such payment, which written instructions may relate to multiple Bond Payment Dates.

### Redemption and Purchase in Lieu of Redemption Prior to Maturity

Optional Redemption. The Series 2023A Bonds are subject to redemption by the Issuer at the option of the University on or after July 1, 2033, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount of such Series 2023A Bonds or portions thereof to be redeemed, plus accrued interest, if any, to the Redemption Date.

The Series 2023B Bonds are subject to redemption by the Issuer at the option of the University, in whole or in part at any time, (i) prior to April 1, 2033, at the Make-Whole Redemption Price, and (ii) on or after April 1, 2033, at a Redemption Price equal to 100% of the principal amount of such Series 2023B Bonds or portions thereof to be redeemed, plus accrued interest, if any, to the Redemption Date.

The “Make-Whole Redemption Price” is the greater of (i) 100% of the principal amount of the Series 2023B Bonds to be redeemed or (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the Series 2023B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the Redemption Date, discounted to the Redemption Date on a semiannual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate plus the Applicable Spread, plus, in each case, accrued and unpaid interest on the Series 2023B Bonds to be redeemed on the Redemption Date.

The “Treasury Rate” is, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two (2) Business Days prior to the Redemption Date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the Redemption Date to the maturity date of the Series 2023B Bonds to be redeemed. However, if the period from the Redemption Date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

The “Applicable Spread” is fifteen (15) basis points.

The Trustee may retain, at the expense of the University, an independent accounting firm or financial advisor to determine the Make-Whole Redemption Price and perform all actions and make all calculations required to determine the Make-Whole Redemption Price. The Trustee, the Issuer and the University may conclusively rely on such accounting firm’s or financial advisor’s calculations in connection with, and determination of, the Make-Whole Redemption Price, and neither the Trustee nor the Issuer nor the University will have any liability for their reliance.

The Trustee will call Series 2023 Bonds for optional redemption upon receipt of notice from the Issuer, or the University on behalf of the Issuer, directing such redemption, which notice shall be sent to the Trustee at least 30 days prior to the Redemption Date or such fewer number of days as shall be acceptable to the Trustee and shall specify (i) the principal amount of Series 2023 Bonds so to be called for redemption, and (ii) the applicable Redemption Price.

Special Redemption. The Series 2023 Bonds are subject to redemption prior to maturity at the option of the Issuer (exercised at the direction of the University), in whole or in part on any Interest Payment Date, at a redemption price equal to 100% of the principal amount of Series 2023 Bonds or portions thereof to be redeemed, plus accrued interest to the redemption date (i) from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Facility to which such proceeds relate, and (ii) from unexpended proceeds of the Series 2023 Bonds upon the abandonment of all or a portion of the Facility to which such unexpended proceeds relate due to a legal or regulatory impediment.

If the Series 2023 Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the University is required under the Loan Agreement to deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the University stating that, as a result of the occurrence of the event giving rise to such redemption, the University has discontinued, or at the earliest practicable date will discontinue, its operation of the Facility for its intended purposes.

Purchase in Lieu of Redemption. If the Series 2023 Bonds are called for redemption in whole or in part pursuant to the terms of the Indenture, such Series 2023 Bonds called for redemption may be purchased in lieu of redemption in accordance with the Indenture. Purchase in lieu of redemption shall be available for all of such Series 2023 Bonds called for redemption or for such lesser portion of such Series 2023 Bonds in authorized denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof. The University may direct the Trustee to purchase all or such lesser portion of the Series 2023 Bonds so called for redemption. Any such direction to the Trustee must: (i) be in writing; (ii) state either that all of the Series 2023 Bonds called for redemption are to be purchased or, if less than all of the Series 2023 Bonds called for redemption are to be purchased, identify those Series 2023 Bonds to be purchased in authorized denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof; and (iii) be received by the Trustee no later than 12:00 noon, New York City time, one Business Day prior to the Redemption Date.

If so directed, the Trustee shall purchase such Series 2023 Bonds on the date which otherwise would be the date of redemption of the Series 2023 Bonds. Any of the Series 2023 Bonds called for redemption that are not

purchased in lieu of redemption shall be redeemed as otherwise required by this Indenture on the date set for redemption. On or prior to the scheduled redemption date, any direction given to the Trustee pursuant to the Indenture may be withdrawn by notice to the Trustee. The purchase shall be made for the account of the University or its designee. The purchase price of the Series 2023 Bonds shall be equal to the Outstanding principal of, accrued and unpaid interest on, and the redemption premium, if any, which would have been payable on such Series 2023 Bonds on the applicable redemption date for such redemption. To pay the purchase price of such Series 2023 Bonds, the Trustee shall use such moneys (including, to the extent applicable, moneys on deposit in the various funds and accounts established under the Indenture except the Rebate Fund) that the Trustee would have used to pay the Outstanding principal of, accrued and unpaid interest on, and the redemption premium, if any, that would have been payable on the Series 2023 Bonds on the date set for redemption. The Trustee shall not purchase the Series 2023 Bonds if, by no later than the date set for redemption, sufficient moneys have not been deposited with the Trustee, or such moneys are deposited, but are not available. No notice of the purchase in lieu of redemption shall be required to be given to the Holders (other than the notice of redemption otherwise required under the Indenture).

### **Notice of Redemption**

When Series 2023 Bonds are to be redeemed, the Trustee shall give notice of the redemption of the Series 2023 Bonds in the name of the Issuer and at the expense of the University stating: (1) the Series 2023 Bonds to be redeemed; (2) the Redemption Date; (3) that such Series 2023 Bonds will be redeemed at the Office of the Trustee; (4) that on the Redemption Date there shall become due and payable upon each Series 2023 Bond to be redeemed the Redemption Price thereof; and (5) that from and after the Redemption Date interest thereon shall cease to accrue. The Trustee shall mail a copy of such notice postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date, to each Holder at the address of such Holder appearing on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar. Such mailing shall not be a condition precedent to such redemption, and failure to so mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Series 2023 Bonds. With respect to any redemption exercised at the option of the University as provided in the Indenture, such notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee, on or prior to the Redemption Date, of moneys sufficient, together with any other moneys held by the Trustee and available therefor, to pay on the Redemption Date the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received on or prior to the Redemption Date such notice shall be of no force or effect and such Bonds shall not be required to be redeemed.

### **Partial Redemption of Series 2023 Bonds**

Upon surrender of any Series 2023 Bond for redemption in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder thereof a new Series 2023 Bond or Series 2023 Bonds in an aggregate principal amount equal to the unredeemed portion of the Series 2023 Bond surrendered.

### **Selection of Bonds for Redemption**

If less than all of the Series 2023A Bonds are to be redeemed, the particular Series 2023A Bonds to be redeemed shall be selected by the University at least thirty (30) days prior to the Redemption Date, with the specific maturities to be redeemed as directed by the University, and within each maturity by lot or by such other method as the Trustee shall deem fair and appropriate.

If the Series 2023B Bonds are registered in book-entry form and so long as DTC or a successor securities depository is the sole registered owner of such Series 2023B Bonds, and if less than all of the Series 2023B Bonds are to be redeemed, the Series 2023B Bonds to be called for redemption shall be selected on a pro rata pass-through distribution of principal basis in accordance with DTC procedures, provided that the selection for redemption of such Series 2023B Bonds shall be made in accordance with the operational arrangements of DTC then in effect, and, if the DTC operational arrangements do not allow for redemption on a pro rata pass-through distribution of principal basis, the Series 2023B Bonds will be selected for redemption, in accordance with DTC procedures, by lot. See “Book-Entry Only System” below.

In connection with any repayment of principal, the Trustee, as Bond Registrar, will direct DTC to make a pass-through distribution of principal to the holders of the Series 2023B Bonds.

The University intends that redemption allocations made by DTC be made on a pro rata pass-through distribution of principal basis as described above. However, none of the Issuer, the University nor the Underwriters can provide any assurance that DTC, DTC's direct and indirect participants or any other intermediary will allocate the redemption of Series 2023B Bonds on such basis.

For purposes of calculation of the "pro rata pass-through distribution of principal," "pro rata" means, for any amount of principal to be paid, the application of a fraction to each denomination of the respective Series 2023B Bonds where (a) the numerator of which is equal to the amount due to the respective bondholders on a payment date, and (b) the denominator of which is equal to the total original par amount of the respective Series 2023B Bonds.

If the Series 2023B Bonds are no longer registered in book-entry-only form, each owner will receive an amount of Series 2023B Bonds equal to the original face amount then beneficially held by that owner, registered in such investor's name. Thereafter, any redemption of less than all of the Series 2023B Bonds will continue to be paid to the registered owners of such Series 2023B Bonds on a pro-rata basis, based on the portion of the original face amount of any such Series 2023B Bonds to be redeemed.

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

Unless otherwise noted, the description that follows of the procedures and record keeping with respect to beneficial ownership interests in the Series 2023 Bonds, payment of interest and other payments on the Series 2023 Bonds to DTC Participants or Beneficial Owners of the Series 2023 Bonds, confirmation and transfer of beneficial ownership interests in the Series 2023 Bonds and other bond-related transactions by and between DTC, the DTC Participants and Beneficial Owners of the Series 2023 Bonds is based solely on information furnished by DTC for inclusion in this Official Statement. Accordingly, the Issuer, the University, the Trustee and the Underwriters do not and cannot make any representations concerning these matters.

DTC will act as securities depository for the Series 2023 Bonds. The Series 2023 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 Bond certificate will be issued for each maturity of the Series 2023 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. 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, 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 rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Series 2023 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2023 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2023 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 2023 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 2023 Bonds, except in the event that use of the book-entry system for the Series 2023 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2023 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 2023 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2023 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2023 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Series 2023 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Series 2023 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the documents relating to the Series 2023 Bonds. For example, Beneficial Owners of Series 2023 Bonds may wish to ascertain that the nominee holding the Series 2023 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. Except as otherwise provided herein, if less than all of the Series 2023 Bonds within a maturity of the Series 2023 Bonds 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 2023 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2023 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, Redemption Price and interest payments on the Series 2023 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, the Issuer or the Underwriters, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, Redemption Price and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2023 Bonds at any time by giving reasonable notice to the Issuer and the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, then the Series 2023 Bonds shall no longer be restricted to being registered in the name of DTC's nominee, but shall be registered in whatever name or names holders transferring or exchanging Series 2023 Bonds shall designate, in accordance with the provisions of the Indenture.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Series 2023 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 the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

NONE OF THE ISSUER, THE UNIVERSITY, THE UNDERWRITERS OR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DTC OR THE DIRECT OR INDIRECT PARTICIPANTS, OR THE BENEFICIAL OWNERS WITH RESPECT TO: (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (2) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL, REDEMPTION PRICE OR INTEREST ON THE SERIES 2023 BONDS; (3) THE DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE INDENTURE TO BE GIVEN TO HOLDERS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2023 BONDS; OR (5) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS HOLDER.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2023 BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE HOLDERS OR REGISTERED OWNERS OF THE SERIES 2023 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2023 BONDS.

### **Global Clearance Procedures**

Beneficial interests in the Series 2023B Bonds may be held through DTC, Clearstream or Euroclear as operator of the Euroclear System, directly as a participant or indirectly through organizations that are participants in such system.

The information set out below is subject to any change in or reinterpretation of the rules, regulations and procedures of Euroclear or Clearstream currently in effect. The information in this subsection concerning Euroclear and Clearstream has been obtained from sources believed to be reliable. No representation is made herein by the Issuer as to the accuracy, completeness or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date of this Official Statement. The Issuer will not have any responsibility or liability for any aspect of the records relating to, or payments made on account of beneficial ownership interests in the Series 2023B Bonds held through the facilities of Euroclear or Clearstream or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

***Euroclear and Clearstream.*** Euroclear and Clearstream each hold securities for their customers and facilitate the clearance and settlement of securities transactions by electronic book-entry transfer between their respective account holders. Euroclear and Clearstream provide various services including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Euroclear and Clearstream also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream have established an electronic bridge between their two systems across which their respective participants may settle trades with each other.

Euroclear and Clearstream customers are worldwide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Indirect access to Euroclear and Clearstream is available to other institutions that clear through or maintain a custodial relationship with an account holder of either system, either directly or indirectly.

***Clearing and Settlement Procedures.*** The Series 2023B Bonds sold in offshore transactions will be initially issued to investors through the book-entry facilities of DTC, or Clearstream and Euroclear in Europe if the investors are participants in those systems, or indirectly through organizations that are participants in the systems. For any of such Series 2023B Bonds, the record holder will be DTC's nominee. Clearstream and Euroclear will hold omnibus positions on behalf of their participants through customers' securities accounts in Clearstream's and Euroclear's names on the books of their respective depositories.

The depositories, in turn, will hold positions in customers' securities accounts in the depositories' names on the books of DTC. Because of time zone differences, the securities account of a Clearstream or Euroclear participant as a result of a transaction with a participant, other than a depository holding on behalf of Clearstream or Euroclear, will be credited during the securities settlement processing day, which must be a business day for Clearstream or Euroclear, as the case may be, immediately following the DTC settlement date. These credits or any transactions in

the securities settled during the processing will be reported to the relevant Euroclear participant or Clearstream participant on that business day. Cash received in Clearstream or Euroclear as a result of sales of securities by or through a Clearstream participant or Euroclear participant to a DTC Participant, other than the depository for Clearstream or Euroclear, will be received with value on the DTC settlement date but will be available in the relevant Clearstream or Euroclear cash account only as of the business day following settlement in DTC.

**Transfer Procedures.** Transfers between participants will occur in accordance with DTC rules. Transfers between Clearstream participants or Euroclear participants will occur in accordance with their respective rules and operating procedures. Cross-market transfers between persons holding directly or indirectly through DTC, on the one hand, and directly or indirectly through Clearstream participants or Euroclear participants, on the other, will be effected in DTC in accordance with DTC rules on behalf of the relevant European international clearing system by the relevant depositories; however, cross-market transactions will require delivery of instructions to the relevant European international clearing system by the counterparty in the system in accordance with its rules and procedures and within its established deadlines in European time.

The relevant European international clearing system will, if the transaction meets its settlement requirements, deliver instructions to its depository to take action to effect final settlement on its behalf by delivering or receiving securities in DTC, and making or receiving payment in accordance with normal procedures for same day funds settlement applicable to DTC. Clearstream participants or Euroclear participants may not deliver instructions directly to the depositories.

The Issuer will not impose any fees in respect of holding the Series 2023B Bonds; however, holders of book-entry, interests in the Series 2023B Bonds may incur fees normally payable in respect of the maintenance and operation of accounts in DTC, Euroclear and Clearstream.

**Initial Settlement.** Interests in the Series 2023B Bonds will be in uncertified book-entry form. Purchasers electing to hold book-entry interests in the Series 2023B Bonds through Euroclear and Clearstream accounts will follow the settlement procedures applicable to conventional Eurobonds. Book-entry interests in the Series 2023B Bonds will be credited to Euroclear and Clearstream participant's securities clearance accounts on the business day following the date of delivery of the Series 2023B Bonds against payment (value as on the date of delivery of the Series 2023B Bonds). DTC participants acting on behalf of purchasers electing to hold book-entry interests in the Series 2023B Bonds through DTC will follow the delivery practices applicable to securities eligible for DTC's Same Day Funds Settlement system. DTC participants' securities accounts will be credited with book-entry interests in the Series 2023B Bonds following confirmation of receipt of payment to the Issuer on the date of delivery of the Series 2023B Bonds.

**Secondary Market Trading.** Secondary market trades in the Series 2023B Bonds will be settled by transfer of title to book-entry interests in Euroclear, Clearstream or DTC, as the case may be. Title to such book-entry interests will pass by registration of the transfer within the records of Euroclear, Clearstream or DTC, as the case may be, in accordance with their respective procedures. Book-entry interests in the Series 2023B Bonds may be transferred within Euroclear and within Clearstream and between Euroclear and Clearstream in accordance with procedures established for these purposes by Euroclear and Clearstream. Book-entry interests in the Series 2023B Bonds may be transferred within DTC in accordance with procedures established for this purpose by DTC. Transfer of book-entry interests in the Series 2023B Bonds between Euroclear or Clearstream and DTC may be effected in accordance with procedures established for this purpose by Euroclear, Clearstream and DTC.

**Special Timing Considerations.** Investors should be aware that investors will only be able to make and receive deliveries, payments and other communications involving the Series 2023B Bonds through Euroclear or Clearstream on days when those systems are open for business. In addition, because of time-zone differences, there may be complications with completing transactions involving Clearstream and/or Euroclear on the same business day as in the United States. U.S. investors who wish to transfer their interests in the Series 2023B Bonds, or to receive or make a payment or delivery of the Series 2023B Bonds, on a particular day, may find that the transactions will not be performed until the next business day in Luxembourg if Clearstream is used, or Brussels if Euroclear is used.

**Clearing Information.** The Issuer expects that the Series 2023B Bonds will be accepted for clearance through the facilities of Euroclear and Clearstream. The international securities identification numbers and CUSIP numbers for the Series 2023B Bonds are set forth on the inside cover page of the Official Statement.

**General.** None of Euroclear, Clearstream or DTC is under any obligation to perform or continue to perform the procedures referred to above, and such procedures may be discontinued at any time.

NEITHER THE ISSUER NOR ANY OF ITS AGENTS WILL HAVE ANY RESPONSIBILITY FOR THE PERFORMANCE BY EUROCLEAR OR CLEARSTREAM OR THEIR RESPECTIVE DIRECT OR INDIRECT PARTICIPANTS OR ACCOUNT HOLDERS OF THEIR RESPECTIVE OBLIGATIONS UNDER THE RULES AND PROCEDURES GOVERNING THEIR OPERATIONS OR THE ARRANGEMENTS REFERRED TO ABOVE.

#### **Additional Bonds**

In accordance with the Indenture, the Issuer may issue Additional Bonds under the Indenture from time to time on a pari passu basis with the Series 2023 Bonds for any of the following purposes: (1) to pay the cost of completing the Facility (or completing an addition thereto in accordance with the Indenture) or to reimburse expenditures of the University for any such costs; (2) to pay the cost of Capital Additions or to reimburse expenditures of the University for any such cost; (3) to pay the cost of refunding through redemption of any Outstanding Bonds issued under the Indenture and subject to such redemption; or (4) to pay the cost of any additional project approved by the Issuer.

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## Principal and Interest Requirements

The following table sets forth the amounts required to be paid by the University during each 12-month period ending June 30 of the years shown for the payment of the principal of and interest on the Series 2023 Bonds, debt service on other outstanding indebtedness of the University, and the total debt service on all indebtedness of the University, including the Series 2023 Bonds.

12-Month Period Ending June 30, <sup>(1)</sup>	Series 2023 Bonds			Debt Service on Other Outstanding Indebtedness	Total Debt Service <sup>(2)</sup>
	Principal Payments	Interest Payments <sup>(2)</sup>	Total Debt Service on Series 2023 Bonds <sup>(2)</sup>		
2024	-	\$10,673,183	\$10,673,183	\$131,550,922	\$142,224,105
2025	-	20,012,219	20,012,219	128,558,936	148,571,155
2026	-	20,012,219	20,012,219	120,278,096	140,290,315
2027	-	20,012,219	20,012,219	114,330,331	134,342,550
2028	-	20,012,219	20,012,219	100,871,671	120,883,890
2029	-	20,012,219	20,012,219	98,023,747	118,035,966
2030	-	20,012,219	20,012,219	97,506,998	117,519,217
2031	-	20,012,219	20,012,219	95,655,634	115,667,853
2032	-	20,012,219	20,012,219	89,656,148	109,668,367
2033	\$100,745,000	20,012,219	120,757,219	88,397,562	209,154,781
2034	144,820,000	14,844,000	159,664,000	76,735,523	236,399,523
2035	-	7,603,000	7,603,000	75,601,560	83,204,560
2036	-	7,603,000	7,603,000	73,505,596	81,108,596
2037	-	7,603,000	7,603,000	70,393,907	77,996,907
2038	-	7,603,000	7,603,000	62,174,091	69,777,091
2039	-	7,603,000	7,603,000	59,775,318	67,378,318
2040	-	7,603,000	7,603,000	43,628,553	51,231,553
2041	-	7,603,000	7,603,000	43,336,012	50,939,012
2042	-	7,603,000	7,603,000	37,472,662	45,075,662
2043	-	7,603,000	7,603,000	54,475,028	62,078,028
2044	-	7,603,000	7,603,000	23,760,099	31,363,099
2045	-	7,603,000	7,603,000	23,574,115	31,177,115
2046	-	7,603,000	7,603,000	20,281,134	27,884,134
2047	-	7,603,000	7,603,000	20,106,340	27,709,340
2048	-	7,603,000	7,603,000	18,109,262	25,712,262
2049	-	7,603,000	7,603,000	17,924,672	25,527,672
2050	-	7,603,000	7,603,000	346,624,087	354,227,087
2051	-	7,603,000	7,603,000	3,326,631	10,929,631
2052	-	7,603,000	7,603,000	3,197,168	10,800,168
2053	152,060,000	7,603,000	159,663,000	-	159,663,000

<sup>(1)</sup> Payments to be made on July 1 of each year are deemed to be payable on June 30 of the immediately preceding year.

<sup>(2)</sup> Figures include debt service on the Series 2023 Bonds to be paid from capitalized interest.

## **SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2023 BONDS**

### **Payment of the Series 2023 Bonds**

The Series 2023 Bonds will be special and limited obligations of the Issuer. The principal and Redemption Price of and interest on the Series 2023 Bonds are payable solely from the revenues received by the Issuer pursuant to the Loan Agreement (other than with respect to the Unassigned Rights) and all funds and accounts (excluding the Rebate Fund) established by the Indenture. Pursuant to the Loan Agreement between the University and the Issuer, the University is obligated to make payments equal to debt service on the Series 2023 Bonds. The aforementioned revenues consist of the payments required to be made by the University under the Loan Agreement with respect to the Series 2023 Bonds on account of the principal, Redemption Price of and interest on the Series 2023 Bonds. Pursuant to the Loan Agreement, loan payments made by the University under the Loan Agreement are to be paid directly to the Trustee. To evidence the loan of the proceeds of the Series 2023 Bonds by the Issuer to the University, the University will make and deliver its Promissory Notes.

### **Security for the Series 2023 Bonds**

The Series 2023 Bonds will be secured by (1) all moneys and securities held from time to time by the Trustee for the Owners of the Series 2023 Bonds pursuant to the Indenture, including all Series 2023 Bond proceeds prior to disbursement pursuant to the terms of such Indenture (excluding monies held for the redemption of the Series 2023 Bonds, notice of the redemption of which has been given, or in the Rebate Fund), and (2) a pledge and assignment to the Trustee of certain payments to be made under the Loan Agreement and the Promissory Notes.

Pursuant to the Indenture, the Issuer will pledge and assign to the Trustee, as security for the Series 2023 Bonds, all of the Issuer's right, title and interest in the Loan Agreement (except the Issuer's Unassigned Rights) and the Promissory Notes, including all loan payments under the Loan Agreement and the Promissory Notes. Pursuant to such assignment, loan payments made by the University under the Loan Agreement and the Promissory Notes are to be paid directly to the Trustee. See "APPENDIX D – Form of the Loan Agreement."

### **THE ISSUER**

The Issuer is a not-for-profit corporation constituting a local development corporation duly organized and existing under the Act, having an office for the transaction of business at 50 W. Main Street, Suite 8100, Rochester, New York 14614. The Issuer has the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest. The Act further authorizes the Issuer to issue its bonds and to loan the proceeds thereof for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds so issued and any agreements made in connection therewith, to pledge certain revenues and receipts to secure the payment of such bonds and interest thereon.

The Issuer has no power of taxation.

The Series 2023 Bonds are special and limited obligations of the Issuer, payable solely as provided in the Indenture.

**THE SERIES 2023 BONDS ARE NEITHER A GENERAL OBLIGATION OF THE ISSUER, NOR A DEBT OR INDEBTEDNESS OF MONROE COUNTY OR THE STATE AND NEITHER MONROE COUNTY NOR THE STATE WILL BE LIABLE THEREON.**

## THE PROJECT

Pursuant to the Resolution, the Issuer determined to issue the Series 2023A Bonds for the benefit of the University for the purpose of financing or refinancing the Series 2023A Project (as defined below) and the Series 2023B Bonds for the benefit of the University for the purpose of financing or refinancing the Series 2023B Project (as defined below, and the Series 2023B Project together with the Series 2023A Project, the “Project”), and all located or to be located on the University’s campuses or facilities located in the City of Rochester, New York (and in the Town of Brighton, New York with respect to the South Campus and in the Town of Henrietta, New York with respect to the Orthopaedics Campus, each as specified below) consisting of: (A) the main campus located at 500 Joseph C. Wilson Boulevard, bounded on the west by the City of Rochester’s Bausch & Lomb Riverside Park; on the north by McLean Street; on the east by Mt. Hope Cemetery; on the south by Elmwood Avenue (the “River Campus”); (B) the south campus located at 250 East River Road in the Town of Brighton, New York and 300 and 400 Kendrick Road in the Town of Brighton, New York, bounded on the west by the Lehigh Valley Trail; at the north, east along East River Road; north along Kendrick Road; east along I-390 to the exit; east along East River Road; south along W. Henrietta Road; west along the Southland Drive properties; south along the western edge of Southland Drive, Doncaster Road, Furlong Road, and Lantern Lane; west along the Crittenden Road properties to the Lehigh Valley Trail (collectively, the “South Campus”); (C) the central utilities plant located at 390 Elmwood Avenue (the “Central Utilities Plant”); (D) the middle campus located at 125 Kendrick Road bounded on the west by Moore Road; at the north, east along Elmwood Avenue; south along Kendrick Road; east along Crittenden Boulevard; south along Castleman Road, west along Westmoreland Drive; south along Kendrick Road; west along the Erie Canal to Moore Road (the “Middle Campus”); (E) the University’s Data Center located at 1630 Long Pond Road, Rochester, New York (the “Data Center”); (F) the University’s hospital, health care, research and educational facilities located at 601 Elmwood Avenue, including Strong Memorial Hospital, the Golisano Children’s Hospital, and the School of Medicine and Dentistry, and related research facilities and buildings, bounded on the north by Elmwood Avenue; along the east by East Drive; along the south by Crittenden Boulevard; and along the west by Kendrick Road (collectively, the “Medical Center Campus”); and (G) the UR Medicine Orthopaedics & Physical Performance Center located at 10 Miracle Mile Drive in the Town of Henrietta, New York (the “Orthopaedics Campus”; the Medical Center Campus, the River Campus, the South Campus, the Central Utilities Plant, the Middle Campus, the Orthopaedics Campus, and the Data Center are collectively referred to as the “Campuses”).

### **The Series 2023A Project**

The proceeds from the sale of the Series 2023A Bonds, together with other available funds of the University, will be used to: (A) (i) finance the improvements (collectively, the “Series 2023A Improvements”) consisting of the acquisition, construction, renovation, deferred maintenance, improvement, reconstruction, modernization, equipping and furnishing of various buildings and ancillary and related facilities (including site improvements) throughout the Medical Center Campus, including but not limited to the expansion of the existing Emergency Department to add more examination, treatment and patient observation space and a new 9-story inpatient tower, resulting in an approximately 175,000 square foot Emergency Department (the “ED Tower”); and (ii) finance the acquisition and installation in and around the Series 2023A Improvements and other buildings and facilities on the Medical Center Campus (including but not limited to the ED Tower) of certain items of machinery, equipment, fixtures, furniture and other incidental tangible personal property (collectively, the “Series 2023A Equipment”, and together with the Series 2023A Improvements, the “Series 2023A Facility”); (B) fund capitalized interest on a portion of the Series 2023A Bonds; and (C) pay certain costs and expenses incidental to the issuance of the Series 2023A Bonds (the costs associated with items (A) through (C) above being hereinafter collectively referred to as the “Series 2023A Project Costs”).

### **The Series 2023B Project**

The proceeds from the sale of the Series 2023B Bonds, together with other available funds of the University, will be used to: (A) finance and refinance the following across all of the University’s Campuses: (i) the acquisition, construction, renovation, reconstruction, improvement and modernization of various parking lots, buildings, facilities and infrastructure, and (ii) the upgrade, development, acquisition and installation of the University’s information technology system, as well as certain machinery, equipment, fixtures, furniture and other incidental tangible personal property (the “Series 2023B Facility” and, together with the Series 2023A Facility, the “Facility”); and (B) pay certain costs and expenses incidental to the issuance of the Series 2023 Bonds (the costs associated with items (A) and (B) above being hereinafter collectively referred to as the “Series 2023B Project Costs” and, together with the Series 2023A Project Costs, the “Project Costs”).

## SOURCES AND USES OF BOND PROCEEDS

Proceeds of the Series 2023 Bonds are to be applied as follows:

<b>Sources of Funds:</b>	<b><u>Series 2023A Bonds</u></b>	<b><u>Series 2023B Bonds</u></b>
Par Amount	\$296,880,000	\$100,745,000
Original Issue Premium	<u>35,662,801</u>	<u>-</u>
Total Sources of Funds <sup>(1)</sup>	<u>\$332,542,801</u>	<u>\$100,745,000</u>
<b>Uses of Funds:</b>		
Deposit to the Project Fund	\$300,000,930	\$100,003,651
Deposit to the Capitalized Interest Subaccount of the Project Fund <sup>(2)</sup>	30,332,980	-
Estimated Costs of Issuance <sup>(3)</sup>	<u>2,208,891</u>	<u>741,349</u>
Total Uses of Funds <sup>(1)</sup>	<u>\$332,542,801</u>	<u>\$100,745,000</u>

<sup>(1)</sup> Totals may not foot due to rounding.

<sup>(2)</sup> Capitalized interest is expected to pay a portion of the interest payments of the Series 2023A Bonds prior to completion of the Series 2023A Improvements.

<sup>(3)</sup> Includes Issuer's fee, Underwriters' discount, printing costs, Trustee fees, rating agencies' fees, legal fees, and other miscellaneous costs of issuance.

### BONDHOLDERS' RISKS

*The following is a discussion of certain risks that could affect payments to be made with respect to the Series 2023 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 2023 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. The operations and financial condition of the University may be affected by factors other than those described in this section and elsewhere in this Official Statement. No assurance can be given as to the nature of such factors or the potential effects thereof on the University. For risks relating to the Hospital, see "APPENDIX A – Certain Information Concerning the University and the Hospital/Medical Center – Factors Affecting the Hospital's Revenues."*

#### **General**

The Series 2023 Bonds are payable from payments to be made by the University under the Loan Agreement. The ability of the University to comply with its obligations under the Loan Agreement depends primarily upon the ability of the University to continue to attract sufficient tuition-paying students to its educational programs, to generate revenue from grants and contracts, hospital and faculty practice revenue and to obtain sufficient revenues from related activities to maintain sufficient creditworthiness. The University expects that revenues derived from its ongoing operations, together with other available resources, will at all times be sufficient to make the required payments under the Loan Agreement and the University will covenant under the Loan Agreement to make all such payments when due. There are certain risks, however, which might prevent the University from obtaining sufficient revenues from tuition, hospital and other sources to meet all of its obligations, including its obligations under the Loan Agreement. Purchasers of the Series 2023 Bonds should bear in mind that the occurrence of any number of events could adversely affect the ability of the University to generate such revenues. Future economic, demographic and other conditions, including the demand for educational services, healthcare services, the ability of the University to provide the services required by students and patients, economic developments in the Rochester, New York area and competition from other educational and healthcare institutions, together with changes in costs, may adversely affect revenues and expenses and, consequently, the ability of the University to provide for payments. The future financial condition of the University could also be adversely affected by, among other things, legislation and regulatory actions, and a number of other conditions which are unpredictable.

ADVERSE CONSEQUENCES ARISING FROM ONE OR MORE OF THE FOLLOWING RISKS, OR THE OCCURRENCE OF OTHER UNANTICIPATED EVENTS, COULD ADVERSELY AFFECT THE OPERATIONS OR FINANCIAL PERFORMANCE OF THE UNIVERSITY. THIS DISCUSSION IS NOT, AND IS NOT INTENDED TO BE, EXHAUSTIVE. THE RISKS DISCUSSED SHOULD BE READ IN CONJUNCTION WITH THE DISCUSSION SET FORTH IN APPENDIX A – “CERTAIN INFORMATION CONCERNING THE UNIVERSITY AND THE HOSPITAL/MEDICAL CENTER” AND THE DISCUSSION APPEARING UNDER THE CAPTION “FACTORS AFFECTING THE HOSPITAL’S REVENUES” AND THE INFORMATION APPEARING ELSEWHERE IN THIS OFFICIAL STATEMENT.

### **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 70% of the University’s undergraduate students receive some form of financial assistance from the University. 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 University.

### **Investment Income**

The University’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 unrestricted portion of the University’s endowment funds and the payout therefrom are available for debt service payments on the Series 2023 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 University 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 University receives funding from the federal government to support its programs for research and training and, as a health care provider, receives payments from federal as well as state agencies. 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 University could be adversely affected by these actions and the ability of the University to maintain its creditworthiness will be based on its ability to successfully manage the outcome of any such actions.

### **Risks as Employer**

The University is a major employer, combining a complex mix of tenured and untenured full-time faculty, part-time faculty, technical and clerical support staff, maintenance, food service and other types of workers in a single operation. As with all large employers, the University 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 University. 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 University by requiring it to pay income or real property taxes (or other *ad valorem* taxes).

## **Tax-Exempt Status Change**

Loss of tax-exempt status by the University could result in loss of the exclusion from federal gross income of interest on the Series 2023A Bonds and defaults in covenants regarding the Series 2023A Bonds and other related tax-exempt debt would likely be triggered. However, loss of tax-exempt status by the University would not cause a mandatory redemption or acceleration on the Series 2023A Bonds, nor would it cause a change in the interest rates on the Series 2023A Bonds. The maintenance by the University 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.

For a discussion of certain tax matters relating to the Series 2023A Bonds, see the discussion under the caption “TAX MATTERS”.

IRS officials have indicated that more resources will be invested in audits of tax-exempt obligations, including the use of tax-exempt obligation proceeds, in the charitable organization sector, with specific review of private use. In addition, the IRS has from time to time sent questionnaires to nonprofit corporations that have borrowed on a tax-exempt basis, inquiring about post-issuance compliance with various requirements for maintaining the federal tax exemption of interest on their tax-exempt obligations. The questionnaire includes questions relating to the borrower’s (i) record retention, which the IRS has particularly emphasized, (ii) qualified use of bond-financed property, (iii) arbitrage yield restriction and rebate requirements, (iv) debt management policies, and (v) voluntary compliance and education.

## **Additional Bonds**

Additional Bonds may be issued under the Indenture and secured on a parity with the Series 2023 Bonds. See “APPENDIX C – Form of the Indenture.”

## **Additional Indebtedness**

No security interest in any revenues or other assets of the University has been granted by the University to the Issuer under the Loan Agreement. However, the University has granted security interests in certain assets of the University to secure certain of the University’s outstanding indebtedness other than the Series 2023 Bonds. See “APPENDIX A – Certain Information Concerning the University and the Hospital/Medical Center – University Indebtedness” for a description of such indebtedness.

The University may issue, incur or assume additional indebtedness without limitation. Any such indebtedness may be secured by a lien and pledge of revenues of the University without granting to the Issuer any security interest in any revenues to secure the University’s obligations under the Loan Agreement. In the event of a default under any debt instrument secured by such pledged revenues, the holder or trustee under such debt instrument will have the right to collect a portion or all of such pledged revenues, and apply the revenues so collected to the payment of amounts due under such debt instrument. Any revenues so collected and applied will not be available for satisfying any of the University’s obligations under the Loan Agreement.

## **Certain Matters Relating to Enforceability of the Indenture and Loan Agreement**

The obligation of the University 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. The University may file for the reduction of its debts in a proceeding under the federal Bankruptcy Code, which could include provisions modifying, eliminating or altering the rights of creditors generally, or any class of them, secured or unsecured. If the University 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 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 2023 Bonds**

There can be no assurance that there will be a secondary market for purchase or sale of the Series 2023 Bonds. From time to time there may be no market for the Series 2023 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 University's capabilities and the financial condition and results of operations of the University.

## **COVID-19**

Since early calendar year 2020, the emergence of COVID-19 has had a notable impact on the University 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 University'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 University. Despite the implementation of network security measures by the University, 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 University 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 University and may have a material adverse effect on the University's operations and financial condition. Further, as cybersecurity threats continue to evolve, the University 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.

## **Facility Damage**

The University and, in particular, the Hospital, are highly dependent on the condition and functionality of their physical facilities. Damage from natural causes, fire, deliberate acts of destruction, terrorism or various facility system failures may have a material adverse impact on operations, financial conditions and results of operations, especially if insurance is inadequate to cover resulting property and business losses. No assurance is given as to the continuation of existing insurance coverage, which, among other things, may not be available at a reasonable cost in the future. Climate change may increase the frequency or severity of natural disasters.

The occurrences of natural disasters, including floods, blizzards, tornadoes and earthquakes, as well as other casualty events, including epidemics or other public health crises, may damage University facilities, interrupt utility service to facilities or otherwise impair the operation of some University facilities or the generation of revenues beyond existing insurance coverage. Although the facilities are covered by insurance, a significant fire affecting one or more of the University's facilities could have a material adverse effect on the University and could result in material damage and temporary or permanent cessation of operations at one or more of the facilities of the University.

## **Construction Risks**

Construction projects are subject to a variety of risks, including but not limited to delays in issuance of required building permits or other necessary approvals or permits, including environmental approvals, strikes, shortages of qualified contractors or materials and labor, and adverse weather conditions. Such events could delay occupancy of major construction projects. Cost overruns may occur due to change orders, delays in construction schedules, scarcity of building materials and labor, tariffs on construction materials, and other factors. Cost overruns could cause project costs to exceed estimates and require more funds than originally allocated or require the University to borrow additional funds to complete projects.

## **Other Risk Factors**

In the future, the following factors, among others may adversely affect the operations of the University to an extent that cannot be determined at this time:

- (1) The continued ability and willingness of current and future undergraduate and graduate students of the University, and their families, to be able to afford the tuition and costs of attending the University;
- (2) Shifts in perceptions regarding the academic reputation of, and value of a degree from, the University in relation to peer universities;
- (3) Employee strikes and other adverse labor actions that could result in a substantial reduction in revenues without corresponding decreases in costs;
- (4) Increased costs and decreased availability of public liability insurance;
- (5) Reduced demand for higher education due to demographic factors including the current decline in the population of high school graduation seniors;
- (6) Other changes in the demand for higher education in general or for programs offered by the University in particular;
- (7) Increased competition from for-profit universities and on-line programs offered by such universities or traditional universities;
- (8) Cost and availability of energy;
- (9) High interest rates, which could strain cash flow or prevent borrowing for needed capital expenditures;



- (10) Increase in capital expenditures needed to maintain or upgrade University facilities to remain competitive with other colleges and universities, which expenditures may limit debt capacity or reduce unrestricted net assets;
- (11) An increase in the costs of health care benefits, retirement plans, or other benefit packages offered by the University to its employees and retirees;
- (12) Unknown litigation;
- (13) Reductions of funding support from donors or other external sources; and
- (14) The occurrence of natural disasters or other casualty events, including epidemics or other public health crises, floods and hurricanes, which might damage the facilities of the University, interrupt service to the facilities or otherwise impair the operation and ability of the facilities to produce revenue.

### **CONTINUING DISCLOSURE OBLIGATIONS**

The Issuer has determined that no financial or operating data concerning the Issuer is material to any decision to purchase, hold or sell the Series 2023 Bonds and the Issuer will not provide any such information. In accordance with the requirements of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “Commission”), the University has undertaken all responsibilities for any continuing disclosure to Bondholders as provided below, and the Issuer shall have no liability with respect to such disclosures.

The University has covenanted for the benefit of Bondholders to provide certain financial information and operating data relating to the University by not later than 180 days after the close of its fiscal year in each year commencing with the fiscal year ending June 30, 2024 (the “Annual Report”), and to provide notices of the occurrence of certain enumerated events. The Annual Report will be filed with the Electronic Municipal Market Access (“EMMA”) system of the Municipal Securities Rulemaking Board (“MSRB”) or any other entity designated or authorized by the Commission to receive reports pursuant to the Rule. The specific nature of the information to be contained in the Annual Report or the notices of enumerated events, and the circumstances under which changes to this continued disclosure undertaking may be made, are contained in the Continuing Disclosure Agreement, a copy of which may be obtained from the University upon written request. This undertaking has been made in order to assist the Underwriters in complying with subsection (b)(5) of the Rule.

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

Requests for information in connection with this undertaking should be directed to University of Rochester, Wallis Hall, Room 208, Box 270023, Rochester, New York 14627, Attention: Executive Vice President for Administration and Finance and Chief Financial Officer and Treasurer.

### **TAX MATTERS**

#### **Series 2023A Bonds**

##### *Federal Income Taxes*

The Code imposes certain requirements that must be met subsequent to the issuance and delivery of the Series 2023A Bonds for interest thereon to be and remain excluded from gross income for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2023A Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2023A Bonds. Pursuant to the Indenture, the Loan Agreement, and the Tax Regulatory Agreement, by and between the Issuer and the University (the “Tax Certificate”), the Issuer and the University have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2023A Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Issuer and the University have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Certificate. Bond Counsel will

also rely on the opinion of counsel to the University as to all matters concerning (a) the status of the University as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code, and (b) that the intended use of the facilities financed or refinanced with proceeds of Series 2023A Bonds will be in furtherance of the University's exempt purposes under Section 501(c)(3) of the Code. Bond Counsel will not independently verify the accuracy of those representations and certifications or those opinions.

In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the aforementioned covenants, and the accuracy of certain representations and certifications made by the Issuer and the University described above, interest on the Series 2023A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code. For taxable years beginning after December 31, 2022, interest on the Series 2023A Bonds will be taken into account in computing the alternative minimum tax imposed on certain corporations under the Code to the extent that such interest is included in the "adjusted financial statement income" of such corporations.

#### *State Taxes*

Bond Counsel is also of the opinion that, under existing law, interest on the Series 2023A Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision of the State of New York, assuming compliance with tax covenants and the accuracy of the representations and certifications described under the heading "Federal Income Taxes" above. Bond Counsel expresses no opinion as to other State of New York or local tax consequences arising with respect to the Series 2023A Bonds nor as to the taxability of the Series 2023A Bonds or the income therefrom under the laws of any state other than the State of New York.

#### *Original Issue Premium*

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

#### *Ancillary Tax Matters*

Ownership of the Series 2023A Bonds may result in other federal tax consequences to certain taxpayers, including, without limitation, certain S corporations, foreign corporations with branches in the United States, property and casualty insurance companies, individuals receiving Social Security or Railroad Retirement benefits, individuals seeking to claim the earned income credit, and taxpayers (including banks, thrift institutions and other financial institutions) who may be deemed to have incurred or continued indebtedness to purchase or to carry the Series 2023A Bonds. Prospective investors are advised to consult their own tax advisors regarding these rules.

Interest paid on tax-exempt obligations such as the Series 2023A Bonds is subject to information reporting to the Internal Revenue Service (the "IRS") in a manner similar to interest paid on taxable obligations. In addition, interest on the Series 2023A Bonds may be subject to backup withholding if such interest is paid to a registered owner that (a) fails to provide certain identifying information (such as the registered owner's taxpayer identification number) in the manner required by the IRS, or (b) has been identified by the IRS as being subject to backup withholding.

Bond Counsel is not rendering any opinion as to any federal tax matters other than those described in the opinions attached as “APPENDIX E – Form of Approving Opinion of Bond Counsel”. Prospective investors, particularly those who may be subject to special rules described above, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Series 2023A Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

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

Legislative or administrative actions and court decisions, at either the federal or state level, could have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2023A Bonds for federal or state income tax purposes, and thus on the value or marketability of the Series 2023A Bonds. This could result from changes to federal or state income tax rates, changes in the structure of federal or state income taxes (including replacement with another type of tax), repeal of the exclusion of the interest on the Series 2023A Bonds from gross income for federal or state income tax purposes, or otherwise. It is not possible to predict whether any legislative or administrative actions or court decisions having an adverse impact on the federal or state income tax treatment of holders of the Series 2023A Bonds may occur. Prospective purchasers of the Series 2023A Bonds should consult their own tax advisors regarding the impact of any change in law on the Series 2023A Bonds.

Bond Counsel has not undertaken to advise in the future whether any events after the date of issuance and delivery of the Series 2023A Bonds may affect the tax status of interest on the Series 2023A Bonds. Bond Counsel expresses no opinion as to any federal, state or local tax law consequences with respect to the Series 2023A Bonds, or the interest thereon, if any action is taken with respect to the Series 2023A Bonds or the proceeds thereof upon the advice or approval of other counsel.

### **Series 2023B Bonds**

#### *Federal Income Taxes*

The following is a summary of certain anticipated United States federal income tax consequences of the purchase, ownership and disposition of the Series 2023B Bonds. The summary is based upon the provisions of the Code, the Treasury Regulations promulgated thereunder and the judicial and administrative rulings and decisions now in effect, all of which are subject to change. Such authorities may be repealed, revoked, or modified, possibly with retroactive effect, so as to result in United States federal income tax consequences different from those described below. The summary generally addresses Series 2023B Bonds held as capital assets within the meaning of Section 1221 of the Code and does not purport to address all aspects of federal income taxation that may affect particular investors in light of their individual circumstances or certain types of investors subject to special treatment under the federal income tax laws, including but not limited to financial institutions, insurance companies, dealers in securities or currencies, persons holding such Series 2023B Bonds as a hedge against currency risks or as a position in a “straddle,” “hedge,” “constructive sale transaction” or “conversion transaction” for tax purposes, or persons whose functional currency is not the United States dollar. It also does not deal with holders other than original purchasers that acquire Series 2023B Bonds at their initial issue price except where otherwise specifically noted. Potential purchasers of the Series 2023B Bonds should consult their own tax advisors in determining the federal, state, local, foreign and other tax consequences to them of the purchase, holding and disposition of the Series 2023B Bonds.

The Issuer has not sought and will not seek any rulings from the IRS with respect to any matter discussed herein. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax characterizations and tax consequences set forth below.

#### *U.S. Holders*

As used herein, the term “U.S. Holder” means a beneficial owner of Series 2023B Bonds that is (a) an individual citizen or resident of the United States for federal income tax purposes, (b) a corporation, including an entity treated as a corporation for federal income tax purposes, created or organized in or under the laws of the United States or any State thereof (including the District of Columbia), (c) an estate whose income is subject to federal income taxation regardless of its source, or (d) a trust if a court within the United States can exercise primary supervision over

the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust. Notwithstanding clause (d) of the preceding sentence, to the extent provided in Treasury regulations, certain trusts in existence on August 20, 1996, and treated as United States persons prior to that date that elect to continue to be treated as United States persons also will be U.S. Holders. In addition, if a partnership (or other entity or arrangement treated as a partnership for federal income tax purposes) holds Series 2023B Bonds, the tax treatment of a partner in the partnership generally will depend upon the status of the partner and the activities of the partnership. If a U.S. Holder is a partner in a partnership (or other entity or arrangement treated as a partnership for federal income tax purposes) that holds Series 2023B Bonds, the U.S. Holder is urged to consult its own tax advisor regarding the specific tax consequences of the purchase, ownership and dispositions of the Series 2023B Bonds.

#### *Taxation of Interest Generally*

Interest on the Series 2023B Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Code and so will be fully subject to federal income taxation. Purchasers will be subject to federal income tax accounting rules affecting the timing and/or characterization of payments received with respect to such Series 2023B Bonds. In general, interest paid on the Series 2023B Bonds and recovery of any accrued original issue discount and market discount will be treated as ordinary income to a bondholder, and after adjustment for the foregoing, principal payments will be treated as a return of capital to the extent of the U.S. Holder's adjusted tax basis in the Series 2023B Bonds and capital gain to the extent of any excess received over such basis.

#### *Recognition of Income Generally*

Section 451(b) of the Code provides that purchasers using an accrual method of accounting for U.S. federal income tax purposes may be required to include certain amounts in income no later than the time such amounts are reflected on certain financial statements of such purchaser. In this regard, Treasury Regulations provide that, with the exception of certain fees, the rule in section 451(b) will generally not apply to the timing rules for original issue discount and market discount, or to the timing rules for de minimis original issue discount and market discount. Prospective purchasers of the Series 2023B Bonds should consult their own tax advisors regarding any potential applicability of these rules and their impact on the timing of the recognition of income related to the Series 2023B Bonds under the Code.

#### *Original Issue Discount*

The following summary is a general discussion of certain federal income tax consequences of the purchase, ownership and disposition of Series 2023B Bonds issued with original issue discount ("Taxable Discount Bonds"). A Series 2023B Bond will be treated as having been issued with an original issue discount if the excess of its "stated redemption price at maturity" (defined below) over its issue price (defined as the initial offering price to the public at which a substantial amount of the Series 2023B Bonds of the same maturity have first been sold to the public, excluding bond houses and brokers) equals or exceeds one quarter of one percent of such Series 2023B Bond's stated redemption price at maturity multiplied by the number of complete years to its maturity (or, in the case of an installment obligation, its weighted average maturity).

A Series 2023B Bond's "stated redemption price at maturity" is the total of all payments provided by the Series 2023B Bond that are not payments of "qualified stated interest." Generally, the term "qualified stated interest" includes stated interest that is unconditionally payable in cash or property (other than debt instruments of the issuer) at least annually at a single fixed rate or certain floating rates.

In general, the amount of original issue discount includible in income by the initial holder of a Taxable Discount Bond is the sum of the "daily portions" of original issue discount with respect to such Taxable Discount Bond for each day during the taxable year in which such holder held such Series 2023B Bond. The daily portion of original issue discount on any Taxable Discount Bond is determined by allocating to each day in any "accrual period" a ratable portion of the original issue discount allocable to that accrual period.

An accrual period may be of any length, and may vary in length over the term of a Taxable Discount Bond, provided that each accrual period is no longer than one year and each scheduled payment of principal or interest occurs

at the end of an accrual period. The amount of original issue discount allocable to each accrual period is equal to the difference between (a) the product of the Taxable Discount Bond's adjusted issue price at the beginning of such accrual period and its yield to maturity (determined on the basis of compounding at the close of each accrual period and appropriately adjusted to take into account the length of the particular accrual period) and (b) the amount of any qualified stated interest payments allocable to such accrual period. The "adjusted issue price" of a Taxable Discount Bond at the beginning of any accrual period is the sum of the issue price of the Taxable Discount Bond plus the amount of original issue discount allocable to all prior accrual periods minus the amount of any prior payments on the Taxable Discount Bond that were not qualified stated interest payments. Under these rules, holders generally will have to include in income increasingly greater amounts of original issue discount in successive accrual periods.

Holders utilizing the accrual method of accounting may generally, upon election, include in gross income all interest (including stated interest, acquisition discount, original issue discount, de minimis original issue discount, market discount, de minimis market discount, and unstated interest, as adjusted by any amortizable bond premium or acquisition premium) on a Series 2023B Bond by using the constant yield method applicable to original issue discount, subject to certain limitations and exceptions.

#### *Market Discount*

A holder who purchases a Series 2023B Bond at a price which includes market discount (i.e., at a purchase price that is less than its adjusted issue price in the hands of an original owner) in excess of a prescribed de minimis amount will be required to re-characterize all or a portion of the gain as ordinary income upon receipt of each scheduled or unscheduled principal payment or upon other disposition. In particular, such holder will generally be required either (a) to allocate each such principal payment to accrued market discount not previously included in income and to recognize ordinary income to that extent and to treat any gain upon sale or other disposition of such a Series 2023B Bond as ordinary income to the extent of any remaining accrued market discount or (b) to elect to include such market discount in income currently as it accrues on all market discount instruments acquired by such holder on or after the first day of the taxable year to which such election applies.

The Code authorizes the Treasury Department to issue regulations providing for the method for accruing market discount on debt instruments the principal of which is payable in more than one installment. Until such time as regulations are issued by the Treasury Department, certain rules described in the legislative history of the Tax Reform Act of 1986 will apply. Under those rules, market discount will be included in income either (a) on a constant interest basis or (b) in proportion to the accrual of stated interest.

A holder of a Series 2023B Bond who acquires such Series 2023B Bond at a market discount also may be required to defer, until the maturity date of such Series 2023B Bond or the earlier disposition in a taxable transaction, the deduction of a portion of the amount of interest that the holder paid or accrued during the taxable year on indebtedness incurred or maintained to purchase or carry a Series 2023B Bond in excess of the aggregate amount of interest (including original issue discount) includable in such holder's gross income for the taxable year with respect to such Series 2023B Bond. The amount of such net interest expense deferred in a taxable year may not exceed the amount of market discount accrued on the Series 2023B Bond for the days during the taxable year on which the holder held the Series 2023B Bond and, in general, would be deductible when such market discount is includable in income. The amount of any remaining deferred deduction is to be taken into account in the taxable year in which the Series 2023B Bond matures or is disposed of in a taxable transaction. In the case of a disposition in which gain or loss is not recognized in whole or in part, any remaining deferred deduction will be allowed to the extent gain is recognized on the disposition. This deferral rule does not apply if the bondholder elects to include such market discount in income currently as described above.

#### *Bond Premium*

A holder of a Series 2023B Bond who purchases such Series 2023B Bond at a cost greater than its remaining redemption amount will have amortizable bond premium. If the holder elects to amortize this premium under Section 171 of the Code (which election will apply to all Series 2023B Bonds held by the holder on the first day of the taxable year to which the election applies and to all Series 2023B Bonds thereafter acquired by the holder), such a holder must amortize the premium using constant yield principles based on the holder's yield to maturity. Amortizable bond premium is generally treated as an offset to interest income, and a reduction in basis is required for amortizable bond

premium that is applied to reduce interest payments. Purchasers of Series 2023B Bonds who acquire such Series 2023B Bonds at a premium should consult with their own tax advisors with respect to federal, state and local tax consequences of owning such Series 2023B Bonds.

#### *Surtax on Unearned Income*

Section 1411 of the Code generally imposes a tax of 3.8% on the “net investment income” of certain individuals, trusts and estates. Among other items, net investment income generally includes gross income from interest and net gain attributable to the disposition of certain property, less certain deductions. U.S. Holders should consult their own tax advisors regarding the possible implications of this provision in their particular circumstances.

#### *Sale or Redemption of Bonds*

A bondholder’s adjusted tax basis for a Series 2023B Bond is the price such holder pays for the Series 2023B Bond plus the amount of original issue discount and market discount previously included in income and reduced on account of any payments received on such Series 2023B Bond other than “qualified stated interest” and any amortized bond premium. Gain or loss recognized on a sale, exchange or redemption of a Series 2023B Bond, measured by the difference between the amount realized and the bondholder’s tax basis as so adjusted, will generally give rise to capital gain or loss if the Series 2023B Bond is held as a capital asset (except in the case of Series 2023B Bonds acquired at a market discount, in which case a portion of the gain will be characterized as interest and therefore ordinary income).

If the terms of a Series 2023B Bond are materially modified, in certain circumstances, a new debt obligation would be deemed “reissued”, or created and exchanged for the prior obligation in a taxable transaction. Among the modifications which may be treated as material are those related to the redemption provisions and, in the case of a nonrecourse obligation, those which involve the substitution of collateral. In addition, the defeasance of a Series 2023B Bond under the defeasance provisions of the Indenture could result in a deemed sale or exchange of such Series 2023B Bond.

EACH POTENTIAL HOLDER OF SERIES 2023B BONDS SHOULD CONSULT ITS OWN TAX ADVISOR CONCERNING (1) THE TREATMENT OF GAIN OR LOSS ON SALE, REDEMPTION OR DEFEASANCE OF THE SERIES 2023B BONDS, AND (2) THE CIRCUMSTANCES IN WHICH SERIES 2023B BONDS WOULD BE DEEMED REISSUED AND THE LIKELY EFFECTS, IF ANY, OF SUCH REISSUANCE.

#### *Non-U.S. Holders*

The following is a general discussion of certain United States federal income tax consequences resulting from the beneficial ownership of Series 2023B Bonds by a person other than a U.S. Holder, a former United States citizen or resident, or a partnership or entity treated as a partnership for United States federal income tax purposes (a “Non-U.S. Holder”).

Subject to the discussion of backup withholding and the Foreign Account Tax Compliance Act (“FATCA”), payments of principal by the Issuer or any of its agents (acting in its capacity as agent) to any Non-U.S. Holder will not be subject to federal withholding tax. In the case of payments of interest to any Non-U.S. Holder, however, federal withholding tax will apply unless the Non-U.S. Holder (1) does not own (actually or constructively) 10 percent or more of the voting equity interests of the Issuer, (2) is not a controlled foreign corporation for United States tax purposes that is related to the Issuer (directly or indirectly) through stock ownership, and (3) is not a bank receiving interest in the manner described in Section 881(c)(3)(A) of the Code. In addition, either (1) the Non-U.S. Holder must certify on the applicable IRS Form W-8 (series) (or successor form) to the Issuer, its agents or paying agents or a broker under penalties of perjury that it is not a U.S. person and must provide its name and address, or (2) a securities clearing organization, bank or other financial institution, that holds customers’ securities in the ordinary course of its trade or business and that also holds the Series 2023B Bonds must certify to the Issuer or its agent under penalties of perjury that such statement on the applicable IRS Form W-8 (series) (or successor form) has been received from the Non-U.S. Holder by it or by another financial institution and must furnish the interest payor with a copy.

Interest payments may also be exempt from federal withholding tax depending on the terms of an existing federal income tax treaty, if any, in force between the U.S. and the resident country of the Non-U.S. Holder. The U.S.

has entered into an income tax treaty with a limited number of countries. In addition, the terms of each treaty differ in their treatment of interest and original issue discount payments. Non-U.S. Holders are urged to consult their own tax advisor regarding the specific tax consequences of the receipt of interest payments, including original issue discount. A Non-U.S. Holder that does not qualify for exemption from withholding as described above must provide the Issuer or its agent with documentation as to his, her, or its identity to avoid the U.S. backup withholding tax on the amount allocable to a Non-U.S. Holder. The documentation may require that the Non-U.S. Holder provide a U.S. tax identification number.

If a Non-U.S. Holder is engaged in a trade or business in the United States and interest on a Series 2023B Bond held by such holder is effectively connected with the conduct of such trade or business, the Non-U.S. Holder, although exempt from the withholding tax discussed above (provided that such holder timely furnishes the required certification to claim such exemption), may be subject to United States federal income tax on such interest in the same manner as if it were a U.S. Holder. In addition, if the Non-U.S. Holder is a foreign corporation, it may be subject to a branch profits tax equal to 30% (subject to a reduced rate under an applicable treaty) of its effectively connected earnings and profits for the taxable year, subject to certain adjustments. For purposes of the branch profits tax, interest on a Series 2023B Bond will be included in the earnings and profits of the holder if the interest is effectively connected with the conduct by the holder of a trade or business in the United States. Such a holder must provide the payor with a properly executed IRS Form W-8ECI (or successor form) to claim an exemption from United States federal withholding tax.

Generally, any capital gain realized on the sale, exchange, retirement or other disposition of a Series 2023B Bond by a Non-U.S. Holder will not be subject to United States federal income or withholding taxes if (1) the gain is not effectively connected with a United States trade or business of the Non-U.S. Holder, and (2) in the case of an individual, the Non-U.S. Holder is not present in the United States for 183 days or more in the taxable year of the sale, exchange, retirement or other disposition, and certain other conditions are met.

For newly issued or reissued obligations, such as the Series 2023B Bonds, FATCA imposes U.S. withholding tax on interest payments and, for dispositions after December 31, 2018, gross proceeds of the sale of the Series 2023B Bonds paid to certain foreign financial institutions (which is broadly defined for this purpose to generally include non-U.S. investment funds) and certain other non-U.S. entities if certain disclosure and due diligence requirements related to U.S. accounts or ownership are not satisfied, unless an exemption applies. An intergovernmental agreement between the United States and an applicable non-U.S. country may modify these requirements. In any event, bondholders or beneficial owners of the Series 2023B Bonds shall have no recourse against the Issuer, nor will the Issuer be obligated to pay any additional amounts to “gross up” payments to such persons, as a result of any withholding or deduction for, or on account of, any present or future taxes, duties, assessments or government charges with respect to payments in respect of the Series 2023B Bonds. However, it should be noted that on December 13, 2018, the IRS issued Proposed Treasury Regulation Section 1.1473-1(a)(1) which proposes to remove gross proceeds from the definition of “withholdable payment” for this purpose.

Non-U.S. Holders should consult their own tax advisors with respect to the possible applicability of federal withholding and other taxes upon income realized in respect of the Series 2023B Bonds.

#### *Information Reporting and Backup Withholding*

For each calendar year in which the Series 2023B Bonds are outstanding, the Issuer, its agents or paying agents or a broker is required to provide the IRS with certain information, including a holder’s name, address and taxpayer identification number (either the holder’s Social Security number or its employer identification number, as the case may be), the aggregate amount of principal and interest paid to that holder during the calendar year and the amount of tax withheld, if any. This obligation, however, does not apply with respect to certain U.S. Holders, including corporations, tax-exempt organizations, qualified pension and profit sharing trusts, and individual retirement accounts and annuities.

If a U.S. Holder subject to the reporting requirements described above fails to supply its correct taxpayer identification number in the manner required by applicable law or under-reports its tax liability, the Issuer, its agents or paying agents or a broker may be required to make “backup” withholding of tax on each payment of interest or principal on the Series 2023B Bonds. This backup withholding is not an additional tax and may be credited against the U.S. Holder’s federal income tax liability, provided that the U.S. Holder furnishes the required information to the IRS.

Under current Treasury Regulations, backup withholding and information reporting will not apply to payments of interest made by the Issuer, its agents (in their capacity as such) or paying agents or a broker to a Non-U.S. Holder if such holder has provided the required certification that it is not a U.S. person (as set forth in the second paragraph under “Non-U.S. Holders” above), or has otherwise established an exemption (provided that neither the Issuer nor its agent has actual knowledge that the holder is a U.S. person or that the conditions of an exemption are not in fact satisfied).

Payments of the proceeds from the sale of a Series 2023B Bond to or through a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, information reporting (but not backup withholding) may apply to those payments if the broker is one of the following: (i) a U.S. person; (ii) a controlled foreign corporation for U.S. tax purposes; (iii) a foreign person 50-percent or more of whose gross income from all sources for the three-year period ending with the close of its taxable year preceding the payment was effectively connected with a United States trade or business; or (iv) a foreign partnership with certain connections to the United States.

Payment of the proceeds from a sale of a Series 2023B Bond to or through the United States office of a broker is subject to information reporting and backup withholding unless the holder or beneficial owner certifies as to its taxpayer identification number or otherwise establishes an exemption from information reporting and backup withholding.

The preceding federal income tax discussion is included for general information only and may not be applicable depending upon a holder’s particular situation. Holders should consult their tax advisors with respect to the tax consequences to them of the purchase, ownership and disposition of the Series 2023B Bonds, including the tax consequences under federal, state, local, foreign and other tax laws and the possible effects of changes in those tax laws.

#### *State Taxes*

Interest on the Series 2023B Bonds is not exempt from personal income taxes of the State of New York and its political subdivisions. Bond Counsel expresses no opinion as to other state or local tax law consequences arising with respect to the Series 2023B Bonds nor as to the taxability of the Series 2023B Bonds or the income derived therefrom under the laws of any jurisdiction other than the State of New York.

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

Legislative or administrative actions and court decisions, at either the federal or state level, could have an impact on the inclusion in gross income of interest on the Series 2023B Bonds for federal or state income tax purposes, and thus on the value or marketability of the Series 2023B Bonds. This could result from changes to federal or state income tax rates, changes in the structure of federal or state income taxes (including replacement with another type of tax), or otherwise. It is not possible to predict whether any such legislative or administrative actions or court decisions will occur or have an adverse impact on the federal or state income tax treatment of holders of the Series 2023B Bonds. Prospective purchasers of the Series 2023B Bonds should consult their own tax advisors regarding the impact of any change in law or proposed change in law on the Series 2023B Bonds.

IN ALL EVENTS, ALL INVESTORS SHOULD CONSULT THEIR OWN TAX ADVISORS IN DETERMINING THE FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX CONSEQUENCES TO THEM OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE SERIES 2023B BONDS.

### **CONSIDERATIONS FOR ERISA AND OTHER U.S. BENEFIT PLAN INVESTORS**

The Employee Retirement Income Security Act of 1974, as amended (“ERISA”), imposes certain fiduciary obligations and prohibited transaction restrictions on employee pension and welfare benefit plans subject to Title I of ERISA (“ERISA Plans”). Section 4975 of the Code imposes essentially the same prohibited transaction restrictions on tax-qualified retirement plans described in Section 401(a) and 403(a) of the Code, which are exempt from tax under Section 501(a) of the Code, other than governmental and church plans as defined herein (“Qualified Retirement Plans”), and on Individual Retirement Accounts (“IRAs”) described in Section 408(b) of the Code (collectively, “Tax-



Favored Plans”). Certain employee benefit plans such as governmental plans (as defined in Section 3(32) of ERISA (“Governmental Plans”), and, if no election has been made under Section 410(d) of the Code, church plans (as defined in Section 3(33) of ERISA) (“Church Plans”), are not subject to ERISA requirements. Additionally, such Governmental and Church Plans are not subject to the requirements of Section 4975 of the Code but may be subject to applicable federal, state or local law (“Similar Laws”) which is, to a material extent, similar to the foregoing provisions of ERISA or the Code. Accordingly, assets of such plans may be invested in the Series 2023 Bonds without regard to the ERISA and Code considerations described below, subject to the provisions of Similar Laws.

In addition to the imposition of general fiduciary obligations, including those of investment prudence and diversification and the requirement that a plan’s investment be made in accordance with the documents governing the plan, Section 406 of ERISA and Section 4975 of the Code prohibit a broad range of transactions involving assets of ERISA Plans and Tax-Favored Plans and entities whose underlying assets include plan assets by reason of ERISA Plans or Tax-Favored Plans investing in such entities (collectively, “Benefit Plans”) and persons who have certain specified relationships to the Benefit Plans (“Parties In Interest” or “Disqualified Persons”), unless a statutory or administrative exemption is available. The definitions of “Party in Interest” and “Disqualified Person” are expansive. While other entities may be encompassed by these definitions, they include, most notably: (1) fiduciary with respect to a plan; (2) a person providing services to a plan; (3) an employer or employee organization any of whose employees or members are covered by the plan; and (4) the owner of an IRA. Certain Parties in Interest (or Disqualified Persons) that participate in a prohibited transaction may be subject to a penalty (or an excise tax) imposed pursuant to Section 502(i) of ERISA (or Section 4975 of the Code) unless a statutory or administrative exemption is available. Without an exemption an IRA owner may disqualify his or her IRA.

Certain transactions involving the purchase, holding or transfer of the Series 2023 Bonds might be deemed to constitute prohibited transactions under ERISA and Section 4975 of the Code if assets of the Issuer or the University were deemed to be assets of a Benefit Plan. Under final regulations issued by the United States Department of Labor (the “Plan Assets Regulation”), the assets of the Issuer or the University would be treated as plan assets of a Benefit Plan for the purposes of ERISA and Section 4975 only if the Benefit Plan acquires an “equity interest” in the Issuer or the University and none of the exceptions contained in the Plan Assets Regulation is applicable. An equity interest is defined under the Plan Assets Regulation as an interest in an entity other than an instrument which is treated as indebtedness under applicable local law and which has no substantial equity features. Although there is little guidance on this matter, it appears that the Series 2023 Bonds should be treated as debt without substantial equity features for purposes of the Plan Assets Regulation. This determination is based upon the traditional debt features of the Series 2023 Bonds, including the reasonable expectation of purchasers of Series 2023 Bonds that the Series 2023 Bonds will be repaid when due, traditional default remedies, as well as the absence of conversion rights, warrants and other typical equity features.

However, without regard to whether the Series 2023 Bonds are treated as an equity interest for such purposes, though, the acquisition or holding of Series 2023 Bonds by or on behalf of a Benefit Plan could be considered to give rise to a prohibited transaction if the Issuer, the University, the Trustee, the Underwriter or any of their respective affiliates, is or becomes a Party in Interest or a Disqualified Person with respect to such Benefit Plan.

Most notably, ERISA and the Code generally prohibit the lending of money or other extension of credit between an ERISA Plan or Tax-Favored Plan and a Party in Interest or a Disqualified Person, and the acquisition of any of the Series 2023 Bonds by a Benefit Plan would involve the lending of money or extension of credit by the Benefit Plan. In such a case, however, certain exemptions from the prohibited transaction rules could be applicable depending on the type and circumstances of the plan fiduciary making the decision to acquire a Series 2023 Bond. Included among these exemptions are: Prohibited Transaction Class Exemption (“PTCE”) 96-23, regarding transactions effected by certain “in-house asset managers”; PTCE 90-1, regarding investments by insurance company pooled separate accounts; PTCE 95-60, regarding transactions effected by “insurance company general accounts”; PTCE 91-38, regarding investments by bank collective investment funds; and PTCE 84-14, regarding transactions effected by “qualified professional asset managers.” Further, the statutory exemption in Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code provides for an exemption for transactions involving “adequate consideration” with persons who are Parties in Interest or Disqualified Persons solely by reason of their (or their affiliate’s) status as a service provider to the Benefit Plan involved and none of whom is a fiduciary with respect to the Benefit Plan assets involved (or an affiliate of such a fiduciary). There can be no assurance that any class or other exemption will be available with respect to any particular transaction involving the Series 2023 Bonds, or that, if available, the exemption would cover all possible prohibited transactions.

By acquiring a Series 2023 Bond (or interest therein), each purchaser and transferee (and if the purchaser or transferee is a plan, its fiduciary) is deemed to represent and warrant that either (i) it is not acquiring the Series 2023 Bond (or interest therein) with the assets of a Benefit Plan, Governmental plan or Church plan; or (ii) the acquisition and holding of the Series 2023 Bond (or interest therein) will not give rise to a nonexempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or Similar Laws. A purchaser or transferee who acquires Series 2023 Bonds with assets of a Benefit Plan represents that such purchaser or transferee has considered the fiduciary requirements of ERISA, the Code or Similar Laws and has consulted with counsel with regard to the purchase or transfer.

Because the Issuer, the University, the Trustee, the Underwriter or any of their respective affiliates may receive certain benefits in connection with the sale of the Series 2023 Bonds, the purchase of the Series 2023 Bonds using plan assets of a Benefit Plan over which any of such parties has investment authority or provides investment advice for a direct or indirect fee may be deemed to be a violation of the prohibited transaction rules of ERISA or Section 4975 of the Code or Similar Laws for which no exemption may be available. Accordingly, any investor considering a purchase of Series 2023 Bonds using plan assets of a Benefit Plan should consult with its counsel if the Issuer, the University, the Trustee, the Underwriter or any of their respective affiliates has investment authority or provides investment advice for a direct or indirect fee with respect to such assets or is an employer maintaining or contributing to the Benefit Plan.

Any ERISA Plan fiduciary considering whether to purchase the Series 2023 Bonds on behalf of an ERISA Plan should consult with its counsel regarding the applicability of the fiduciary responsibility and prohibited transaction provisions of ERISA and Section 4975 of the Code to such an investment and the availability of any of the exemptions referred to above. Persons responsible for investing the assets of Tax-Favored Plans that are not ERISA Plans should seek similar counsel with respect to the prohibited transaction provisions of the Code and the applicability of Similar Laws.

#### **INDEPENDENT ACCOUNTANTS**

The financial statements for the University as of 2023 and 2022 and for each of the two years in the period ended June 30, 2023, included in “APPENDIX B – Consolidated Financial Statements of University of Rochester and Related Entities and Report of Independent Auditors” of this Official Statement, have been audited by PricewaterhouseCoopers LLP, independent accountants, as stated in their report appearing herein.

#### **RATINGS**

Moody’s Investors Service and S&P Global Ratings have assigned ratings of “Aa3” and “AA-” respectively, to the Series 2023 Bonds. Such ratings reflect only the views of such organization and any desired explanation of the significance of such ratings should be obtained from the respective rating agency. 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 2023 Bonds.

#### **LITIGATION**

##### **The Issuer**

There is not now pending nor, to the knowledge of the Issuer threatened, any litigation questioning or affecting the validity of the Series 2023 Bonds or the proceedings or authority under which the Series 2023 Bonds were issued. Neither the creation, organization or existence of the Issuer nor the title of any of the present members or other officers of the Issuer to their respective offices is being contested. There is no litigation pending or, to its knowledge, threatened which in any manner questions the right of the Issuer to execute and deliver the Indenture or the Loan Agreement.

## **The University**

There is not now pending nor, to the knowledge of the University, threatened any litigation restraining or enjoining the execution or delivery of the Financing Documents to which the University is a party or questioning or affecting the validity of such documents or the proceedings or authority under which such documents were authorized or delivered. Neither the creation, organization or existence of the University nor the title of any of the present members or other officers of the University to their respective offices is being contested. There is no litigation pending or, to its knowledge, threatened which in any manner questions the right of the University to enter into the Financing Documents to which the University is a party or which would have a material adverse effect on the ability of the University to meet its obligations under the Loan Agreement and the Promissory Notes.

## **LEGAL MATTERS**

All legal matters incident to the authorization and validity of the Series 2023 Bonds are subject to the approval of Nixon Peabody LLP, Rochester, New York, Bond Counsel, whose approving opinion will be delivered with the issuance of Series 2023 Bonds. Certain legal matters will be passed upon for the Issuer by its counsel, Nixon Peabody LLP, Rochester, New York. Certain legal matters will be passed upon for the University by its counsel, Bond, Schoeneck & King, PLLC, Rochester, New York. Certain legal matters will be passed upon for the Underwriters by their counsel, Katten Muchin Rosenman LLP, New York, New York.

## **FINANCIAL ADVISOR**

PFM Financial Advisors LLC (the “Financial Advisor”) is serving as financial advisor to the University in connection with the issuance of the Series 2023 Bonds. The Financial Advisor has not been engaged, nor has it undertaken, to make an independent verification of, or to assume responsibility for the accuracy, completeness, or fairness of information contained in this Official Statement and the appendices attached hereto. The Financial Advisor is a financial advisory and consulting organization and is not engaged in the business of underwriting, marketing or trading municipal securities or any other negotiable instruments.

## **UNDERWRITING**

Barclays Capital Inc., as representative of itself, BofA Securities, Inc., Morgan Stanley & Co. LLC and Siebert Williams Shank & Co. (together, the “Underwriters”) have jointly and severally agreed, subject to certain conditions, to purchase (i) the Series 2023A Bonds from the Issuer at an aggregate purchase price of \$331,721,744.09 (which is equal to the aggregate principal amount of the Series 2023A Bonds, less an Underwriters’ discount in the amount of \$821,056.71, plus aggregate premium in the amount of \$35,662,800.80) and (ii) the Series 2023B Bonds from the Issuer at an aggregate purchase price of \$100,479,231.15 (which is equal to the aggregate principal amount of the Series 2023B Bonds, less an Underwriters’ discount in the amount of \$265,768.85), and to make an initial public offering of the Series 2023 Bonds at prices that are not in excess of the initial public offering prices corresponding to the yields set forth on the inside cover pages of this Official Statement, plus accrued interest, if any. The Underwriters will be obligated to purchase all the Series 2023 Bonds if any of the Series 2023 Bonds are purchased. The Series 2023 Bonds may be offered and sold to certain dealers (including dealers depositing such Series 2023 Bonds into unit investment trusts, certain of which may be sponsored or managed by an Underwriter) at prices lower than the initial public offering prices as set forth on the inside cover pages hereof. The initial public offering prices may be changed from time to time by the Underwriters.

BofA Securities, Inc., one of the Underwriters of the Series 2023 Bonds, has entered into a distribution agreement with its affiliate Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”). As part of this arrangement, BofA Securities, Inc. may distribute securities to MLPF&S, which may in turn distribute such securities to investors through the financial advisor network of MLPF&S. As part of this arrangement, BofA Securities, Inc. may compensate MLPF&S as a dealer for their selling efforts with respect to the Series 2023 Bonds.

Morgan Stanley & Co. LLC (“Morgan Stanley”), one of the Underwriters of the Series 2023 Bonds, has entered into a retail distribution arrangement with Morgan Stanley Smith Barney LLC. As part of the distribution arrangement, Morgan Stanley may distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, Morgan Stanley may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the Series 2023 Bonds.

The Underwriters and their respective 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 Underwriters and their respective affiliates may have from time to time performed, and may in the future perform, various investment banking services for the University, for which they received or will receive customary fees and expenses. In the ordinary course of their various business activities, the Underwriters and their respective 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 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 the University.

#### MISCELLANEOUS

All the summaries of the provisions of the Series 2023 Bonds, the Indenture, the Loan Agreement and the Continuing Disclosure Agreement set forth herein and all other summaries and references to such other materials not purporting to be quoted in full, are only brief outlines of certain provisions thereof and are made subject to all of the detailed provisions thereof, to which reference is hereby made for further information, and do not purport to be complete statements of any or of all such provisions of such documents.

All estimates and assumptions herein have been made on the best information available and are believed to be reliable, but no representations whatsoever are made that such estimates or assumptions are correct or will be realized. So far as any statements herein involve matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact. Neither this Official Statement nor any statement which may have been made orally or in writing with regard to the Series 2023 Bonds is to be construed as a contract with the holders of the Series 2023 Bonds.

The information set forth in this Official Statement, including the information set forth in the appendices, should not be construed as representing all the conditions affecting the Issuer, the University or the Series 2023 Bonds.

The Issuer has not assisted in the preparation of this Official Statement, except for the statements under the captions “INTRODUCTION – The Issuer,” “THE ISSUER” and “LITIGATION – The Issuer” herein and, except for those sections, the Issuer is not responsible for any statements made in this Official Statement. Except for the authorization, execution, and delivery of documents to which it is a party that are required to effect the issuance of the Series 2023 Bonds, the Issuer assumes no responsibility for the disclosures set forth in this Official Statement.

The Issuer and the University have authorized the execution and distribution of this Official Statement.

#### MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION

By: /s/ Ana J. Liss  
Title: Executive Director

#### UNIVERSITY OF ROCHESTER

By: /s/ Elizabeth Milavec  
Title: Executive Vice President for Administration  
and Finance, Chief Financial Officer  
and Treasurer

**Certain Information Concerning the University and the  
Hospital/Medical Center**

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**APPENDIX A**  
**CERTAIN INFORMATION CONCERNING THE UNIVERSITY AND THE**  
**HOSPITAL / MEDICAL CENTER**

**THE UNIVERSITY**

**General**

The University is a private not-for-profit institution of higher education founded in 1850 and located in Rochester, New York. The University is a coeducational, nonsectarian university granted a charter under the authority of the New York State Board of Regents. The University provides education and training, primarily for students at the undergraduate, graduate, and postdoctoral levels. It also performs research, training, and other services under grants, contracts, and similar agreements with sponsoring organizations, primarily departments and agencies of the United States Government; and provides health care services through Strong Memorial Hospital (SMH, URMC, Medical Center, or the Hospital), Strong Home Care Group, the various entities included in Strong Partners Health System, Inc. (SPHS), F.F. Thompson Health System, Inc., Livingston Health Care System, Inc., The Memorial Hospital of William F. and Gertrude F. Jones, Inc. and St. James Hospital. The University is governed by a Board of Trustees and derives its income from tuition, fees, patient care revenues, endowment, grants from private foundations and government, and gifts from friends, alumni, corporations, and other private philanthropies.

The University is one of only 71 higher education research institutions in the United States and Canada invited for membership in the prestigious Association of American Universities. In recognition of its broad range of educational degree offerings and its level of research productivity, the University is considered an “R1: Doctoral University – Highest Research Activity” institution according to the Carnegie Classification of Institutions of Higher Education. The University as a whole is accredited by the Middle States Commission on Higher Education, and its specific educational programs are separately accredited by their respective commissions and associations.

The University is comprised of seven schools with over 400 academic programs—including those in the humanities, social sciences, natural sciences and professional fields of engineering, education, management, music, medicine, and nursing—all well-regarded among institutions of higher education. There are nearly 12,200 students studying at the University, including nearly 5,000 international students from nearly 136 countries. Since 2008, there have been 103 Fulbright Student Scholars, which often names the University a “top producer” of awardees. Nearly 80 percent of undergraduates participate in research, and about one-third study abroad. In addition to its regular academic sessions, which include two regular semesters and special summer programs, each school offers courses for part-time studies.

The University’s Institute of Optics is widely considered one of the nation’s premier educational programs and research centers in optics, as is the Eastman School of Music for music education. According to the most recent *US News & World Report* ranking of “America’s Best Colleges”, the University was 36<sup>th</sup> among national universities. *USN&WR* and *Kiplinger’s* both recognize the University as a “Best Value” school.

The Simon Business School was ranked 27<sup>th</sup> best U.S. Business School overall and 19<sup>th</sup> for finance in the last *USN&WR*. In the most recent international listing of fulltime MBAs from *Financial Times* (of London), the Simon Business School was 26<sup>th</sup> among U.S. business schools.

*USN&WR’s* “Best Graduate Schools” last recognized the Hajim Engineering School as 42<sup>nd</sup> among graduate engineering schools, the School of Medicine & Dentistry as 32<sup>nd</sup> for medical research, and 40<sup>th</sup> for primary care, and placed the School of Nursing at 22<sup>nd</sup> for nursing masters. In their “Best Hospitals” ranking, Strong Memorial Hospital, part of the University’s UR Medicine health system, is recognized nationally for its specialties—40<sup>th</sup> for neonatology and 46<sup>th</sup> for pediatric nephrology.

The University has approximately 1,386 full-time, tenure-track faculty on staff, and its 2023 employment total of approximately 28,000 full-time equivalents made it the top employer in the Rochester region and 6<sup>th</sup> largest private employer in New York State. With over \$438 million in annual research funding, investigation and discovery is embedded in its culture and spans artistic, mathematical, medical, musical, philosophical, sociopolitical, scientific, and technical disciplines.

The University's seven schools, its Memorial Art Gallery, and Laboratory for Laser Energetics are situated in various proximate locations. The largest campus is the River Campus, overlooking the Genesee River and home to four of the University's schools: the Hajim School of Engineering & Applied Sciences, the School of Arts & Sciences, the Warner School of Education, and the Simon Business School. In addition to the academic buildings housing these units, the River Campus includes 10 (undergraduate) residential and dining halls, five athletic facilities, the Interfaith Chapel, and several administrative support buildings. The Ronald Rettner Hall for Media Arts and Innovation opened in 2013 as a three-story, 18,900 square-foot hub for arts, sciences, and music engineering. Wegmans Hall, opened in 2017, is a 58,000 square-foot, four-story home to the newly established Goergen Institute for Data Science. The Sloan Performing Arts Center, an expansive 30,000 square foot, three story building was also constructed and opened in 2021.

The Eastman School of Music, located in downtown Rochester, has its own academic and auxiliary service buildings that contain facilities designed for the instruction, research, practice, and performance of music. Its historic and renovated Kodak Hall at Eastman Theatre, as well as Kilbourn Hall, are used for performance by Eastman School groups and by the community's major orchestras and visiting artists. The East Wing, dedicated in 2010, houses a recital hall, faculty teaching studios, an orchestra-sized rehearsal hall, and a high-tech recording control room. Messinger Hall provides practice space for students and is home to the Eastman Community Music School, which offers music classes to the public. A 16-story residence hall provides on-campus housing for approximately 370 students.

The University of Rochester Medical Center, adjacent to the River Campus, houses the School of Medicine & Dentistry, School of Nursing, Eastman Institute for Oral Health, James P. Wilmot Cancer Center, Golisano Children's Hospital, and Strong Memorial Hospital, described in detail later under "THE HOSPITAL/MEDICAL CENTER." The creation of the Aab Institute for Biomedical Research, several interdisciplinary research centers, the ambulatory surgical center, the James P. Wilmot Cancer Center, Saunders Research Building, and biomedical research facilities have been accompanied by an increase in the number of faculty and a growth in sponsored research. The Golisano Children's Hospital, dedicated in May 2015, is a 245,000 square-foot facility offering research programs, medical services, and specialized care for more than 74,000 children annually.

The Memorial Art Gallery, owned and operated by the University, houses a permanent collection of paintings by American and European masters, as well as sculpture and decorative arts, and offers arts and crafts classes for adults and children. Its Centennial Sculpture Park, dedicated in May 2013, and expanded in 2023, recast 10 acres of the Gallery's grounds into a showcase of public art and urban space. Ten major artists were commissioned to create site-specific work for Centennial Sculpture Park.

The University's library system contains nearly 4.1 million volumes of holdings and approximately 187,000 serial holdings. This system includes the Rush Rhees Library serving the River Campus; the Edward G. Miner Library serving the Medical Center; the Sibley Music Library, one of the largest academic music libraries in the western hemisphere, serving the Eastman School of Music; and many other small, discipline-specific libraries. The University is a member of the Association of Research Libraries.

Other special programs and facilities include: the Simon Business School's cooperative programs with the University of Bern in Switzerland; the C.E.K. Mees Observatory, located south of Rochester; the specialized laboratories and shops of the Institute of Optics; and the Laboratory for Laser Energetics. Established in 1970 as a center for the investigation of the interaction of intense radiation with matter, the University's Laboratory for Laser Energetics is the largest university-based U.S. Department of Energy program in the nation and home to the largest and most powerful laser systems found at any academic institution in the entire world. More than 350 scientists and staff, and over 140 students, work at the lab pursuing technological advances in service of our national and economic security. The Omega Enhanced Performance Project, an \$89 million upgrade completed in May 2008 to ensure the long-term viability of the laboratory, allows for advances in fusion research and permits exploration of new dimensions of physics.

Certain statements that relate to the University in this APPENDIX A are forward-looking statements that are based on the beliefs of, and assumptions made by, the management of the University. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the actual results or performance of the University to be materially different from any expected future results or performance. Such factors include items described in this APPENDIX A.



## Governance

The University's Board of Trustees (the "Board") consists of not more than 50 members, as determined from time to time by the Board. A trustee may be elected to serve up to two five-year terms. An exception to this two-year limitation may be granted upon a showing of good cause. Regular meetings of the Board are held during the week preceding the annual Commencement and at other times during each year in the fall and winter, as determined by the Board.

The current members of the Board:

**Joseph W. Abrams**  
Board Member, Marin Health

**Quincy L. Allen**  
Former Chief Marketing Officer  
IBM

**Joan S. Beal**  
Retired, Studio Recording Vocalist  
and Vocal Contractor

**Jay S. Benet**  
Retired, Vice Chairman and CFO  
The Travelers Companies, Inc.

**Naomi M. Bergman**<sup>1</sup>  
Senior Executive  
Advance

**Stephen R. Biggar, M.D., Ph.D.**<sup>1</sup>  
Partner  
Baker Brothers Investments

**H.(enry) Christopher Boehning**  
Partner  
Paul, Weiss, Rifkind, Wharton &  
Garrison LLP

**John H. Bruning, Ph.D.**  
Retired, President and CEO  
Corning Tropel Corporation

**Elizabeth P. Bruno, Ph.D.**<sup>1</sup>  
President  
Brady Education Foundation

**Barbara J. Burger, Ph.D.**  
Board Director and Advisor

**Bernard T. Ferrari, M.D.**  
Dean Emeritus  
Johns Hopkins University  
Carey Business School

**Emerson U. Fullwood**<sup>1</sup>  
Retired, Corporate Vice President  
Xerox Corporation

**David R. Greenbaum, J.D.**  
Vice Chairman  
Vornado Realty Trust

**Gwen M. Greene**  
Vice President  
JP Morgan Securities

**Steven K. Grinspoon, M.D.**  
Chief, Metabolism Unit,  
Massachusetts General Hospital;  
Professor of Medicine, Harvard  
Medical School

**Richard B. Handler (Chair)**<sup>1</sup>  
CEO, Jefferies Financial Group

**Pramit S. Jhaveri**  
Senior Advisor  
Preenji Invest and PJT Partners

**Curtis J. Johnson**  
Former Managing Director  
The Carlyle Group

**Juan C. Jones**  
Executive Vice President of Global  
Support Renewal Sales  
Oracle

**Carol D. Karp (Vice Chair)**<sup>1</sup>  
Chief Regulatory Officer  
Prothena Biosciences Inc.

**Laurence Kessler**<sup>1</sup>  
CEO  
Kessler Group Inc. & Kessler Family  
LLC

**Evans Y. Lam**  
Managing Director – Wealth  
Management  
UBS Financial Services, Inc.

**Elizabeth Leight, Ph.D.**  
Clinical Psychologist and Educator

**Amy T. Lesch**  
Partner, Client and Partner Group  
Kohlberg Kravis Roberts

**Sarah C. Mangelsdorf, Ph.D.**<sup>1</sup>  
President and G. Robert Witmer, Jr.  
University Professor  
University of Rochester

**Edward D. Miller, M.D.**<sup>1</sup>  
Dean/CEO Emeritus Johns Hopkins  
Medicine

**Cathy E. Minehan**<sup>1</sup>  
Former President and CEO  
Federal Reserve Bank of Boston,  
and Former Dean of the  
School of Management, Simmons  
College

**Naveen Nataraj**<sup>1</sup>  
Senior Managing Director  
Evercore

**Lizette M. Pérez-Deisboeck**<sup>1</sup>  
General Counsel and Chief  
Compliance Officer  
Battery Ventures

**Judith A. Reinsdorf**  
Former Executive VP and General  
Counsel  
Johnson Controls International

**Thomas S. Richards**  
Retired, Mayor  
City of Rochester

**Martin E. Sanders, M.D.**  
CEO  
Io Therapeutics, Inc.

**Kathy N. Waller**<sup>1</sup>  
Retired, Executive Vice President and  
CFO, and President of Enabling  
Services  
The Coca-Cola Company

**Elizabeth Ward Chicares (Betsy  
Ward)**, FSA, MAAA, PRM  
CFO  
Mass Mutual

**Daniel R. Wegman**  
Chairman  
Wegmans Food Markets Inc.

**Timothy C. Wentworth**<sup>1</sup>  
Retired, CEO  
Evernorth (Cigna)

**Mary-Frances Winters**  
President  
The Winters Group, Inc.

**Alan S. Zekelman**  
Director  
Zekelman Industries, Inc.

<sup>1</sup>Members of the Executive Committee.

The Board has thirteen standing committees: Academic Affairs, Advancement, Audit and Risk Assessment, Compliance and Compensation, Executive, Facilities and Campus Planning, Financial Planning, Human Resources, Investment, Joint Health Affairs, Nominations and Board Practices, Research and Innovation, and Student Affairs. Between meetings of the Board, the Executive Committee exercises the powers of the Board in all matters except those specifically requiring action of the full Board pursuant to the law or the Bylaws, e.g., the granting of degrees, removals from office, election of trustees, the Chairman of the Board, or the President, and the amendment, alteration or repeal of the Bylaws.

The Board has delegated certain authority and responsibility for managing two divisions of the University, Strong Memorial Hospital and Eastman Institute for Oral Health, to the Medical Center Board, subject to powers expressly retained by the Board. The Medical Center Board currently has 47 voting members. New members are appointed by the Board of Trustees upon the recommendation of the existing Medical Center Board. At least five members must be members of the Board of Trustees. In addition to the elected members, the following persons serve on the Medical Center Board as ex officio voting members: the University's President, the Provost, the Chair of the University Board of Trustees, the University's Senior Vice President for Health Sciences/Chief Executive Officer of the Medical Center, the Medical Center Vice President/Chief Medical Officer, the Medical Center Vice President/Chief Operating Officer, the Medical Center Senior Vice President/Chief Financial Officer, the President and Chief Executive Officer of the Hospital, the Deans of the School of Medicine & Dentistry and School of Nursing, the Director of the Eastman Institute for Oral Health, the Chief Executive Officer of the Medical Faculty Group, the Associate Director for Clinical Services of the Eastman Institute for Oral Health, two Department Chairs of the clinical departments from the School of Medicine & Dentistry and one member of the community-based faculty from the Medical Staff. A representative of the Friends of Strong (the Hospital's volunteer organization) serves as an ex-officio non-voting member.

The Medical Center Board meets six times per year and has nine standing committees: Executive, Audit and Risk Assessment, Advancement, Finance, Facilities, Nominations and Board Practices, Compliance and Compensation Committee, and Health Equity and Quality of Care. The Executive Committee meets six times per year.

The University's Board of Trustees has delegated authority for governing the Hospital and the Eastman Institute for Oral Health to the Medical Center Board but has retained governing authority over the remaining components of the Medical Center. In addition to governance responsibilities for the Hospital and the Eastman Dental Center, the Medical Center Board advises the University Board of Trustees on all matters relating to the Medical Center's mission, plans, policies and operations. The Medical Center Board is responsible for establishing policy, assuring quality patient care, and providing for the institutional management and planning for the Hospital ("SMH") and the Eastman Institute for Oral Health ("EIOH"). However, the Board of Trustees must approve any action of the Medical Center Board that would: (1) result in a call upon the financial resources of the University not dedicated for the support of the Hospital (SMH) or EIOH; (2) have a major impact on University academic programs; or (3) contravene policies of the University established by the Board of Trustees. All strategic planning, issuances of debt, investments and major capital investments are under the direction of University senior administration and require approval of the University Board of Trustees.

As a further nexus between the Board of Trustees and the Medical Center Board, the University Joint Health Affairs Committee, composed of eight Trustees and six members of the Medical Center Board, considers and advises the Board of Trustees on matters including the Medical Center affiliates and the coordination of activities between and among the School of Medicine & Dentistry, the School of Nursing, SMH, Eastman Dental Center, and the University of Rochester Medical Faculty Group.

### **Potential Conflicts of Interest**

The University Board has adopted several policies and practices designed to identify and address potential conflicts between the personal interests of the Board members, executive officers, faculty, or staff of the University and the interests of the University and its various components. The purpose of these policies and practices is to ensure that decisions about University business and the use or disposition of University property are made solely for the benefit of the University and are not influenced by any direct or indirect personal gain to University personnel, family members, or related organizations. In the event of potential conflict, the University follows a set of practices to evaluate that conflict and resolve it.

## Administration

The University is administered on a day-to-day basis by the President and her administrative staff. The principal officers of the University as of October 1, 2023 are:

*Sarah C. Mangelsdorf, President, Chief Executive Officer, and G. Robert Witmer, Jr. University Professor.* Dr. Mangelsdorf has served as President of the University of Rochester since July 1, 2019. Internationally recognized for her research as a psychologist specializing in emotional and personality development, Dr. Mangelsdorf is an experienced academic leader who is known for her work on issues of academic quality, educational access, and diversity and inclusion. Dr. Mangelsdorf led the University's response to the COVID-19 pandemic, organizing University-wide teams to address issues affecting the health and safety of students, faculty, and staff, and the academic and cocurricular challenges of remote learning and asynchronous educational experiences. She embarked on a process to launch an ambitious seven-year strategic plan that will position the University of Rochester as a global research university of the future. Committed to creating an inclusive and justice-based community, Dr. Mangelsdorf raised the University's minimum wage to \$15 per hour in 2021, recognized Juneteenth as an official University holiday, reinstated a university-wide commencement ceremony, and embarked on a long-term project to overhaul human resources, payroll and benefits, and recruitment processes to better ensure fairness and transparency across the University. Dr. Mangelsdorf is a fellow of the American Psychological Association (APA) and the American Academy of Arts and Sciences. She co-chaired the American Association of Universities (AAU) Advisory Board on Racial Equity in Higher Education and served on a McKinsey & Company taskforce on the future of higher education. She is currently a member of the AAU Membership Committee and is a member of the Board of the Consortium on Financing Higher Education (COFHE). Before being named the University's president, she served as provost at the University of Wisconsin–Madison, joining Wisconsin from Northwestern University, where she was Dean of the Weinberg College of Arts and Sciences. A Pennsylvania native, Dr. Mangelsdorf graduated from Oberlin College and earned her doctorate in psychology from the University of Minnesota.

*David Figlio, Provost and Gordon Fyfe Professor of Economics and Education.* Dr. Figlio earned his doctorate in economics from the University of Wisconsin-Madison in 1995 and joined the University as Provost and Chief Academic Officer, as well as the Gordon Fyfe Professor of Economics and Education, in July 2022. In this capacity, Dr. Figlio oversees academics, student life, and information technology at the University. Prior to joining the University's faculty, he served as Dean of the School of Education and Social Policy (SESP) at Northwestern University, where he was also the Orrington Lunt Professor of Education and Social Policy. While at Northwestern, Dr. Figlio presided over considerable increases in the school's faculty size, research funding, philanthropy, and international reputation, reflected in the school's improvement in its U.S. News education school ranking from a rank of 10 to a rank of 3. An expert in the economics of education, social policy, policy design, and the relationship between early health and later-life outcomes, Dr. Figlio is an elected member of the National Academy of Education, past President of the Association for Education Finance and Policy, prior Editor-in-Chief of the Journal of Human Resources, inaugural Editor of Education Finance and Policy, and a member of several national task forces.

*Elizabeth Milavec, Executive Vice President for Administration and Finance, Chief Financial Officer and Treasurer.* In this inaugural role, Ms. Milavec is responsible for ensuring the University enterprise, comprised of its academic and medical centers, is strategically and financially integrated to support a community in which all who learn, teach, work, create, and provide care can pursue and achieve their highest objectives for themselves, our community, and the world. Reporting to the University president, Ms. Milavec collaborates with members of the senior leadership team, senior operational leaders of the University of Rochester Medical Center, the Board of Trustees, and other stakeholders to identify enterprise opportunities, address issues, and implement long-term solutions. As Chief Financial Officer and Treasurer, Ms. Milavec is responsible for strategic oversight and leadership of financial, debt management, and cash strategies for the University including master planning and real estate strategies for the more than 12 million gross square feet of building space across the main River Campus, the Medical Center, the Eastman School of Music, the Memorial Art Gallery, and several other sites across the Rochester region, enterprise risk management, internal audit, execution of public safety, dining, and other campus services. Ms. Milavec first joined the University in 2016 as the Senior Associate Vice President for finance operations. Before moving to Rochester, she served as the Associate Vice President for finance and as the Controller at Carnegie Mellon University where she worked for more than a decade. Prior to her time with Carnegie Mellon, she served as a Senior Manager for the global accounting firm KPMG LLP, providing auditing and consulting solutions for 12 years to clients in healthcare and higher education. A Pittsburgh native, she graduated magna cum laude with a bachelor's degree in Business Administration from Robert Morris University, and holds an Executive Master of Business Administration degree from the Simon Business School at the University of Rochester. Ms. Milavec currently serves on the Business School Board of Advisors at Robert Morris University, the Women's Leadership Council of the United Way of Greater Rochester and is a member of the National Association of College and University Business Officers as well as the Listening Post forum for EVP/SVP leaders in higher education.

*Thomas J. Farrell '88, '90W, Senior Vice President and James D. Thompson Chief Advancement Officer.* Before joining the University in November 2014, Mr. Farrell was Chief Development Officer for the University of Illinois and President/CEO of the University of Illinois Foundation. In these roles, he oversaw development programs across three campuses and was responsible for the university's core endowment of \$1.6 billion. Prior to his tenure with Illinois, he was the Chief Advancement Officer for the University of Chicago, overseeing a staff of 450 and launching Chicago's \$5.0 billion campaign. For 10 years, he served at the University of Pennsylvania, where he led individual and undergraduate advancement activity, including the strategy for Penn's \$4.3 billion "Making History" campaign. In addition, he has held senior positions at Dartmouth College and the University of Buffalo. Mr. Farrell's more than 30-year career in advancement began at the University of Rochester in the early 1990s. He returned to his alma mater to lead comprehensive advancement efforts to maximize the success of "The Meliora Challenge," the \$1.4 billion Campaign for the University, and to develop plans to maintain the University's advancement momentum.

*Douglas W. Phillips, Senior Vice President and Chief Investment Officer.* Mr. Phillips, working with the Board's Investment Committee and the nine members of the Investment Office, oversees the University's investments, consisting of a \$3.3 billion endowment, \$1.0 billion in operating capital, and \$300 million in defined benefit pension plans. He is Chairman of the University's Retirement Committee, which oversees a \$6.0 billion defined contribution plan for over 40,000 participants. He was previously Treasurer of Williams College, where he was employed from 1986 until joining the University in October 2000. Before 1986, he spent five years as the manager of investment administration for Princeton University and two years as a financial analyst with Management Planning, Inc. in Princeton. Mr. Phillips holds a BA from Rutgers University (1980) and an MBA from Rensselaer Polytechnic Institute (1991). Mr. Phillips founded and chaired the Investment Committee of the Medical Center Insurance Company and was Vice-Chair of Rotary International's Investment Committee. He is currently a member of the Templeton Foundation's Investment Advisory Committee. He previously served on the investment committees of the American Red Cross and the New York State Common Retirement Fund. He serves, or has served, on several not-for-profit boards or investment committees in Rochester, including the Farash Foundation, The Strong Museum, Al Sigl Center, Gateways Music Festival, and the Rochester Philharmonic Orchestra. In 2010, he received NACUBO's Rodney Adams Award for outstanding management of endowments. In 2020, he received the Rochester Business Journal's Icon Award for his long-standing commitment to the Rochester community and significant professional accomplishments.

*Mark B. Taubman, M.D., Senior Vice President for Health Sciences, Chief Executive Officer of the Medical Center, and Dean of the School of Medicine & Dentistry.* A board-certified cardiologist, Dr. Taubman came to the Medical Center as chief of the Cardiology Unit and Paul N. Yu Professor in Cardiology in 2003. He became the chair of the Department of Medicine and Charles E. Dewey Professor of Medicine in 2007 and served in that role until being named dean in 2010. He was appointed to the CEO role in 2015. Dr. Taubman received his M.D. degree from New York University and completed his training in medicine and cardiology at the Brigham and Women's Hospital and Harvard Medical School. He has served on the faculties of Mt. Sinai School of Medicine in New York, Children's Hospital Medical Center and Harvard Medical School in Boston, Massachusetts. Dr. Taubman is on leave as the Charles E. Dewey Professor and Chairman of Medicine. He was previously Chief of the Cardiology Division (2003-2009) at the University. In addition, he was Director of the Aab Cardiovascular Research Institute (2005-2007) and Director of the Center for Cellular and Molecular Cardiology (2003-2005). Dr. Taubman is a member of the American Heart Association, the American Society of Hypertension, the Association of University Cardiologists, and the Association of American Medical Colleges. He is a Fellow, American College of Cardiology and Fellow, American College of Physicians. He is the former Editor-in-Chief, *Arteriosclerosis, Thrombosis, and Vascular Biology*. Dr. Taubman is an international authority in vascular biology with research interests in tissue factor biology and chemokines. Dr. Taubman has been published widely, in more than 120 articles, chapters, and books.

*Stephen Dewhurst, Vice President for Research and Professor of Microbiology and Immunology.* Dr. Dewhurst received his doctorate from the University of Nebraska in 1987 and joined the University as an Assistant Professor of Microbiology and Immunology in 1990. He serves as the Vice President for Research at the University as well as the Vice Dean for Research for the School of Medicine & Dentistry; prior roles include serving as Chair of the University's Department of Microbiology and Immunology (2009-2021) and as Senior Associate Dean for Basic Research at URSMD (2007-2009). His research focuses on pathogenic human viruses, including HIV, influenza and SARS-CoV-2, and he codirects the University's HIV Clinical Trials Unit, which conducts HIV vaccine and treatment trials and engages with communities affected by HIV. He also co-directs the Rochester Partnership for Research and Academic Career Training of Deaf Postdoctoral Scholars, a unique partnership between the University and the National Technical Institute for the Deaf at the Rochester Institute of Technology. He has received numerous mentoring and teaching awards, including the University's highest award for graduate education (the William H. Riker University Award for Graduate Teaching).

*Kathleen M. Gallucci, Vice President for Human Resources and Chief Human Resources Officer.* Ms. Gallucci has over 25 years of experience in Human Resources. She has a Bachelor of Science in English from the State University of New York at Brockport. As the Human Resources leader at the University, Ms. Gallucci supports a workforce of over 31,000 faculty, staff, and affiliates employees. Her responsibilities include leading a progressive, innovative, efficient, and collaborative HR organization that supports a culture of engagement by implementing programs and policies that recognize the diversity of the University community, enhance organizational effectiveness, and ensure quality recruitment retention, training, and development of employees. She is also responsible for directing the University's overall strategic and operational human resources functions, providing guidance and leadership in planning, developing, and implementing innovative and collaborative human resource programs and services to further the University's mission.

*Page Hetzel, Vice President for Marketing and Communications.* Ms. Hetzel is the chief adviser to the President, Provost, officers, deans, and senior staff on a full range of marketing and communication initiatives. She leads a department responsible for the University's strategic communications, University news, publications, and social media, leadership communications, digital strategy, creative and brand strategy, media relations, and Futurity.org, the international university research news source created in partnership with Duke and Stanford universities and edited at the University. She is also focused on the development of a national and global branding program for the University, and ongoing marketing programs to convey the University's academic and research strengths to local, national, and international communities. Before joining the University in October 2023, she was associate dean and chief marketing and communication officer at the Stanford University Graduate School of Business. In this role, she advised on all aspects of school management, including strategic planning, and was the school's first-ever director of digital marketing. She significantly improved the quality and reach of the school's brand, led a multi-year, cross-functional evolution of the website that transformed it to an audience-centric communication vehicle, developed a new social media strategy that created centralized oversight, and led a successful school-wide email strategy. She has particular expertise in integrated marketing and communications campaigns, strategic planning, brand building, content strategy, digital marketing, and higher education issues. She earned a bachelor's degree in economics from the University of Delaware and an MBA from Cornell University.

*Adrienne Morgan, Vice President for Equity and Inclusion and Chief Diversity Officer and Richard Feldman Chief Diversity Officer.* Ms. Morgan is the Vice President for Equity and Inclusion and Richard Feldman Chief Diversity Officer at the University. She is also Senior Associate Dean for Equity and Inclusion at the School of Medicine & Dentistry. Dr. Morgan is an associate professor in the Department of Health, Humanities, and Bioethics in the Medical Center. She is also an Associate professor at the Warner School of Education. In her role, Dr. Morgan ensures equity across the University, fosters a culture of respect and inclusion for all faculty, staff, students, alumni, and members of the community, oversees compliance in this area, and advocates for the role that diversity and equity initiatives play in achieving University excellence. In addition, she serves as senior adviser on equity and diversity matters to the president, provost, and other University officers and is a member of the president's senior leadership group. Ms. Morgan brings more than 20 years of experience to the role. At the Medical Center, she led the values-driven development of the Equity and Anti-Racism Action Plan and built an infrastructure to address issues of equity and inclusion for faculty, students, and staff. She and her team have created a toolkit to support equitable faculty recruitment efforts and established an infrastructure for diversity, equity, and inclusion (DEI) training. In partnership with the Association of College and University Educators, she worked to develop training across the campus that will result in more inclusive and equitable learning environments. Recently, she collaborated with Jackie Beckerman, chief patient experience officer at the Medical Center, to launch the Live the Six movement—a University-wide, six-word anti-racism and kindness initiative in response to the hate crime murders at the Tops Supermarket in Buffalo in 2022. The words “Stop Hate, End Racism, Choose L.O.V.E. (Live Our Values Everywhere)” is a call to honor our values, take action, and proclaim in one voice that the University stands against all forms of hatred and racism. Live the Six also addresses concerns about a deteriorating culture of respect and lack of civil discourse seen both locally and nationally. The initiative includes opportunities for education, restorative justice, and community building for the entire University.

*Dr. Shaun Nelms, Vice President for Community Partnerships, Director, William and Sheila Konar Center for Urban Education Success.* Shaun Nelms, Vice President for Community Partnerships In this inaugural role, Dr. Nelms is responsible for developing an actionable plan for cultivating and stewarding productive collaborations in support of the University's new strategic plan. He is the William & Sheila Konar Director of the Center for Urban Education Success and a clinical professor of educational leadership at the University's Warner School of Education. A distinguished author and influential leader in education and leadership development, he led the transformation of a struggling New York State school, East Upper and Lower Schools, raising its graduation rate from 29% to 85% in just eight years. He earned both a Master of Science degree in education, educational leadership and administration and a doctorate of education in educational leadership and education from the University of Rochester.

*Donna Gooden Payne, Senior Vice President and General Counsel.* Ms. Payne serves as the chief legal officer and has oversight responsibility for all University legal matters, inclusive of the Medical Center. She is responsible for all legal services to the University and for legal policy and governance guidance to the University Board of Trustees, President, and senior leadership group with responsibilities that include oversight of a team of 14 lawyers in delivering legal services across the broad range of laws and regulations governing private universities and health systems. Ms. Payne leads the members of the Office of Counsel in handling sensitive matters, providing outstanding legal advice in a concise and useful manner, and striving to prevent the University from incurring unnecessary or unanticipated legal risk. These goals extend to outside counsel as well, which Ms. Payne is responsible for monitoring to ensure work is efficient, competent, and valuable. Ms. Payne works closely with the President and other officers on a wide array of matters of legal importance to the University as well as with University hospitals, schools, centers, programs, and student groups on policy formulation, risk management, and compliance. Serving as an advisor to the President, Ms. Payne counsels on a variety of non-legal matters with a focus on advocacy, trends in higher education, and analysis of issues related to existing and emerging legislation affecting higher education and health care. In addition, she participates on various committees and teams to collaborate with her colleagues to meet the University's strategic objectives. Ms. Payne most recently served as university counsel and Vice Chancellor for legal affairs at East Carolina University and previously at UNC Pembroke and, on an interim basis, UNC Wilmington. Ms. Payne is a longtime member of the National Association of College and University Attorneys and formerly served on the board of the Council for Accreditation of Counseling and Related Educational Programs. She graduated from the University of North Carolina Chapel Hill and holds a law degree from the University of Texas at Austin.

*Peter G. Robinson, Vice President for Government and Community Relations.* Mr. Robinson is the Vice President, Government and Community Relations for the University. He has responsibility for the University's role in economic development and technology commercialization and is a member of the Finger Lakes Regional Economic Development Council. He also serves as a member of the Medical Center Senior Leadership team. He is a voting member of the New York State Public Health and Health Planning Council, and serves as Board Chairman for the University owned technology affiliates, Next Corps (formerly High Tech Rochester), Empire Discovery Institute and Excell Partners, Inc. He is an immediate past Board Chairman for New York BIO and is the former chair of Greater Rochester Enterprise (GRE). He serves on the boards of several private and public community agencies. He earned his bachelor's degree from the City College of New York and master's degrees from the New School for Social Research and Columbia University.

*Lea Nordhaus, Secretary of the Board of Trustees.* Ms. Nordhaus became Secretary at the University of Rochester in October 2023. Joining the University in 2011, Ms. Nordhaus has focused her career at the University on building alumni, donor, and volunteer engagement, all within the Office of Advancement. She came to Rochester as associate director of regional cabinet and campaign coordination and progressed in roles that each focused on volunteer relationships and experiences. Ms. Nordhaus served for several years as the staff liaison to the University's Alumni Board before advancing to the role of executive director of presidential advancement. She has served in this role, acting as a liaison to the President's Office and Board Services Office, since 2021. Prior to joining the University, Ms. Nordhaus served in corporate project management roles, most recently at the McGraw-Hill Companies. Nordhaus earned her bachelor's degree in economics from the University of Rochester.

## **THE UNIVERSITY'S STRATEGIC PLAN**

The University has distinguished itself as an institution committed to rigorous basic, applied, and translational research, innovative academic and cocurricular programs, and renowned health care as well as transdisciplinary study, where science, technology, arts, humanities, and social sciences intersect to produce new knowledge and explore the human experience. This strategic plan honors and expands upon these core strengths and identifies bold and transformational areas of growth.

How the University responds as one university to the opportunities and challenges that lie ahead will be defining for the University for decades to come. To realize their ambitions, the University recognizes the need to invest in its research enterprise, set the standard for an undergraduate and graduate educational experience, enhance its role as a leading national academic medical center, grow and develop a diverse workforce, and implement a financial and operational model to ensure sustained success in all these areas. Through this plan, the University may change how it works together to achieve its mission, but will be grounded in its traditions, rich history, and shared values.

The University recognizes it must embark on this journey clear-eyed because its work is more challenging today than ever before. Competition is greater. Stakes are higher. Visibility has increased. Factors influencing outcomes are changing and evolving at a rapid pace. But the University is confident it can and will meet its goals. Everyone in the University community has a part to play in the University's quest to make the world ever better.

Higher education and health care have faced extraordinary challenges in recent years. The lessons learned throughout a devastating pandemic, economic and political turmoil, and ongoing social justice movements will forever change the landscape of research, education, and patient care at the University. At every turn, the University has endeavored to meet these challenges, moving research and knowledge forward, delivering critical health care to people across the region, introducing new technology into classrooms and meeting rooms, caring for students and the workforce, reinventing how visual and performing arts is experienced, and bringing innovation, creativity, and compassion to all parts of the campus and the community.

The following section outlines the University's strategic goals and provides details on how they will be achieved. To maximize effort and impact, the University must approach them as one university. To be clear, "one university" means being aligned through the progression, toward our aspirations; that the University approaches the future with the mindset to leverage its full institutional strength to address opportunities, growth, and risks. "One university" does not mean that the University loses the distinctive and recognized identities of key schools or units. Rather, the goal is to make the University's schools and units more successful because they are associated with a strong University vision and brand. At its heart, the Boundless Possibility 2030 strategic plan embraces innovation and guides the University toward a promising future.

### **Motto**

Meliora (ever better) - Adopted in 1851, *Meliora* is more than a motto. It is the singular—and unifying—essence of the University, which is deeply ingrained in the hearts and minds of the community.

### **Mission**

Learn, Discover, Heal, Create—and Make the World Ever Better - The aspirational embodiment of the motto, the mission defines what the University does and why it is done.

### **Vision**

The University will continue to strive to frame and solve the greatest challenges of the future. The University is a community with an entrepreneurial spirit where all can pursue and achieve their highest objectives for themselves, their community, and the world.

### **Values**

Equity | Leadership | Integrity | Openness | Respect | Accountability

The University holds itself accountable to these values in the design of our programs, the development and delivery of services, the evaluation of performance, and the ways in which it interacts as a community.

## **Core Beliefs**

Three essential beliefs, shared throughout the community, are at the heart of the strategic plan as the University looks forward and collectively considers what it means to be a global research university of the future. The goals and strategic initiatives identified in this plan contribute to furthering these central ideas.

### *Strengthening the University's reputation as a global research university*

Position the University to attract the best students, faculty, staff, researchers, partners, and funding and distinguish ourselves as leaders among competitive peers.

### *Contributing to and benefiting from a just and vibrant city of Rochester and the Rochester Region*

The future is inextricably linked to the city that the University calls home, and thus, the University is committed to continued economic, educational, social, and cultural partnerships with the greater Rochester community.

### *Furthering the commitment to actionable and accountable growth in diversity, equity, inclusion, access, and justice*

This commitment is vital to cultivating a rich, diverse, and welcoming culture where everyone can achieve their full potential and contribute to the University's mission and vision.

## **SUSTAINABILITY INITIATIVES**

Steeped in Rochester's rich history of innovation, social justice, and entrepreneurial spirit, the University strives to be an inclusive, equitable, sustainable, and responsive organization at every level. Who we are will allow us to discover new, modern, and distinctive ways to tackle complex challenges. Guided by our Strategic Plan, we aim not only to create the next chapter for the University but also to remind others of the leadership role we play in higher education, health care, and our communities.

Work already is underway to create plans and strategies for long-term sustainable infrastructure needs. Current efforts include development of a Sustainability Plan and an Institutional Master Plan that will align with both the University's Strategic Plan and with the University's commitment to diversity, equity, inclusion, access, and justice. In addition to the planning efforts, the University continues to build community partnerships, develop a culture of sustainability to augment academic research and coursework in sustainability, promote sustainable infrastructure and reduce greenhouse gas emissions. A few additional highlights are included below.

University capital project delivery practice follows the US Green Building Council Leadership in Energy and Environmental Design (USGBC LEED) framework for sustainable development. To achieve LEED certification, a project earns points by adhering to prerequisites and credits that address carbon, energy, water, waste, transportation, materials, health and indoor environmental quality. Projects go through a verification and review process by USGBC and are awarded points that correspond to a level of LEED certification: Certified (40-49 points), Silver (50-59 points), Gold (60-79 points) and Platinum (80+ points).

The University established a goal of achieving a minimum LEED Silver rating for all new construction and significant renovations. Three buildings on campus are officially LEED certified. The Saunders Research Building and O'Brien Hall achieved LEED Gold in 2012 and 2013 respectively. Genesee Hall achieved LEED Silver in 2018. The new Ambulatory Orthopaedics Center is a 330,000 square foot adaptive re-use of a shopping center anchor store and is slated to achieve LEED Silver. A 62,630 square foot addition to the Laboratory for Laser Energetics is tracking toward LEED Silver. The 650,000 square foot New Emergency Department and In-Patient Bed Tower project is tracking toward LEED Certified.

University Energy Services continually strives to increase efficiency and make other improvements to help the University reduce its carbon footprint. Energy Services utilizes a central utility plant with cogeneration to minimize energy use. Total central plant related CO<sub>2</sub> emissions are 10% lower today than they were in 1990 even though our utility plant serves 40% more building spaces.

Energy Services is undertaking a project to switch the plant Cooling Tower away from natural gas toward electricity. This Cooling Tower project, when completed is estimated to reduce total university greenhouse gas emissions by 2.5% and is also estimated to reduce our use of Genesee River water in the cooling process by 80%. The Cooling Tower project will create a pathway for complete conversion from natural gas to electricity.

The University has an institution-wide written sustainable purchasing policy and specific policies for food and fuel. The University also employs life-cycle cost analysis (LCCA) in energy and water purchasing decisions.

The University provides recycling containers in most of its facilities, including the residence halls. In addition, a variety of outdoor recycling containers are located across campus.



The University has bike and car sharing programs, electric charging stations, subsidized transit passes, and incentives for employees to live close to campus.

The University uses as few pesticides as possible. Whenever possible, native plants are prioritized for planting. Multiple rain gardens have been installed for several years, and the University's brush composting and reusing program has been going on for at least 50 years.

### **INSURANCE**

The University of Rochester insurance program includes partial ownership of a group captive that provides professional medical liability insurance and general liability insurance that responds to claim arising out of locations where medical services are provided. In addition, the University purchases insurance from commercial carriers covering those perils that are typically insured by other institutions whose business is Higher Education and Healthcare. Those insurance policies include coverage for Property, General Liability, Directors and Officers (D&O), Employment Practices Liability, Environmental Liability, and Cyber Liability. Coverage limits are benchmarked and consistent with peers. In addition, the University has an Owner Controlled Insurance Program through commercial insurance carrier providing insurance coverage applicable to a major construction project.

### **CYBERSECURITY**

The University of Rochester takes a proactive approach to cybersecurity that includes several fundamental components. The University continuously invests in the program to help strengthen our defenses against evolving threats. Additionally, we conduct regular risk assessments to identify vulnerabilities and areas of concern, by utilizing penetration testing, vulnerability assessments and purple team exercise. We have ongoing training and awareness programs such as phishing simulation, security tips, annual security training and Ask Security Anything Zoom sessions. We promote a culture of vigilance across the University, urging all employees to promptly report any unusual or suspicious activities.

Regarding our incident response strategy, we understand the importance of a robust plan in mitigating the impact of cybersecurity incidents. The University implemented a Hybrid Cyber Security Operations Center (CSOC) with a trusted partner, to centrally monitor, detect and respond to cybersecurity threats and incidents within the organization. The CSOC is a 24x7 operation with detailed playbooks to ensure consistent action during an incident. We also conduct regular tests and reviews of our incident response plan to ensure it remains effective and up to date in the face of evolving threats.

The University has adopted HITRUST as its primary security framework to ensure the protection of sensitive data and the privacy of our customers' information. HITRUST's Common Security Framework (CSF) serves as the cornerstone of our security strategy, providing a comprehensive and a specific set of controls and standards that align with the unique challenges of an academic medical center.

Despite the University's proactive approach, no assurances can be given that the University's efforts to manage cyber threats and attacks will be successful or that any such attack will not materially impact the operations or finances of the University. See "OFFICIAL STATEMENT - BONDHOLDERS' RISKS" for more information.

### **EQUITY AND INCLUSION**

The University envisions itself as a community that warmly welcomes, encourages, and supports individuals who aspire to contribute to, and benefit from, the institution's missions to learn, discover, heal, create- and make the world a better place. Within a pluralistic culture, this community encompasses faculty, students, and staff who represent significant diversities.

Members of the University's community hail from various geographical regions, embody distinctions in ethnicities, religious beliefs, values, socioeconomic backgrounds, and perspectives. They may possess physical dissimilarities, hold differing intellectual interests, or exhibit varying abilities. The University not only embraces such diversity within its community but actively endeavors, in pursuit of its missions and in preparing future leaders who will inevitably operate in an equally diverse environment, to recruit and incorporate diverse personnel across all facets of the institution's operations. The University has seen varying degrees of success in attracting and retaining participants from such a demographically wide base.

The University places high value on diversity and remains steadfast in its commitment to equal opportunity for individuals irrespective of age, color, disability, ethnicity, gender identity or expression, genetic information, marital

status, military/veteran status, national origin, race, religion/creed, sex, sexual orientation, or any other status protected by law. Additionally, the University adheres to all applicable nondiscrimination laws in the administration of its policies, programs, and activities.

The University is dedicated to providing a welcoming environment for all of its constituents. Progress towards this goal will be assessed based on the relative advancement as determined by the quality and contributions to overall institutional goals and missions. This necessitates robust, systematic, consistent, and enduring actions across all University domains.

The University stands as an institution committed to teaching, research, and service at a world-class standard. The challenges that the University's community faces in striving for greater inclusivity and a welcoming environment will be met with the skills it possesses as researchers, educators and learners. In the context of the commitment to greater inclusivity and diversity, the University can apply these skills to the ongoing endeavor of seeking to transform the environment in ways that facilitate broader participation, enhance human dignity, eradicate prejudice and discrimination, and enhance the quality of life for everyone impacted by the University.

## OPERATING INFORMATION

### Student Enrollment

The following table shows enrollments at the University for the past five academic years.

#### ENROLLMENT SUMMARY

##### Fall Enrollment (Full-time and Part-time) Matriculated and Non-Matriculated Students

Academic Year	Full-Time				Part-Time				Grand Total
	Under-Graduate	Graduate & Professional	Non-Degree	Total	Under-Graduate	Graduate & Professional	Non-Degree	Total	
2019-20	6,371	3,632	57	10,060	156	1,559	458	2,173	12,233
2020-21	6,088	3,343	19	9,450	221	1,616	454	2,291	11,741
2021-22	6,236	3,900	12	10,148	181	1,391	319	1,891	12,039
2022-23	6,404	3,727	51	10,182	166	1,509	340	2,015	12,197
2023-24	6,320	3,727	53	10,100	167	1,451	432	2,050	12,150

The following table sets forth the full-time enrollment of matriculated undergraduate and graduate students for the 2023-24 academic year by unit.

##### 2023-24 Full-Time Enrollment at Fall Census By Academic Unit

Academic Unit	Under-Graduate	Graduate & Professional	Total
School of Arts & Sciences	4,237	776	5,013
Hajim School of Engineering & Applied Sciences	1,457	581	2,038
Margaret Warner Graduate School of Education	-	205	205
Simon Business School	-	769	769
Eastman Institute of Oral Health	-	141	141
School of Medicine & Dentistry	-	908	908
School of Nursing	148	44	192
Eastman School of Music	506	328	834
<b>Totals</b>	<b>6,348</b>	<b>3,752</b>	<b>10,100</b>

### Student Recruitment

The following tables set forth the number of full-time first-year undergraduate applications and all graduate applications received for admission to all schools at the University, the number of those applications admitted, and the number of applications by program who enrolled for each of the past five years.

**ADMISSIONS STATISTICS**

**UNDERGRADUATE**

<b>Academic Year</b>	<b><u>Applications</u></b>	<b><u>Admits</u></b>	<b>Percent Admits/ <u>Applicants</u></b>	<b><u>New Enrollment</u></b>	<b>Percent New Enrollment/ <u>Admits</u></b>
2019-20	18,680	6,469	35%	1,500	23%
2020-21	19,671	6,940	35%	1,363	20%
2021-22	19,582	7,898	40%	1,623	21%
2022-23	20,002	7,764	39%	1,625	21%
2023-24	21,729	7,767	36%	1,543	20%

**GRADUATE**

<b>Admissions Year</b>	<b><u>Applications</u></b>	<b><u>Admits</u></b>	<b>Percent Admits/ <u>Applicants</u></b>	<b><u>New Enrollment</u></b>	<b>Percent New Enrollment/ <u>Admits</u></b>
2019	19,367	5,263	27%	1,898	36%
2020	21,537	6,307	29%	1,896	30%
2021	22,538	5,781	26%	1,987	34%
2022	21,294	5,485	26%	1,855	34%
2023	22,687	6,052	27%	1,903	31%

The University’s student body is composed of students from every state in the U.S. and from nearly 130 foreign countries. As of the fall of 2022, there were 3,940 international students enrolled.

The mean SAT scores for entering freshmen at the University continue to be significantly higher than the mean scores for freshmen nationwide. The mean SAT score for university freshmen in the fall of 2022 was 1454. For purposes of comparison, qualitative University data relating to mean SAT scores and grade point averages are based on undergraduate matriculants in the College (Arts, Sciences, & Engineering undergraduates). Data on applicants to the Eastman Music School are omitted because the significant criteria for admissions to that school are unique. For the past seven years, over 90% of college freshmen have ranked in the top quarter of their high school graduating class.

The table below presents the mean SAT scores for the University’s incoming College freshman classes since 2018 as compared to the national average SAT scores for college-bound high school seniors over the same period.

**Mean Scholastic Aptitude Test (SAT) Scores  
College Freshman Class Entering Fall**

	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>	<b><u>2023</u></b>
University Freshman					
Evidence-Based Reading & Writing	677	677	699	710	N/A
Mathematics	717	718	741	744	N/A
National					
Evidence-Based Reading & Writing	531	528	533	529	N/A
Mathematics	528	523	528	521	N/A

*N/A denotes information not available or finalized at the time of this reporting.*

## Student Charges

Tuition, room and board charges and mandatory fees for most undergraduates at the University for the prior four years and the current academic year are listed below:

	<b><u>STUDENT CHARGES</u></b>				
	<b><u>2019-20</u></b>	<b><u>2020-21</u></b>	<b><u>2021-22</u></b>	<b><u>2022-23</u></b>	<b><u>2023-24</u></b>
Tuition	\$55,040	\$57,188	\$58,276	\$60,550	\$63,150
Room	10,090	10,494	10,692	11,002	11,332
Board	6,380	6,578	6,696	7,230	7,592
Mandatory Fees	<u>990</u>	<u>1,020</u>	<u>1,068</u>	<u>1,124</u>	<u>1,162</u>
Total	\$72,500	\$75,280	\$76,732	\$79,906	\$83,236
Mandatory Fees					
Health Insurance	\$ 636	\$ 660	\$ 708	\$ 756	\$ 780
Activity Fee	310	316	316	320	332
Transportation Fee	<u>44</u>	<u>44</u>	<u>44</u>	<u>48</u>	<u>50</u>
Total	\$ 990	\$ 1,020	\$ 1,068	\$ 1,124	\$ 1,162

## Student Financial Aid

Scholarship funds provided by the University from its own resources continue to increase, with the total for the last five academic years nearing \$1.3 billion. University funded scholarships assisted approximately 69% of full-time undergraduate students in the fall semester of academic year 2022-23. University-administered programs for the last five academic years are outlined below:

### **SOURCES OF SCHOLARSHIP AND GRANT AID**

(dollars in thousands)

<b><u>Academic Year</u></b>	<b><u>University Scholarships</u></b>		<b><u>State Grants</u></b>		<b><u>Federal Grants</u></b>		<b><u>Other Awards</u></b>		<b><u>Total</u></b>
2018-2019	\$	238,585	\$	517	\$	3,164	\$	148	\$ 242,414
2019-2020		254,074		407		6,325		86	260,892
2020-2021		253,401		485		5,331		161	259,378
2021-2022		246,572		1,494		24,147		177	272,390
2022-2023		261,005		651		3,561		247	265,464

In addition to the programs outlined above, students are eligible for Federal Work Study funds, federal loans, and private loan programs. The University also offers tuition pre-payment, monthly installment, and financing programs to help students and their parents finance the cost of the students' education.

The University benefits from a New York State program through which state aid is allocated to independent colleges and universities in the state based on the number of academic degrees conferred during the previous year. During the 2022-23 academic year, the University received \$1.1 million from the Bundy Aid program.

Further state and federal aid depend upon the annual appropriations by the State Legislature and Congress, and the ability of the state and the federal governments to pay the amounts appropriated. The University cannot give any assurance that the various federal and state programs will be continued. The reduction or elimination of the programs could have a material adverse effect on the University.

## Labor Relations

The faculty and staff at the University are provided with an extensive range of employee benefits, including basic hospital, surgical and medical insurance, major medical and dental plans, long-term disability coverage, group life insurance, travel-accident insurance, tuition for faculty, staff and dependents, and University health services, as well as the retirement plan outlined below.

The University has six separate bargaining units with three unions covering about 2080 of its employees. 1199 SEIU, United Healthcare Workers East and SEIU Local 200 United negotiate their contracts in concert with each other. 1199

SEIU covers approximately 1395 Hospital service employees and expired on September 9, 2023. Local 200 United covers approximately 346 River Campus service employees and also expired on September 9, 2023; the University has not reached a final agreement with the Unions as of December 5, 2023, however, negotiations between the University and the unions are still underway. The University has been negotiating with union representatives from 1199 SEIU and SEIU Local 200 United for a multi-year contract renewal that is competitive, fair, and equitable. Despite these efforts, SEIU submitted a strike notice to the University stating their intention to engage in a one-day strike on Wednesday, December 13, 2023. Contingency plans are in place that will ensure that all University operations and activities, including patient care at the Medical Center, will continue without disruption. The University is confident that in the event of a prolonged strike, campus operations will continue as normal without interruption. The International Union of Operating Engineers (“IUOE”) negotiates one contract covering the Medical Center facilities maintenance trades employees, River Campus maintenance trades employees and a separate bargaining unit covering employees in the University’s central utilities plant operation. IUOE’s contract covers approximately 339 employees and expires July 27, 2024. University of Rochester Public Safety Officers Association (“URPSOA”) negotiates their contract covering the security personnel employees. The URPSOA contract covers approximately 123 employees and expires May 4, 2024. Additionally, the Teamsters’ negotiates their contract covering the Parking Services Representatives. The Teamster’s contract covers approximately 35 employees and expires December 31, 2025.

### **Faculty**

The University has over 3,000 active, full-time faculty and instructional staff, which includes fellows of the American Physical Society, the Optical Society of America, the American Academy of Arts and Sciences, the American Association for the Advancement of Science, the American Academy of Nursing, the Institute of Medicine, and many of the National Academies. Several professors have been officers of the leading academic societies in their fields, and our faculty counts a number of John S. Guggenheim Fellowship and MacArthur Fellowship recipients among its ranks.

The University’s faculty has received a total of 20 John S. Guggenheim Fellowships over the past 30 years. There have also been 12 Nobel Prize and 13 Pulitzer Prize winners among faculty, prior faculty, and alumni. University faculty consistently win research and senior fellowships from the National Endowment for the Humanities and Alfred P. Sloan Foundation, in addition to prestigious National Science Foundation CAREER awards.

The faculty includes a recipient of the Wolf Prize, one of the international science community’s most highly regarded honors, two inductees of the National Women’s Hall of Fame, a John D. and Catherine T. MacArthur Foundation Fellowship better known as the “genius grant,” a recipient of the Edwin Land Award of the Optical Society of America, a recipient of the Darwin-Wallace medal, given only once every 50 years for contributions to evolutionary biology, three Distinguished Fellows of the American Economic Association, an honor that goes only to two or three economists each year, and two recipients of the American Physical Society’s Panofsky Prize in Experimental Particle Physics. The American Political Science Association annually awards a prize named in honor of Rochester’s Richard F. Fenno, Jr., professor emeritus of political science.

## **ANNUAL FINANCIAL STATEMENT INFORMATION**

### **Management’s Discussion of Financial Performance**

The discussion and tables that follow are based on the audited consolidated financial statements of the University of Rochester and Related Entities, and should be read in conjunction with “APPENDIX B - Consolidated Financial Statements of the University of Rochester and Related Entities and Report of Independent Auditors.”

#### Overview

During fiscal year 2023, total net assets for the University and related entities increased \$188.3 million to \$5.1 billion as of June 30, 2023. The increase was driven by positive investment performance as well as higher hospital and patient care margins, due primarily to increases in outpatient, inpatient, and retail pharmacy volumes. Total consolidated assets were \$8.6 billion, with long-term investments of \$3.2 billion and the consolidated cash position (including cash equivalents and short-term investments) at \$1.6 billion as of June 30, 2023.

#### Annual Results

The University experienced an increase to consolidated net assets from operating activities of \$82.4 million during fiscal year 2023, compared to the prior year’s increase of \$41.4 million.

Total operating revenue increased 11.4% over the prior fiscal year to \$6.1 billion and was derived mostly from tuition and fees, grants and contracts, and hospital and faculty practice revenue. These three categories comprise 91.8% of all University revenue sources and are the main financial drivers of the University.

Operating expenses increased by 10.7% over the prior fiscal year to \$6.0 billion. Compensation and related fringe benefits, which represent 58.8% of total expenses, were \$3.5 billion, a 7.6% increase over last year. Much of the increase was reflective of market adjustments and employee retention payments as well as an overall 3.0% wage and salary increase and growth in consolidated employee headcount of 3.8%. Additional increases were driven by temporary services due to staffing shortages and supplies expense due to higher patient care volumes at the hospitals.

Non-operating activities are comprised primarily of the investment performance of the long-term investment portfolio and draws from the endowment for support to the operations of the University. In fiscal year 2023, the change in net assets from non-operating activities was an increase of \$105.9 million compared to a decrease of \$419.4 million for fiscal year 2022. This year's increase was primarily attributable to the positive return on long-term investments of \$189.1 million and other changes, net of \$33.3 million. The increase was reduced by endowment use for operations of \$117.5 million. The University's long-term investment pool reported an annual return of positive 6.9% in fiscal year 2023 compared to negative 11.6% in fiscal year 2022.

#### Related Entities

The combined operating activities of the related entities represent about 16.8% of total consolidated operating revenues and approximately 12.3% of total consolidated net assets. Within the related entity group, Highland Hospital (and subsidiaries) generated operating revenues of \$518.1 million, followed by F.F. Thompson Health System with \$225.1 million and Livingston Health Care System, Inc. with \$79.3 million. For additional information, see "The Hospital/Medical Center" in this APPENDIX A.

#### Summary of Financial Information

The following Statement of Activities summarizes the University's consolidated revenues and expenses and other changes for the last five fiscal years. This summary is derived from the audited consolidated financial statements of the University for such periods.

The University adopted the below accounting standards over the last five fiscal years.

In May 2014, the FASB issued ASU 2014-09 -Revenue from Contracts with Customers, and has subsequently issued supplemental and/or clarifying ASUs (collectively ASC 606). These standards outline a five-step framework that supersedes the principles for recognizing revenue (previously ASC 605) and eliminated industry-specific guidance. The adoption of ASC 606 resulted in changes to the presentation and disclosure of revenue related to uninsured or underinsured patients. Prior to adoption, a portion of the University's doubtful accounts related to self-pay patients, as well as co-pays, co-insurance amounts and deductibles owed to the University by patients with insurance. Under the provisions of ASC 606, the estimated uncollectable amounts due from these patients are generally considered implicit price concessions that are required to be reflected as a direct reduction to operating revenues as opposed to the previous reporting as an operating expense. In addition, the adoption of ASC 606 required the reversal of refundable residency fees previously amortized into income. The University recorded a change in accounting principle of \$23,239 and a contract liability for the same amount in accounts payable and accrued expenses on the consolidated balance sheet as of June 30, 2019.

In February 2016, the FASB issued ASU 2016-02 -Leases (Topic 842) and has subsequently issued supplemental and/or clarifying ASUs (collectively, ASC 842) The standards were issued to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheets and disclosing key information about leasing arrangements.

The University adopted these standards in fiscal year 2020 using a modified retrospective transition approach and recorded right of use assets and operating lease liabilities of \$198,192 and \$199,169, respectively.

**STATEMENT OF ACTIVITIES (dollars in thousands)**

	<b>Fiscal Years Ended June 30,</b>				
	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Operating revenues and other support:					
Tuition and fees	\$ 280,679	\$ 293,163	\$ 311,435	\$ 318,113	\$ 337,023
Grants and contracts	463,822	556,193	575,035	512,416	518,596
Gifts and pledges	104,082	83,038	84,399	103,801	96,545
Hospital & faculty practice patient care	3,486,050	3,523,786	4,103,766	4,279,153	4,742,465
Auxiliary enterprises	121,339	107,995	94,545	118,037	128,914
Interest income and appreciation/(depreciation) of operating investments	28,906	20,999	110,612	(63,912)	67,565
Educational activities	16,614	16,356	14,213	18,439	21,637
Other sources	52,195	69,183	68,606	68,967	68,173
Long-term investment income and gains allocated for operations	108,053	110,779	114,314	118,928	117,535
Total operating revenues and other support	<u>4,661,740</u>	<u>4,781,492</u>	<u>5,476,925</u>	<u>5,473,942</u>	<u>6,098,453</u>
Operating expenses:					
Salaries and wages	2,197,252	2,306,592	2,391,744	2,601,548	2,798,668
Fringe benefits	597,315	602,824	644,225	686,737	737,954
Total compensation	<u>2,794,567</u>	<u>2,909,416</u>	<u>3,035,969</u>	<u>3,288,285</u>	<u>3,536,622</u>
Supplies	787,223	837,675	967,176	1,041,116	1,177,017
Business and professional	283,670	290,398	268,044	396,775	590,236
Utilities	61,349	60,134	63,953	67,517	70,091
Maintenance and facilities costs	159,770	159,872	173,462	186,717	200,754
Depreciation and amortization expense	245,904	251,987	265,545	268,244	274,499
Interest expense	44,724	44,985	46,094	43,670	48,035
Other	127,138	116,962	116,828	140,241	118,790
Total operating expenses	<u>4,504,345</u>	<u>4,671,429</u>	<u>4,937,071</u>	<u>5,432,565</u>	<u>6,016,044</u>
Change in net assets from operating activities	<u>157,395</u>	<u>110,063</u>	<u>539,854</u>	<u>41,377</u>	<u>82,409</u>
Non-operating activities:					
Long-term investment activities:					
Investment income	12,300	9,083	12,645	15,459	12,056
Net appreciation (depreciation)	127,076	55,626	997,999	(412,337)	177,001
Total long-term investment activities	<u>139,376</u>	<u>64,709</u>	<u>1,010,644</u>	<u>(396,878)</u>	<u>189,057</u>
Long-term investment income and gains allocated for operations	(108,053)	(110,779)	(114,314)	(118,928)	(117,535)
Loss on extinguishment of debt	-	-	(1,211)	-	-
Other changes, net	(27,421)	(67,505)	24,902	90,842	33,349
Change in valuation of split-interest agreements	1,151	895	(13,100)	5,524	997
Change in net assets from non-operating activities	<u>5,053</u>	<u>(112,680)</u>	<u>906,921</u>	<u>(419,440)</u>	<u>105,868</u>
Change in net assets before cumulative effect of change in accounting principle	162,448	(2,617)	1,446,775	(378,063)	188,277
Cumulative effect of change in accounting principle	<u>(23,239)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Change in net assets	139,209	(2,617)	1,446,775	(378,063)	188,277
Beginning net assets	<u>3,705,308</u>	<u>3,844,517</u>	<u>3,841,900</u>	<u>5,288,675</u>	<u>4,910,612</u>
Ending net assets	<u>\$ 3,844,517</u>	<u>\$ 3,841,900</u>	<u>\$ 5,288,675</u>	<u>\$ 4,910,612</u>	<u>\$ 5,098,889</u>

## Financial Position

Consolidated total assets increased by 2.1% from fiscal year 2022 to \$8.6 billion at June 30, 2023. Property, plant and equipment increased to \$2.6 billion with capital spending of \$468.0 million. Long-term investments increased by \$23.1 million to \$3.2 billion at June 30, 2023 primarily due to a positive 6.9% return of the long-term investment pool. Consolidated cash position (consisting of cash, cash equivalents and short-term investments) decreased \$94.6 million and was attributable to current year expenditures for construction in progress and annual debt service payments as well as payment of the employer share of social security tax under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The decreases were offset by new payments received for gifts and pledges as well as term note proceeds.

Consolidated liabilities were \$3.5 billion, 0.3% lower than the prior fiscal year. Total consolidated net assets increased by \$188.3 million or 3.8% to \$5.1 billion for the year ended June 30, 2023.

Following is a summary of Assets, Liabilities and Net Assets as of June 30, for the fiscal years 2019-2023. This summary is derived from the audited consolidated financial statements of the University for such periods.

### **CONSOLIDATED BALANCE SHEET (dollars in thousands)**

	As of June 30,				
	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
<b>Assets</b>					
Cash and cash equivalents	\$ 326,128	\$ 664,069	\$ 889,136	\$ 836,577	\$ 749,384
Short-term investments	463,734	463,986	892,621	868,278	860,899
Accounts receivable, net	533,756	500,462	554,640	558,452	602,133
Supplies, prepaid expenses, and deferred charges	80,267	94,633	106,749	108,420	112,373
Contributions receivable, net	100,395	91,628	81,774	79,094	87,108
Notes receivable, net	20,221	17,293	15,377	13,899	13,571
Other assets	69,473	79,597	82,180	79,513	83,517
Investments held for long-term purposes	2,636,841	2,655,624	3,822,792	3,218,567	3,241,631
Property, plant and equipment, net	2,274,661	2,321,438	2,308,122	2,439,597	2,629,455
Right of use assets	-	216,299	199,672	184,425	179,820
Perpetual trusts held by others	60,650	43,996	73,039	61,002	64,735
<b>Total assets</b>	<b><u>\$ 6,566,126</u></b>	<b><u>\$ 7,149,025</u></b>	<b><u>\$ 9,026,102</u></b>	<b><u>\$ 8,447,824</u></b>	<b><u>\$ 8,624,626</u></b>
<b>Liabilities</b>					
Accounts payable and accrued expenses	601,467	691,759	791,853	785,624	789,604
Deferred revenue	60,383	97,767	72,024	86,002	83,049
Third-party settlements payable, net	169,541	388,176	399,852	297,108	269,641
Accrued pension, post-retirement, and post-employment	611,431	685,711	701,671	574,700	565,865
Long-term debt	1,226,285	1,180,147	1,526,692	1,565,561	1,596,149
Operating lease liabilities		216,256	199,528	184,320	180,254
Asset retirement obligation	37,677	38,225	38,647	38,615	38,407
Refundable U.S. Government grants for student loans	14,825	9,084	7,160	5,282	2,768
<b>Total liabilities</b>	<b><u>2,721,609</u></b>	<b><u>3,307,125</u></b>	<b><u>3,737,427</u></b>	<b><u>3,537,212</u></b>	<b><u>3,525,737</u></b>
<b>Net Assets</b>					
Without donor restrictions	2,472,333	2,469,223	3,391,881	3,253,796	3,355,827
With donor restrictions	1,372,184	1,372,677	1,896,794	1,656,816	1,743,062
<b>Total net assets</b>	<b><u>3,844,517</u></b>	<b><u>3,841,900</u></b>	<b><u>5,288,675</u></b>	<b><u>4,910,612</u></b>	<b><u>5,098,889</u></b>
<b>Total liabilities and net assets</b>	<b><u>\$ 6,566,126</u></b>	<b><u>\$ 7,149,025</u></b>	<b><u>\$ 9,026,102</u></b>	<b><u>\$ 8,447,824</u></b>	<b><u>\$ 8,624,626</u></b>



## Operating Budget

The University's annual operating budget is typically reviewed and approved by the Strategic and Financial Planning Committee and approved by the Board each year. Financial planning assumptions and projections for four additional fiscal years are also developed annually. As a result, the operating budget for any given year will have been developed by the administration within a five-year planning context with continuing refinements in the economic estimates and in the programmatic concerns that affect the final annual budget. The planning process includes projections of endowment growth, graduate and undergraduate enrollments in the various schools and colleges of the University, competitive trends that may have disparate effects among the academic units, salaries and benefits, hospital and patient care revenues and expenditures, government and private sponsorship of research, indirect cost recovery rates, gifts, and operating and maintenance costs. Actual performance against the operating budget is monitored by the administration and is reported to the Board's Executive Committee on a regular basis.

## Capital Budget

The Board of Trustees also typically approves a detailed capital budget for each fiscal year along with a capital plan of potential projects for the subsequent two years. This permits the administration and the Board to incorporate major projects into its long-range financial plan, evaluate possible operating budget implications and assess the University's debt requirements and capacity. For fiscal year 2024, the Board reviewed and approved the capital budget in October 2023.

The 2023-24 capital budget for the University includes costs for the expansion of Natural Sciences facilities, lab and classroom renovations, and other improvements to River Campus academic buildings. Medical Center expansions include the continuing project costs associated with the new off-site Ambulatory Orthopaedics Campus and the new Inpatient Tower and expanded Emergency Department as well as facility renovations, equipment renewal, and deferred maintenance. Continued projects also include investments to modernize the University's central utilities infrastructure, information technology, remodeling a recently acquired data center, and other deferred maintenance.

The capital plan includes placeholders for potential projects in fiscal years 2025 and 2026, the majority of which will be for project costs related to the Natural Sciences Expansion, Marketplace Phase II, facility renovations, and deferred maintenance. All future projects will undergo further review and prioritization and it is likely that not all of the proposed projects will be undertaken. Multi-year capital projections guide the University's planning of facilities projects and borrowing. Projects ultimately approved will be funded using a process for capital planning which is designed to keep future borrowings within the University's debt capacity and approved projects are typically funded from a combination of fundraising, reserves, and debt.

## Investments

The University's investments are reported at fair market value and include assets of the University's endowment and similar funds and other investments held for general operating purposes.

The University of Rochester's Board of Trustees has delegated the authority for investment decisions to its Investment Committee. The University's Investment Office, under the supervision of the Investment Committee, provides investment management services to the University and related organizations. Assets are held in custodial accounts or in limited partnerships within the University's Long-Term Investment Pool (LTIP) consisting of the University's endowment and similar funds and other funds intended to be invested over long time periods.

The University's Investment Policy for the LTIP is to manage a balanced fund using external managers for domestic and international equity, commodities, and fixed income investments and various partnerships for hedge funds, real estate and private equity. The assets are managed to maximize long-term real investment returns commensurate with the risk tolerance of the University. The investment return on the University's long term investment pool for the last five years was as follows:

<b><u>Fiscal Year</u></b>	<b><u>Market Value of Endowment &amp; Similar Funds</u></b>	<b><u>Investment Return</u></b>
2019	\$2.37 billion	6.3%
2020	2.39 billion	3.7
2021	3.27 billion	41.7
2022	2.81 billion	-11.6
2023	2.89 billion	6.9

Both investment performance and endowment spending are subject to continuous review by the Board of Trustees. Endowment use is measured as a percentage of a five-year moving average. Each year, the Board approves the endowment spending rate as a part of the budgetary approval process. An ultimate spending target of 5.5%, which includes core endowment use only, has been established. The pattern of spending over the past five years for both core and non-core endowment use is as follows:

**Endowment Support of Academic Operations  
(dollars in thousands)**

<u>Fiscal Year</u>	<u>Endowment Spending</u>	<u>As a Percentage of Five Year Moving Average of Endowment Market Value</u>
2018-19	\$108,053	5.7%
2019-20	110,779	5.7
2020-21	114,314	5.7
2021-22	118,928	5.7
2022-23	117,535	5.5

**Employee Benefits**

The faculty and staff at the University are provided with an extensive range of employee benefits, including basic hospital, surgical and medical insurance, major medical and dental plans, long-term disability coverage, group life insurance, travel-accident insurance, tuition for faculty, staff and dependents, and University health services, as well as the retirement plan outlined below.

**University Retirement Plans**

The University provides defined contribution retirement plans to its employees. The University of Rochester's Retirement Program is administered by TIAA. Under this plan, the University made contributions of \$140.0 million and \$129.9 million in fiscal years 2023 and 2022, respectively, which were vested for the benefit of the participants.

The University's post-retirement benefit plan includes basic medical, major medical, dental coverage and life insurance. Benefit levels differ for current retirees, current employees eligible to retire, and current employees not eligible to retire.

The University incurred post-retirement plan expense of \$7.7 million and \$9.8 million for the years ended June 30, 2023 and 2022, respectively, which is recorded in fringe benefits expense on the Consolidated Statement of Activities.

Postretirement plan expense for the years ended June 30 includes the following components:

**Net Periodic Postretirement Benefit Cost (dollars in thousands)  
Fiscal Year Ended June 30**

	<u>2022</u>	<u>2023</u>
Service cost - benefits earned	\$ 5,252	\$ 2,886
Interest cost	5,408	6,829
Amortization of Prior Service Credit	(2,131)	(2,029)
Amortization of Net Loss	1,298	-
Net Periodic Postretirement Benefit Cost	\$ 9,827	\$ 7,686

The weighted average discount rate used in determining the accumulated post-retirement benefit obligation was 5.25% at June 30, 2023 and 4.50% at June 30, 2022.

**University Indebtedness**

As of June 30, 2023, the University reported \$1.6 billion in consolidated long-term debt. Approximately \$127.6 million represented the long-term debt of related entities, for which the University has no legal obligation. The consolidated financial statements and notes thereto contained in Appendix B to this Official Statement show further details concerning the consolidated long-term debt.

Approximately \$10.5 million of the University's consolidated debt outstanding is hedged with interest rate swaps as of June 30, 2023. This amount relates to the University's related entities that have executed interest rate exchange agreements which are explained in note 8(b).

#### *Bank Facilities:*

For short-term emergency purposes, the University has a \$175.0 million line of credit with JPMorgan Chase Bank, N.A., a \$100.0 million line of credit with U.S. Bank, N.A., and a \$50.0 million line of credit with M&T Bank. At June 30, 2023, \$5.0 million was drawn on the JPMorgan Chase Bank, N.A. line of credit. The draw provides a bridge loan to an affiliated entity, Jones Memorial Hospital, for a multi-year construction project.

The University has \$2.1 million in standby letters of credit with JP Morgan Chase Bank, N.A. to cover potential financial obligations. Under this agreement, no amounts were outstanding at June 30, 2023.

#### **Grants and Contracts**

The University has long been a center for programs of research and training. Federal grants and contracts provide most of the funds for sponsored programs, although additional amounts come from other government entities, industry, foundations and interested individuals. For the year ended June 30, 2023, approximately \$349 million was spent on research funded by federal grants and contracts. Some of the University's recent research contracts are noted below:

In September 2023, the National Science Foundation (NSF) awarded funding to the University of Rochester to design and prototype key technologies for EP-OPAL, a new facility dedicated to the study of ultrahigh-intensity laser-matter interactions. The facility could be built at the Laboratory for Laser Energetics upon completion of the design project. The funding, part of NSF's Mid-Scale Research Infrastructure-1 Program, supports the agency in positioning the United States at the cutting edge of global science and engineering leadership. A successful EP-OPAL design would enable the highest-power laser system in the world.

In August 2023, the University's Laboratory for Laser Energetics (LLE) was awarded a contract with the US Department of Defense (DOD) to study pulsed-laser effects. In addition to supporting the LLE's scientific mission, the funding—which approximately doubles the annual funding the University has received from the DOD in recent years—will aid in advancing technology and developing a pipeline of talent to support the broad use of laser-based, directed-energy systems. As a center for the investigation of the interaction of intense radiation with matter, LLE is a unique national resource for research and education in science and technology. Current research includes exploring fusion as a future source of energy, developing new laser and materials technologies, and better understanding high-energy-density phenomena. In addition to its vital roles in various areas of scientific research and its support of the local high-tech economy, LLE plays an important role in educating the next generation of scientists and engineers.

In June 2023, the NSF, in partnership with Semiconductor Research Corporation (SRC), named the University of Rochester as one of six new grant-supported Research Experiences for Undergraduates (REU) sites to provide undergraduate students with hands-on research opportunities in STEM priority areas related to semiconductors. The University is the only New York State institution to receive this grant, which will bolster research and development and help build the workforce in semiconductors and microelectronics in New York State and throughout the country. Rochester's REU site is focused on nanophotonics, quantum photonics, and vision/biomedical optics.

Also in June 2023, the University, along with the US Department of Energy (DOE) began collaborating with Xcimer Energy, Inc., a private company dedicated to developing abundant and carbon-free fusion energy. Under the program, LLE will provide Xcimer with expertise in ICF implosion physics and design, as well as expertise on tritium, a key fuel involved in the fusion process. LLE has a long history in inertial confinement fusion (ICF) research and laser-driven implosion techniques, on which a large community of researchers has closely collaborated, to support the viability of the nation's nuclear weapons stockpile and pave the way for fusion as an abundant supply of clean energy. As the largest DOE university-based program in the nation, LLE educates and trains scientists on ICF and high-energy-density science research.

In August 2022, the University broke ground on a \$42 million, 66,000-square-foot office and lab building expansion. The expansion directly connects to LLE's existing building on East River Road in Brighton, New York. The new three-floor building will house lab and office space for approximately 110 scientists and LLE personnel and include a class 1000 target fabrication lab and thin film coating lab, a laser computing facility, and several other wet lab and general lab spaces. The largest lab space will house the AMICA laser system, a state-of-the-art, high-energy, long-

pulse laser that scientists at the LLE are assembling for Stanford University's SLAC National Accelerator Laboratory Matter at Extreme Condition Upgrade (MEC-U). LeChase Construction began the building expansion in July and the addition is expected to be completed in 2024. LLE was last expanded in 2003 to house the OMEGA EP laser.

The following table shows the amounts received from grants and contracts for each of the past five fiscal years:

Federal Agency	Fiscal Years Ended June 30,				
	2019	2020	2021	2022	2023
Public Health Service (includes NIH)	\$ 164,455	\$ 164,551	\$ 173,603	\$ 189,177	\$ 201,130
Department of Energy	91,737	81,926	82,448	89,479	104,280
Department of Defense	9,449	11,444	10,912	8,803	11,776
National Science Foundation	19,524	17,919	18,141	21,111	20,723
Department of Education	10,712	15,509	12,498	29,339	10,017
National Aeronautics and Space Administratio	1,690	1,292	1,276	1,614	1,483
All Other Federal	2,103	116,852	140,088	26,078	17,283
Total Federal	<u>\$ 299,670</u>	<u>\$ 409,493</u>	<u>\$ 438,966</u>	<u>\$ 365,601</u>	<u>\$ 366,692</u>
New York State	63,743	53,604	31,541	38,868	40,444
Local Government	7,523	2,506	4,083	2,345	4,685
All Other sponsors	92,886	90,590	100,445	105,602	106,775
Total	<u>\$ 463,822</u>	<u>\$ 556,193</u>	<u>\$ 575,035</u>	<u>\$ 512,416</u>	<u>\$ 518,596</u>

### Gifts and Pledges

The following table shows gifts and pledges revenue by donor restriction category for the past five years:

	Gifts and Pledges (dollars in thousands)				
	Fiscal Years Ended June 30,				
	2019	2020	2021	2022	2023
Without Donor Restrictions	\$ 33,860	\$ 27,120	\$ 21,982	\$ 31,429	\$ 33,082
With Donor Restrictions	<u>70,222</u>	<u>55,918</u>	<u>62,417</u>	<u>72,372</u>	<u>63,463</u>
Total	<u>\$ 104,082</u>	<u>\$ 83,038</u>	<u>\$ 84,399</u>	<u>\$ 103,801</u>	<u>\$ 96,545</u>

### Subsequent Events

#### Acquisition of College Town

On July 25, 2023, the University purchased the assets of the College Town mixed-use complex located within the City of Rochester from CT Rochester, LLC and CVS Rochester, LLC for \$51.5 million, via a wholly-owned affiliate, Meliora Development Company, LLC. The purchase of College Town will be included in the 2024 consolidated financial statements of the University.

#### Affiliation Agreement – Finger Lakes Regional Health System, Inc.

On August 1, 2023, the University became the sole corporate member of Finger Lakes Regional Health System, Inc., and subsidiaries (Finger Lakes Health). Finger Lakes Health is a multi-institutional health system that provides acute and long-term healthcare, low-income housing and foundation support services in the Finger Lakes region of New

York State. The system includes a 117-bed acute care hospital and a 25-bed acute care critical access hospital as well as three skilled nursing facilities (345 beds). The affiliation will be accounted for as an acquisition under the merger and acquisition guidance for not-for-profit entities. The University and Finger Lakes Health continue as separate and distinct corporations. Finger Lakes Health will be included in the 2024 consolidated financial statements of the University.

### **THE HOSPITAL/MEDICAL CENTER**

The University of Rochester Medical Center is a part of the University and is under the oversight of the University President and Board of Trustees. The Medical Center consists of the following divisions: (1) Strong Memorial Hospital; (2) the School of Medicine & Dentistry; (3) the School of Nursing; (4) the University of Rochester Medical Faculty Group (“URMFG”); and (5) the Eastman Institute for Oral Health. Since 1995, a major objective has been the integration of all components of the Medical Center (including the Hospital) into a cohesive, cost-effective administrative and financial entity that operates with the appropriate oversight by Central Administration. To that end, the following activities have been implemented: (1) Centralization of Medical Center Administration, including Medical Administration, Finance, Human Resources, Strategic Planning, Public Relations, Advancement, Legal and Facilities; (2) Development of a Medical Center Strategic Plan; (3) Creation of the Health Affairs Committee of the University Board of Trustees with certain advisory responsibilities; (4) Establishment of the University of Rochester Medical Faculty Group as a separate division within the Medical Center; and (5) Acquisition and Establishment of the Eastman Dental Center as a separate division within the Medical Center.

The Hospital is an integral part of the University’s Medical Center and serves as the principal teaching hospital of the School of Medicine & Dentistry and the School of Nursing. The Hospital, with 41,175 discharges and 327,703 patient days in fiscal year 2023, is the largest acute care general hospital in Rochester and serves both as a general regional/national tertiary care hospital and a specialized referral center for a 14-county area.

The Hospital currently serves as a regional center for the following services: Neonatal Intensive Care, Pediatric Intensive Care, Burn, Perinatology, Cancer Center (Oncology services), Liver Transplantation, Heart Transplantation, Bone Marrow Transplantation, Comprehensive Epilepsy Program, AIDS, and Trauma.

#### **Services and Programs**

The Hospital offers a broad range of diagnostic and therapeutic services for adults and children on inpatient and outpatient bases. Its licensed bed complement is allocated among the following services:

<b><u>Services</u></b>	<b><u>Number of Beds</u></b>
Medical/Surgical	467
Intensive Care	98
Coronary Care	8
Burn Care	7
Pediatric	60
Maternity	45
Psychiatric	93
Rehabilitation	20
Pediatric Intensive Care Unit	20
Neonatal/ICU	<u>68</u>
Total	886

The Hospital has been authorized by the New York State Department of Health, through its Certificate of Need (“CON”) process, to operate and provide programs and services in specialized areas such as adult and pediatric cardiac catheterization, adult and pediatric open heart surgery, linear acceleration and magnetic resonance imaging, therapeutic and diagnostic nuclear medicine, therapeutic radiology, bone marrow transplantation, poison control, AIDS, lithotripsy, speech and language pathology, burns, cystoscopy, and kidney, liver, cardiac and pancreas transplantation, in addition to a host of outpatient services.

Excluding medical staff with part-time faculty appointments, the Hospital’s staff of more than 7,450 tends to the broad spectrum of health care needs of patients in the greater Rochester area, and to the specialized needs of patients from the surrounding Finger Lakes area, West-Central New York, the rest of the State and other areas of the United States.

The Hospital has developed programs such as the Durand Bone Marrow Transplantation Center, the Liver Transplantation Center, the Heart Transplantation Center, the Burn Center, a regional AIDS Center, a Comprehensive Epilepsy Center, a Regional Trauma Unit, spinal cord injury, orthopedic reconstructive surgery, high risk obstetric units, and a renowned Cancer Center and Neonatal Intensive Care Unit.

The Hospital also offers needed services to area hospitals, especially those in the communities of Livingston, Wayne, Ontario, Steuben, Orleans, Wyoming, Chemung, Schuyler, Tompkins, Cayuga, and Jefferson Counties. These include specialized cardiac, neurosurgery, pulmonary, oncology and high-risk obstetric assistance, as well as emergency and airlift care for serious trauma and burn patients who come for treatment only the Hospital can offer in the region.

With respect to its residency programs, the Hospital trains approximately 835 residents and fellows in 84 (27 residencies, 57 fellowships) different fully accredited graduate medical and dental education programs, in sub-specialties which include: Anesthesiology, Dermatology, Emergency Medicine, Emergency Medicine – Pediatric, Family Medicine, General Dentistry, Internal Medicine, Medicine-Pediatrics, Neurology, Child Neurology, Neurosurgery, Obstetrics/Gynecology, Ophthalmology, Orthopaedics, Otolaryngology, Pathology, Pediatrics, Physical Medicine & Rehabilitation, Preventive Medicine, Psychiatry, Radiation Oncology, Diagnostic Radiology, Surgery, Surgery – Cardiothoracic, Surgery – Plastic, Surgery – Vascular, Urology, Anesthesiology – Adult Cardiothoracic, Anesthesiology – Critical Care, Anesthesiology – Pain Medicine, Anesthesiology – Pediatric, Medicine – Allergy/Immunology, Medicine – Cardiovascular Disease, Medicine – Clinical Cardiac Electrophysiology, Medicine – Critical Care, Medicine – Hospice & Palliative Care, Medicine – Interventional Cardiology, Medicine – Endocrinology, Medicine – Gastroenterology, Medicine – Geriatric Medicine, Medicine – Hematology/Medical Oncology, Medicine – Infectious Diseases, Medicine – Nephrology, Medicine – Pulmonary/Critical Care, Medicine – Rheumatology, Neurology – Clinical Neurophysiology, Neurology – Neuromuscular Medicine, Neurology – Epilepsy, Neurology – Sleep Medicine, Maternal Fetal Medicine, Urogynecology, Orthopaedics – Foot & Ankle, Orthopaedics – Hand, Orthopaedics – Sports Medicine, Orthopaedics – Trauma, Pathology – Cytopathology, Pathology – Hematopathology, Pathology – Neuropathology, Pediatrics – Adolescent Medicine, Pediatrics – Cardiology, Pediatrics – Critical Care, Pediatrics – Developmental, Pediatrics – Gastroenterology, Pediatrics – Hematology-Oncology, Pediatrics – Infectious Disease, Pediatrics – Nephrology, Pediatrics – Nephrology, Pediatrics – Neonatology, Pediatrics – Pulmonary, Pediatrics – Rheumatology, Psychiatry – Geriatric, Psychiatry – Forensic, Neuroradiology, Pediatric Radiology, Musculoskeletal Radiology, Vascular Interventional Radiology, Complex General Surgical Oncology, Surgery Critical Care, Advanced Education in General Dentistry, Oral and Maxillofacial Surgery, Pediatric Dentistry, Orthodontics, Prosthodontics, and Periodontics.

In 2015, the Medical Center dedicated its \$145 million children's hospital, located adjacent to Strong Memorial Hospital. The eight story Golisano Children's Hospital provides over 245,000 square feet of space and 126 beds dedicated to children and their families. The hospital was named for Tom Golisano, a Rochester entrepreneur and philanthropist.

### **Service Area**

The Hospital is the largest general hospital in the Finger Lakes Region, serving acutely ill patients at all levels including tertiary care. The Finger Lakes Region, served by the Hospital, consists of the City of Rochester and its suburbs, surrounded by a largely rural region with a combined population of 1.3 million people. In addition to its tertiary services, the Hospital provides a full range of primary and secondary medical, surgical, pediatric, obstetrical, and psychiatric care.

In fiscal year 2023, the Hospital discharged 41,175 inpatients and provided 1,250,787 outpatient visits and 127,698 Emergency Department visits. Some 63.8% of inpatients come from Monroe County, the primary service area, 24% from the secondary service area of surrounding counties including Livingston, Ontario, Wayne, Genesee, Orleans, Steuben, Seneca and Yates and the remaining 12.2% from other parts of New York State and the United States.

### **URMC Strategic Plan Overview**

The CEO of URMC and UR Medicine has led senior administrative and faculty leaders in an ongoing process to operationalize a comprehensive, missions-wide strategic plan. The overall plan charts a course through pivotal decisions and opportunities facing research, education and patient care in the 21<sup>st</sup> century. Much progress is being made in the academic plans as the School of Medicine & Dentistry and School of Nursing strive to maintain research competitiveness and demonstrate their ability to produce health professionals and scientists steeped in inter-professional teamwork and adept with tomorrow's technologies.

One component of the plan involves the Medical Center's response to a rapidly evolving patient care environment. Pressure to reduce national health care costs, ensure uniformly high quality, enable transparency, and improve access are transforming the way that health care is delivered and financed. As a result, the Medical Center, like all academic medical centers and health networks, must prepare to function in both the traditional, fee-for-service payment environment and in a future of value-based health care. Facing rapid provider consolidation and evolving payment models, URM's Strategic Plan provides the framework for making prompt yet discerning decisions.

### **Mission**

The mission of the University of Rochester Medical Center (the "Medical Center") is to use education, science and technology to improve health.

### **Vision**

To be nationally recognized for improving health through transformative approaches in compassionate care, education, and research.

### **Goals**

As the foundation to our strategic planning process, URM has formed five aspirational goals that lead us toward our vision.

1. Be upstate New York's health network of choice.
2. Be a preeminent biomedical research institute.
3. Be a preeminent educational institution.
4. Be the preferred destination for faculty, staff and learners.
5. Generate financial resources to thrive and enable support of URM and University strategic plans.

### **Governance**

The University of Rochester Board of Trustees, on the advice of the University administration and Medical Center leadership, has expanded the role of the Strong Memorial Hospital Board of Governors to include assisting in the oversight and direction of the Medical Center as a whole. Through authority delegated by the Board of Trustees, this Board, named the University of Rochester Medical Center Board ("Medical Center Board"), will maintain full governance responsibilities for Strong Memorial Hospital and Eastman Dental Center while guiding the Medical Center toward a cohesive, cost-effective model for academic medical centers. In addition to governance responsibilities for the Hospital and the Eastman Dental Center, the Medical Center Board advises the University Board of Trustees on all matters relating to the Medical Center's mission, plans, policies and operations. The Medical Center Board is responsible for establishing policy, assuring quality patient care, and providing for the institutional management and planning for the Hospital (SMH) and the Eastman Dental Center (EDC). However, the Board of Trustees must approve any action of the Medical Center Board which would: (1) result in a call upon the financial resources of the University not dedicated for the support of the Hospital (SMH) or EDC; (2) have a major impact on University academic programs; or (3) contravene policies of the University established by the Board of Trustees.

The Medical Center Board currently has 47 voting members. New members are appointed by the Board of Trustees upon the recommendation of the existing Medical Center Board. At least five members must be members of the Board of Trustees. In addition to the elected members, the following persons serve on the Medical Center Board as ex officio voting members: the University's President, the Provost, the Chair of the University Board of Trustees, the University's Senior Vice President for Health Sciences/Chief Executive Officer of the Medical Center, the Medical Center Vice President/Chief Medical Officer, the Medical Center Vice President/Chief Operating Officer, the Medical Center Senior Vice President/Chief Financial Officer, the President and Chief Executive Officer of the Hospital, the Deans of the School of Medicine & Dentistry and School of Nursing, the Director of the Eastman Institute for Oral Health, the Chief Executive Officer of the Medical Faculty Group, the Associate Director for Clinical Services of the Eastman Institute for Oral Health, two Department Chairs of the clinical departments from the School of Medicine & Dentistry and one member of the community-based faculty from the Medical Staff. A representative of the Friends of Strong (the Hospital's volunteer organization) serves as an ex-officio non-voting member.

The Medical Center Board meets six times per year and has nine standing committees: Executive, Audit and Risk Assessment, Advancement, Finance, Facilities, Nominations and Board Practices, Compliance and Compensation Committee, Health Equity Committee, and Quality of Care. The Executive Committee meets six times per year.

As a further nexus between the Board of Trustees and the Medical Center Board, the University Joint Health Affairs Committee, composed of eight Trustees and six members of the Medical Center Board, considers and advises the Board of Trustees on matters including the Medical Center affiliates and the coordination of activities between and among the School of Medicine & Dentistry, the School of Nursing, SMH, EDC, and the University of Rochester Medical Faculty Group.

The current elected members of the Medical Center Board are:

**Simeon I. Banister**  
President & CEO  
Rochester Area Comm Foundation

**Philip G. Beckley**  
Retired Newspaper Publisher  
Finger Lakes Times

**Marlene F. Bessette**  
President & CEO  
Greater Rochester RHIO

**Martin K. Birmingham**  
President & CEO  
Five Star Bank

**William R. Calnon, DDS**  
Professor of Dentistry  
University of Rochester &  
Calnon & Cilano, DDS

**Menzo D. Case**  
President & CEO  
Generations Bank

**Daniel J. Chessin**  
Co-President & CEO  
Hahn Automotive Warehouse, Inc.

**Joanne V. Clements**  
Retired  
University of Rochester  
School of Nursing

**Gregory C. Ewing**  
Senior Vice President  
Trillium Health

**Anne B. Francis, MD**  
Medical Director  
Mary Cariola Center

**Emerson U. Fullwood<sup>2</sup>**  
Corporate Executive  
Retired from Xerox

**Melissa James-Geska**  
President  
US Ceiling Corp.

**Ryan M. Hallings**  
Senior Vice President  
Lyons National Bank

**Holly Hilberg**  
Hilberg Consulting

**Kenneth L. Hines**  
Senior Vice President  
Merrill Lynch

**Susan R. Holliday**  
Owner  
Dumbwaiter Design LLC  
& Riedman Corp.

**Dale L. Hunt**  
President  
Hunt Properties

**Robert W. Hurlbut**  
President & Owner  
Hurlbut Health Consulting

**Daryll A. Jackson**  
President  
Panther Graphics

**Richard A. Kaplan**  
Retired CEO  
The Institute for Caring

**William R. Kenyon**  
Senior Counsel  
Boylan Code, LLP

**Laurence Kessler<sup>2</sup>**  
CEO, Founder  
Kessler Group, Inc.

**Diana R. Kurty**  
Retired Principal  
Lumina Partners

**Peter J. Landers**  
CEO  
Landers Management

**Robert N. Latella**  
Of Counsel  
Barclay Damon, LLP

**Fabricio S. Morales**  
President & CEO  
Intivity, Inc.

**Shaun C. Nelms**  
VP for Community Partnerships  
University of Rochester

**Angelica Perez-Delgado**  
President & CEO  
Ibero-American Action League

**Thomas S. Richards<sup>2</sup>**  
Former Mayor, City of Rochester  
Retired Attorney License

**Susan Robfogel<sup>3</sup>**  
Of Counsel  
Nixon Peabody LLP

**Naomi Silver**  
President, CEO & COO  
Rochester Comm Baseball, Inc.

**Lori Van Dusen**  
Founding CEO  
LVW Advisors

**Justin M. Weis, MD**  
Dept. of Medicine  
Pulmonary Critical Care  
FF Thompson Health

<sup>2</sup> University Trustee; a fourth and fifth member will be selected to fill the recent vacancy.

<sup>3</sup> The firm of Nixon Peabody LLP is bond counsel to the Issuer in connection with the issuance of the Series 2023 Bonds and also provides legal services to the University and its affiliates.



## Management

*Mark B. Taubman, M.D., Senior Vice President for Health Sciences, Chief Executive Officer of the Medical Center, and Dean of the School of Medicine & Dentistry.* A board-certified cardiologist, Dr. Taubman came to the Medical Center as chief of the Cardiology Unit and Paul N. Yu Professor in Cardiology in 2003. He became the chair of the Department of Medicine and Charles E. Dewey Professor of Medicine in 2007 and served in that role until being named dean in 2010. He was appointed to the CEO role in 2015. Dr. Taubman received his M.D. degree from New York University and completed his training in medicine and cardiology at the Brigham and Women's Hospital and Harvard Medical School. He has served on the faculties of Mt. Sinai School of Medicine in New York, Children's Hospital Medical Center and Harvard Medical School in Boston, Massachusetts. Dr. Taubman is on leave as the Charles E. Dewey Professor and Chairman of Medicine. He was previously Chief of the Cardiology Division (2003-2009) at the University. In addition, he was Director of the Aab Cardiovascular Research Institute (2005-2007) and Director of the Center for Cellular and Molecular Cardiology (2003-2005). Dr. Taubman is a member of the American Heart Association, the American Society of Hypertension, the Association of University Cardiologists, and the Association of American Medical Colleges. He is a Fellow, American College of Cardiology and Fellow, American College of Physicians. He is the former Editor-in-Chief, Arteriosclerosis, Thrombosis, and Vascular Biology. Dr. Taubman is an international authority in vascular biology with research interests in tissue factor biology and chemokines. Dr. Taubman has been published widely, in more than 120 articles, chapters, and books.

*Adam P. Anolik, Senior Vice President and Chief Financial Officer, University of Rochester Medical Center.* Mr. Anolik has served as URMC's top financial officer since 2017, a post he accepted after almost thirty years of public accounting and health care finance experience. Mr. Anolik joined the Hospital in 1999 as Director of Financial Operations and assumed the role of Hospital CFO in 2014. Prior to arriving at the University, Mr. Anolik served as Vice President of Finance and Internal Services at Planned Parenthood of the Rochester/Syracuse Region. Mr. Anolik also served as Senior Vice President and Chief Financial Officer at St. Mary's Hospital. From 1988 to 1992 he was with the international public accounting firm, KPMG Peat Marwick, where he specialized in audits of universities and health care providers. Mr. Anolik currently serves on the Board of Directors and Finance Committee of Strong Home Care Group, on the Board of Directors and Audit Committee at Jewish Senior Life, and on the Board and Executive, Finance, Information Technology and Patient Safety Committees of the Medical Center Insurance Company, Inc. Mr. Anolik is a cum laude graduate of Franklin and Marshall College, where he received his Bachelor of Arts degree in Accounting.

*Steven I. Goldstein, President and Chief Executive Officer of Strong Memorial Hospital and Highland Hospital and Senior Vice President, University of Rochester Medical Center.* Mr. Goldstein joined the Hospital in September 1996 as Executive Director and Chief Operating Officer and assumed his present position in June 1997. Mr. Goldstein was Senior Vice President of The Greater Rochester Health System, Inc. from August 1995 to September 1996 and President and CEO of Rochester General Hospital from March 1993 to September 1996. From September 1982 to March 1993, he was Director and Chief Operating Officer of Rochester General Hospital. Mr. Goldstein received his Master of Hospital and Health Care Administration from the St. Louis University Graduate School of Hospital and Health Care Administration. Mr. Goldstein was recently appointed to a three-year term to the Accreditation Council of Graduate Medical Education and the American Hospital Association – Committee on Clinical Leadership. Mr. Goldstein recently completed a three-year term as a member of the Board of Trustees of the American Hospital Association (AHA) and the chair of AHA Regional Policy Board 2 where he previously served as a delegate. He is a past Chairman of the Board of Trustees of the Healthcare Associate of New York State (HANYS).

*Michael Apostolakos, M.D., Vice President and Chief Medical Officer for Strong Memorial Hospital and Highland Hospital.* After leading the Hospital's adult critical care program for twenty years, Dr. Apostolakos assumed the role of Chief Medical Officer in 2017. Dr. Apostolakos received his MD degree from the State University of New York at Buffalo. He completed his Internal Medicine residency and Pulmonary and Critical Care fellowship at the University of Rochester Medical Center. The Georgia and Thomas Gosnell Professor of Quality and Safety, Apostolakos is known regionally as an authority on sepsis. He has served as President of the New York State Thoracic Society as well as the New York State Chapter Representative to the American Thoracic Society. He is an active member of the Society of Critical Care Medicine and is course director for the Fundamentals of Critical Care Support Course. He is a member of the Alpha Omega Alpha Honor Medical

Society. In addition to his appointment as Director of Adult Critical Care, Apostolakos is a Professor of Medicine and Director of the Internal Medicine/Critical Care Medicine Fellowship.

*Lisa Kitko, PhD, RN, FAHA, FAAN, Vice President, University of Rochester Medical Center and Dean of the School of Nursing.* Dr. Kitko earned her bachelor's degree in nursing from the University of Pittsburgh in 1990 and her master's degree in 2001 and PhD in 2010 both from Penn State University. After working as a nurse for twelve years she joined the faculty at the Penn State College of Nursing in 2002 serving in many leadership roles including Associate Dean of Graduate Education before joining the University of Rochester. Dr. Kitko was appointed the sixth dean of the University of Rochester School of Nursing in 2022.

*Michael F. Rotondo, MD, FACS, is Vice Dean for Clinical Affairs, CEO of the University of Rochester Medical Faculty Group, and Senior Vice President of the University of Rochester Medical Center.* Prior to joining the University in 2013 he served as Professor and Chairman of the Department of Surgery, The Brody School of Medicine at East Carolina University and Director of the Centre of Excellence for Trauma and Surgical Critical Care at Vidant Medical Centre in Greenville, North Carolina for 14 years. Dr. Rotondo graduated from Georgetown University School of Medicine in 1984 and then undertook postgraduate training at the Thomas Jefferson University Hospital, Philadelphia, and the Hospital of the University of Pennsylvania (Fellowship in Traumatology and Surgical Critical Care). He gained his board certification from the American Board of Surgery in 1990 and also holds a Special Certificate in Surgical Critical Care and is counted among The Best Doctors in America. Dr. Rotondo has held a number of visiting professorships across the United States and has served as the Trauma Director for the American College of Surgeons and President of the AAST. He is a member of the Editorial Review Board for Journal of Trauma and an ad hoc reviewer for many leading journals. Dr. Rotondo is the author of more than 100 articles in peer-reviewed journals and has over 250 publications in total.

*Carrie Fuller Spencer, Chief Financial Officer, Strong Memorial and Highland Hospitals and Associate Vice President, University of Rochester Medical Center.* Before being named CFO in 2018, Ms. Fuller Spencer served as director of Strong Memorial Financial Services, where she was responsible for the overall management and supervision of financial operations at the hospital. During the previous four years she has also provided financial leadership for Highland Hospital, the Highland long-term care affiliates as well as Strong Home Care. In addition, she has served as a policy adviser on matters related to the financial management of Strong, Highland and related affiliates, including financial reporting and analysis, budgeting, capital financing, internal controls, audit oversight and patient accounting. Before joining URMC in 2014, Ms. Fuller Spencer was the CFO of Arc of Onondaga and a manager in the accounting firm PricewaterhouseCoopers (PwC), specializing in higher education, healthcare and not for profit organizations. She holds a B.S. in Accounting from the State University of New York at Oswego. Ms. Fuller Spencer is a member of the Finance and Audit Committees of the Medical Center Insurance Company and is on the Board of Villa of Hope and Girls on the Run. She is also a Board member of the local chapter of the Healthcare Financial Management Association.

**Utilization**

The following is a summary of discharges by major clinical departments for fiscal years 2019 through 2023.

**PERCENT OF HOSPITAL DISCHARGES<sup>4</sup>**

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Medicine	52.5%	49.0%	49.6%	48.0%	47.8%
Surgery	13.6	8.1	8.3	7.6	6.9
Obstetrics and Gynecology	8.4	8.3	8.4	9.0	9.2
Pediatrics <sup>4</sup>	12.8	18.7	17.9	21.5	21.9
Orthopedics	3.3	3.4	3.2	2.8	2.5
Neurology	4.1	7.0	7.2	5.0	5.4
Comprehensive Epilepsy Program	0.0	0.0	0.0	0.0	0.0
Psychiatry	4.4	4.5	4.5	5.3	5.5
Rehabilitation	.9	1.0	.9	.8	.8
Aids	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total	100.0%	100.0%	100.0%	100.0%	100.0%

<sup>4</sup>Excludes nursery discharges.

A summary of historical utilization data for fiscal years 2019 through 2023 is presented in the following table:

**HOSPITAL UTILIZATION DATA**

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Certified Beds	886	886	886	886	886
Discharges <sup>5</sup>	40,736	39,292	40,338	38,518	41,175
Patient Days <sup>5</sup>	330,268	314,376	301,839	310,389	327,703
Average Length of Stay (Days)	6.8	6.5	7.3	7.8	7.7
Emergency Room Visits	134,231	118,925	116,481	122,653	127,698
Outpatient Clinic Visits	611,062	910,626	1,249,409	1,253,863	1,250,787
Observation Cases	18,455	14,603	12,858	11,276	11,275
Ambulatory Surgery Visits	28,648	24,324	26,252	27,488	29,043
Faculty Practice Visits	975,861	2,333,341	2,567,736	2,272,723	2,754,598
<u>Average % Occupancy:</u> <sup>6</sup>					
Medicine & Surgery	97.3%	111.4%	85.3%	92.5%	98.7%
Obstetrics	58.2	50.4	52.5	45.6	49.3
Gynecology	67.2	97.8	125.5	87.6	92.2
Pediatrics	90.0	74.9	69.5	95.0	104.1
Psychiatry	94.7	93.5	91.5	87.6	88.9
Rehabilitation	90.9	92.7	89.6	92.1	91.2

<sup>5</sup> Includes newborns.

<sup>6</sup> Based on beds in use.

## Rochester Area Hospitals

The following table sets forth the number of acute beds, number of discharges, the occupancy rate and number of newborns for the Hospital and certain other hospitals located in and around the primary service area of the Hospital in fiscal year 2023:

### AREA HOSPITAL UTILIZATION DATA

	<u>Acute Beds</u>	<u>2023 Discharges</u>	<u>2023 % Occupancy<sup>8</sup></u>	<u>2023 Newborns</u>
Strong Memorial Hospital	886	38,620	100.2%	2,555
Highland Hospital <sup>7</sup>	261	15,375	90.80	2,898
FF Thompson Hospital <sup>7</sup>	113	4,974	62.10	780
Nicholas Noyes Hospital <sup>7</sup>	67	2,169	38.50	274
Jones Memorial Hospital <sup>7</sup>	49	1,584	33.00	392

<sup>7</sup> Affiliate of the Hospital.

<sup>8</sup> Based on licensed beds.

## Sources of Revenue

The Hospital's major sources of patient services revenue are Medicare, Medicaid, Blue Cross and commercial insurers. During 2023, the Hospital received approximately 85% of its patient service revenues from Medicare, Medicaid, and Blue Cross. Comparative sources of patient service revenues for fiscal years 2019 through 2023 are as follows:

### SOURCES OF HOSPITAL'S PATIENT SERVICES REVENUE

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Blue Cross	31.1%	32.2%	32.5%	32.2%	34.0%
Medicare	35.2	34.8	36.1	35.6	35.2
MVP Health Care	4.5	4.3	4.1	3.8	3.2
Medicaid	16.4	15.8	16.2	16.2	15.9
Commercial Insurance	9.0	8.5	8.4	8.3	8.0
Self-Pay and Other	<u>3.8</u>	<u>4.4</u>	<u>2.7</u>	<u>3.9</u>	<u>3.7</u>
Total	100.0%	100.0%	100.0%	100.0%	100.0%

See "Management's Discussion of Financial Performance" below.

The Hospital has agreements with third-party payors that provide for payments to the Hospital at amounts different from its established rate. A summary of the payment arrangements with major third-party payors follows:

#### *Medicare*

Under the Medicare program, the Hospital receives reimbursement under a prospective payment system ("PPS") for inpatient services. Under the hospital inpatient PPS, fixed payment amounts per inpatient discharge are established based on the patient's assigned diagnosis related group ("DRG"). When the estimated cost of treatment for certain patients is higher than average, providers typically will receive additional "outlier" payments. The Hospital also receives reimbursement under a prospective payment system for certain medical outpatient services based on service groups called ambulatory payment classifications ("APC's"). Other outpatient services are based upon a fee schedule and/or actual costs. The Hospital's Medicare cost reports are subject to audit by the fiscal intermediary. Such audits have been completed and final settled through December 31, 2009.

### *Medicaid and Other Third-Party Payors*

The New York Health Care Reform Act of 1996 (“HCRA”), as amended, governs payments to hospitals in New York State through March 31, 2024. Under the HCRA, Medicaid, workers compensation and no-fault payors payment rates are promulgated by the New York State Department of Health. Fixed payment amounts per inpatient discharge are established based on the patient’s assigned case mix intensity similar to a Medicare DRG. All other third-party payors, principally Blue Cross, other private insurance companies, Health Maintenance Organizations (“HMOs”), Preferred Provider Organizations (“PPOs”) and other managed care plans, negotiate payment rates directly with the hospitals. Such arrangements vary from DRG-based payment systems, to per diems, case rates and percentage of billed charges. If such rates are not negotiated, then the payors are billed at the Hospital’s established charges. Effective December 1, 2009, NYS implemented inpatient reimbursement reform. The reform updated the data used to calculate payment rates utilizing All Patient Refined DRGs (“APR-DRGs”). APR-DRGs used revised Service Intensity Weights (“SIWs”) to adjust each APR-DRG for patient acuity. Similar type outpatient reforms were implemented effective December 1, 2008 by connecting outpatient payments to Ambulatory Payment Groups (“APGs”) which use outpatient SIWs based on types of service and resource consumption.

### **Hospital Finances**

The Hospital accounts for approximately 48% of the University’s operating revenues and 47% of operating expenses. The table below presents the operating results of the Hospital for fiscal years 2019 through 2023.

#### **Hospital Operating Results** (dollars in thousands)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Operating Revenues:					
Patient Services Revenue	\$1,870,230	\$1,860,906	\$2,165,646	\$2,270,315	\$2,549,161
Other Operating Revenue	<u>373,842</u>	<u>530,446</u>	<u>647,515</u>	<u>634,061</u>	<u>733,622</u>
Total Operating Revenue	2,244,072	2,391,352	2,813,161	2,904,376	3,282,783
Operating Expenses:					
Salaries, Wages & Fringe Benefits	1,058,539	1,097,535	1,176,737	1,344,068	1,520,873
Supplies and Other Expenses	961,057	1,092,005	1,193,954	1,342,050	1,542,306
Interest	10,359	11,411	11,380	10,933	12,161
Depreciation	<u>92,669</u>	<u>97,394</u>	<u>100,411</u>	<u>98,153</u>	<u>106,540</u>
Total Operating Expenses	2,122,624	2,298,345	2,482,482	2,795,204	3,181,880
Gain from Operations	121,448	93,007	330,679	109,172	100,903
Non-Operating Gains (Losses)	<u>24,072</u>	<u>3,829</u>	<u>107,480</u>	<u>(27,827)</u>	<u>47,337</u>
Revenues in Excess of Expenses	\$ 145,560	\$ 96,836	\$ 438,159	\$ 81,344	\$ 148,240

### **Management’s Discussion of Financial Performance**

For fiscal year 2023, the Hospital generated an operating margin of \$100.9 million or 3.1% on revenues of \$3.3 billion over expenses of \$3.2 billion. Operating revenue growth of 13.02% from fiscal year 2022 to fiscal year 2023 was the result of increases in net patient service revenue related to volume increases and increased payment rates. Operating revenue growth is also related to increase in other operating revenue related to increases in specialty and contract pharmacy operations. Operating expense growth was attributed to increases in staff salaries and benefits as well as medical supplies as the result of growth in volumes and increased pharmaceutical expense related to increase in specialty, contract and ambulatory pharmacy operations. At June 30, 2023, the Hospital had 113 days cash on hand and 27 days in patient accounts receivable.

## **Affiliations, Mergers, Acquisitions and Divestitures**

As with many healthcare systems, the Medical Center evaluates and pursues potential merger and affiliation candidates on a consistent basis as part of its overall strategic planning and development process. Likewise, the Medical Center occasionally receives offers from, or conducts discussions with, third parties about the potential acquisition or affiliation of operations or properties which may become a part of or affiliated with the Hospital and/or Medical Center, or about the potential sale of some of the operations and properties of the Medical Center. Any evaluation of potential merger and affiliation candidates will depend on whether such candidate will fulfill the requirements for the Medical Center to be able to provide a full continuity of care as part of an integrated delivery system.

Discussions with respect to affiliation, merger, acquisition, disposition, or change of use, including those that may affect the Medical Center are held on an intermittent, and usually confidential, basis. As a result, it is possible that the assets currently owned by the Medical Center may change from time to time, subject to the provisions of various contractual obligations of the Medical Center including in the financing documents that apply to merger, sale, disposition or purchase of assets.

Currently, the Medical Center is affiliated with other nonprofit and for-profit corporations. Such affiliates conduct operations that are of strategic importance to the Medical Center, including opportunities for medical students and residents to receive training in a variety of clinical settings. Their operations may subject the Medical Center to potential legal or financial liabilities, although in general, the Medical Center is not liable for the debts and legal obligations of the affiliates. In some cases, the Medical Center may fund the affiliates on a start-up or ongoing basis, although this funding, in relation to the overall operating budget of the Medical Center, historically has not materially affected the Medical Center's financial condition or operation, nor is it anticipated to do so in the future.

## **Factors Affecting the Hospital's Revenues**

### *General*

The revenue and expenses of the Hospital are affected by the changing healthcare environment. These changes are a result of efforts by the federal and state governments, managed care organizations, private insurance companies and business coalitions to reduce and contain healthcare costs, including, but not limited to, the costs of inpatient and outpatient care, physician fees and capital expenditures. In addition to matters discussed elsewhere in this official statement, the following factors may have a material effect on the operations of the Hospital to an extent that cannot be determined at this time.

The receipt of future revenues by the Hospital is subject to, among other factors, federal and state regulations and policies affecting the healthcare industry and the policies and practices of managed care providers, private insurers and other third party payors, and private purchasers of healthcare services. The effect on the Hospital of future statutes and regulations and changes in federal, state and private policies cannot be precisely determined at this time.

Future economic conditions, which may include an inability to control expenses in periods of inflation, and other conditions such as demand for healthcare services, including an anticipated continued decline in utilization of inpatient facilities, the capability of the management of the Hospital, the receipt of grants and contributions, referring physicians' and self-referred patients' confidence in the Hospital, increased use of health maintenance organizations ("HMOs") and preferred provider organizations ("PPOs") with discounted payment schedules, economic and demographic developments in the United States and in the service areas in which facilities of the Hospital are located, competition from other healthcare institutions, changes in interest rates which affect the investment results, and changes in rates, costs, third-party payments and governmental regulations concerning payment, are among other factors which may adversely affect revenues and expenses.

### *Legislative, Regulatory, and Contractual Matters Affecting Revenue*

The healthcare industry is heavily regulated by the federal and state governments. A substantial portion of revenue of healthcare providers is derived from governmental sources. Governmental revenue sources are subject to statutory and regulatory changes, administrative rulings, interpretations of policy, determinations by fiscal intermediaries, and government funding restrictions, all of which may materially increase or decrease the rates of payment and cash flow to hospitals. In the past, there have been frequent and significant changes in the methods

and standards used by government agencies to reimburse and regulate the operation of hospitals. There is no reason to believe that substantial additional changes will not occur in the future or that payments made under such programs will remain at levels comparable to the present levels or that they will be sufficient to cover all existing costs.

Legislation is periodically introduced in Congress and in the State legislature that could result in limitations on the Hospital's revenue, third-party payments, and costs or charges, or that could result in increased competition or an increase in the level of indigent care required to be provided by the Hospital. From time to time, legislative proposals are made at the federal and state level to engage in broader reform of the healthcare industry, including proposals to promote competition in the healthcare industry, to contain healthcare costs, to educate the consumers, to prevent healthcare fraud, to provide national health insurance and to impose additional requirements and restrictions on healthcare insurers, providers and other healthcare entities. The effects of future reform efforts on the Hospital cannot be predicted.

#### *Managed Care and Consumer Directed Health Plans*

Managed care and consumer directed health plans, which include various payment methodologies and utilization controls, are increasingly being offered by traditional insurance companies and managed care organizations in the State. Payment methodologies include per diem rates, per discharge rates, discounts from established charges, fee schedules and capitation payments. Enrollment in managed care and consumer directed health plans has increased, and these plans are expected to have a greater influence on the manner in which healthcare services are delivered and paid for in the future. Managed care programs and consumer directed health plans are expected to significantly reduce the utilization of healthcare services generally, and inpatient services in particular. In addition, some managed care organizations have been delaying reimbursements to hospitals, thereby affecting University cash flows. The financial condition of the Hospital may be adversely affected by these trends.

#### *Medicare and Medicaid Managed Care*

Medicare continues to encourage and facilitate the development of managed care products for Medicare beneficiaries, otherwise known as the Medicare Advantage (MA) program or Medicare Part C. Enrollment in a MA product is currently voluntary and enrollees may disenroll and reenroll in the traditional Medicare fee-for-service system at any time. Commercial insurers and HMOs typically offer MA products for the Medicare population.

Medicare enrollees in MA products have their healthcare managed and paid for by the applicable insurer, HMO or PPO (the "managed care plan"). The MA plan is reimbursed by the Medicare program on a monthly per-beneficiary amount for each Medicare enrollee. The MA plan is at full financial risk for cost overruns that exceed the per-beneficiary amounts paid to it by Medicare. Consequently, the MA plan seeks to reduce the utilization of services provided by its participating hospitals, physicians and other providers and otherwise control the costs of providing care to Medicare beneficiaries. These financial considerations may contribute to reduced patient revenues for the Hospital. Enrollment in MA plans is expected to continue increasing and substantial numbers of Medicare beneficiaries are expected to enroll in such plans. As of 2022, 44% of Medicare beneficiaries were enrolled in MA plans.

Future actions by the federal and state governments are expected to continue the trend toward more restrictive limits on reimbursement for hospital services. The management of the Hospital cannot assess or predict the ultimate effect of any such legislation or regulation, if enacted or adopted, on its operations.

The Hospital also participates in the federal and State Medicaid program. In order to control Medicaid expenditures, the State has sought to enroll large numbers of Medicaid patients in managed care programs because experience in other states has shown that inpatient utilization decreases for Medicaid recipients who are enrolled in such programs. Enrollment of Medicaid patients in managed care programs, payments to managed care organizations for care rendered to them, the financial risk assumed by the managed care organization and the resulting and potential financial and other risks to the Hospital are similar to those for Medicare managed care programs.

The State's program for mandatory Medicaid enrollment, The Partnership Plan (also known as the 1115 Waiver), was approved by CMS (known as HCFA at that time) in July 1997, allowing the State to begin enrolling most Medicaid recipients in managed care plans. There remains the possibility that managed care organizations will

continue to seek to reduce the compensation hospitals are currently receiving under the Medicaid program and direct that such enrollees use the services of only managed care organization approved hospitals.

#### *Patient Portability and Affordable Care Act (PPACA)*

Healthcare reform as introduced by the PPACA encourages new and innovative provider payment and methodologies. Of major importance to providers is the concept of Population Health Management. This new payment structure will shift incentives from volume to value (cost and quality) driving care models dependent on highly integrated team based approaches to care. This will require improved information technology infrastructures to provide patient data to help these clinical teams manage large populations with an emphasis on prevention and coordinated care of the chronically-ill. Consequently, in order to be rewarded for “bending the cost curve”, it is likely providers and payers will move away from a strictly fee-for-service payment structure and explore payment models focused on a single payment to the health care team for the care of specific populations (Accountable Care Networks) or an entire period of care (bundles).

Centers for Medicaid & Medicare Services (“CMS”) has implemented a few payment programs designed to incentivize providers to improve quality, increase patient satisfaction and reduce utilization costs. Currently, all the value-based payment programs but one are penalizing in nature, that is, payment rates are reduced for either non-compliance or failing to achieve specified targets. One of the payment programs can be rewarding depending on where the individual institution compares to all other providers. In all, up to 4% of the hospital’s inpatient Medicare payments are at risk if quality, satisfaction and cost metrics are not achieved.

It is difficult to fully project the financial effects of these changes on the Hospital but they are not expected to have a significant adverse effect.

#### *State Medicaid Initiatives*

In 2011, a task force named the New York Medicaid Redesign Team (MRT), was created by the Governor of New York with the aims of reducing the costs of the Medicaid program while improving the quality of the health care provided. A large list of initiatives was developed and implemented including an annual statewide Global Spending Cap on Medicaid expenditures.

Pursuant to a waiver from CMS, the State created the Delivery System Reform Incentive Payment program in 2014, which ran through March 31, 2020 and was designed to transform the Medicaid program as providers formed integrated delivery networks and transitioned to value-based payment methodologies for their Medicaid population. There remains regulatory and financial uncertainty associated with the wind down of this program and the continuing effectiveness of its programs.

Faced with an increasing State budget deficit, MRT was reconstituted as MRT II as part of the State Fiscal Year 2021 Budget. MRT II is tasked with developing \$2.5 billion in cost saving with the goal of making the State’s Medicaid program financially sustainable for years to come. As MRT II is still evolving, there remains the possibility that the State will seek to further reduce the compensation hospitals are currently receiving under the Medicaid program.

#### *Department of Health Regulations*

The Hospital is subject to extensive regulations regarding quality of care and other aspects of Hospital operations by the New York State Department of Health. Compliance with such regulations may require substantial expenditures for administrative or other costs. The Hospital’s ability to add services or beds and to modify existing services materially is also subject to Department of Health review and approval through the CON process. Approvals can be highly discretionary, may involve substantial delay, and may require substantial changes in the proposed request. Accordingly, the Hospital’s ability to make changes to its service offerings and respond to changes in the healthcare environment may be limited.

#### *Other Governmental Regulation*

The Hospital is subject to regulatory changes and enforcement actions by Medicare and Medicaid, including audits and litigations seeking recoupment of Medicare and Medicaid payments alleged to have been improperly billed. This is also an active area for qui tam litigations – healthcare fraud cases under the False Claims Act.



The Hospital, as are many other medical centers throughout the nation, is frequently subject to audits and other investigations by federal and state government agencies and private payors relating to various segments of its operations. The New York Office of the Medicaid Inspector General (“OMIG”), formed in 2006 has been particularly aggressive in recovering Medicaid overpayments from providers. In addition, the Health Resources and Services Administration (“HRSA”) has commenced audits of the federal 340B outpatient drug discount program, a program from which the Hospital derives substantial cost savings. Compliance with HRSA guidance is difficult because of its lack of clarity and changing interpretations. HRSA is also conducting audits related to distributions received from the COVID-19 pandemic CARES Act Provider Relief Fund. In recent years, CMS has required hospitals to publish their charge master prices and negotiated payment rates and has started conducting audits to ensure compliance with the requirement. The management of the Hospital does not believe that any current audits or investigations will result in a liability that would have a material adverse impact on the business, operations or financial condition of the Hospital.

The Hospital is subject to other government agency actions and policy changes such as the National Labor Relations Board and professional and industrial relations of staff and employees, applicable professional review organizations, the Joint Commission on Accreditation of Healthcare Organizations (the “Joint Commission”), the various federal, state and local agencies created by the National Health Planning and Resources Development Act, the Occupational Safety Health Act, the Environmental Protection Agency, the Internal Revenue Service and other federal, state and local governmental agencies.

#### *Competition*

The healthcare industry is in the process of rapid and fundamental change. It is being driven in part by increasing pressures from employers and other purchasers that are seeking to reduce their healthcare premium costs. In New York, integrated delivery systems are developing in order to provide adequate geographical coverage for major purchasers of healthcare and to provide a system through which potential cost savings may become available. These factors may further increase competitive pressures on acute care hospitals, including the Hospital.

The Hospital faces and will continue to face competition from other hospitals and integrated delivery systems. In addition, alternative modes of healthcare delivery offering lower priced services to the same population — such as ambulatory surgery centers, private laboratories, private radiology services, skilled and specialized nursing facilities, and home care — compete with the Hospital.

Management believes that sustained growth in patient volume, together with firm cost controls, and continued superior outcomes will be increasingly important as the healthcare environment becomes more competitive. There are many limitations on the ability of a hospital to increase volume and control costs, and there can be no assurance that volume increases or expense reductions needed to maintain the financial stability of the Hospital will occur.

#### *Private Third-Party Reimbursement*

A significant portion of the patient service revenue of the Hospital is received from private entities, such as insurance companies that provide third-party reimbursement for patient care on the basis of negotiated payments or make payments based on the charges submitted by the Hospital. Renegotiations of such negotiated payments and changes in such reimbursement systems and methods may reduce this category of revenue or prevent the Hospital from receiving adequate reimbursement for its costs. The State of New York Department of Financial Services regulates commercial payer rate filings, limiting the annual increases in premiums that commercial payers may receive. This regulation has the potential to reduce the reimbursement third party payers can or will pay to the Hospital for covered services furnished to members enrolled in commercial insurance plans.

#### *Accreditation*

The Hospital is subject to periodic review by the Joint Commission and the various federal, state and local agencies created by the National Health Planning and Resources Development Act of 1974. The Hospital has accreditation from the Joint Commission through October 22, 2025. The Hospital and its residency training programs are accredited by the Accreditation Council for Graduate Medical Education and the Commission on Dental Accreditation. No assurance can be given as to the effect on future operations of existing laws, regulations and standards for certification or accreditation, of any future changes in such laws, regulations and standards, or of certification or accreditation decisions.

### *Federal “Fraud and Abuse” Laws and Regulations*

The Federal Medicare/Medicaid Anti-Fraud and Abuse Amendments to the Social Security Act (the “Anti-Kickback Law”) make it a felony offense to knowingly and willfully offer, pay, solicit or receive remuneration in order to induce business for which reimbursement is provided under a federal health care program, including without limitation Medicare or Medicaid. In addition to criminal penalties, including fines of up to \$100,000 and ten years imprisonment, violations of the Anti-Kickback Law can lead to civil monetary penalties and exclusion from the Medicare and Medicaid programs. The scope of prohibited payments in the Anti-Kickback Law is broad and includes, subject to certain limited exceptions, economic arrangements involving hospitals, physicians and other healthcare providers, including certain joint ventures, space and equipment rentals, purchases of physician practices and management and personal services contracts.

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) contains provisions for enhanced enforcement, increases to the scope of the Anti-Kickback Law, additional sanctions for violations of such laws and other measures designed to protect the integrity of federal healthcare programs. HIPAA created a new program operated jointly by the Secretary of the United States Department of Health and Human Services (“HHS”) and the Attorney General of the United States to coordinate federal, state and local law enforcement with respect to fraud and abuse. HIPAA also provides for minimum periods of exclusion from federal reimbursement or third-party payment programs as a penalty for fraudulent billing or similar fraudulent activities; allows intermediate sanctions; and expands the scope of civil monetary penalties applicable to any federal health care programs. In addition, HIPAA and the regulations promulgated thereunder implemented new federal privacy and security requirements.

HHS has published certain safe harbor regulations that describe certain arrangements that will be deemed not to constitute violations of the Anti-Kickback Law. The safe harbors described in the regulations are narrow and do not cover a wide range of economic relations which many hospitals, physicians and other healthcare providers consider to be legitimate business arrangements not prohibited by the statute.

Further, various federal laws, including the federal False Claims Act, make it a criminal and/or civil violation to submit (or cause to be submitted) fraudulent (or recklessly incorrect) requests for reimbursement or payment from a federal program, including federal health care programs such as Medicare and Medicaid. Violations of these laws and regulations can lead to criminal actions, treble damages, disgorgement of proceeds fraudulently obtained and/or additional financial penalties ranging up to \$11,000 per false claim. In the health care context, with thousands of claims submitted by hospitals each year, liabilities can be potentially enormous if fraudulent or recklessly inappropriate billing activities occur. The Affordable Care Act in 2010 added a requirement that health care providers repay “overpayments” from federal payors within 60 days of identifying (through reasonable diligence) the overpayment. Fines and penalties apply if this standard is not met. Other federal and state laws also prohibit false, reckless or fraudulent billing to non-governmental third-party payors for medical services, and can impose civil and/or criminal penalties for such activities. A State false claims act has also been enacted and various healthcare fraud crimes have been defined in New York State law. The New York State Office of the Medicaid Inspector General (“OMIG”) has taken a very aggressive stance with regard to Medicaid fraud and Medicaid overpayments.

Management of the Hospital believes that their current practices are presently in compliance with the Anti-Kickback Law, applicable billing and reimbursement regulations, and HIPAA. The Hospital, through its compliance program, routinely monitors institutional billing practices with the goal of assuring compliance with applicable law. However, in light of the narrowness of the safe harbor regulations and the scarcity of the case law interpreting the Anti-Kickback Law, and the complicated and often confusing body of laws and guidelines relating to Medicare and Medicaid billing, there can be no assurance that the Hospital will not be found to have violated the Anti-Kickback Law, HIPAA and/or other billing laws and regulations and, if so, that any sanction imposed would not have a material adverse effect on the operations or the financial condition of the Hospital.

There is also an increasingly expanding and complex body of laws, regulations and policies relating to federal and state health programs that is not directly related to payment. These include reporting and other technical rules, as well as broadly stated prohibitions regarding inducements for referrals, all of which carry potentially significant penalties for noncompliance. The prohibitions on inducements for referrals are so broadly drafted and so broadly interpreted by several applicable federal cases and in statements by officials of the Office of the

Inspector General of HHS (the “OIG”) that they may create liability in connection with a wide variety of business transactions. In the case of the Anti-Kickback Law, limited “safe harbor” regulations provide defenses for a narrow scope of arrangements in case of prosecution or administrative enforcement action. However, failure to satisfy the conditions of a safe harbor does not necessarily indicate a violation of such statute. Activities that fall outside of the safe harbor rules include a wide range of activities frequently engaged in between hospitals and physicians and other third parties. In certain instances, private individuals may also bring suit under the qui tam provisions of the False Claims Act and may be eligible for incentive payments for providing information that leads to recoveries or sanctions. Civil penalties range from monetary fines that may be levied on a per-violation basis to temporary or permanent exclusion from the federal health care programs (which account for a significant portion of revenue and cash flow of most hospitals, including the Hospital). Criminal penalties may also be imposed. If determined adversely to the provider involved, an enforcement or qui tam action could have a materially adverse effect on such provider. These penalties may be applied to many cases where hospitals and physicians conduct joint business activities, practice purchases, physician recruiting and retention programs; various forms of hospital assistance to individual physicians and medical practices or the physician contracting entities; physician referral services; hospital-physician service or management contracts; and to space or equipment rentals between hospitals and physicians. The Hospital conducts activities of these general types or similar activities, which pose varying degrees of risk. Much of that risk cannot be assessed accurately due to the lack of case law or material guidance by the OIG. While the Hospital is not aware of any current challenge or investigation concerning it with respect to such matters, there can be no assurance that one or more will not occur in the future.

#### *Limitations on Certain Arrangements Imposed by Federal Ethics in Patient Referrals Act*

The Federal Ethics in Patient Referrals Act (known as the “Stark Law”) prohibits a physician (or an immediate family member of such physician) with a financial relationship with an entity from referring a Medicare or Medicaid patient to such entity for the furnishing of certain “designated health services,” and prohibits such entity from presenting or causing to be presented a claim for payment under a federal health care program including, without limitation, the Medicare or Medicaid program, for designated health services furnished pursuant to a prohibited referral. The designated health services subject to these prohibitions are clinical laboratory services, physical and occupational therapy services, outpatient speech-language pathology services, radiology (including magnetic resonance imaging, computerized axial tomography and ultrasound) services, radiation therapy services and supplies, durable medical equipment and supplies, parenteral and enteral nutrients (including equipment and supplies), prosthetics and orthotics and prosthetic devices and supplies, home health services, outpatient prescription drugs, and inpatient and outpatient hospital services. Under the Stark Law, “physician” is defined to include a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which he or she performs that function or action. The definition also includes a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, and a chiropractor.

The New York Health Care Practitioner Referral Law (the “State Provisions”) is similar to the Stark Law; however, it covers all patients (irrespective of payor) and prohibits practitioners from referring a patient to a healthcare provider for clinical laboratory services, x-ray or imaging services, radiation therapy services, physical therapy services, or pharmacy services, if the referring practitioner (or an immediate family member) has a financial interest in the healthcare provider. Under the State Provisions, a “practitioner” is defined as a licensed or registered physician, dentist, podiatrist, chiropractor, nurse, midwife, physician assistant or special assistant, physical therapist or optometrist.

A “financial relationship,” for purposes of the Stark Law and State Provisions (the Stark Law and State Provisions are hereinafter collectively referred to as “Stark”) is defined as either an ownership or investment interest in the entity or a compensation arrangement between the physician (or immediate family member) and the entity. An ownership or investment interest may be through equity, debt, or other means and includes an interest in an entity that holds an ownership or investment interest in an entity providing the designated health services.

The Stark provisions provide certain exceptions to these restrictions. If the physician has a financial relationship with an entity that provides one of the designated health services, the Stark prohibitions will apply unless one of the specified exceptions are available. Unlike the anti-kickback safe harbors discussed above (where the failure to meet a safe harbor does not necessarily mean the referral is prohibited), failure to satisfy an exception to the

Stark provisions means (i) that the referral itself is prohibited, and (ii) the entity receiving the referral is prohibited from seeking payment for such service. However, the mere existence of a financial relationship does not violate the Stark provisions. Stark is only violated if (i) a financial relationship exists, (ii) a referral for designated services is made, and (iii) no relevant exception is available. To the extent a relationship is found to exist, an applicable exception under Stark is necessary in order for the entity receiving the referral to accept such referral (for a designated service) and to bill for the designated service generated by such referral.

The exceptions under the Stark provisions can be broken down into three categories, based upon the nature of the financial relationship between the referring provider and the referral entity. The three categories of exceptions include: (i) exceptions to ownership arrangements, (ii) exceptions to compensation arrangements, and (iii) exceptions to both compensation and ownership arrangements.

If the financial relationship between a physician/practitioner and the Hospital cannot be made to fit within the exceptions, the Hospital will not be permitted to accept referrals for designated services from the physician/practitioner who has such financial relationship. Like the Anti-Kickback Law provisions discussed above, failure to comply with the Stark provisions can result in liability in connection with a wide variety of business transactions. Violations may result in civil and criminal penalties and exclusion from the Medicare and Medicaid programs. On January 9, 1998, HCFA (now CMS) issued proposed regulations and commentary interpreting the Stark Law. On January 4, 2001, HCFA issued "Phase I" of final Stark regulations. On March 26, 2004, CMS issued "Phase II" of final Stark regulations as an interim final rule with comment period. The Phase II regulations became effective on July 26, 2004. On October 11, 2005, CMS issued proposed regulations that would create an exception for non-monetary remuneration that is used solely to receive and transmit electronic prescription drug information, as well as exceptions for electronic health records software and directly related training services. These regulations were finalized and became effective in 2006.

#### *Stark II Regulations and Subsequent Regulatory Revisions*

On September 5, 2007, CMS published "Phase III" of the Stark law regulations, in order to simplify the rules and provide additional guidance in response to comments from Stark Phase II. A significant change brought about by the Phase III regulations is the "stand in the shoes" provision, which treats compensation arrangements between a furnishing entity, such as a hospital, and physician group practices as if the arrangements were with the practice's referring physicians directly. Stark III also prohibits "per click," or per unit-of-service rental fees for space and equipment leases. Since these major changes in 2007, the Stark law has undergone various other additional minor revisions which, for example, added revised definitions, made changes to the "whole hospital" and "rural provider" exceptions, and extended the expiration date for the exception permitting certain donations of electronic health record software and services.

There can be no assurance that a third party reviewing the existing activities of the Hospital would find such activities to be in full compliance with the Stark provisions and existing regulations or in full compliance with the new regulations.

#### *HIPAA Privacy Regulations*

When Congress enacted HIPAA, it required HHS to implement national standards to protect the privacy and security of individual health information. HHS published a set of privacy and security regulations, which became effective on April 14, 2001, governing the release of protected health information. The deadline for healthcare providers to be fully compliant with the privacy regulations was April 14, 2003. The regulations prohibit any covered entity, including hospitals and health systems, from using or disclosing an individual's protected health information unless the use or disclosure is authorized by the individual (or his or her personal representative) or is specifically required or permitted under the privacy regulations. The privacy regulations impose a complex system of requirements for meeting this basic rule. The privacy regulations also provide for the imposition of both civil and criminal penalties for violations of the statute. Civil penalties for unknowing violations can range up to \$25,000 per violation. Criminal penalties include fines of up to \$50,000 and imprisonment of up to 1 year. Criminal penalties increase substantially if the offense occurs under false pretenses or with the intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain or malicious harm.

HHS published a set of final security regulations on February 20, 2003, effective April 20, 2005 (although health plans with annual receipts of \$5 million or less had until April 20, 2006 to comply). The security regulations specify a series of administrative, technical and physical security procedures for covered entities to use to assure the confidentiality of electronic protected health information. The standards are delineated into either required or addressable implementation specifications. The security regulations provide for the imposition of civil penalties of a \$100 fine per person, per violation, not to exceed \$25,000 in a calendar year for unknowing violations.

### *HITECH*

The Health Information Technology for Economic and Clinical Health Act (HITECH Act) was enacted in 2009 to advance meaningful use of health information technology. Subtitle D of the HITECH Act addresses privacy and security of electronic health information. HITECH Act strengthens several HIPAA enforcement provisions by establishing categories of culpability for violations, and corresponding tiers of penalty amounts. Civil monetary penalties for such violations can now reach a maximum penalty amount of \$1.5 million for all violations of an identical provision.

The administrative and financial burden of complying with the HIPAA privacy and security regulations is substantial. The Hospital believes its health information systems are robust and we carefully monitor our compliance with privacy and security regulations. In 2019, the University entered into a Resolution Agreement and Corrective Action Plan (CAP) with the United States Department of Health and Human Services Office for Civil Rights (OCR) relating to the loss of an unencrypted flash drive and personal laptop. The University received acknowledgement from the Office for Civil Rights in 2022 that the two-year CAP had ended. There were CAP requirements not completed due to OCR not meeting CAP timelines for their responses to UR submissions. The University reached out to the OCR to accept their offer of Technical Assistance to complete these outstanding CAP elements. The Hospital has a privacy officer and security official each with a team of colleagues who oversee the implementation of the privacy and security standards and work to ensure compliance.

### *Regulation of Patient Transfer*

Federal laws prohibit hospitals from transferring a patient who is medically unstable or is in labor, unless the patient asks to be transferred or a physician certifies that the benefits of the transfer outweigh the risks. The receiving hospital must agree to accept the transfer. Hospitals that violate the ban on inappropriate transfers may be expelled from the Medicare and/or Medicaid programs and are subject to fines of up to \$50,000 per violation, lawsuits for damages, and/or exclusion from Medicare. Management of the Hospital believes that the Hospital is currently in compliance with these requirements.

### *Internal Revenue Code Limitations*

The Internal Revenue Code of 1986, as amended (the “Code”) contains restrictions on the issuance of tax-exempt bonds for the purpose of financing and refinancing different types of healthcare facilities for not-for-profit organizations, including facilities generating taxable income. Consequently, the Code could adversely affect the University’s ability to finance the future capital needs at the Hospital and could have other adverse effects on the University, which cannot be predicted at this time. The Code continues to subject unrelated business income of nonprofit organizations to taxation.

As a tax-exempt organization, the Hospital is limited with respect to the use of practice income guarantees and certain other means of recruiting and retaining physicians, reduced rent for medical office space, below market rate interest loans, and joint venture programs. The Internal Revenue Service (“IRS”) has intensified its scrutiny of a broad variety of contractual relationships commonly entered into by hospitals and affiliated entities and has issued detailed hospital audit guidelines suggesting that field agents scrutinize numerous activities of hospitals in an effort to determine whether any action should be taken with respect to limitations on, or revocation of, their tax-exempt status or assessment of additional tax. The IRS has also engaged in intensive audits of select healthcare providers to determine whether the activities of these providers are consistent with their continued tax-exempt status. The IRS has indicated that, in certain circumstances, violation of the fraud and abuse statutes could constitute grounds for revocation of a hospital’s tax-exempt status. The Hospital may enter into arrangements with physicians that are of the kind that the IRS has indicated that it will examine in connection with audits of tax-exempt hospitals.

### *IRS Audits and Examinations*

The IRS has active programs auditing both the qualification of hospital organizations as Section 501(c)(3) organizations and the qualification of bonds issued for the benefit of such organizations as tax-exempt. The IRS may use detailed information required to be reported on IRS Form 990 – Return of Organizations Exempt From Income Tax (“IRS Form 990”) for this purpose.

### *IRS Examination of Compensation Practices and Community Benefit*

For many years, the IRS has been concerned about executive compensation practices of tax-exempt hospitals. In February 2009, the IRS issued its Hospital Compliance Project Final Report (the “IRS Final Report”) that examined tax-exempt organizations’ practices and procedures with regard to compensation and benefits paid to their officers and other defined “insiders”. The IRS Final Report indicated that the IRS (1) will continue to heavily scrutinize executive compensation arrangements, practices and procedures of tax-exempt organizations, and (2) in certain circumstances, may conduct further investigations or impose fines on tax-exempt organizations.

The IRS has also undertaken a community benefit initiative directed at hospitals. The IRS Final Report determined that the reporting of community benefit by nonprofit hospitals varied widely, both as to types of programs and expenditures classified as community benefit and the measurement of community benefits. As a result, IRS Form 990 requires detailed disclosure of compensation practices, corporate governance, loans to management and others, joint ventures and other types of transactions, political campaign activities, and other areas the IRS deems to be a compliance risk. IRS Form 990 also requires the disclosure of information on community benefit as well as reporting of information related to tax-exempt bonds, including compliance with the arbitrage rules and rules limiting private use of bond-financed facilities, including compliance with the safe harbor guidance in connection with management contracts and research contracts. IRS Form 990 is intended to provide enhanced transparency as to the operations of exempt organizations. It is likely that the IRS will use detailed information from IRS Form 990 to assist in its enhanced enforcement efforts.

### *Recent Congressional and IRS Activity*

The Federal Health Reform Law imposes standards for tax-exemption of charitable hospitals. The law requires that a tax-exempt hospital complete a community needs assessment once every three years and adopt a financial assistance policy. The law also provides that the IRS shall review the tax-exempt status of each hospital every three years. It has also requested that Congress estimate the cost of the nonprofit tax-exemption, which will bring heightened scrutiny to tax-exempt status of charitable hospitals.

Revocation of the tax-exempt status of the University under Section 501(c)(3) of the Code due to the Hospital’s activities could subject the interest paid to Bondholders to federal income tax retroactively to the date of the issuance of the Series 2023 Bonds. Section 501(c)(3) of the Code specifically conditions the continued exemption of all Section 501(c)(3) organizations upon the requirement, among others, that no part of the net earnings of the organization inure to the benefit of any private individual. While management believes the Hospital’s arrangements with private persons and entities are generally consistent with guidance by the IRS and do not constitute private inurement, there can be no assurance concerning the outcome of an audit or other investigation given the lack of clear authority interpreting the range of activities undertaken by the Hospital.

Code Section 4958 imposes intermediate sanction penalty excise taxes in cases where an exempt organization is found to have engaged in an “excess benefit transaction” with a “disqualified person.” Such penalty excise taxes may be imposed in lieu of revocation of exemption or in addition to such revocation in cases where the magnitude or nature of the excess benefit calls into question whether the organization has continued to function as a charity. The tax is imposed on the disqualified person receiving the excess benefit. An additional tax may be imposed on any officer, director, trustee or other person having similar powers or responsibilities who knowingly participated in the transaction willfully or without reasonable cause. “Excess benefit transactions” include transactions in which a disqualified person receives unreasonable compensation for services or receives other economic benefit from the organization that exceeds fair market value. “Disqualified persons” include “insiders” such as board members and officers, senior management, and members of the medical staff, who in each case are in a position to substantially influence the affairs of the organization; their family members; and entities which are more than 35% controlled by a disqualified person. The legislative history sets forth Congress’ intent that compensation of

disqualified persons shall be presumed to be reasonable if it is: (1) approved by disinterested members of the organization's board or compensation committee; (2) based upon data regarding comparable compensation arrangements paid by similarly situated organizations; and (3) adequately documented by the board or committee as to the basis for its determination. A presumption of reasonableness will also arise with respect to transfers of property between the exempt organization and disqualified persons if a similar procedure with approval by an independent board is followed.

Intermediate sanction penalties can also be assessed in situations where the exempt organization, or an entity controlled by the organization, provides an economic benefit to a disqualified person without maintaining contemporaneous written substantiation of the organization's intent to treat the benefit as compensation. If the written contemporaneous substantiation requirements are not satisfied and unless the organization can establish that it provided the economic benefit in exchange for consideration other than the performance of services (i.e., a bona fide loan), the IRS shall deem such a transaction an "automatic" excess benefit transaction without regard to whether: (1) the economic benefit is reasonable; (2) any other compensation the disqualified person may have received is reasonable; or (3) the aggregate of the economic benefit and any other compensation the disqualified person may have received is reasonable. There is no defense to the assessment of automatic excess benefit penalties.

The imposition of an excise tax based upon a finding that an exempt organization engaged in an excess benefit transaction could result in negative publicity and other consequences that could have a material adverse effect on the operations, property, or assets of the Hospital or on the market for its debt obligations.

#### *Antitrust*

Enforcement of the antitrust laws against healthcare providers is becoming more common. Consolidation within the healthcare industry has increased the antitrust risk as has the formation of large networks to conduct joint contracting for risk and gain sharing contracts. Antitrust liability may arise in a wide variety of circumstances including, but not limited to, medical staff privilege disputes, payor contracting, physician relations, joint ventures, merger, affiliation and acquisition activities, and certain pricing and salary setting activities. Actions can be brought by federal and state enforcement agencies seeking criminal and civil penalties and, in some instances, by private litigants seeking damages for harm from allegedly anticompetitive behavior. Common areas of potential liability include joint action among providers with respect to payor contracting, medical staff credentialing, market allocation, and issues relating to abuse of market power. Liability in any of these or other trade regulation areas may be substantial, depending on the facts and circumstances of each case. With respect to payor contracting, the Hospital may, from time to time, be involved in joint contracting activity with hospitals or other providers. The degree to which these or similar joint contracting activities may expose a participant to antitrust risk from governmental or private sources are dependent on a myriad of factors, which may change from time to time. If any provider with which the Hospital is or becomes affiliated is determined to have violated the antitrust laws, the Hospital may be subject to liability as a joint actor. Since 2008, the U.S. Department of Justice and the Federal Trade Commission have materially increased their antitrust enforcement activity.

Some judicial decisions have permitted physicians who are subject to disciplinary or other adverse actions by a hospital at which they practice, including denial or revocation of medical staff privileges, to seek treble damages from the hospital under the federal antitrust laws. The Federal Health Care Quality Improvement Act of 1986 provides immunity from liability for discipline of physicians by hospitals under certain circumstances, but courts have differed over the nature and scope of this immunity. In addition, hospitals occasionally indemnify medical staff members who incur costs as defendants in lawsuits involving medical staff privilege decisions. Some court decisions have also permitted recovery by competitors claiming harm from a hospital's use of its businesses. Antitrust liability in any of these contexts can be substantial, depending upon the facts and circumstances involved.

#### *Environmental and Safety Matters*

Healthcare providers are subject to a wide variety of federal, state and local environmental and occupational health and safety laws and regulations. These requirements govern matters such as medical and toxic or hazardous waste management, air and water quality control, notices to employees and the public and training requirements

for employees. Healthcare operators and employers such as the Hospital are subject to potentially material liability for costs of achieving and maintaining compliance, any penalties associated with regulatory non-compliance, as well as for costs of investigating and remedying the releases of any toxic or hazardous substances either on their properties or that have migrated from their property or have been improperly disposed of off-site and the harm to person or property that such releases or the use and management of such substances may cause.

#### *Provider-Specific Taxes*

The Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 established standards that govern how states can impose and use provider-specific taxes. In general, states are allowed to impose broad-based, provider-specific taxes that are redistributive and do not contain “hold harmless” provisions. The law also limits Medicaid payment adjustments for hospitals that service a disproportionate number of low-income patients to 12% of each state’s gross Medicaid expenditures.

#### *Possible Staffing Shortages*

In recent years, the hospital industry has suffered from an increasing scarcity of nurses and skilled technicians to staff its facilities. Factors underlying this industry trend include an increase in the proportion of the population that is elderly, an increase in the tendency to institutionalize senior citizens as opposed to providing nursing care in the home, a decrease in the number of persons entering the nursing profession and an increase in the number of nurses specializing in home health care. These factors may intensify in years to come, aggravating the shortage of skilled personnel. Nationally there is a shortage of registered nurses and licensed practical nurses. As competition for such employees intensifies, staffing shortages could have the effect of significantly increasing personnel costs and could have a material adverse effect on the financial results of the Hospital. These challenges have exacerbated since 2020 and the Hospital has relied more heavily on staffing agencies for nursing personnel, at a higher cost than traditional, direct staffing. Although the Hospital has achieved adequate nurse and skilled technician staffing levels to date through direct employment and agency staffing, it is uncertain whether qualified candidates will continue to be available to the Hospital in the future.

#### *Impact of COVID-19*

Since its initial outbreak in March 2020, the COVID-19 worldwide global health pandemic has had significant impacts on the University and its educational and health care operations. With the termination of the national public health emergency declaration in May 2023, it is expected that the pandemic’s most significant impacts are in the past. The outbreak of additional COVID-19 strains or other infectious diseases or future public health pandemics could have significant adverse impacts on the University, its operations, and its financial condition, including its health care operations. The likelihood of the occurrence of any such future public health emergencies or the impact of any such occurrence cannot be determined at this time.

#### *Malpractice Claims and General Liability Insurance*

In recent years, the number of malpractice and general liability suits and the dollar amounts of recoveries has moderated nationwide, resulting in slower growth in malpractice insurance premiums, although this trend is of course subject to change from time to time and some geographic markets are already beginning to see premium growth. Insurance premiums may continue to rise in future years, which could have a negative effect on the financial condition of the Hospital. The Hospital in conjunction with its captive insurance company, MCIC Vermont, has adopted a number of prudent safety initiatives which have effectively reduced premiums. Furthermore, malpractice and other actions alleging wrongful conduct and seeking punitive damages are occasionally filed against New York hospitals. Insurance may not provide coverage for judgments for punitive damages.

#### *Litigation Regarding to Billing and Collection Practices*

Over the past several years, lawsuits have been filed in both federal and state courts alleging, among other things, that hospitals have failed to fulfill their obligations to provide charity care to uninsured patients, have overcharged uninsured patients and have engaged in aggressive billing and collection practices. Other cases have alleged that charging patients more for services furnished in a hospital-based setting is a wrongful or deceptive practice. Some



of these cases have since been dismissed by the courts, while some hospitals and health systems have entered substantial settlements in connection with such cases. Several cases are still pending in various courts around the country with inconsistent results. Others could be filed in the future.

#### *Challenges to Real Property Tax Exemptions*

The real property tax exemptions afforded to certain nonprofit health care providers by state and local taxing authorities have been challenged on the grounds that the health care providers were not engaged in sufficient charitable activities. These challenges have been based on a variety of grounds, including allegations of aggressive billing and collection practices, excessive financial margins and operations that closely resemble for-profit businesses. Several of these disputes have been determined in favor of the taxing authorities or have resulted in settlements. In addition, some states have proposed overhauling their property tax exemption laws. While management of the University is not aware of any current challenge to the tax exemption afforded to any material real property of the University, there can be no assurance that these types of challenges will not occur in the future.

#### *Class Actions*

Hospitals, health systems and other health care providers have long been subject to a wide variety of litigation risks, including liability for care outcomes, employer liability, property and premises liability, and peer review litigation with physicians, among others. In recent years, consumer class action litigation has emerged as a potentially significant source of litigation liability for hospitals, health systems and other health care providers. These class action suits have most recently focused on hospital billing and collections practices and breaches of privacy, and they may be used for a variety of currently unanticipated causes of action. Since the subject matter of class action suits may involve uninsured risks, and since such actions often involve alleged large classes of plaintiffs, they may have material adverse consequences on hospitals and health systems in the future.

#### *Pension and Benefit Fund Liabilities*

The University may incur significant expenses to fund pension and benefit plans for employees and former employees and to fund required workers' compensation benefits. Funding obligations in some cases may be erratic or unanticipated and may require significant commitments of available cash needed for other purposes. In addition, to the extent investment returns are lower than anticipated or losses on investments occur, the University may also be required to make additional deposits in connection with pension fund liabilities.

#### *Wage and Hour Class Actions and Litigation*

Federal and state laws impose standards related to worker eligibility for overtime, based on job classification, eligibility and hours worked, as well as obligations to pay for or provide certain rest periods and similar requirements. Large employers with complex workforces, such as the University, are susceptible to actual and alleged violations of these standards. In recent years there has been a proliferation of lawsuits over these "wage and hour" lawsuits, often in the form of large class actions. For large employers, such as the University, such class actions can involve multi-million dollar claims, judgments and/or settlements. A major class action decided or settled adversely to the University could have a material adverse effect.

#### *Information Systems and Technology*

The ability to adequately price and bill health care services and to accurately report financial results depends on the operability of a health care provider's electronic medical record ("EMR") and other information technology ("IT") systems and on the integrity of the data stored within information systems, as well as the operability of such systems. EMR and IT systems require an ongoing commitment of significant resources to maintain, protect and enhance existing systems and develop new systems to keep pace with continuing changes in information processing technology, evolving systems and regulatory standards. There can be no assurance that efforts to upgrade and expand information systems capabilities, protect and enhance these systems, and develop new

systems to keep pace with continuing changes in information processing technology will be successful or that additional systems issues will not arise in the future. From time to time, providers may need or choose to change or upgrade EMR systems. Such transfer can be costly and time consuming and have the potential to disrupt operational issues and create regulatory and operational issues such as data privacy issues, and implementation delays which in turn may have a material adverse effect on the University's business or financial condition.

The reliance on EMR and IT imposes expectations on physicians and other workforce members to be adept in using and managing such systems. It also introduces risks related to patient safety, and to the privacy, accessibility and preservation of health information. Technology malfunctions, training requirements, employee turnover or failure to understand and use information systems properly could result in the dissemination of or reliance on inaccurate information, as well as in disputes with patients, physicians and other health care professionals. Health information systems may also be subject to different or higher standards or greater regulation than other information technology or the paper-based systems previously used by health care providers, which may increase the cost, complexity and risks of operations. All of these risks may have adverse consequences on hospitals and health care providers.

#### *Billing Related Audits, Fines, Withholds and Enforcement Actions*

The DOJ, the Federal Bureau of Investigation and the OIG, and the State Attorney Generals' Offices and OMIG, have been conducting investigations and audits of the billing practices of many health care providers. The University may be required to undergo such audits by one or more of these agencies and may be required to make payments to resolve any such audits. It is possible that any such payments may be substantial and could have a material adverse effect on the results of operations or financial condition of the University.

In addition, HIPAA also added provisions that outlaw certain types of manipulative Medicare billing practices. These include improperly coding (for billing purposes) services rendered in order to claim a higher level of reimbursement and billing for the provision of services or items that were not medically necessary. HIPAA also created two new crimes that are based on the traditional crimes of fraud and theft but are applied specifically to health benefit programs. This law increases the legal risk of provider billing and increases the risk that a Medicare provider will be the subject of a fraud investigation.

#### *Administrative Enforcement*

Administrative regulations may require less proof of a violation than do criminal laws and thus, health care providers may have a higher risk of imposition of monetary penalties as a result of an administrative enforcement action.

#### *Increased Enforcement Affecting Academic Research*

In addition to increasing enforcement of laws governing payment and reimbursement, the federal government has also stepped up enforcement of laws and regulations governing the conduct of clinical trials at hospitals and the administration of federal grants. HHS elevated and strengthened its Office for Human Research Protections, one of the agencies with the responsibility for monitoring federally funded research. The Food and Drug Administration ("FDA") also has authority over the conduct of clinical trials performed in hospitals when these trials are conducted on behalf of sponsors seeking FDA approval to market the drug or device that is the subject of the research. Moreover, the OIG, has included several enforcement initiatives related to reimbursement for experimental drugs and devices and claims for clinical trial-related services on its "Work Plans". These agencies' enforcement powers range from substantial fines and penalties to exclusion of researchers and suspension or termination of entire research programs.

#### *Enforcement Activity Generally*

Enforcement activity against health care providers has increased and enforcement authorities have adopted aggressive approaches. In the current regulatory climate, it is anticipated that many hospitals and physician

groups will be subject to an audit, investigation or other enforcement action regarding the health care fraud laws mentioned above. Enforcement authorities are often in a position to compel settlements by providers charged with or being investigated for false claims violations by withholding or threatening to withhold Medicare, Medicaid and/or similar payments and/or by instituting criminal action. In addition, the cost of defending such an action, the time and management attention consumed, and the facts of a case may dictate settlement. Therefore, regardless of the merits of a particular case, a hospital could experience materially adverse settlement costs, as well as materially adverse costs associated with implementation of any settlement agreement. Prolonged and publicized investigations could be damaging to the reputation and business of a hospital, regardless of outcome.

Certain acts or transactions may result in violation or alleged violation of a number of the federal health care fraud laws and therefore, penalties or settlement amounts often are compounded. Generally, these risks are not covered by insurance. Enforcement actions may involve multiple hospitals in a health system, as the government often extends enforcement actions regarding health care fraud to other hospitals in the same organization. Therefore, Medicare fraud related risks identified as being materially adverse as to a hospital could have materially adverse consequences to a health system taken as a whole.

### **Affiliated Entities Part of Integrated Delivery System**

The University is affiliated with other organizations (the “Affiliated Entities”) that are not legally obligated for the payment of debt service on University obligations, including the Series 2023 Bonds. Likewise, the University is not responsible for the obligations of the Affiliated Entities unless it has agreed otherwise. The Affiliated Entities are as follows:

#### **Strong Partners Health System, Inc. and Affiliates**

In June 1997, Highland Hospital and its affiliates and the University became affiliated through the restructuring of a corporation now known as Strong Partners Health System, Inc. (“SPHS”), of which the University is the sole member. SPHS, a not-for-profit corporation, now serves as the corporate parent of Highland Hospital and the University’s long term care and senior housing affiliates located in Monroe County, New York.

A brief description of the SPHS affiliates follows:

##### *Highland Hospital of Rochester*

Highland Hospital of Rochester is a 261-bed not-for-profit acute care hospital located in Rochester, New York. The hospital’s services include medical/surgical care, intensive care, maternity and emergency care. In addition, the hospital owns and operates 22 outpatient extension clinics, providing primary care, prenatal care, cardiology, radiology, and/or therapeutic radiology services.

##### *Highland Community Development Corporation*

Highland Community Development Corporation (“HCDC”) is a not-for-profit corporation which owns and operates The Highlands at Pittsford, a retirement community located in Pittsford, Monroe County, New York. The retirement community includes 135 independent living apartments, 36 independent living cottages, a community common area, a dining room, sitting areas, recreational areas, a wellness center, and a community center. HCDC also owns and operates Laurelwood at the Highlands, an assisted living facility including 65 apartments, 8 of which are in a secure memory care unit, located on the same campus as The Highlands at Pittsford.

##### *The Highlands Living Center, Inc.*

The Highlands Living Center, Inc. is a not-for-profit corporation which owns and operates a 120-bed skilled nursing facility and an adult day care health program for seniors in Pittsford, Monroe County, New York. The skilled nursing facility is adjacent to The Highlands at Pittsford.

##### *The Meadows at Westfall, Inc.*

The Meadows at Westfall, Inc. d/b/a The Highlands at Brighton (“HAB”) is a not-for-profit corporation which owns and operates a 145-bed skilled nursing facility, which includes 125 residential health care beds and 20 ventilator-dependent beds, in Brighton, Monroe County, New York.

#### *Highland Facilities Development Corporation*

Highland Facilities Development Corporation (“HFDC”) is a not-for-profit corporation whose primary purpose is to provide services that are substantially related to the charitable purposes of Highland Hospital but do not involve the provision of health care services. HFDC owns and operates a medical office building and a parking garage on the hospital campus.

#### *Medical Administrative Associates, Inc.*

Highland Hospital is the sole shareholder of Medical Administrative Associates, Inc., d/b/a Highland South Wedge Pharmacy, which is a for-profit corporation which owns and operates a retail pharmacy in Rochester, New York.

#### *The Highland Foundation, Inc.*

The Highland Foundation, Inc. is a not-for-profit corporation controlled by Highland Hospital which solicits, receives and maintains funds for the support of Highland Hospital and the other not-for-profit, tax-exempt SPHS affiliates.

#### **UR Medicine Home Care, Inc. and Affiliates**

The University affiliated with Visiting Nurse Foundation, Inc. in April 1999, which is a not-for-profit corporation now known as UR Medicine Home Care, Inc. (“URMHC Inc.”). The University is the sole corporate member of URMHC Inc. URMHC Inc. serves as the corporate parent of the University’s home health care affiliates.

URMHC Inc. is the corporate parent of two not-for-profit home health care providers, UR Medicine Home Care, Certified Services, Inc. (“Certified Services”) (formerly named Visiting Nurse Service of Rochester and Monroe County, Inc.), which operates a certified home health agency and a hospice, and UR Medicine Home Care, Licensed Services, Inc. (formerly named Community Care of Rochester, Inc. d/b/a VNS Signature Care), which operates a licensed home care services agency. In October 2014, Finger Lakes Visiting Nurse Service, Inc. (“FLVNS”), which operated a not-for-profit certified home health agency and a hospice, and Finger Lakes Home Care, Inc., which operates a not-for-profit licensed home care services agency, became University affiliates. Certified Services is the sole corporate member of Finger Lakes Home Care. In November 2020, FLVNS merged into Certified Services, with Certified Services being the surviving entity.

In 2018, URMHC Inc. formed two new wholly controlled, not-for-profit subsidiaries: UR Medicine Home Care, Community Services, Inc., which operates certain community-based programs that provide home-based services that are not regulated by the Department of Health or subject to the Medicare conditions of participation, including programs such as Meals on Wheels, which was formerly operated by Certified Services; and UR Medicine Home Care Foundation, Inc., which solicits, receives and maintains funds for the support and benefit of the home care affiliates.

#### **F.F. Thompson Health System, Inc. and Affiliates**

In September 2012, the University affiliated with F.F. Thompson Health System, Inc. (“FFTHS”), which is the corporate parent of a hospital and other affiliates located in Canandaigua, Ontario County, New York. The University is the sole member of FFTHS. A brief description of the FFTHS affiliates follows:

#### *The Frederick Ferris Thompson Hospital*

The Frederick Ferris Thompson Hospital is a 113-bed not-for-profit acute care hospital. Its services include medical/surgical care, intensive care, maternity and emergency care. In addition, the hospital owns and operates 10 extension clinics, 9 of which provide primary health care service and 1 of which provides outpatient physical and occupational therapy.

#### *M.M. Ewing Continuing Care Center*

M.M. Ewing Continuing Care Center Inc. is a not-for-profit corporation that operates a 188-bed skilled nursing facility and adult day care program adjacent to F.F. Thompson Hospital.

*F.F.T. Senior Communities, Inc.*

F.F.T. Senior Communities, Inc. is a not-for-profit corporation that operates Ferris Hills at Westlake, a residential community consisting of 84 independent living units and Clark Meadows, consisting of 48 enriched living units.

*The F.F. Thompson Foundation, Inc.*

The F.F. Thompson Foundation, Inc. is a not-for-profit corporation which solicits, receives and maintains funds for the support and benefit of FFTHS and its affiliates.

*FFTH Properties and Services, Inc. (“Properties”)*

FFTH Properties and Services, Inc. is a for-profit New York State business corporation organized for the purpose of owning, developing and operating unregulated real property for the benefit of FFTHS and its affiliates. Properties owns and operates a medical office building in Canandaigua, New York and a medical office building in the town of Farmington, New York.

*Finger Lakes Community Care Network, Inc. (“FLCCN”)*

Finger Lakes Community Care Network, Inc. is a for-profit New York State business corporation originally organized for the purpose of coordinating services among the Hospital, participating physicians and insurance industry representatives. FLCCN is currently inactive. FFTHS management is reviewing the corporate structure, function and future of the corporation.

**Eastman Dental Center Foundation, Inc. (“EDCF”)**

The Eastman Dental Center Foundation, Inc. was formed to hold and manage the investment assets of the former Eastman Dental Center, which was merged into the University during 1998. Income and assets of EDCF are used to support oral health, education, and research projects at the University. EDCF is not controlled by the University but is closely aligned with its Eastman Institute of Oral Health, a division of the University of Rochester Medical Center.

**Excell Partners, Inc.**

Excell Partners, Inc. is a not-for-profit corporation that supports early stage commercial development utilizing technologies created at the University of Rochester and other regional colleges and universities. The University is the sole corporate member of Excell Partners.

**Excell Technology Ventures, Inc. (“ETV”)**

Excell Technology Ventures, Inc. is a New York for-profit business corporation that is the general partner of Excell Innovate NY Fund, LP, Excell Minority and Women Owned Business Investment Fund, LP, and Excell Partners Innovative TC Fund, LP (the “LPs”), which provide seed stage funding to regional high tech companies. ETV also serves as the manager of each of the LPs, through Excell Partners, Inc. RBC (see below) is the sole shareholder of ETV.

**Rochester Bioventure Center, Inc. (“RBC”)**

Rochester Bioventure Center, Inc. is a not-for-profit corporation which was formed to support the development of new businesses utilizing technologies created at the University and other regional colleges and universities through the operation of incubator/research facilities in Monroe County, New York. The University is the sole corporate member of RBC. RBC has ceased operations related to the support of business development.

**NextCorps, Inc. (“NextCorps”)**

NextCorps, Inc. (formerly named High Tech Rochester, Inc.) is a not-for-profit economic development organization of which the University is the sole corporate member. NextCorps promotes the creation and growth of technology companies through support services and incubation facilities and provides consulting services for manufacturers.

**Managed Care Organization**

The University, through Strong Partners Health System, the Hospital, and University Medical Faculty Group, formed a Managed Care Organization (“MCO”) in October 1997 together with two community physician

organizations: the Highland Physician Organization and the Rochester Community Physician Organization. The MCO has ceased operations and is inactive.

#### **Accountable Health Partners, LLC (“AHP”) and Accountable Health Partners - IPA, LLC**

Accountable Health Partners, LLC (“AHP”) and Accountable Health Partners - IPA, LLC is a network of physicians employed by the University and its affiliated hospitals, community-based physicians, and other affiliated hospitals that are clinically integrated and negotiate reimbursement contracts with local payers and self-insured businesses. The University, through the Hospital, owns 25% of AHP, with the balance owned by other hospitals, University-employed physicians, affiliated hospital-employed physicians, and community physicians.

#### **AHP Insurance Company**

AHP Insurance Company is a Vermont business corporation that was formed by AHP in November 2016 to engage in the business of insuring and reinsuring various types of risk and to serve as a captive insurance company for AHP, by establishing a reserve fund to protect the organization against potential future losses from downside risk taken on its value-based contracts. AHP Insurance Company is wholly owned by AHP.

#### **Livingston Health Care System, Inc.**

On January 1, 2016, the University became the sole corporate member of Livingston Health Care System, Inc. (“LHCS”), which is the corporate parent of a hospital and other affiliates located in Dansville, Livingston County, New York. A brief description of the LHCS affiliates follows:

##### *Nicholas H. Noyes Memorial Hospital, Inc. (Noyes Memorial Hospital)*

Noyes Memorial Hospital is a 67-bed not-for-profit acute care hospital located in Dansville, New York. Its services include medical/surgical care, intensive care, maternity, and emergency care. In addition, Noyes Memorial Hospital operates an ambulatory surgery and multispecialty extension clinic, and 3 other extension clinics providing mental health, dialysis and physical therapy services, respectively.

##### *Red Jacket Center, Inc.*

Red Jacket Center, Inc. is a New York State not-for-profit corporation organized for the purpose of owning, operating and maintaining office buildings to attract doctors to the rural area of Dansville, New York and the counties of Livingston, Steuben and Allegany. Red Jacket Center, Inc. owns and operates a medical office building in Geneseo, New York that leases space to Noyes Memorial Hospital and private physicians.

##### *The Foundation for Noyes Memorial Health System, Inc.*

The Foundation for Noyes Memorial Health System, Inc. is a not-for-profit corporation which solicits, receives, and maintains funds for the support and benefit of LHCS and its not-for-profit, tax-exempt affiliates.

#### **The Memorial Hospital of William F. and Gertrude F. Jones, Inc.**

On January 1, 2016, the University became the sole corporate member of The Memorial Hospital of William F. and Gertrude F. Jones, Inc. (Jones Memorial Hospital), which is located in Wellsville, Allegany County, New York. Jones Memorial Hospital is a 49-bed not-for-profit acute care hospital located in Wellsville, New York. The hospital’s services include medical/surgical care, intensive care, maternity, pediatric, and emergency care. In addition, Jones Memorial Hospital operates six extension clinics, providing primary care, prenatal care, and/or pediatric care, and an extension clinic providing oncology and infusion services.

Jones Medical Services, P.C. is a captive professional corporation of Jones Memorial Hospital that employs physicians and advanced practice providers who are contracted to the Hospital to provide medical services in the Wellsville, New York community.

Jones Memorial Hospital is the sole member of Jones Memorial Hospital Foundation, a not-for-profit corporation that was formed in August 2016 and solicits, receives, and maintains funds for the support and benefit of Jones Memorial Hospital and its not-for-profit, tax-exempt affiliates.

## **St. James Hospital**

On March 1, 2018, the University became the sole corporate member of St. James Hospital. St. James Hospital is a 15-bed not-for-profit acute care hospital located in Hornell, New York. The Hospital's services include primary and specialty medical services, ambulatory surgery, and emergency services. St. James Hospital also operates 6 extension clinics that provide primary care, and specialty care including orthopaedic outpatient services.

St. James Hospital is the sole member of St. James Hospital Foundation, Inc. a not-for-profit corporation that solicits, receives and maintains funds for the support and benefit of St. James Hospital.

## **Finger Lakes Regional Health System, Inc. and Affiliates**

On August 1, 2023, the University became the sole corporate member of Finger Lakes Regional Health System, Inc. d/b/a Finger Lakes Health ("FLH"), which is the corporate parent of two hospitals and other affiliates located in the Counties of Ontario, Yates, and Seneca, New York.

A brief description of the FLH affiliates follows:

### *Geneva General Hospital*

Geneva General Hospital is a 117-bed not-for-profit, tax-exempt acute care general hospital located in Geneva, Ontario County, New York. Its services include medical/surgical care, intensive care, and emergency care. In addition, the hospital owns and operates an ambulatory surgery center, and 5 extension clinics providing primary health care services, the Jim Dooley Center for Early Learning, a child care center serving infants and children from ages 6 weeks to 6 years, and the Marion S. Whelan School of Practical Nursing, which provides an educational program leading to a certificate in licensed practical nursing.

### *Soldiers and Sailors Memorial Hospital of Yates County*

Soldiers and Sailors Memorial Hospital of Yates County is not-for-profit, tax-exempt corporation that operates a 25bed critical access hospital. Its services include emergency care and ambulatory surgery. The hospital also owns and operates a 150-bed skilled nursing facility, and 2 extension clinics providing primary care services.

### *Geneva Nursing Home, Inc.*

Geneva Nursing Home, Inc. d/b/a Living Center at Geneva – South is a not-for-profit, tax-exempt corporation that operates a 107-bed skilled nursing facility adjacent to Geneva General Hospital.

### *Geneva Nursing Home II, Inc.*

Geneva Nursing Home II, Inc. d/b/a Living Center at Geneva – North is a not-for-profit, tax-exempt corporation that operates an 80-bed skilled nursing facility adjacent to Geneva General Hospital.

### *Huntington Nursing Home, Inc.*

Huntington Nursing Home, Inc. d/b/a Huntington Living Center is a not-for-profit, tax-exempt corporation that operates a 160-bed skilled nursing facility located in Waterloo, Seneca County, New York.

### *FLH Medical, P.C.*

FLH Medical, P.C. is a captive professional corporation of Geneva General Hospital that employs physicians and advanced practice providers who are contracted to the Hospital to provide medical services in the region served by Geneva General Hospital.

### *Geneva General Housing Development Fund Company, Inc.*

Geneva General Housing Development Fund Company, Inc. is a not-for-profit, tax-exempt corporation that operates North Street Apartments, 50 units of subsidized housing for senior citizens and mobility impaired individuals in Geneva, Ontario County, New York.

*Taylor Brown Housing Development Fund Company, Inc.*

Taylor Brown Housing Development Fund Company, Inc. is a not-for-profit, tax-exempt corporation that operates East Main Street Apartments, 40 units of subsidized housing for senior citizens and mobility impaired individuals in Waterloo, Seneca County, New York.

*Finger Lakes Health Foundation, Inc.*

Finger Lakes Health Foundation, Inc. is a not-for-profit corporation that solicits, receives and maintains funds for the support and benefit of FLH and its affiliates.

*Finger Lakes College of Nursing and Health Sciences*

Finger Lakes College of Nursing and Health Sciences is an educational corporation that operates a nursing school in Geneva, New York, which provides an educational program leading to an Associates' Degree in Applied Sciences in Nursing.

*Soldiers Ventures, Inc.* Soldiers Ventures, Inc. is a business corporation that was originally formed to operate a durable medical equipment and supply company. It is currently inactive.

**Debt of Related Entities**

The external debt of the Related Entities are consolidated into the University of Rochester and Related Entities consolidated financial statements as of June 30, 2023. However, the University has no legal obligation to guarantee the debt per the terms of the affiliation agreements, are as follows:

*Highland Hospital and HFDC*

Total long-term indebtedness amounted to \$64,211.

*Highland Community Development Corporation*

Total long-term indebtedness amounted to \$1,001.

*F.F. Thompson Health System, Inc.*

Total long-term indebtedness amounted to \$62,607.

*Livingston Health Care System, Inc.*

Total long-term indebtedness amounted to \$3,657.

*Memorial Hospital of William F. and Gertrude F. Jones, Inc.*

Total long-term indebtedness amounted to \$5,000.

*St. James Mercy Hospital*

Total long-term indebtedness amounted to \$15,530.



**Consolidated Financial Statements of University of Rochester and  
Related Entities and Report of Independent Auditors**

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**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**

**Consolidated Financial Statements**

June 30, 2023 and 2022

# UNIVERSITY OF ROCHESTER AND RELATED ENTITIES

## Index

June 30, 2023 and 2022

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	<b>Page(s)</b>
<b>Report of Independent Auditors</b> .....	1–2
<b>Consolidated Financial Statements</b>	
Balance Sheets.....	3
Statements of Activities.....	4–5
Statements of Cash Flows.....	6
Notes to Consolidated Financial Statements.....	7–47



## Report of Independent Auditors

To the Board of Trustees of the University of Rochester

### ***Opinion***

We have audited the accompanying consolidated financial statements of the University of Rochester and its related entities (the “University”), which comprise the consolidated balance sheets as of June 30, 2023 and 2022, and the related consolidated statements of activities and of cash flows for the years then ended, including the related notes (collectively referred to as the “consolidated financial statements”).

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

### ***Basis for Opinion***

We conducted our audit 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 Auditors’ Responsibilities for the Audit of the Consolidated Financial Statements section of our report. We are required to be independent of the University and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. 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 Consolidated Financial Statements***

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

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

### ***Auditors’ Responsibilities for the Audit of the Consolidated Financial Statements***

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

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

*PricewaterhouseCoopers LLP*

Fairport, New York  
October 16, 2023

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Consolidated Balance Sheets**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

	<b>2023</b>	<b>2022</b>
<b>Assets</b>		
Cash and cash equivalents	\$ 749,384	\$ 836,577
Short-term investments	860,899	868,278
Accounts receivable, net	602,133	558,452
Supplies, prepaid expenses, and deferred charges	112,373	108,420
Contributions receivable, net	87,108	79,094
Notes receivable, net	13,571	13,899
Other assets	83,517	79,513
Investments held for long-term purposes	3,241,631	3,218,567
Property, plant, and equipment, net	2,629,455	2,439,597
Right of use assets	179,820	184,425
Investments in perpetual funds held in trusts by others	64,735	61,002
<b>Total assets</b>	<b>\$ 8,624,626</b>	<b>\$ 8,447,824</b>
<b>Liabilities and Net Assets</b>		
Liabilities:		
Accounts payable and accrued expenses	\$ 789,604	\$ 785,624
Deferred revenue	83,049	86,002
Third-party settlements payable, net and other	269,641	297,108
Accrued pension, post-retirement, and post-employment	565,865	574,700
Long-term debt	1,596,149	1,565,561
Operating lease liabilities	180,254	184,320
Asset retirement obligation	38,407	38,615
Refundable U.S. Government grants for student loans	2,768	5,282
<b>Total liabilities</b>	<b>3,525,737</b>	<b>3,537,212</b>
Net Assets:		
Without donor restrictions	3,355,827	3,253,796
With donor restrictions	1,743,062	1,656,816
<b>Total net assets</b>	<b>5,098,889</b>	<b>4,910,612</b>
<b>Total liabilities and net assets</b>	<b>\$ 8,624,626</b>	<b>\$ 8,447,824</b>

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

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES  
Consolidated Statement of Activities  
For The Year Ended June 30, 2023  
(dollars in thousands)**

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
<b>Operating revenues and other support:</b>			
Tuition and fees	\$ 337,023	\$ -	\$ 337,023
Grants and contracts	518,596	-	518,596
Gifts and pledges	33,082	63,463	96,545
Hospital and faculty practice patient care	4,742,465	-	4,742,465
Auxiliary enterprises	128,914	-	128,914
Interest income and appreciation of short-term investments	67,565	-	67,565
Educational activities	21,637	-	21,637
Other sources	68,173	-	68,173
Long-term investment income and gains allocated to operations	117,535	-	117,535
Net assets released from restriction	75,273	(75,273)	-
<b>Total operating revenue and other support</b>	<u>6,110,263</u>	<u>(11,810)</u>	<u>6,098,453</u>
<b>Operating expenses:</b>			
Salaries and wages	2,798,668	-	2,798,668
Fringe benefits	737,954	-	737,954
<b>Total compensation</b>	<u>3,536,622</u>	<u>-</u>	<u>3,536,622</u>
Supplies	1,177,017	-	1,177,017
Business and professional	590,236	-	590,236
Utilities	70,091	-	70,091
Maintenance and facilities costs	200,754	-	200,754
Depreciation	274,499	-	274,499
Interest	48,035	-	48,035
Other	118,790	-	118,790
<b>Total operating expenses</b>	<u>6,016,044</u>	<u>-</u>	<u>6,016,044</u>
<b>Change in net assets from operating activities</b>	<u>94,219</u>	<u>(11,810)</u>	<u>82,409</u>
<b>Non-operating activities:</b>			
Long-term investment activities:			
Investment income	6,172	5,884	12,056
Net appreciation	84,697	92,304	177,001
<b>Total long-term investment activities</b>	<u>90,869</u>	<u>98,188</u>	<u>189,057</u>
Long-term investment income and gains allocated for operations	(117,535)	-	(117,535)
Other changes, net	34,478	(1,129)	33,349
Change in valuation of split-interest agreements	-	997	997
<b>Change in net assets from non-operating activities</b>	<u>7,812</u>	<u>98,056</u>	<u>105,868</u>
<b>Change in net assets</b>	<u>102,031</u>	<u>86,246</u>	<u>188,277</u>
<b>Beginning net assets</b>	<u>3,253,796</u>	<u>1,656,816</u>	<u>4,910,612</u>
<b>Ending net assets</b>	<u>\$ 3,355,827</u>	<u>\$ 1,743,062</u>	<u>\$ 5,098,889</u>

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



**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES  
Consolidated Statement of Activities  
For The Year Ended June 30, 2022  
(dollars in thousands)**

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
<b>Operating revenues and other support:</b>			
Tuition and fees	\$ 318,113	\$ -	\$ 318,113
Grants and contracts	512,416	-	512,416
Gifts and pledges	31,429	72,372	103,801
Hospital and faculty practice patient care	4,279,153	-	4,279,153
Auxiliary enterprises	118,037	-	118,037
Interest income and depreciation of short-term investments	(63,912)	-	(63,912)
Educational activities	18,439	-	18,439
Other sources	68,967	-	68,967
Long-term investment income and gains allocated to operations	118,928	-	118,928
Net assets released from restriction	77,404	(77,404)	-
<b>Total operating revenue and other support</b>	<u>5,478,974</u>	<u>(5,032)</u>	<u>5,473,942</u>
<b>Operating expenses:</b>			
Salaries and wages	2,601,548	-	2,601,548
Fringe benefits	686,737	-	686,737
<b>Total compensation</b>	<u>3,288,285</u>	<u>-</u>	<u>3,288,285</u>
Supplies	1,041,116	-	1,041,116
Business and professional	396,775	-	396,775
Utilities	67,517	-	67,517
Maintenance and facilities costs	186,717	-	186,717
Depreciation	268,244	-	268,244
Interest	43,670	-	43,670
Other	140,241	-	140,241
<b>Total operating expenses</b>	<u>5,432,565</u>	<u>-</u>	<u>5,432,565</u>
<b>Change in net assets from operating activities</b>	<u>46,409</u>	<u>(5,032)</u>	<u>41,377</u>
<b>Non-operating activities:</b>			
Long-term investment activities:			
Investment income	7,832	7,627	15,459
Net depreciation	(167,583)	(244,754)	(412,337)
<b>Total long-term investment activities</b>	<u>(159,751)</u>	<u>(237,127)</u>	<u>(396,878)</u>
Long-term investment income and gains allocated for operations	(118,928)	-	(118,928)
Other changes, net	94,185	(3,343)	90,842
Change in valuation of split-interest agreements	-	5,524	5,524
<b>Change in net assets from non-operating activities</b>	<u>(184,494)</u>	<u>(234,946)</u>	<u>(419,440)</u>
<b>Change in net assets</b>	<u>(138,085)</u>	<u>(239,978)</u>	<u>(378,063)</u>
<b>Beginning net assets</b>	<u>3,391,881</u>	<u>1,896,794</u>	<u>5,288,675</u>
<b>Ending net assets</b>	<u>\$ 3,253,796</u>	<u>\$ 1,656,816</u>	<u>\$ 4,910,612</u>

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

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Consolidated Statements of Cash Flows**  
**For The Year Ended June 30, 2023 and 2022**  
**(dollars in thousands)**

	<b>2023</b>	<b>2022</b>
<b>Cash flows from operating activities:</b>		
Change in net assets	\$ 188,277	\$ (378,063)
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation expense	274,499	268,244
Net (appreciation)/depreciation on investment activities	(202,995)	466,235
Gifts of property, plant, equipment and other	(228)	(1,760)
Deferred financing costs	817	368
Bond premium amortization	(8,268)	(9,577)
Loss on disposals of property, plant, and equipment	2,297	7,745
Change in funded status of pension plan	(38,244)	(98,505)
(Increase)/decrease in investments in perpetual trusts held by others	(245)	671
Contributions for long-term investment, net	(55,449)	(75,052)
(Increases)/decreases in:		
Accounts receivable, net	(43,681)	(3,812)
Supplies, prepaid expenses, and deferred charges	(2,267)	256
Contributions receivable, net	(6,301)	6,406
Other assets	(2,650)	(1,440)
Increases/(decreases) in:		
Accounts payable and accrued expenses	871	(39,116)
Deferred revenues	(2,953)	13,978
Third-party settlements payable, net and other	(27,467)	(102,744)
Accrued pension, post-retirement, and post-employment	29,409	(28,466)
<b>Net cash provided by operating activities</b>	<b>105,422</b>	<b>25,368</b>
<b>Cash flows from investing activities:</b>		
Purchases of property, plant, and equipment	(462,041)	(373,680)
Purchases of investments	(1,499,950)	(694,883)
Proceeds from the sale of investments	1,680,590	868,627
Decrease in notes receivable, net	328	1,478
<b>Net cash used in investing activities</b>	<b>(281,073)</b>	<b>(198,458)</b>
<b>Cash flows from financing activities:</b>		
Borrowings on lines of credit	21,176	7,913
Payments on lines of credit	(17,417)	(4,937)
Payments of long-term debt	(69,237)	(66,208)
Proceeds from issuance of long-term debt	101,001	110,589
Decrease in refundable U.S. Government grants for student loans	(2,514)	(1,878)
Contributions for long-term investment, net	55,449	75,052
<b>Net cash provided by financing activities</b>	<b>88,458</b>	<b>120,531</b>
<b>Net decrease in cash and cash equivalents</b>	<b>(87,193)</b>	<b>(52,559)</b>
<b>Cash and cash equivalents, beginning of year</b>	<b>836,577</b>	<b>889,136</b>
<b>Cash and cash equivalents, end of year</b>	<b>\$ 749,384</b>	<b>\$ 836,577</b>
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid during the year for interest on long-term debt	\$ 42,076	\$ 37,795
Operating cash flows from lease liabilities	51,953	47,929
(Decrease)/increase in construction related payables	(319)	29,905
Right of use assets obtained in exchange for operating leases	68,302	56,450
Right of use assets obtained in exchange for finance leases	6,275	3,696

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

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(1) Summary of Significant Accounting Policies**

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**(a) General**

The University of Rochester and related entities (the University) is a private not-for-profit institution of higher education based in Rochester, New York. The University provides education and training, primarily for students at the undergraduate, graduate, and postdoctoral levels. It also performs research, training, and other services under grants, contracts, and similar agreements with sponsoring organizations, primarily departments and agencies of the United States Government; and provides health care services through Strong Memorial Hospital, UR Medicine Home Care, Inc., the various entities included in Strong Partners Health System, Inc. (SPHS), F.F. Thompson Health System, Inc., Livingston Health Care System, Inc., The Memorial Hospital of William F. and Gertrude F. Jones, Inc. and St. James Hospital.

**(b) Basis of Presentation**

The accompanying consolidated financial statements include all of the integrated divisions of the University – Arts, Sciences and Engineering (including the Hajim School of Engineering and Applied Sciences), Margaret Warner Graduate School of Education and Human Development, William E. Simon Graduate School of Business Administration, Eastman School of Music, Memorial Art Gallery, School of Medicine and Dentistry, Strong Memorial Hospital, School of Nursing, Eastman Institute for Oral Health, Health Sciences, and University of Rochester Medical Faculty Group. Included also are SPHS, Eastman Dental Center Foundation, Inc., UR Medicine Home Care, Inc., Excell Partners, Inc., Rochester BioVenture Center, Inc., NextCorps, F.F. Thompson Health System, Inc., Accountable Health Partners, LLC, Livingston Health Care System, Inc., The Memorial Hospital of William F. and Gertrude F. Jones, Inc. and St. James Hospital. All interorganizational balances and transactions have been eliminated.

The University is the sole member of SPHS, which is the sole member of Highland Hospital of Rochester (including its subsidiaries: The Highland Foundation, Inc., Highland Facilities Development Corp., and Medical Administrative Associates, Inc.); The Highlands Living Center, Inc.; Highland Community Development Corporation; and The Meadows at Westfall, Inc. Highland Hospital and its subsidiaries have debt outstanding which has been included in the University's consolidated financial statements; however, under the terms of the affiliation agreement with SPHS, the University has no legal obligation for the debt of Highland Hospital of Rochester and its subsidiaries.

The Eastman Dental Center Foundation, Inc. was formed to hold and manage the investment assets of the former Eastman Dental Center. Income and assets of the Foundation are used to support oral health, education, and research projects at the University.

The University is the sole corporate member of UR Medicine Home Care, Inc. (URMHC), which is the sole corporate member of UR Medicine Home Care, Certified Services, Inc. (URMHCCS) (which is in turn the sole corporate member of Finger Lakes Home Care, Inc.), UR Medicine Home Care, Licensed Services, Inc., UR Medicine Home Care, Community Services, Inc, and UR Medicine Home Care Foundation, Inc. In August 2018, the Board of Directors of URMHC voted to transfer the assets held by URMHC for the benefit of the URMHC affiliates to UR Medicine Home Care Foundation, Inc. This transfer occurred in January 2023.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

The University is the sole corporate member of Excell Partners, Inc., which was formed to support early stage commercial development utilizing technologies created at the University of Rochester and other regional colleges and universities.

The University is the sole corporate member of Rochester BioVenture Center, Inc. (including its subsidiary Excell Technology Ventures, Inc.), which was formed to support the development of new businesses utilizing technologies created at the University and other regional colleges and universities, through the operation of incubator/research facilities in Monroe County, New York.

The University is the sole corporate member of NextCorps, Inc., which is a not-for-profit economic development organization that promotes the creation and growth of technology companies through support services and incubation facilities and provides consulting services for manufacturers.

The University is the sole corporate member of F.F. Thompson Health System, Inc. (THS) (including its subsidiaries The Frederick Ferris Thompson Hospital (FFT Hospital), M.M. Ewing Continuing Care Center (CCC), F.F.T. Senior Communities, Inc. (FFTSC), FFTH Properties and Services, Inc. (FFTH Properties), and The F.F. Thompson Foundation, Inc. (FFTF). THS remains the sole member of FFT Hospital, CCC, FFTSC, and FFTF and the sole shareholder of FFTH Properties. The University, THS and THS's subsidiaries continue as separate and distinct corporations.

Accountable Health Partners, LLC (AHP), a New York State limited liability company, was formed in January 2013, partly in response to the Patient Protection and Affordable Care Act of 2010. Through AHP, the members hope to harness the collective expertise of physicians and hospitals to work with third-party payors to provide quality comprehensive and cost-effective patient care to the Greater Rochester New York community. The University has a controlling financial interest through direct and indirect ownership of a majority voting interest in AHP.

The University is the sole corporate member of Livingston Health Care System, Inc. (including Noyes Memorial Hospital and subsidiaries); The Memorial Hospital of William F. and Gertrude F. Jones, Inc., and subsidiaries; and St. James Hospital and subsidiaries.

The University is the sole corporate member of Meliora Development Company, LLC (MDC), which was formed in April 2023 to hold the leasehold title for the College Town mixed use development. As of June 30, 2023, MDC was inactive.

**(c) Basis of Accounting and Use of Estimates**

The consolidated financial statements of the University are prepared on the accrual basis of accounting in accordance with generally accepted accounting principles (GAAP) in the United States of America and with the provisions of the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 958, *Not-for-Profit Entities*. Accordingly, the University classifies resources into two categories based on the existence or absence of donor-imposed restrictions: net assets without donor restrictions and net assets with donor restrictions.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Net Assets Without Donor Restrictions are free of explicit donor-imposed restrictions. All revenues, gains, and losses that are not restricted by donors are included in this classification. All operating expenses are reported as decreases in net assets without donor restrictions.

Net Assets With Donor Restrictions are subject to explicit donor-imposed restrictions that will be met either by actions of the University or the passage of time. These net assets include donor restricted endowments, unconditional pledges, split-interest agreements, and investments in perpetual trusts held by others. Generally, the donor-imposed restrictions of these assets permit the University to use all or part of the income earned on related investments only for certain general or specific purposes.

Expirations of donor restrictions on net assets (i.e. the donor-stipulated purpose has been fulfilled and/or the stipulated time period has elapsed) are reported as net assets released from restrictions in the consolidated statements of activities.

Measure of Operations - The University's measure of operations as presented in the consolidated statements of activities includes revenue and expenses related primarily to educational and training programs, research activities, hospital and patient care activities provided by the University and its related entities, unconditional gifts and pledges, the allocation of endowment spending for operations and other revenues.

Nonoperating activities consist primarily of investment income and appreciation (depreciation) from long-term investments in excess of amounts utilized for operations. Other changes, net consists primarily of adjustments in pension, post-retirement, and post-employment obligations based on actuarially determined liabilities.

Use of Estimates - The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, and disclosures of contingencies at the dates of the consolidated financial statements and revenues and expenses during the reporting periods. Management's assumptions are primarily related to the appropriate discount rate for the purposes of retirement and post-retirement plan valuations, the inputs utilized in determining the fair value of investments, allowances for doubtful accounts, self-insured risks, and third-party payor contractual adjustments and allowances. Actual results may differ from those estimates.

**(d) Income Taxes**

The University and the majority of its affiliates are not-for-profit organizations as described in section 501(c)(3) of the Internal Revenue Code and are generally exempt from income taxes on related income pursuant to section 501(a) of the Code. Unrelated activities and income, including certain laboratory and facility rentals and income from limited partnerships in the long-term investment pool, are subject to federal and state unrelated business income tax.

The University regularly evaluates its tax position and does not believe it has any uncertain tax positions that require disclosure or adjustment to the consolidated financial statements based on currently available regulatory guidance.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(e) Fair Value Measurements**

Fair value measurements reflected in the consolidated financial statements represent the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. GAAP provides a hierarchy that prioritizes the inputs to fair value measurements based on the extent to which inputs to valuation techniques are observable in the marketplace. The hierarchy assigns a higher priority to observable inputs that reflect verifiable information obtained from independent sources, and a lower priority to unobservable inputs that would reflect the University's assumptions about how market participants would value an asset or liability based on the best information available. Fair value measurements must maximize the use of observable inputs and minimize the use of unobservable inputs.

The three levels of the hierarchy of inputs used to measure fair value are described briefly as follows:

Level 1 - Unadjusted quoted prices in active markets for identical assets or liabilities that are available at the measurement date.

Level 2 - Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly at the measurement date.

Level 3 - Unobservable inputs for the asset or liability, used in situations in which little or no market activity exists for the asset or liability at the measurement date.

The categorization of fair value measurements by level of the hierarchy is based upon the lowest level input that is significant to the overall fair value measurement for a given asset or liability. In the event that changes in the inputs used in the fair value measurement of an asset or liability result in a transfer of the fair value measurement to a different categorization (e.g., from Level 3 to Level 2), such transfers between fair value categories are recognized at the end of the reporting period.

The requirement to disclose the hierarchy level does not apply to alternative investments measured at net asset value (NAV). As a practical expedient, the University uses its ownership interest in the NAV to determine the fair value of all alternative investments that do not have a readily determinable fair value, and have financial statements consistent with the measurement principles of an investment company or have the attributes of an investment company. The NAV of these investments is determined by the general partner and is based upon appraisal or other estimates that require judgment. If no public market exists for the investment securities, the general partner will take into consideration, among other things, prices of recent significant transactions of similar securities, and subsequent developments concerning the companies to which the securities relate. The University performs significant due diligence around these investments to ensure that NAV is an appropriate measure of fair value.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(f) Cash and Cash Equivalents**

Cash and cash equivalents include amounts on deposit with financial institutions; cash equivalents are short-term investments with maturities of three months or less at the time of purchase and other highly liquid investments, primarily cash management funds. Short-term highly liquid investments held within the endowment and similar investment pools are classified as investments rather than cash equivalents and restricted cash is defined as that which is legally restricted to withdrawal and usage. The fair value of cash equivalents has been classified as Level 1 in accordance with the fair value hierarchy.

**(g) Short-Term Investments**

Short-term investments include all other current investments with original maturities greater than three months and are used to support operations. These current investments include obligations of the U.S. Treasury, U.S. Government and other government agencies, and corporate and foreign bonds. Also included are internal operating funds invested in the University's long-term investment pool that may be liquidated upon demand at any time.

**(h) Supplies**

Supplies, primarily pharmaceutical and medical supplies, are valued at the lower of cost or net realizable value, which is determined by the first-in, first-out method, or market.

**(i) Investments Held for Long-Term Purposes**

The University's investments are comprised of the assets of the University's endowment and other investments held for general operating purposes. The University reports investments at fair value as described further in Note 6. Investment expenses are netted against investment return and reported in the same net asset category as investment return.

Investment securities are exposed to various risks, such as interest rates, market, economic conditions, world affairs, and credit risks. Due to the level of risk associated with certain investment securities, it is possible that changes in value could occur in the near term and such changes could materially affect the amounts reported in the investments and investment activity of the University.

**(j) Endowment**

The University's endowment consists of approximately 2,930 individual endowments established for a variety of purposes including donor-restricted endowment funds and funds designated by the Board of Trustees (Board) to function as endowments. Net assets associated with endowment funds are classified and reported based on the existence or absence of donor-imposed restrictions.

The Board interprets the New York Prudent Management of Institutional Funds Act (NYPMIFA) to allow for the spending of income and gains on investments of donor restricted endowments in a manner that is prudent, considering such factors as the duration and preservation of the endowment fund, the purposes of the institution and the endowment fund, general economic conditions

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

including the potential effect of inflation or deflation, the expected total return of the fund, other resources of the University, the needs of the University and the fund to make distributions and preserve capital, and the University's investment policy.

Investment of the University's net assets held for endowment and similar purposes is based upon a total return policy, and the utilization of its endowment resources for current operating and capital needs is related to this policy. Although NYPMIFA does not preclude the University from spending below the original gift value of donor restricted endowment funds, the University's policy is to spend no more than a stated percentage of fair value of its investment portfolio over time. Accordingly, during fiscal year 2023, the Board of Trustees authorized the use of total return (income and appreciation) from its endowment resources at an aggregate rate of 5.5% (5.7% during fiscal year 2022) of the average fair value of its consolidated investment portfolio for the most recent five years. To the extent that the total return requirement for the current year is not fulfilled by interest and dividends, the University utilizes the appreciation of its endowment net assets for operating purposes. To the extent that the total return requirement for the current year is exceeded by interest and dividends, the University reinvests the excess in its net assets held for endowment.

**(k) Split-Interest Agreements and Perpetual Trusts**

The University's split-interest agreements with donors consist primarily of gift annuities, unitrusts, charitable remainder annuity trusts, and life income agreements. Assets held under these agreements are included in investments held for long-term purposes, and the carrying value of the assets is adjusted for changes in the fair value of the trust assets. For fiscal years 2023 and 2022, the fair values for split-interest agreements assets are \$153,347 and \$154,694, respectively. Contribution revenue is recognized at the dates the agreements are established. A liability for split-interest obligations is recorded when the agreement is established at the estimated net present value of future cash flows using a risk-adjusted discount rate commensurate with the duration of the estimated payments to the beneficiaries. The liabilities are adjusted during the term of the trusts for changes in the value of the assets, accretion of the discount and other changes in the estimates of future benefits. Interest rates in subsequent periods remain unchanged. For fiscal years 2023 and 2022, deferred gift liabilities of \$81,567 and \$85,408, respectively, are included in accounts payable and accrued expenses.

The University is also the beneficiary of certain funds held in trust by others, which are administered by outside trustees. The present values of the estimated future cash receipts, which are measured by the fair value of the assets contributed to the trust, are recognized as assets and contribution revenues at the dates the trusts are established. The carrying value of the assets is adjusted for changes in the fair value of the trust assets. Inputs to the fair value estimate are classified in Level 3 of the fair value hierarchy.

**(l) Property, Plant, and Equipment**

Property, plant, and equipment are stated at cost or at estimated fair value if acquired by gift, less accumulated depreciation and amortization. Buildings used for research activities are componentized as site improvements, buildings, building services, and fixed equipment. Construction in progress costs are capitalized if the costs increase the square footage and/or useful life of the asset. The University capitalizes interest during periods of construction. Expenses



**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

incurred to restore property, plant, and equipment to like new condition or extend the useful life of the asset are capitalized. Minor renovations are expensed as incurred and are recorded within the University's consolidated statements of activities. The University reviews property, plant, and equipment for impairment whenever events or circumstances indicate that the carrying amount may not be recoverable.

Depreciation of research building components is recorded using the straight-line method over the useful lives of the components ranging from 4 to 50 years. Depreciation of all other property, plant, and equipment is computed using the straight-line method over the lesser of the estimated useful lives of the assets or the lease term. Land is not subject to depreciation. Estimated useful lives for nonresearch property, plant, and equipment are as follows:

	<u>Years</u>
New building construction	40
Building and leasehold improvements	20
Land improvements	20
Equipment	4 to 15
Library books	10

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

**(m) Leases**

The University determines if an arrangement is or contains a lease at inception of the contract and classifies leases as either operating or finance depending upon the terms and conditions set forth in the contract. The University uses an incremental borrowing rate to determine the present value of lease payments when the implicit rate in the lease is not readily available. The current treasury rate and the University's current borrowing rate are factored into the incremental borrowing rate calculation.

The University recognizes operating lease expense within maintenance and facilities costs on the statements of activities on a straight-line basis over the lease term. On the consolidated balance sheets, right of use assets represent the University's right to use the underlying assets for the lease term and operating lease liabilities represent the University's obligation to make lease payments arising from the leases. Right of use assets and lease liabilities are recognized at commencement date based on the present value of lease payments over the lease term. Right of use assets are reduced each period by an amount equal to the difference between the operating lease expense and the amount of interest expense on the operating lease liability utilizing the effective interest method.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Finance lease assets are amortized on a straight-line basis within depreciation expense on the statements of activities over the lease term. Interest expense associated with finance leases is recorded using the effective interest method and is included in interest expense within the statements of activities. The University recognizes variable expenses, other than those related to rates or indices, in operating expenses in the period in which the obligation is incurred.

**(n) Museum Collections**

The University capitalizes museum collections. If purchased, collection items are capitalized at cost, and if donated, at their appraised or fair value on the accession date (the date on which the item is accepted by the Board of Trustees). There is no depreciation recorded on collection items.

**(o) Benefit Plans**

The University provides certain health care and life insurance benefits to retired employees and spouses under a defined benefit plan. Benefits include basic medical and major medical coverage. Certain categories of retirees receive dental coverage and group life insurance. Such post-retirement benefits are accounted for as deferred compensation over the estimated service lives of employees.

Post-employment benefits include benefits provided to former or inactive employees after employment but before retirement. For the University, such benefits include workers' compensation benefits, disability benefits, and benefits provided under various other programs.

**(p) Derivative Instruments and Hedging Activities**

Derivative instruments related to the University's long-term debt are included in accounts payable and accrued expenses on the consolidated balance sheets. The change in the fair value of the derivative instruments is included in the net appreciation/depreciation in the statements of activities. The University selected the combination of variable rate bond issues and interest rate swap agreements to obtain fixed rate financing at the lowest available cost at the time of the transactions. The University is exposed to credit loss in the event of nonperformance by the counterparty to its long-term rate swaps. The interest rate swaps do not qualify for cash flow hedge accounting.

**(q) Refundable U.S. Government Grants for Student Loans**

Funds provided by the United States Government under the Federal Perkins, Nursing and Health Professions Student Loan programs were loaned to qualified students and were re-loaned after cash collections. These funds are ultimately refundable to the government and are recognized as a liability in the accompanying consolidated balance sheets. The Federal Perkins Loan Program ended June 30, 2018. Institutions receive guidance from the Department of Education on an annual basis with instructions for returning the federal portion of funding, based on the most recent Fiscal Operations Report and Application to Participate. Refer to Note 5 for further information.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(r) Asset Retirement Obligations**

The University accounts for asset retirement obligations in accordance with asset retirement and environmental obligations guidance and is recorded as a liability on the balance sheets. This guidance primarily affects the way the University accounts for asbestos-related removal costs. The University accrues for asset retirement obligations in the period incurred if sufficient information is available to reasonably estimate the fair value of the obligation. Over time, the liability is accreted to its settlement value. Upon settlement of the liability, the University will recognize a gain or loss for any difference between the settlement amount and liability recorded.

**(s) Tuition and Fees**

Tuition and fees revenue are derived from degree programs as well as executive and continuing education programs. Tuition and fees are recognized as operating revenue in the period in which the University satisfies its performance obligations to provide education to students. Given the timing of each year's academic sessions, nearly all performance obligations on behalf of the University are completed within the fiscal year. The University recognizes tuition on a straight-line basis over each academic session based on published rates, net of explicit price concessions such as institutional aid. Institutional aid, in the form of grants and scholarships, includes amounts funded by endowment and gifts, and reduces the published price of tuition for students receiving such aid. Tuition and fees have been reduced by certain grants and scholarships in the amount of \$265,464 in 2023 and \$272,390 in 2022.

The timing of billings, cash collections and revenue recognition results in accounts receivable and deferred revenue on the consolidated balance sheets. Receivables are recognized only to the extent that it is probable that the University will collect substantially all of the consideration to which it is entitled in exchange for goods and services transferred to the student. Receipts received in advance of goods and services performed are recorded as deferred revenue.

**(t) Grants and Contracts**

The University receives sponsored program grant and contract revenue from governmental and other sources generally for research activities and training programs. The funding may represent a nonreciprocal, nonexchange transaction in which the resources provided are for the benefit of the University, the funding organization's mission or the public at large or it may be a reciprocal transaction in exchange for an equivalent benefit in return.

Revenues from exchange transactions are recognized as performance obligations are satisfied, which in some cases, mirrors the timing of when related costs are incurred. Revenues from nonexchange transactions may be subject to conditions, in the form of both a barrier to entitlement and a refund of amounts paid (or a release from obligation to make future payments.) The University recognizes revenue earned from conditional nonexchange transactions and gifts when the barrier is satisfied, typically as related costs are incurred. At June 30, 2023, the University has grants or contracts for which it has not yet met all obligations to recognize revenue, or the right to recognize revenue is dependent on future events. These unrecorded conditional agreements totaled \$377,815 and \$362,230 as of June 30, 2023 and 2022, respectively. It is expected that revenue will be recognized as the University fulfills its obligations over several years.

**UNIVERSITY OF ROCHESTER**  
**AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Grants and contracts awarded to the University are subject to audit by the various sponsoring agencies. Indirect costs recovered on grants and contracts are recorded at rates established by the University with the federal government, or predetermined by the nonfederal sponsor. Indirect cost rates for government grants and contracts are subject to audit, and subsequent final settlements are recorded as current period adjustments. Management believes the impact of any future settlements to be immaterial to the consolidated financial statements.

**(u) Gifts and Pledges and Contributions Receivable**

Gifts and pledges include revenues from unconditional nonexchange agreements with private sources and foundations. Unconditional gifts and pledges are recognized as revenue in the period received and reported as increases in the appropriate net asset category based on the presence or absence of donor-imposed restrictions. The University has elected the simultaneous release option for unconditional nonexchange transactions that are also subject to purpose restrictions. Under this option, net assets without donor restrictions will include the donor-restricted gifts and pledges whose purpose restrictions are met in the same reporting year as the revenue is recognized.

Nonexchange agreements are considered conditional if the terms of the agreement include both a right of return of assets received/promised and a barrier to entitlement. Conditional agreements are not recognized until the conditions and barriers on which they depend are met.

Contributions receivable after one year are discounted to their present value using an interest rate for the year in which the promise was received and considers market and credit risk as applicable. Subsequent years' accretion of the discount is included in contribution revenue and used in accordance with any donor-imposed restrictions on the contributions. Allowance is made for uncollectible contributions receivable based upon management's judgment and analysis of the creditworthiness of the donors, past collection experience and other relevant factors.

**(v) Auxiliary Enterprises**

Auxiliary services exist to furnish goods or services to students, faculty, patients, staff, or incidentally to the general public. Auxiliary services revenue includes revenue from contracts with customers to provide student housing, food services, parking services and other miscellaneous activities and is recognized over the period during which the services are provided. Fees charged for auxiliary services are priced to offset the cost of the goods or services provided. The distinguishing characteristic of auxiliary services is that they are managed as a self-supporting activity. Revenues and expenses from auxiliary enterprises are reported as changes in net assets without donor restrictions.

A major component of auxiliary services revenue is revenue from contracts with students for housing and dining services. Operating revenue is recognized in the academic period in which the University satisfies its performance obligations to provide housing and dining services. Given the timing of each year's academic sessions, nearly all performance obligations on behalf of the University are completed within the fiscal year. The University recognizes housing and dining revenue on a straight-line basis over each academic session based on published rates.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(w) Hospital and Faculty Practice Patient Care**

Hospital and faculty practice patient care revenue consists of net patient service revenues derived from contracts with patients in which the University's performance obligation is to provide various health care services as follows:

	<u>2023</u>	<u>2022</u>
Hospital services	\$ 3,309,921	\$ 2,989,781
Faculty practice patient care	548,177	510,824
Long-term care	58,272	55,322
Home health services	39,131	51,441
Ancillary and other services	<u>786,964</u>	<u>671,785</u>
<b>Total</b>	<u>\$ 4,742,465</u>	<u>\$ 4,279,153</u>

The University recognizes patient service revenue in the period in which performance obligations under contracts are met by providing healthcare services to patients. The University determines its performance obligations based on the nature of the services provided. Revenue for performance obligations satisfied over time is recognized based on actual charges incurred in relation to total expected charges. This method provides a reasonable depiction of the transfer of services over the term of the performance obligation based on the inputs needed to satisfy the obligation. Generally, performance obligations satisfied over time relate to patients receiving inpatient acute care services or outpatient services. The performance obligation is measured from admission into the hospital, or the commencement of an outpatient service, to the point when it is no longer required to provide services to that patient, which is generally at the time of discharge or completion of the outpatient services. The transaction price represents the amount of consideration expected from patients, third-party payors and others in exchange for providing the health care services rendered. Estimated net realizable amounts represent amounts due, net of explicit and implicit price concessions. Explicit price concessions include estimates of contractual adjustments that are determined based on contractual agreements, discount policies and historical experience. Implicit price concessions, primarily consisting of self-insured and copayment balances, are based on management's assessment of expected collections considering economic conditions, historical experience, trends in health care coverage and other collection indicators using a portfolio approach as a practical expedient to account for patients as a collective group rather than individually. After satisfaction of amounts due from insurance and reasonable efforts to collect from patients have been exhausted, the University follows established guidelines for placing certain past-due patient balances with collection agencies, subject to terms of certain restrictions on collection efforts as determined by the University. Accounts receivable from patients are written off after collection efforts have been followed in accordance with University policy. Certain revenue received from third-party payors is subject to audit and retroactive adjustment. Any changes in estimates under these contracts are recorded in current year operations.

Since all of its performance obligations relate to contracts with a duration of less than one year, the University has elected to apply the optional exemption provided in ASC 606-10-50-14, and therefore, is not required to disclose the aggregate amount of the transaction price allocated to

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

performance obligations that are unsatisfied or partially unsatisfied at the end of the reporting period. The unsatisfied or partially unsatisfied performance obligations referred to previously are primarily related to inpatient acute care services at the end of the reporting period. The performance obligations for these contracts are generally completed when the patients are discharged, which generally occurs within days or weeks of the end of the reporting period.

Strong Memorial Hospital, Highland Hospital, F.F. Thompson Health System, Inc., Noyes Memorial Hospital, The Memorial Hospital of William F. and Gertrude F. Jones, Inc., and St. James Hospital (collectively, the Hospitals) have agreements with third-party payors that provide for payments to the Hospitals at amounts different from its established rates. A summary of the payment arrangements with major third-party payors follows:

**Medicare**

Under the Medicare program, the Hospitals receive reimbursement under a prospective payment system (PPS) for inpatient services. Under the hospital inpatient PPS, fixed payment amounts per inpatient discharge are established based on the patient's assigned diagnosis related group (DRG). When the estimated cost of treatment for certain patients is higher than the average, providers typically will receive additional outlier payments. The Hospitals also receive reimbursement under a prospective payment system for certain medical outpatient services, based on service groups, called ambulatory payment classifications (APCs). Other outpatient services are based upon a fee schedule and/or actual costs. The Hospitals' Medicare cost reports are subject to audit by a fiscal intermediary. The largest hospital within the consolidated entity has been audited and final settled through December 31, 2009.

**Medicaid and Other Third-Party Payors**

The New York Health Care Reform Act of 1996 (HCRA), as amended, governs payments to hospitals in New York State (NYS) through March 31, 2024. Under HCRA, Medicaid, workers' compensation, and no-fault payors payment rates are promulgated by the NYS Department of Health (DOH). Fixed payment amounts per inpatient discharge are established based on the patient's assigned case mix intensity similar to a Medicare DRG. Payments for outpatient payments are connected to Ambulatory Payment Groups (APGs) which use outpatient service intensity weights based on types of service and resource consumption. All other third-party payors, principally Blue Cross, other private insurance companies, Health Maintenance Organizations (HMOs), Preferred Provider Organizations (PPOs) and other managed care plans, negotiate payment rates directly with the hospitals. Such arrangements vary from DRG-based payment systems, to per diems, case rates and percentage of billed charges. If such rates are not negotiated, then the payors are billed at the Hospitals' established charges.

In addition, under HCRA, all non-Medicare payors are required to make surcharge payments for the subsidization of indigent care and other health care initiatives. The percentage amounts of the surcharge vary by payor and apply to a broader array of health care services. Also, certain payors are required to provide additional funds through surcharges on payments to hospitals for inpatient services or through voluntary election to pay a covered lives assessment directly to the DOH.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Laws and regulations governing the Medicare and Medicaid programs are extremely complex and subject to interpretation. As a result, there is at least a reasonable possibility that recorded estimates will change by material amounts in the near term. The Hospitals believe that they are in compliance, in all material respects, with all applicable laws and regulations and are not aware of any pending or threatened investigations involving allegations of potential wrongdoing. Compliance with such laws and regulations can be subject to future government review and interpretation. Noncompliance with such laws and regulations could result in repayments of amounts improperly reimbursed, substantial monetary fines, civil and criminal penalties and exclusion from the Medicare and Medicaid programs.

Revenue from Blue Cross and MVP Health Care accounted for approximately 26% and 3% and 25% and 3%, respectively, of the University's patient service revenue for the years ended June 30, 2023 and 2022. Revenue from Medicare and Medicaid programs (including Medicare Advantage and Medicaid Managed Care plans) accounted for approximately 29% and 12% and 30% and 14%, respectively, of the University's patient revenue for the years ended June 30, 2023 and 2022.

Both federal and NYS regulations provide for certain adjustments to current and prior years' payment rates and indigent care pool distributions based on industry-wide and hospital-specific data. The Hospitals have established estimates based on information presently available of the amounts due to or from Medicare, Medicaid, workers' compensation, and no-fault payors and amounts due from the indigent care pool for such adjustments. Those adjustments, which can be reasonably estimated, have been provided for in the accompanying financial statements. The Hospitals have estimated the potential impact of such adjustments based on the most recent information available. However, those which are either (a) without current specific regulations to implement such adjustments, or (b) are dependent upon certain future events and cannot be reasonably estimated, have not been provided for in the accompanying financial statements. Management believes the amounts recorded in the accompanying financial statements will not be materially affected upon the implementation of such adjustments.

There are various other proposals at the federal and NYS levels relating to Medicare and Medicaid, that could, among other things, reduce reimbursement rates, modify reimbursement methods or increase managed care penetration. The ultimate outcome of these proposals and other market changes cannot presently be determined.

Health care revenue by major payor source is as follows:

	<u>2023</u>	<u>2022</u>
Medicare	\$ 1,382,504	\$ 1,294,777
Medicaid	590,050	579,212
Commercial third-party payors	1,769,770	1,512,030
Self-pay	60,249	55,107
Other	939,892	838,027
<b>Total</b>	<u><u>\$ 4,742,465</u></u>	<u><u>\$ 4,279,153</u></u>

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**Charity Care**

The University provides care to patients who meet certain criteria under its charity care policy without charge or at amounts less than its established rates. Because the University does not pursue collection of amounts determined to qualify as charity care, they are not reported as revenue. The University calculates the cost of charity care by applying the ratio of cost to gross charges to the gross uncompensated charges under the charity care policy. The University maintains records to identify and monitor the level of charity care it provides. The cost of services and supplies furnished under the University's charity care policy were approximately \$34,247 and \$26,784 in 2023 and 2022, respectively. The University received reimbursements of approximately \$19,374 and \$18,277 from New York State in 2023 and 2022, respectively, related to providing charity care to patients.

**(x) New Authoritative Pronouncements**

ASU 2020-01 Investments – Equity Securities (Topic 321), Investments – Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815)

In January 2020, the FASB issued ASU 2020-01 – Equity Securities (Topic 321), Investments – Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815). This amendment clarifies the interaction of the accounting for equity securities under Topic 321, investments accounted for under the equity method of accounting in Topic 323, and the accounting for certain forward contracts and purchased options accounted for under Topic 815. This standard is effective for fiscal years beginning after December 15, 2021 on a prospective basis. The adoption of ASU 2020-01 did not have a material impact on the University's financial statements for the fiscal year ended June 30, 2023.

ASU 2021-05 Leases (Topic 842) – Lessors – Certain Leases with Variable Lease Payments

In July 2021, the FASB issued ASU 2021-05 – Leases (Topic 842) – Lessors – Certain Leases with Variable Lease Payments. This standard amends the lease classification requirements for lessors to classify and account for a lease with variable lease payments that do not depend on a reference index or a rate as an operating lease if both of the following criteria are met: (1) the lease would have been classified as a sales-type lease or a direct financing lease in accordance with the classification criteria and (2) the lessor would have recognized a day-one loss. This standard is effective for fiscal years beginning after December 15, 2021 on either a retrospective or prospective basis. The adoption of ASU 2021-05 did not have a material impact on the University's financial statements for the fiscal year ended June 30, 2023.



**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(2) Liquidity and Availability**

The University regularly monitors liquidity required to meet its operating needs and other contractual commitments, while also striving to maximize the investment of its available funds.

The following resources could be available within one year for general expenditures, such as operating expenses, scheduled principal payments on debt, and capital construction costs not financed with debt as of June 30:

	<u>2023</u>	<u>2022</u>
<b>Financial Assets:</b>		
Cash and cash equivalents	\$ 749,384	\$ 836,577
Short-term investments	860,899	868,278
Accounts receivable	507,391	481,730
Pledge payments available for operations	23,124	22,832
Other assets	3,304	1,305
Long-term investments appropriated for spending in the following year	<u>133,239</u>	<u>131,830</u>
<b>Financial assets available within one year</b>	<b>2,277,341</b>	<b>2,342,552</b>
<b>Liquidity Resources:</b>		
Bank lines and letters of credit (undrawn)	<u>322,974</u>	<u>400,483</u>
<b>Financial assets and liquidity resources available within one year</b>	<b><u>\$ 2,600,315</u></b>	<b><u>\$ 2,743,035</u></b>

The University's cash flows have seasonal variations during the year attributable to tuition billings, patient service billings, and concentration of contributions received at calendar and fiscal year ends. Based on historical experience, only the portion of contributions receivable for operations expected to be received within one year is considered liquid. The University invests cash in excess of daily requirements in short-term investments. Cash withdrawals from long-term investments generally coincide with the endowment spending distribution, but may be adjusted higher or lower based on the timing of gift receipts, capital calls, income and capital distributions, operating expenses and other factors affecting available cash. Endowment funds appropriated for spending are distributed to University department and program budgets for spending, subject to donor restrictions where applicable.

To help manage unanticipated liquidity needs, the University has committed bank lines and letters of credit in the amount of \$333,193 and \$406,943 with several banks as of June 30, 2023 and 2022, respectively, that can be drawn upon as needed during the year to manage cash flows. Amounts outstanding under lines of credit amounted to \$10,219 and \$6,460 as of June 30, 2023 and 2022, respectively.

In addition, the University has funds functioning as endowment (FFAE) of \$1,259,841 and \$1,242,720 as of June 30, 2023 and 2022, respectively. Although the University does not intend to

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

spend from FFAE funds other than amounts appropriated for expenditure as part of the annual budget approval process, these funds could be made available if necessary, subject to certain investment lock-up provisions as discussed in Note 6.

**(3) Accounts Receivable**

Accounts receivable, net at June 30 consist of the following:

	<u>2023</u>	<u>2022</u>
Patient accounts receivable	\$ 308,676	\$ 302,716
Governments, foundations and companies	114,806	93,198
Reinsurance recoveries	68,916	66,755
Retail pharmacy	49,258	41,744
Student receivables	6,461	6,737
Other	54,016	47,302
<b>Total accounts receivable, net</b>	<u>\$ 602,133</u>	<u>\$ 558,452</u>

The University grants credit without collateral to its patients, most of whom are insured under third-party payor agreements. The related receivables at June 30, 2023 and 2022 include approximately 49% from governmental payors, 40% from commercial third-party payors, and 11% from self-pay patients and other sources.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

**(4) Contributions**

Contributions receivable, net, are summarized as follows at June 30:

	<u>2023</u>	<u>2022</u>
<b>Unconditional promises expected to be collected in:</b>		
Less than one year	\$ 37,789	\$ 36,008
One year to five years	25,365	17,895
More than five years	<u>52,895</u>	<u>52,818</u>
	116,049	106,721
Unamortized discount and allowance for uncollectibles	<u>(28,941)</u>	<u>(27,627)</u>
<b>Total contributions receivable, net</b>	<u>\$ 87,108</u>	<u>\$ 79,094</u>

Discount rates used to calculate the present value of contributions receivable ranged from 2% to 6% at June 30, 2023 and 2022. At June 30, 2023, the University had also received \$368,716 in bequest intentions and certain other conditional promises to give. These intentions and conditional promises to give are not recognized as assets. If they are received, they generally will be restricted for specific purposes stipulated by the donor, primarily endowments for faculty support, scholarships or general operating support of a particular department or division of the University.

The University expended \$42,160 and \$38,400 for University relations and development for the years ended June 30, 2023 and 2022, respectively.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

**(5) Notes Receivable**

Notes receivable, net, are summarized as follows at June 30:

	<b>2023</b>		
	<b>Gross Receivable</b>	<b>Allowance</b>	<b>Net Receivable</b>
Federal student loans	\$ 4,670	\$ 299	\$ 4,371
Institutional student loans	5,002	1,244	3,758
Other note receivable	5,442	-	5,442
<b>Total</b>	<b>\$ 15,114</b>	<b>\$ 1,543</b>	<b>\$ 13,571</b>
	<b>2022</b>		
	<b>Gross Receivable</b>	<b>Allowance</b>	<b>Net Receivable</b>
Federal student loans	\$ 6,136	\$ 620	\$ 5,516
Institutional student loans	3,988	1,047	2,941
Other note receivable	5,442	-	5,442
<b>Total</b>	<b>\$ 15,566</b>	<b>\$ 1,667</b>	<b>\$ 13,899</b>

Student loan programs are funded by donor contributions, other institutional sources and governmental programs, primarily the Federal Perkins Loan Program. The amounts received from the federal government's portion of the Perkins program are ultimately refundable to the federal government and are reported as a liability on the University's consolidated balance sheets as refundable U.S. Government grants for student loans. The Federal Perkins Loan Program ended June 30, 2018. The Department of Education provides instructions for unwinding the Federal Perkins Loan program and returning the federal portion of funding. For fiscal years 2023 and 2022, the University refunded \$1,424 and \$1,792, respectively, to the U.S. Department of Education to reduce the Perkins Loan Program.

Student loans are often subject to unique restrictions and conditions; therefore, it is not practical to determine fair values. The allowance is intended to provide for loans, both in repayment status and not yet in repayment status (borrowers are still in school or in the grace period following graduation), that may not be collected.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(6) Investments**

Investments were held for the following at June 30:

	<u>2023</u>	<u>2022</u>
Endowment and similar purposes	\$ 2,890,426	\$ 2,813,463
Property, plant, and equipment purposes:		
Debt service reserve held by trustees under debt agreements	27,592	29,847
Bond proceeds not yet expended	4,907	91,216
Other	1,402	1,190
<b>Total property, plant, and equipment purposes</b>	<u>33,901</u>	<u>122,253</u>
Other purposes	317,304	282,851
<b>Total investments held for long-term purposes</b>	<u>3,241,631</u>	<u>3,218,567</u>
<b>Short-term investments</b>	<u>860,899</u>	<u>868,278</u>
<b>Total investments</b>	<u><u>\$ 4,102,530</u></u>	<u><u>\$ 4,086,845</u></u>

For investment purposes, substantially all investments held for endowment and similar purposes participate in one of several pools, each with its own investment policy and objectives. The investment pool assets are owned by the separate endowment and similar funds within each pool based on the percent ownership of each fund to the pool. Income, realized and unrealized gains and losses are distributed based on the percent ownership of the pooled assets measured at fair value.

The University permits several of its investment managers to utilize forward contracts, currency options and futures with the specific authorization of the investment committee of the Board of Trustees. However, the University was not directly engaged in any of the above-mentioned derivative transactions as of June 30, 2023 and 2022. Management does not anticipate that losses, if any, resulting from its market or credit risks would materially affect the consolidated financial position of the University.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

The following tables present the fair value of investments recorded on the consolidated balance sheets as of June 30:

	<b>Quoted Market Prices (Level 1)</b>	<b>Significant Observable Inputs (Level 2)</b>	<b>NAV as Practical Expedient (NAV)</b>	<b>2023 Total Fair Value</b>
Short-term investments	\$ 219,188	\$ -	\$ -	\$ 219,188
Domestic bonds	364,421	186,008	-	550,429
Common equity:				
Domestic	133,218	1,723	-	134,941
Foreign	-	266,399	-	266,399
Equity:				
Absolute return	-	-	904,900	904,900
Global	87,119	-	-	87,119
Domestic	7,727	-	250,668	258,395
Foreign	287	-	364,300	364,587
Private	740	-	1,045,152	1,045,892
Real estate	561	-	49,209	49,770
Real assets	-	-	89,355	89,355
Other	123,515	8,040	-	131,555
<b>Total short and long term investments</b>	<b>\$ 936,776</b>	<b>\$ 462,170</b>	<b>\$ 2,703,584</b>	<b>\$ 4,102,530</b>

	<b>Quoted Market Prices (Level 1)</b>	<b>Significant Observable Inputs (Level 2)</b>	<b>NAV as Practical Expedient (NAV)</b>	<b>2022 Total Fair Value</b>
Short-term investments	\$ 288,076	\$ -	\$ -	\$ 288,076
Domestic bonds	383,586	208,495	-	592,081
Common equity:				
Domestic	108,966	33,462	199	142,627
Foreign	18,606	239,550	-	258,156
Equity:				
Absolute return	-	-	751,437	751,437
Global	70,525	-	-	70,525
Domestic	6,424	-	224,213	230,637
Foreign	769	-	330,363	331,132
Private	-	-	1,067,556	1,067,556
Real estate	539	-	71,347	71,886
Real assets	52,968	-	115,782	168,750
Other	103,581	10,401	-	113,982
<b>Total short and long term investments</b>	<b>\$ 1,034,040</b>	<b>\$ 491,908</b>	<b>\$ 2,560,897</b>	<b>\$ 4,086,845</b>

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(a) Fair Value Level 1**

Level 1 investments consist of cash and cash equivalents, equity, and fixed-income securities with observable market prices. Fair value for Level 1 is based upon quoted market prices in active markets.

**(b) Fair Value Level 2**

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

**(c) Net Asset Value**

The net asset value (NAV) represents the University's ownership interest in certain alternative investments. The University has performed significant due diligence around these investments to ensure that NAV is an appropriate measure of fair value as of June 30.

The following tables provide information about alternative investments at NAV.

Strategy	2023 Fair Value	Unfunded Commitments	Redemption Frequency	Redemption Notice
Equity:				
Absolute return	\$ 904,900	\$ 17,167	Monthly, Quarterly, Annually, 1, 3 & 5 Year Rolling Lock-ups	30 - 180 Days
Domestic	250,668	-	Monthly, Quarterly, 1 to 3 Year Rolling Lock-ups	30 - 180 Days
Foreign	364,300	-	Quarterly, Annually, 1, 3, & 5 Year Rolling Lock-ups	30 - 180 Days
Private	1,045,152	302,483	1 to 12 years	NA
Real estate	49,209	58,197	1 to 12 years	NA
Real assets	89,355	23,741	1 to 12 years	NA
Common equity (Domestic)	-	-	NA - held to maturity	NA
<b>Total alternative investments</b>	<b>\$ 2,703,584</b>	<b>\$ 401,588</b>		

Strategy	2022 Fair Value	Unfunded Commitments	Redemption Frequency	Redemption Notice
Equity:				
Absolute return	\$ 751,437	\$ 41,821	Quarterly, Annually, 1, 3, & 5 Year Rolling Lock-ups	45 - 180 Days
Domestic	224,213	-	Monthly, Quarterly, 1 to 3 Year Rolling Lock-ups	45 - 180 Days
Foreign	330,363	-	Quarterly, Annually, 1, 3, & 5 Year Rolling Lock-ups	45 - 180 Days
Private	1,067,556	286,168	1 to 12 years	NA
Real estate	71,347	43,077	1 to 12 years	NA
Real assets	115,782	25,043	1 to 12 years	NA
Common equity (Domestic)	199	-	NA - held to maturity	NA
<b>Total alternative investments</b>	<b>\$ 2,560,897</b>	<b>\$ 396,109</b>		

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

**(7) Property, Plant, and Equipment**

As of June 30, 2023 and 2022, the University's investment in property, plant, and equipment is as follows:

	<u>2023</u>	<u>2022</u>
Buildings and improvements	\$ 3,658,612	\$ 3,530,734
Land improvements	85,103	78,939
Leasehold improvements	163,677	157,508
Equipment owned	1,809,928	1,713,640
Library books	262,390	250,142
<b>Subtotal</b>	<u>5,979,710</u>	<u>5,730,963</u>
Less accumulated depreciation	<u>(3,831,051)</u>	<u>(3,647,937)</u>
<b>Subtotal</b>	2,148,659	2,083,026
Land	18,564	20,635
Museum collections	43,932	43,048
Construction in progress	418,300	292,888
<b>Total property, plant, and equipment, net</b>	<u><u>\$ 2,629,455</u></u>	<u><u>\$ 2,439,597</u></u>



**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

**(8) Long-Term Debt**

The following is a summary of the University's long-term indebtedness as of June 30, including unamortized premiums of \$108,777 and \$117,045 and bond issuance costs of \$9,558 and \$10,375, for the years ended June 30, 2023 and 2022, respectively:

	<b>Fiscal Year Maturity</b>	<b>Interest Rate</b>	<b>2023</b>	<b>2022</b>
<b>University of Rochester:</b>				
Fixed Rate:				
MCIDC Series 2013; 2015; 2017; 2020	2024 - 2050	0.47% - 5.31%	\$ 1,159,299	\$ 1,212,447
Private Placement Notes	2047 - 2052	3.26% - 4.31%	187,883	196,080
Other Notes	2026 - 2043	3.26% - 4.86%	101,768	2,411
Obligations under finance leases	2024 - 2031	1.64% - 4.85%	19,545	20,153
<b>Total University</b>			<u>1,468,495</u>	<u>1,431,091</u>
<b>Highland Hospital of Rochester:</b>				
Fixed Rate:				
MCIDC Series 2015; 2020	2045 - 2050	3.00% - 5.00%	64,211	66,153
Variable rate:				
DASNY Series 1994B	2024	5.50%	1,001	1,933
<b>Total Highland Hospital</b>			<u>65,212</u>	<u>68,086</u>
<b>F. F. Thompson Health System, Inc.:</b>				
Fixed Rate:				
OCLDC Series 2017	2040	2.79% - 3.30%	28,255	30,683
Other Notes	2025 - 2033	3.55% - 7.71%	5,608	5,200
Obligations under finance leases	2024 - 2026	0.00% - 8.50%	2,331	3,163
Variable rate:				
DASNY Series 2012	2039	3.00%	10,545	11,015
<b>Total F. F. Thompson Health System, Inc.</b>			<u>46,739</u>	<u>50,061</u>
<b>Livingston Health Care System, Inc.:</b>				
Fixed Rate:				
LCIDA Series 2005	2030	5.00% - 6.00%	3,466	3,792
Obligations under finance leases	2025 - 2027	3.21% - 5.00%	137	269
<b>Total Livingston Health Care System, Inc.</b>			<u>3,603</u>	<u>4,061</u>
<b>Memorial Hospital of William F. and Gertrude F. Jones, Inc.:</b>				
Fixed Rate:				
Obligations under finance leases	2023	5.60%	-	46
<b>Total Memorial Hospital of William F. and Gertrude F. Jones, Inc.</b>			<u>-</u>	<u>46</u>
<b>St. James Hospital:</b>				
Fixed Rate:				
New Market Tax Credit Loans	2041	1.05%	7,358	7,299
Other Notes	2028	0.00% - 3.85%	4,742	4,917
<b>Total St. James Hospital</b>			<u>12,100</u>	<u>12,216</u>
<b>Total Long-term debt</b>			<u>\$ 1,596,149</u>	<u>\$ 1,565,561</u>

**(a) Fiscal Year 2023 Transactions**

During fiscal year 2023, the University issued \$100,000 in term notes, which are being repaid at a fixed rate of 4.86%, maturing June 2043. The term notes were issued to finance the following: (1) the replacement of the University's human resources software system; (2) purchase of the College Town mixed use complex; and (3) renovation of certain educational and infrastructure facilities throughout the River Campus.

F. F. Thompson Health System financed the purchase of a building for a medical group practice with a mortgage of \$1,000. This mortgage note is being repaid at a fixed rate of 5.69%, maturing

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

February 2033. This building will be used for a primary care and an obstetrics and gynecology practice, along with an outpatient pharmacy.

**(b) Interest Rate Swaps**

F. F. Thompson Health System, Inc. executed interest rate swaps with third-parties. These swaps have a combined notional amount of \$11,915 and the contractual relationship under this agreement will last until November 1, 2025.

Interest rate swaps are valued using both observable and unobservable inputs, such as quotations received from the counterparty, dealers or brokers, whenever available and considered reliable. In instances where models are used, the value of the interest rate swap depends upon the contractual terms of, and specific risks inherent in, the instrument as well as the availability and reliability of observable inputs. Such inputs include market prices for reference securities, yield curves, credit curves, measures of volatility, prepayment rates, assumptions for nonperformance risk, and correlations of such inputs. The University's interest rate swap arrangements have inputs which can generally be corroborated by market data and are therefore classified within Level 2.

Appreciation of interest rate swaps was \$162 and \$542 for the years ended June 30, 2023 and 2022, respectively, and are included in nonoperating net appreciation/depreciation on the consolidated statements of activities. Activity related to interest rate swaps affect net assets without donor restrictions and, in the consolidated statements of cash flows, are included in changes in accounts payable and accrued expenses in the operating activities section.

**(c) Collateral**

Highland Hospital of Rochester has a letter of credit in place which expires July 2023 for DASNY Series 1994B. F. F. Thompson Health System, Inc. has a letter of credit in place which expires April 2026 for DASNY Series 2012.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

**(d) Finance Leases**

During fiscal year 2023, the University issued \$6,275 in finance lease obligations for various equipment. The leases are being repaid at various rates with maturity dates through September 2030.

The University's finance leases include equipment for educational, research, and patient care purposes.

Lease cost recognized in the consolidated statements of activities is summarized as follows:

	<u>2023</u>	<u>2022</u>
<b>Finance lease cost:</b>		
Amortization of right-of-use assets	\$ 6,341	\$ 8,305
Interest on lease liabilities	756	1,523
<b>Total lease cost</b>	<u>\$ 7,097</u>	<u>\$ 9,828</u>
	<u>2023</u>	<u>2022</u>
<b>Finance leases reported under:</b>		
Property, plant, and equipment, net	\$ 17,456	\$ 20,945
Long-term debt	22,013	23,631
Weighted average remaining lease term - finance leases	3.01 years	3.61 years
Weighted average discount rate - finance leases	3.9%	3.7%

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

(e) **Required Principal Payments**

Required composite principal payments for long-term debt, net of unamortized discount or premium and bond issuance costs, for each of the years in the five-year period ending June 30, 2028 and thereafter are as follows:

	<b>Principal Portions of Lease Payments</b>	<b>Principal Portions of Debt</b>	<b>Total</b>
	<u>          </u>	<u>          </u>	<u>          </u>
2024	\$ 6,916	\$ 80,508	\$ 87,424
2025	6,399	80,053	86,452
2026	5,209	75,792	81,001
2027	2,716	79,077	81,793
2028	333	66,101	66,434
Thereafter	440	1,192,605	1,193,045
<b>Total</b>	<u>\$ 22,013</u>	<u>\$ 1,574,136</u>	<u>\$ 1,596,149</u>

The University incurred \$48,035 and \$43,670 of interest expense for the years ended June 30, 2023 and 2022, respectively, net of interest capitalization of \$7,683 and \$8,407 for the years ended June 30, 2023 and 2022, respectively.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

**(9) Operating Leases**

The University has operating leases for laboratories, office space, medical offices, and equipment for educational, research, and patient care purposes expiring through 2043. The real estate lease agreements typically have initial terms of five to twenty years and may include one or more options to renew, which can extend the lease term five to ten years. The exercise of lease renewal options is at the University's sole discretion. When determining the lease term, the University includes options to extend or terminate the lease when the option to exercise is certain.

The components of lease expense included in maintenance and facilities costs in the consolidated statements of activities for the year ended June 30 were as follows:

	<u>2023</u>	<u>2022</u>
Operating lease cost	\$ 52,519	\$ 51,132
Variable lease cost	884	506
<b>Total</b>	<u>\$ 53,403</u>	<u>\$ 51,638</u>
<b>Weighted Average Remaining Term</b>		
Operating leases	6.54 years	7.33 years
<b>Weighted Average Discount Rate</b>		
Operating leases	2.9 %	4.3 %

Maturities of operating lease liabilities for each of the years in the five-year period ending June 30, 2028 and thereafter are as follows:

<b>Year ending June 30,</b>	<u>University</u>	<u>Related Entities</u>	<u>Total</u>
2024	\$ 39,569	\$ 5,231	\$ 44,800
2025	32,882	4,259	37,141
2026	25,102	3,304	28,406
2027	17,663	2,546	20,209
2028	14,612	2,021	16,633
Thereafter	41,075	12,042	53,117
<b>Total lease payments</b>	<u>170,903</u>	<u>29,403</u>	<u>200,306</u>
Less: Imputed interest	(11,600)	(8,452)	(20,052)
<b>Total</b>	<u>\$ 159,303</u>	<u>\$ 20,951</u>	<u>\$ 180,254</u>

**(10) Benefit Plans**

**(a) Self-insurance Plans – University**

The University is self-insured for workers' compensation. Liabilities for asserted and unasserted claims under the workers' compensation program at June 30, 2023 were discounted by 3.81% and

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

amounted to \$53,437 (2.98% and \$57,754 in 2022) based on management review of estimates provided by actuaries. These liabilities are offset by receivables for the expected insurance direct payments against these claims of \$16,717 at June 30, 2023 (\$17,014 at June 30, 2022). The liabilities are included in accrued pension, post-retirement, and post-employment liabilities, and the receivables are included in other assets on the consolidated balance sheets. The University has a surety bond with Liberty Mutual Insurance Company to cover potential liabilities under the University's self-insured workers' compensation program.

The University is self-insured for health care benefits. Based on management review of estimates provided by actuaries, the University's obligation for incurred but not reported claims was \$18,507 and \$16,311 as of June 30, 2023 and 2022, respectively. These amounts are included in accounts payable and accrued expenses on the consolidated balance sheets and have not been discounted.

**(b) Self-insurance Plans – Highland Hospital and its Subsidiaries**

Highland Hospital and its subsidiaries are self-insured for workers' compensation claim losses and expenses. Effective May 7, 2021, the entity and its subsidiaries entered into a surety bond arrangement in the amount of \$8,884 and is maintained as security for workers' compensation claims. Based on management review of estimates provided by actuaries, liabilities for asserted and unasserted claims under the workers' compensation program at June 30, 2023 were discounted by 3% and amounted to \$7,526 (3% and \$7,241 in 2022). These liabilities are offset by receivables for the expected insurance direct payments against these claims of \$1,359 at June 30, 2023 (\$1,465 at June 30, 2022). The liabilities are included in accrued pension, post-retirement, and post-employment liabilities, and the receivables are included in other assets on the consolidated balance sheets.

**(c) Post-employment Benefits – University**

The University's accrued post-employment benefits, inclusive mostly of workers' compensation and disability benefits, amounted to \$100,793 and \$105,466 at June 30, 2023 and 2022, respectively, and are recorded in accrued pension, post-retirement, and post-employment on the consolidated balance sheets.

**(d) Post-retirement Benefit Plan – University**

The University's post-retirement benefit plan includes basic medical, major medical, dental coverage, and life insurance. Benefit levels differ for current retirees, current employees eligible to retire, and current employees not eligible to retire. The University incurred post-retirement plan expense of \$7,686 and \$9,827 for the years ended June 30, 2023 and 2022, respectively. The service cost component of post-retirement plan expense is recorded in fringe benefits expense on the consolidated statements of activities. The remaining nonservice cost items are recorded in other changes, net as nonoperating activities. The benefit obligation for this plan for the years ended June 30, 2023 and 2022 includes the following components:

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

	<u>2023</u>	<u>2022</u>
<b>Change in benefit obligation:</b>		
Benefit obligation at beginning of year	\$ 165,261	\$ 224,327
Service cost	2,886	5,252
Interest cost	6,828	5,408
Plan participants' contributions	2,383	2,263
Amendments/curtailments/special termination	-	(1,106)
Actuarial gain	(24,842)	(62,672)
Benefits paid	(8,769)	(8,611)
Medicare Part D prescription drug federal subsidy	-	400
<b>Benefit obligation at end of year</b>	<u>\$ 143,747</u>	<u>\$ 165,261</u>
<b>Change in plan assets:</b>		
Fair value of plan assets at beginning of year	\$ -	\$ -
Employer contributions	6,387	5,948
Plan participants' contributions	2,382	2,263
Medicare Part D prescription drug federal subsidy	-	400
Benefits paid	(8,769)	(8,611)
<b>Fair value of plan assets at end of year</b>	<u>\$ -</u>	<u>\$ -</u>
<b>Components of accrued benefit:</b>		
Funded status	\$ (143,747)	\$ (165,261)
Net actuarial gain	(26,383)	(1,541)
Prior service credit	(21,855)	(23,884)
<b>Accrued benefits</b>	<u>\$ (191,985)</u>	<u>\$ (190,686)</u>
<b>Amounts recognized in the consolidated balance sheets consist of:</b>		
Accrued post-retirement benefit cost	\$ (190,686)	\$ (186,807)
Net periodic benefit cost	(7,686)	(9,827)
Employer contributions	6,387	5,948
<b>Accrued benefits</b>	(191,985)	(190,686)
Amount recorded in unrestricted net assets	48,238	25,425
<b>Net amount recognized in the consolidated balance sheets</b>	<u>\$ (143,747)</u>	<u>\$ (165,261)</u>
<b>Components of net periodic benefit cost:</b>		
Service cost	\$ 2,886	\$ 5,252
Interest cost	6,829	5,408
Amortization of prior service cost	(2,029)	(2,131)
Amortization of net actuarial loss	-	1,298
<b>Net periodic benefit cost</b>	<u>\$ 7,686</u>	<u>\$ 9,827</u>
<b>Amounts recorded in unrestricted net assets:</b>		
Prior service credit	\$ -	\$ (1,106)
Net gain during period	(24,842)	(62,672)
Net actuarial loss amortization recognition	-	(1,298)
Prior service credit amortization recognition	2,029	2,131
<b>Total amount recognized in other non-operating expense</b>	<u>\$ (22,813)</u>	<u>\$ (62,945)</u>

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Estimated future contributions and benefit payments are as follows:

	<b>Estimated Contributions/ Benefit Payments</b>
	<u>                    </u>
2024	\$ 12,550
2025	10,966
2026	10,809
2027	10,754
2028	10,748
2029 to 2030	53,087

Benefits are valued based upon the projected unit cost method. The weighted average assumptions used at the measurement date, June 30, are as follows:

	<u>2023</u>	<u>2022</u>
Discount rate for obligation	5.25%	4.50%
Health care cost trend rate - initial	7.75%	6.75%
Health care cost trend rate - final	4.04%	3.78%
Year final trend rate is reached	2075	2075

The Medicare Prescription Drug Improvement and Modernization Act of 2003 provides for a direct government subsidy for employers who continue to offer a retiree drug program that is deemed to be actuarially equivalent in the government plan. Due to a Plan amendment effective January 1, 2021, the University no longer sponsors coverage for most Medicare-eligible retirees. Instead, those retirees are offered coverage through a benefits exchange. As such, the University is no longer eligible to apply for the Medicare Part D prescription drug federal subsidy for those retirees. The University does, however, offer a retiree drug program to Medicare-eligible retirees who are on long-term disability. The receipts for those retirees would be considered under post-employment, not post-retirement benefits.

Employers are required to recognize the over-funded or under-funded status of defined benefit pension and post-retirement plans as assets or liabilities in its consolidated balance sheets and to recognize changes in that funded status in the year in which the changes occur through changes in net assets without donor restrictions. In addition, employers are required to measure the funded status of the plan as of the consolidated balance sheet date.

Significant (gains)/losses occurring during the period ending June 30, 2023 were as follows:

As of July 1, 2022, the census data was refreshed to reflect changes in the population between the prior and current valuation dates. Demographic changes different from assumed resulted in an increase in liabilities.



**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

As of July 1, 2022, the baseline gross claims used to project future pre-65 retiree healthcare costs were updated to reflect the updated actuarial models for the current valuation date. Less than expected increases in baseline claim costs resulted in a decrease in liabilities.

As of July 1, 2022, the following election assumptions were revised to better reflect actual experience and future expectations: pre-65 retiree election assumption updated from 60% for grandfathered group 4 and 50% for grandfathered group 5 to 50% for grandfathered group 4 and 40% for grandfathered group 5; pre-65 retiree plan election assumption updated from 60% PPO and 40% HSA to 50% PPO and 50% HSA; assumption for pre-65 retirees waiving who opt back into coverage upon Medicare-eligibility updated from 10% for grandfathered group 4 and 20% for grandfathered group 5 to 15% for both grandfathered groups 4 and 5; future retiree spouse election assumption updated from 45% for both grandfathered groups 4 and 5 to 50% for grandfathered group 4 and 40% for grandfathered group 5. The net impact of these changes was a decrease in liabilities.

As of July 1, 2022, retirees or spouses with an unused HRA balance were assumed to spend down an additional \$2,000 each year until their balance is depleted. This assumption was based on industry studies on average out-of-pocket spending for Medicare Advantage participants, as well as the provisions of the University's plan. This change resulted in an increase in liabilities.

As of June 30, 2023, the discount rate was updated from 4.50% to 5.25%. The change in discount rate resulted in a decrease in liabilities.

As of June 30, 2023, the annual rate of increase in healthcare costs was revised to better reflect future expectations, including updating long-term rates based on the SOA Long Term Healthcare Cost Trends Model v2023\_1f (the Getzen model). A review of published national trend survey data in relation to the retiree health plan offerings was the basis for this change. The revised assumption resulted in an increase in liabilities.

**(e) Retirement Plan – University**

The University provides a 403(b) defined contribution retirement plan to its employees. The University of Rochester's Retirement Program is administered and record kept by TIAA. Under this plan, the University made contributions of \$140,011 and \$129,873 in 2023 and 2022, respectively, which were vested for the benefit of the participants.

**(f) Retirement Plans – Highland Hospital and Subsidiaries**

The defined benefit retirement plan of Highland Hospital covers employees of Highland Hospital, The Highlands Living Center, and Highland Community Development Corporation who have completed two years of continuous employment. The benefits for this plan are based primarily on years of service and employees' pay near retirement. The funding policy is to contribute, annually, an amount consistent with the requirement of the Employee Retirement Income Security Act. Effective August 3, 2010, participation in the plan was frozen.

Retirement plan expense of \$6,133 and \$11,890 was incurred for fiscal years ended June 30, 2023 and 2022, respectively. In addition, a pension related benefit other than net periodic pension cost

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

of \$12,908 and \$26,544 for the fiscal years ended June 30, 2023 and 2022, respectively, was recorded in other changes on the consolidated statements of activities.

The following tables present the changes in the plan benefit obligation, the fair value of the plan assets, and the funded status of the plan for the years ended June 30, 2023 and 2022.

	<u>2023</u>	<u>2022</u>
<b>Change in benefit obligation:</b>		
Benefit obligation at beginning of year	\$ 179,233	\$ 259,251
Service cost	3,975	5,555
Interest cost	8,034	5,638
Actuarial gain	(8,762)	(44,859)
Plan settlements	-	(35,982)
Benefits and expenses paid	(9,225)	(10,370)
	<u>\$ 173,255</u>	<u>\$ 179,233</u>
<b>Benefit obligation at end of year</b>	<u>\$ 173,255</u>	<u>\$ 179,233</u>
<b>Accumulated benefit obligation</b>	<u>\$ 165,261</u>	<u>\$ 170,977</u>
	<u>2023</u>	<u>2022</u>
<b>Change in plan assets:</b>		
Fair value of plan assets at beginning of year	\$ 123,121	\$ 182,223
Actual return on plan assets	10,022	(19,012)
Employer contribution	5,636	6,261
Plan settlements	-	(35,981)
Benefits and expenses paid	(9,225)	(10,370)
	<u>\$ 129,554</u>	<u>\$ 123,121</u>
<b>Fair value of plan assets at end of year</b>	<u>\$ 129,554</u>	<u>\$ 123,121</u>
<b>Amounts recognized in the balance sheets consists of:</b>		
Accrued benefit cost (accrued pension, post-retirement, and post-employment)	\$ (22,077)	\$ (21,580)
Amount recognized in unrestricted net assets (other non-operating expense)	(21,624)	(34,532)
	<u>\$ (43,701)</u>	<u>\$ (56,112)</u>
<b>Funded status</b>	<u>\$ (43,701)</u>	<u>\$ (56,112)</u>
<b>Components of net periodic benefit cost:</b>		
Service cost	\$ 3,975	\$ 5,555
Interest cost	8,034	5,638
Expected return on plan assets	(8,202)	(11,308)
Settlement loss recognized	-	7,757
Amortization of unrecognized loss	2,326	4,248
	<u>\$ 6,133</u>	<u>\$ 11,890</u>
<b>Net periodic benefit cost</b>	<u>\$ 6,133</u>	<u>\$ 11,890</u>

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Benefits are valued based upon the projected unit credit cost method. The assumptions used for the plan at the measurement date are as follows:

	<u>2023</u>	<u>2022</u>
Discount rate for obligation	5.32%	4.76%
Effective discount rate for service cost	4.73%	2.91%
Effective rate of interest on service cost	4.73%	2.68%
Future compensation increase rate	3.00%	3.00%
Long-term rate of return on plan assets	6.75%	6.75%

Discount rates used to determine the benefit obligations are based on the yields on high-grade corporate bonds with maturities similar to the projected benefit payments.

To develop the expected long-term rate on assets assumption, the plan sponsor considered the current level of expected returns on risk free investments, the historical level of the risk premium associated with the other asset classes in which the portfolio is invested and the expectations for future returns of each asset class. The expected return for each asset class was then weighted based on the target asset allocation to develop the expected long-term rate of return on assets assumption.

The Plan assets are managed by an investment manager. The investment manager monitors financial markets and adjusts strategy accordingly. The Plan's overall portfolio mix of fixed income and equity securities was based upon asset allocation modeling taking into consideration historical return patterns and risk factors. The Plan investment manager believes that the current mix of plan assets provides an appropriate level of return to achieve current assumed plan return assumptions. For the year ended June 30, 2023, the Plan had target asset allocation ranges of 50% - 75% public equity, 10% - 50% public debt, 0% - 20% private debt and 0% - 25% alternatives.

The asset allocation ranges established by this investment policy represent a long-term perspective, and as such, rapid unanticipated market shifts or changes in economic conditions may cause the asset mix to fall outside of the policy range. These divergences should be of a short-term nature.

Risk mitigation is achieved by diversifying investments across multiple asset classes, by investment in high quality securities and by permitting flexibility in the balance of investments in the permitted asset classes. Market risk inheres in any portfolio but the investment policies and strategies are designed to avoid concentration of risk in one entity, industry, country, or commodity.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

The following assets were recorded at fair value within the pension assets of the Hospital as of June 30:

	<b>2023</b>		
	<b>Level 1</b>	<b>NAV</b>	<b>Total Fair Value</b>
Cash and cash equivalents	\$ 1,925	\$ -	\$ 1,925
Mutual and exchange traded funds	4,549	-	4,549
Collective investment trusts	-	108,587	108,587
Other pooled investment funds	-	3,987	3,987
Limited partnerships	-	10,506	10,506
<b>Total</b>	<b>\$ 6,474</b>	<b>\$ 123,080</b>	<b>\$ 129,554</b>

	<b>2022</b>		
	<b>Level 1</b>	<b>NAV</b>	<b>Total Fair Value</b>
Cash and cash equivalents	\$ 1,249	\$ -	\$ 1,249
Mutual and exchange traded funds	13,365	-	13,365
Collective investment trusts	-	92,902	92,902
Other pooled investment funds	-	7,851	7,851
Limited partnerships	-	7,754	7,754
<b>Total</b>	<b>\$ 14,614</b>	<b>\$ 108,507</b>	<b>\$ 123,121</b>

Fair value for Level 1 is based upon quoted market prices. As a practical expedient, Highland Hospital uses its ownership interest in the NAV to determine the fair value of the investments.

Highland Hospital expects to contribute \$7,049 to the Plan in fiscal year 2024.

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Scheduled estimated future benefit payments for fiscal years ending June 30 are as follows:

	<b>Pension Benefits</b>
2024	\$ 9,407
2025	9,978
2026	10,540
2027	11,080
2028	11,588
2029 to 2033	62,320
<b>Total estimated future payments</b>	<b>\$ 114,913</b>

In addition, Highland Hospital has a 403(b) defined contribution plan and the cost was \$5,600 and \$4,884 for fiscal years ending June 30, 2023 and 2022, respectively, and is recorded in benefits expense on the consolidated statements of activities.

**(g) Retirement Plan – F.F. Thompson Health System, Inc.**

F.F. Thompson Health System, Inc. sponsors a noncontributory defined benefit pension plan, the Thompson Health Pension Plan (the FFT Plan), covering all eligible employees. Benefits under the FFT Plan are based on each participant's years of service and compensation, as defined by the FFT Plan document. As of January 1, 2018, the accrued benefits and participation of employees were frozen. As of that date, no new participants are eligible to participate in the FFT Plan after December 31, 2017, and benefit accruals for participants under the FFT Plan ceased. The funded status of the FFT Plan as of December 31, 2022 and 2021 was \$(7,194) and \$(9,536), respectively.

**(h) Retirement Plan – UR Medicine Home Care and Subsidiaries**

UR Medicine Home Care has a noncontributory defined benefit cash balance pension plan covering many of its employees, past and present. This plan was frozen in December 2002. There will be no new participants and no new annual contributions for existing participants. Accounts for existing participants will continue to be credited annually for interest earned. UR Medicine Home Care will have an ongoing requirement for funding of the plan.

Effective June 30, 2023, UR Medicine Home Care converted from a calendar to a June 30 fiscal year-end. The annual measurement date for the Plan changed from December 31 to June 30. The funded status of this plan as of June 30, 2023 and December 31, 2022 was \$(1,543) and \$(1,809), respectively.

**(i) Retirement Plan – The Memorial Hospital of William F. and Gertrude F. Jones, Inc.**

The Hospital sponsors a noncontributory defined benefit pension plan (plan) covering all eligible employees. The plan was amended to state that Hospital employees hired after December 31, 2006 were no longer eligible to participate in the plan. Additionally, the plan was amended to freeze benefit accruals effective March 31, 2011 for all participants. The annual measurement date for the

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Plan is June 30. The funded status of this plan as of June 30, 2023 and 2022 was \$(1,503) and \$(3,102), respectively.

**(j) Retirement Plan – Livingston Health Care System, Inc. D/B/A Noyes Health**

The System has a noncontributory defined benefit pension plan that covers all eligible employees as of November 30, 2002. Effective November 2002, the Plan was amended to freeze participation and benefit accruals. Effective June 30, 2020, Noyes Health amended their year-end from December 31 to June 30. As such, the annual measurement date for the Plan is June 30. The funded status of this plan as of June 30, 2023 and 2022 was \$(931) and \$(1,165), respectively.

**(11) Investment in Captive Insurance Company**

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The University, together with other universities and teaching hospitals, has formed a captive insurance company (captive) to insure the professional liability risks of the shareholders. The dissolution provisions of the captive agreement indicate that the University's financial participation (based on the percentage of premiums paid) is approximately 7% of the financial results of the captive. The investment in the captive has been recorded under the equity method due to the University's significant influence. For fiscal years 2023 and 2022, the University has recorded \$29,249 and \$29,364, respectively, in investments held for long-term purposes.

The University's premiums are based on its professional liability experience and a shared risk factor with the other participants. Premiums are subject to retrospective adjustment based on, among other things, actual loss experience of the University.

**(12) Professional Liability Claims**

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The University's coverage for professional liability insurance is provided under insurance policies obtained jointly with other universities and teaching hospitals. The primary layer of coverage, as well as the buffer and self-insured layers of excess insurance, were written by MCIC Vermont, Inc. (a Risk Retention Group) formed and directed by the participating insured institutions. Multiple layers of excess insurance were purchased from several different insurance companies. The maximum coverage for the University is \$250,000 per claim. The per claim coverage amount at each of the five participating institutions has been tailored to their own experience and exposures.

The insurance claims receivable, as calculated by the actuaries, was approximately \$68,916 and \$66,755 as of June 30, 2023 and 2022, respectively, and has been included in accounts receivable as shown in Note 3. A corresponding increase to the accrued professional liability cost has been included in accounts payable and accrued expenses.

Based on estimates provided by the actuaries retained by MCIC Vermont, Inc., the University's obligations for incurred but not reported claims were \$42,689 and \$41,079 as of June 30, 2023 and 2022, respectively. These amounts have not been discounted and are included in accounts payable and accrued expenses on the consolidated balance sheets.

**(13) Commitments and Contingencies**

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In the ordinary course of operations, the University is named as a defendant in various lawsuits, or events that occur which could lead to litigation, claims, or assessments. Although the outcome of

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

such matters cannot be predicted with certainty, management believes that insurance coverage is sufficient to cover current or potential claims, or that the final outcomes of such matters will not have a material adverse effect on the consolidated financial position.

At June 30, 2023, the University has entered into construction contracts and commitments aggregating \$2,335,146 (\$2,298,799 at June 30, 2022) of which \$1,571,262 (\$1,404,485 at June 30, 2022) had been fulfilled.

**(14) Expenses by Functional and Natural Classification**

Expenses are presented by functional classification in accordance with the overall service missions of the University. Each functional classification displays all expenses related to the underlying operations by natural classification. Depreciation and maintenance and facilities costs are allocated to functional categories based on square footage occupancy. Interest expense on external debt is allocated to the functional categories which benefited from the proceeds of the external debt.

Other components of net periodic benefit pension costs are a component of other changes, net on the statement of activities and is allocated based on the salaries that benefit the functional area.

Functional expenses for the years ended June 30 consisted of the following:

	2023				
	Academic Instruction	Research	Hospital and Patient Care	Admin and Other	Total
Compensation	\$ 526,405	\$ 227,105	\$ 2,623,116	\$ 159,996	\$ 3,536,622
Supplies	28,809	27,476	1,117,202	3,530	1,177,017
Utilities and maintenance	50,917	57,245	127,550	35,133	270,845
Depreciation expense	85,557	22,811	164,998	1,133	274,499
Interest expense	14,856	10,702	18,481	3,996	48,035
Services and other	9,019	24,346	594,451	81,210	709,026
<b>Total operating expenses</b>	<b>715,563</b>	<b>369,685</b>	<b>4,645,798</b>	<b>284,998</b>	<b>6,016,044</b>
Other components of net periodic benefit pension costs	931	314	4,321	344	5,910
<b>Total non-operating activities</b>	<b>931</b>	<b>314</b>	<b>4,321</b>	<b>344</b>	<b>5,910</b>
<b>Total functional expenses</b>	<b>\$ 716,494</b>	<b>\$ 369,999</b>	<b>\$ 4,650,119</b>	<b>\$ 285,342</b>	<b>\$ 6,021,954</b>

	2022				
	Academic Instruction	Research	Hospital and Patient Care	Admin and Other	Total
Compensation	\$ 486,960	\$ 212,724	\$ 2,417,279	\$ 171,322	\$ 3,288,285
Supplies	26,316	26,461	984,903	3,436	1,041,116
Utilities and maintenance	50,347	56,312	116,780	30,795	254,234
Depreciation expense	86,800	24,989	155,331	1,124	268,244
Interest expense	14,159	8,932	16,324	4,255	43,670
Services and other	35,630	31,127	398,754	71,505	537,016
<b>Total operating expenses</b>	<b>700,212</b>	<b>360,545</b>	<b>4,089,371</b>	<b>282,437</b>	<b>5,432,565</b>
Other components of net periodic benefit pension costs	871	342	1,923	324	3,460
<b>Total non-operating activities</b>	<b>871</b>	<b>342</b>	<b>1,923</b>	<b>324</b>	<b>3,460</b>
<b>Total functional expenses</b>	<b>\$ 701,083</b>	<b>\$ 360,887</b>	<b>\$ 4,091,294</b>	<b>\$ 282,761</b>	<b>\$ 5,436,025</b>

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
Notes to Consolidated Financial Statements  
June 30, 2023 and 2022  
(dollars in thousands)

**(15) Net Assets**

Net assets consist of the following at June 30, 2023:

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
<b>Endowment Funds</b>			
Instruction	\$ 500,018	\$ 742,677	\$ 1,242,695
Student aid	91,160	413,953	505,113
Program support	668,663	320,608	989,271
<b>Total endowment funds</b>	<u>1,259,841</u>	<u>1,477,238</u>	<u>2,737,079</u>
<b>Other Invested Funds</b>			
Property, plant and equipment, net	994,467	-	994,467
University designated	1,101,519	-	1,101,519
Purpose restrictions	-	41,086	41,086
Contributions receivable, net	-	87,108	87,108
Interests in perpetual funds held in trusts by others	-	64,735	64,735
Split-interest agreements	-	72,895	72,895
<b>Total other invested funds</b>	<u>2,095,986</u>	<u>265,824</u>	<u>2,361,810</u>
<b>Total net assets</b>	<u><u>\$ 3,355,827</u></u>	<u><u>\$ 1,743,062</u></u>	<u><u>\$ 5,098,889</u></u>

Net assets consist of the following at June 30, 2022:

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
<b>Endowment Funds</b>			
Instruction	\$ 499,764	\$ 712,750	\$ 1,212,514
Student aid	89,841	392,663	482,504
Program support	653,115	310,636	963,751
<b>Total endowment funds</b>	<u>1,242,720</u>	<u>1,416,049</u>	<u>2,658,769</u>
<b>Other Invested Funds</b>			
Property, plant and equipment, net	835,438	-	835,438
University designated	1,175,638	-	1,175,638
Purpose restrictions	-	29,844	29,844
Contributions receivable, net	-	79,094	79,094
Interests in perpetual funds held in trusts by others	-	61,002	61,002
Split-interest agreements	-	70,827	70,827
<b>Total other invested funds</b>	<u>2,011,076</u>	<u>240,767</u>	<u>2,251,843</u>
<b>Total net assets</b>	<u><u>\$ 3,253,796</u></u>	<u><u>\$ 1,656,816</u></u>	<u><u>\$ 4,910,612</u></u>



**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

Roll forward of endowment net assets from June 30, 2021 to June 30, 2023:

	Without Donor Restrictions	With Donor Restrictions	Total
<b>Balance as of June 30, 2021</b>	\$ 1,474,070	\$ 1,624,802	\$ 3,098,872
Investment return, net	(167,118)	(182,426)	(349,544)
Gifts and transfers	1,322	27,047	28,369
Amounts appropriated for expenditure	<u>(65,554)</u>	<u>(53,374)</u>	<u>(118,928)</u>
<b>Balance as of June 30, 2022</b>	1,242,720	1,416,049	2,658,769
Investment return, net	84,864	97,510	182,374
Gifts and transfers	(2,832)	16,303	13,471
Amounts appropriated for expenditure	<u>(64,911)</u>	<u>(52,624)</u>	<u>(117,535)</u>
<b>Balance as of June 30, 2023</b>	<u>\$ 1,259,841</u>	<u>\$ 1,477,238</u>	<u>\$ 2,737,079</u>

**(16) Student Health Plan**

During the fiscal year ended June 30, 2018, the University established a self-funded student health insurance plan under Section 1124 of the New York State Insurance Law (NYSIL). The Student Health Insurance Plan (SHIP) provides health insurance coverage to students at the University. SHIP was developed especially for students (and their dependents) to provide access to convenient and comprehensive care that complements the quality of health services offered on campus.

The table below presents a summary of SHIP operations occurring during the University's fiscal years ending June 30:

	July 1 - July 31 (Prior Plan Year)	Aug 1 - June 30 (Current Plan Year)	2023 Fiscal Year Total	July 1 - July 31 (Prior Plan Year)	Aug 1 - June 30 (Current Plan Year)	2022 Fiscal Year Total
<b>Income:</b>						
Premium revenue	\$ 1,249	\$ 16,022	\$ 17,271	\$ 903	\$ 14,066	\$ 14,969
Interest income	-	79	79	-	2	2
<b>Total Income</b>	<u>1,249</u>	<u>16,101</u>	<u>17,350</u>	<u>903</u>	<u>14,068</u>	<u>14,971</u>
<b>Expenses:</b>						
Medical and prescription drug expense	1,140	12,712	13,852	933	13,128	14,061
Administrative fees	131	1,577	1,708	115	1,550	1,665
Contingency	700	-	700	-	-	-
<b>Total Expenses</b>	<u>1,971</u>	<u>14,289</u>	<u>16,260</u>	<u>1,048</u>	<u>14,678</u>	<u>15,726</u>
<b>Net loss from health plan operations</b>	<u>\$ (722)</u>	<u>\$ 1,812</u>	<u>\$ 1,090</u>	<u>\$ (145)</u>	<u>\$ (610)</u>	<u>\$ (755)</u>

The University has established reserves with the amounts necessary to satisfy obligations of the plan. Based on an analysis and recommendation of a qualified actuary, and with the approval of New York State, the reserve for medical claims incurred but not reported (IBNR) is maintained at an amount not less than 18% of expected medical claims and 5% of expected pharmacy drug claims. In addition, a contingency reserve has been established for the purpose of satisfying

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

unexpected obligations in the event of termination of the plan. During the current fiscal year, the contingency reserve was reclassified from a liability to reserve as part of net assets. The contingency reserve is maintained at an amount not less than 5% of the total current plan year premiums and is invested. New York State requires that the assets of the contingency reserve consist of certain investments of the types specified in Section 1404 of NYSIL. As of June 30, 2023, the contingency fund was invested in a money market fund, which is reported as cash and cash equivalents on the University's balance sheets and included within short-term investments in Note 6.

The changes in the unearned premiums and SHIP reserves during the fiscal year ended June 30, 2023 are presented below.

	<u>Unearned Premiums</u>	<u>IBNR Reserve</u>	<u>Contingency Reserve</u>
Balance as of July 1	\$ 1,274	\$ 1,612	\$ 748
Balance as of June 30	1,414	2,150	864
<b>Net Change</b>	<u>\$ (140)</u>	<u>\$ (538)</u>	<u>\$ (116)</u>

**(17) COVID-19**

In response to disruptions that the COVID-19 pandemic caused in operations for institutions of higher education and health care organizations, on March 27, 2020, the Federal Government passed the Coronavirus Aid, Relief, and Economic Stimulus Act (CARES Act) which made funds available to the University through various provisions of the legislation. The following table summarizes the related impact on the University's Consolidated Financial Statements as of June 30, 2023 and 2022, and for the years then ended:

<u>Consolidated Statements of Activities:</u>	<u>Line Item</u>	<u>2023</u>	<u>2022</u>
CARES Act Provider Relief Funding (PRF)	Grant and contract revenue	\$ 12,043	\$ 21,984
CARES Act Higher Emergency Education Relief Funding (HEERF)	Grant and contract revenue	-	20,074
Federal Emergency Management Agency (FEMA)	Grant and contract revenue	2,411	10

  

<u>Balance Sheets:</u>	<u>Line Item</u>	<u>2023</u>	<u>2022</u>
Centers for Medicare and Medicaid Services (CMS)			
Accelerated and Advanced Payments Program	Accounts receivable	\$ 25	\$ -
Deferral of Social Security taxes	Accounts payable and accrued expenses	-	46,010
CARES Act Provider Relief Funding (PRF)	Deferred revenue	-	435
Centers for Medicare and Medicaid Services (CMS)	Third-party settlements payable,		
Accelerated and Advanced Payments Program	net and other	-	17,126

**(18) Subsequent Events**

**(a) Acquisition of College Town**

On July 25, 2023, the University purchased the assets of the College Town mixed-use complex located within the City of Rochester from CT Rochester, LLC and CVS Rochester, LLC for

**UNIVERSITY OF ROCHESTER  
AND RELATED ENTITIES**  
**Notes to Consolidated Financial Statements**  
**June 30, 2023 and 2022**  
**(dollars in thousands)**

\$51,500, via a wholly-owned affiliate, Meliora Development Company, LLC. The purchase of College Town will be included in the 2024 consolidated financial statements of the University.

**(b) Affiliation Agreement – Finger Lakes Regional Health System, Inc.**

On August 1, 2023, the University became the sole corporate member of Finger Lakes Regional Health System, Inc., and subsidiaries (Finger Lakes Health). Finger Lakes Health is a multi-institutional health system that provides acute and long-term healthcare, low-income housing and foundation support services in the Finger Lakes region of New York State. The system includes a 117-bed acute care hospital and a 25-bed acute care critical access hospital as well as three skilled nursing facilities (345 beds). The affiliation will be accounted for as an acquisition under the merger and acquisition guidance for not-for-profit entities. The University and Finger Lakes Health continue as separate and distinct corporations. Finger Lakes Health will be included in the 2024 consolidated financial statements of the University.

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**Form of the Indenture**

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MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION

AND

MANUFACTURERS AND TRADERS TRUST COMPANY,  
as Trustee

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INDENTURE OF TRUST

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Dated as of December 1, 2023

Relating To:

\$397,625,000  
Monroe County Industrial Development Corporation  
Revenue Bonds  
(University of Rochester Project), Series 2023

Consisting of:

\$296,880,000  
Tax-Exempt Revenue Bonds  
(University of Rochester Project), Series 2023A

and

\$100,745,000  
Taxable Revenue Bonds  
(University of Rochester Project), Series 2023B

THIS INDENTURE OF TRUST (i) AFFECTS TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, (ii) CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS AND (iii) IS INTENDED TO CONSTITUTE A SECURITY AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE.

**TABLE OF CONTENTS**

	<u>Page</u>
ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION.....	6
Section 1.01.    Definitions of Terms .....	6
Section 1.02.    Rules of Construction .....	20
ARTICLE II AUTHORIZATION AND ISSUANCE OF BONDS .....	20
Section 2.01.    Authorized Amount of Bonds .....	20
Section 2.02.    Purpose for Which Series 2023 Bonds May Be Issued .....	20
Section 2.03.    Issuance of Series 2023 Bonds; Details of the Series 2023 Bonds.....	21
Section 2.04.    Execution; Special Obligations.....	22
Section 2.05.    Authentication.....	22
Section 2.06.    Form of Series 2023 Bonds; Preparation of Series 2023 Bonds.....	22
Section 2.07.    Delivery of Series 2023 Bonds .....	23
Section 2.08.    Mutilated, Lost, Stolen or Destroyed Bonds.....	24
Section 2.09.    Negotiability of Bonds and Registration Books .....	25
Section 2.10.    Transfer of the Bonds.....	25
Section 2.11.    Regulations with Respect to Transfers.....	26
Section 2.12.    Book-Entry System.....	26
Section 2.13.    Additional Bonds .....	28
ARTICLE III REDEMPTION OF BONDS PRIOR TO MATURITY .....	30
Section 3.01.    Redemption Dates and Prices .....	30
Section 3.02.    Notice of Redemption .....	32
Section 3.03.    Payment of Redeemed Series 2023 Bonds .....	33
Section 3.04.    Partial Redemption of Series 2023 Bonds .....	33
Section 3.05.    Selection of Bonds to be Called for Redemption.....	33
ARTICLE IV FUNDS, REVENUES, BOND PROCEEDS AND APPLICATION THEREOF ...	34
Section 4.01.    Establishment of Funds and Accounts .....	34
Section 4.02.    Application of Series 2023 Bonds Proceeds and Allocation Thereof....	34
Section 4.03.    Moneys to be Held in Trust.....	35
Section 4.04.    Use of the Moneys in the Project Fund.....	35
Section 4.05.    Payments into the Bond Fund .....	36
Section 4.06.    Use of Moneys in the Bond Fund .....	36
Section 4.07.    Payments into Renewal Fund; Application of Renewal Fund .....	36
Section 4.08.    Reserved.....	38
Section 4.09.    Payments Into Rebate Fund; Application of Rebate Fund.....	38
Section 4.10.    Reserved.....	39
Section 4.11.    Investment of Moneys.....	39
Section 4.12.    Payment to University Upon Payment of Bonds .....	40
Section 4.13.    Reports and Information Regarding Funds.....	41
ARTICLE V GENERAL COVENANTS AND PROVISIONS .....	41
Section 5.01.    Authority of Issuer; Validity of Indenture and Bonds.....	41



Table of Contents (continued)

	Page
Section 5.02. Performance of Covenants.....	41
Section 5.03. Payment of Principal, Premium, if any, and Interest .....	41
Section 5.04. Deposit of Revenues .....	42
Section 5.05. Priority of Security Interest.....	42
Section 5.06. Enforcement of Duties and Obligations of the University.....	42
Section 5.07. Reserved.....	42
Section 5.08. Maintenance and Modification of the Facility.....	42
Section 5.09. Insurance .....	42
Section 5.10. Filing of Documents and Security Instruments .....	42
Section 5.11. Rights Under Financing Documents.....	42
Section 5.12. Failure to Present Bonds .....	43
Section 5.13. Cancellation .....	43
Section 5.14. Payments Due on Other Than Business Days.....	43
Section 5.15. Covenant Against Arbitrage Bonds.....	43
Section 5.16. Covenant Regarding Adjustment of Debts .....	43
Section 5.17. Limitation on Obligations of the Issuer .....	44
Section 5.18. Inspection of Books .....	44
Section 5.19. List of Owners.....	44
Section 5.20. Instruments of Further Assurance .....	44
ARTICLE VI PRIORITY RIGHTS OF TRUSTEE .....	45
Section 6.01. Priority Rights of Trustee.....	45
ARTICLE VII DISCHARGE OF LIEN; DEFEASANCE OF BONDS .....	45
Section 7.01. Discharge of Lien.....	45
Section 7.02. Defeasance of Bonds.....	46
ARTICLE VIII DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS 47	
Section 8.01. Events of Default .....	47
Section 8.02. Acceleration .....	47
Section 8.03. Enforcement of Remedies.....	48
Section 8.04. Reserved.....	49
Section 8.05. Application of Moneys .....	49
Section 8.06. Remedies Vested in Trustee .....	50
Section 8.07. Remedies Not Exclusive .....	50
Section 8.08. Majority Bondholders Control Proceedings .....	50
Section 8.09. Individual Holder Action Restricted .....	51
Section 8.10. Termination of Proceedings .....	51
Section 8.11. Waiver and Non-Waiver of Event of Default.....	51
Section 8.12. Notice of Defaults .....	52
ARTICLE IX THE TRUSTEE AND PAYING AGENT .....	52
Section 9.01. Appointment of Trustee and Acceptance of Duties .....	52
Section 9.02. Fees, Charges and Expenses of the Trustee, Bond Registrar and Paying Agents .....	56
Section 9.03. Intervention by Trustee .....	56

Table of Contents (continued)

	Page
Section 9.04. Right of Trustee to Pay Taxes, Insurance Premiums and Other Charges....	56
Section 9.05. Merger or Consolidation of Trustee .....	57
Section 9.06. Resignation by the Trustee.....	57
Section 9.07. Removal of the Trustee .....	57
Section 9.08. Appointment of Successor Trustee by the Holders; Temporary Trustee	57
Section 9.09. Concerning Successor Trustees.....	58
Section 9.10. Successor Trustee as Custodian of Funds, Paying Agent and Bond Registrar .....	59
Section 9.11. Appointment, Resignation or Removal of Paying Agent and Bond Registrar; Successors .....	59
Section 9.12. Reserved.....	60
Section 9.13. New York Real Property Law .....	60
Section 9.14. Continuing Disclosure .....	60
ARTICLE X SUPPLEMENTAL INDENTURES .....	60
Section 10.01. Supplemental Indentures Not Requiring Consent of Holders.....	60
Section 10.02. Supplemental Indentures Requiring Consent of Holders.....	61
Section 10.03. Consent of University to Supplemental Indentures .....	62
Section 10.04. Effect of Supplemental Indentures.....	63
ARTICLE XI AMENDMENT OF LOAN AGREEMENT AND TAX COMPLIANCE AGREEMENT .....	63
Section 11.01. Amendments to Loan Agreement .....	63
Section 11.02. Reserved.....	63
Section 11.03. Amendments to Tax Compliance Agreement .....	63
Section 11.04. Consent of Trustee .....	64
ARTICLE XII MISCELLANEOUS .....	64
Section 12.01. Consent of Holders .....	64
Section 12.02. Limitation of Rights.....	65
Section 12.03. Severability .....	65
Section 12.04. Notices .....	65
Section 12.05. Counterparts.....	66
Section 12.06. Applicable Law.....	66
Section 12.07. No Recourse; Special Obligations .....	66
Section 12.08. Entire Agreement .....	67
Section 12.09. Waiver of Trial by Jury .....	67
EXHIBIT A FORM OF BONDS .....	A-1
EXHIBIT B FORM OF REQUISITION FOR PAYMENT AND REIMBURSEMENT .....	B-1

## INDENTURE OF TRUST

THIS INDENTURE OF TRUST, dated as of December 1, 2023 (the “**Indenture**”), is by and between the **MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**, a not for profit local development corporation duly organized and existing under the laws of the State of New York (the “**Issuer**”), having its principal office at 50 West Main Street, Rochester, New York 14614, and **MANUFACTURERS AND TRADERS TRUST COMPANY**, a banking corporation duly organized and existing under the laws of the State of New York, authorized to accept and execute trusts of the character hereinafter set forth and having a corporate trust office at 285 Delaware, 3<sup>rd</sup> Floor, Buffalo, New York 14202 (the “**Trustee**”).

### WITNESSETH:

WHEREAS, pursuant to Section 1411 of the Not-for-Profit Corporation Law (“**N-PCL**”) of the State of New York (the “**State**”), as amended (hereinafter collectively called the “**Act**”), and pursuant to its certificate of incorporation, as amended (the “**Certificate**”), the Issuer was established as a not-for-profit local development corporation of the State with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Act further authorizes the Issuer to issue its bonds and to loan the proceeds thereof for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds so issued and any agreements made in connection therewith, to pledge certain revenues and receipts to secure the payment of such bonds and interest thereon; and

WHEREAS, by resolution adopted October 11, 2023 (the “**Bond Resolution**”), the Issuer determined to issue its \$397,625,000 Monroe County Industrial Development Corporation Revenue Bonds (University of Rochester Project), Series 2023 consisting of (A) \$296,880,000 Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A (the “**Series 2023A Bonds**”) for the benefit of the University of Rochester (the “**University**”) for the purpose of financing or refinancing the Series 2023A Project (as defined below) and (B) \$100,745,000 Taxable Revenue Bonds (University of Rochester Project), Series 2023B (the “**Series 2023B Bonds**”, and collectively with the Series 2023A Bonds, the “**Bonds**” or the “**Series 2023 Bonds**”) for the benefit of the University for the purpose of financing or refinancing the Series 2023B Project (as defined below), and all located or to be located on the University’s campuses or facilities located in the City of Rochester, New York (and in the Town of Brighton, New York with respect to the South Campus and in the Town of Henrietta, New York with respect to the Orthopaedics Campus, each as specified below) consisting of: (A) the main campus located at 500 Joseph C. Wilson Boulevard, bounded on the west by the City of Rochester’s Bausch & Lomb Riverside Park; on the north by McLean Street; on the east by Mt. Hope Cemetery; on the south by Elmwood Avenue (the “**River Campus**”); (B) the south campus located at 250 East River Road

in the Town of Brighton, New York and 300 and 400 Kendrick Road in the Town of Brighton, New York, bounded on the west by the Lehigh Valley Trail; at the north, east along East River Road; north along Kendrick Road; east along I-390 to the exit; east along East River Road; south along W. Henrietta Road; west along the Southland Drive properties; south along the western edge of Southland Drive, Doncaster Road, Furlong Road, and Lantern Lane; west along the Crittenden Road properties to the Lehigh Valley Trail (collectively, the “**South Campus**”); (C) the central utilities plant located at 390 Elmwood Avenue (the “**Central Utilities Plant**”); (D) the middle campus located at 125 Kendrick Road bounded on the west by Moore Road; at the north, east along Elmwood Avenue; south along Kendrick Road; east along Crittenden Boulevard; south along Castleman Road, west along Westmoreland Drive; south along Kendrick Road; west along the Erie Canal to Moore Road (the “**Middle Campus**”); (E) the University’s Data Center located at 1630 Long Pond Road, Rochester, New York (the “**Data Center**”); (F) the University’s hospital, health care, research and educational facilities located at 601 Elmwood Avenue, including Strong Memorial Hospital, the Golisano Children’s Hospital, and the School of Medicine and Dentistry, and related research facilities and buildings, bounded on the north by Elmwood Avenue; along the east by East Drive; along the south by Crittenden Boulevard; and along the west by Kendrick Road (collectively, the “**Medical Center Campus**”); and (G) the UR Medicine Orthopaedics & Physical Performance Center located at 10 Miracle Mile Drive in the Town of Henrietta, New York (the “**Orthopaedics Campus**”; the Medical Center Campus, the River Campus, the South Campus, the Central Utilities Plant, the Middle Campus, the Orthopaedics Campus, and the Data Center are collectively referred to as the “**Campuses**”); and

WHEREAS, the Series 2023A project (collectively, the “Series 2023A Project”) consists of the financing of:

(1) the improvements (collectively, the “**Series 2023A Improvements**”) consisting of the acquisition, construction, renovation, deferred maintenance, improvement, reconstruction, modernization, equipping and furnishing of various buildings and ancillary and related facilities (including site improvements) throughout the Medical Center Campus, including but not limited to the expansion of the existing Emergency Department to add more examination, treatment and patient observation space and a new 9-story inpatient tower, resulting in an approximately 175,000 square foot Emergency Department (the “**ED Tower**”); and

(2) the acquisition and installation in and around the Series 2023A Improvements and other buildings and facilities on the Medical Center Campus (including but not limited to the ED Tower) of certain items of machinery, equipment, fixtures, furniture and other incidental tangible personal property (collectively, the “**Series 2023A Equipment**”, together with the Series 2023A Improvements, the “**Series 2023A Facility**”); and

WHEREAS, the Series 2023B Bonds will be used by the University to finance and refinance the costs of a project (the “**Series 2023B Project**”) across all of the University’s Campuses, as follows: (1) the acquisition, construction, renovation, reconstruction, improvement and modernization of various parking lots, buildings, facilities and infrastructure, and (2) the upgrade, development, acquisition and installation of the University’s information technology system, as well as certain machinery, equipment, fixtures, furniture and other incidental tangible personal property (clauses (1) and (2), the “**Series 2023B Facility**” and together with the Series 2023A Facility, the “**Facility**”); and

WHEREAS, proceeds of the Series 2023 Bonds will also be used for (1) funding capitalized interest and a debt service reserve fund, if required; and (2) paying for certain costs and expenses associated with the issuance of the Series 2023 Bonds (clauses (1) and (2), together with the Series 2023A Project and the Series 2023B Project, the “**Project**”); and

WHEREAS, pursuant to (i) a certain Loan Agreement, dated as of December 1, 2023 (the “**Loan Agreement**”), by and between the Issuer and the University, the Issuer has agreed to loan the proceeds of the Series 2023 Bonds to the University with the debt service payments thereunder in an amount sufficient to pay, among other things, the principal of, redemption price of, and interest on, the Series 2023 Bonds, and (ii) the University will execute the Promissory Note in favor of the Issuer to evidence the University’s obligation under the Loan Agreement to repay the loan, and the Issuer will endorse the Promissory Note to the Trustee; and

WHEREAS, as security for the Series 2023 Bonds, the Issuer assigned to the Trustee all of its rights (except its Reserved Rights as defined in the Indenture) under the Loan Agreement pursuant to the Indenture; and

WHEREAS, the Series 2023 Bonds are being purchased by Barclays Capital Inc. (the “**Representative**”), acting on behalf of itself and Morgan Stanley & Co. LLC, BofA Securities, Inc. and Siebert Williams Shank & Co. (collectively, the “**Underwriters**”), pursuant to a certain Bond Purchase Contract, dated December 5, 2023, by and among the Issuer, the University and the Representative (the “**Bond Purchase Contract**”); and

WHEREAS, the (A) Series 2023A Bonds and the Trustee’s Certificate of Authentication to be endorsed thereon, and (B) Series 2023B Bonds and the Trustee’s Certificate of Authentication to be endorsed thereon are all to be in substantially the form attached hereto as Exhibit A, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture; and

WHEREAS, all things necessary to make the Series 2023 Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid pledge and assignment of the loan payments, revenues and receipts herein made to the payment of the principal of and interest on the Series 2023 Bonds, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Series 2023 Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THE PARTIES HERETO FURTHER DECLARE:

#### **GRANTING CLAUSES**

That the Issuer, in consideration of the premises and of the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Series 2023 Bonds by the Holders (as hereinafter defined) and as security for the Series 2023 Bonds in the aggregate principal amount of \$397,625,000, each series of Additional Bonds (as hereinafter defined) issued in accordance with Section 2.13 hereof, the payment of all other sums required to be paid hereunder and the performance and observance by the Issuer of all of the covenants, agreements, representations and warranties herein and in the Series 2023 Bonds, each series of Additional

Bonds and the Loan Agreement contained, does hereby grant a security interest in, release, assign, transfer and pledge unto the Trustee, and its successors and assigns forever, for the benefit of the Holders and all future Holders of the Series 2023 Bonds and Additional Bonds, the following described property (the “**Trust Estate**”):

A. All right, title and interest of the Issuer in and to the moneys in all funds and accounts established by or pursuant to this Indenture or the Loan Agreement or any and all amendments or supplements thereto and held by the Trustee (except moneys deposited with, paid to, or received by the Trustee (i) for the redemption of the Bonds, notice of the redemption of which has been given, (ii) for deposit into the Rebate Fund (as hereinafter defined) or (iii) from income derived from the investment of either of the foregoing), and the income thereon, subject to the provisions of this Indenture and the Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein;

B. All right, title and interest of the Issuer in and to the Loan Agreement, including all payments, revenues and receipts payable or receivable thereunder and all liens and security interests granted thereunder;

C. All right, title and interest of the Issuer in and to the Promissory Note; and

D. Any and all other Property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder by the Issuer, the University or by anyone in their behalf or with their written consent in favor of the Trustee, which is hereby authorized to receive any and all such Property at any and all times and to hold and apply the same subject to the terms hereof;

EXCEPTING THEREFROM the Unassigned Rights;

TO HAVE AND TO HOLD the Trust Estate hereby pledged, assigned and conveyed as aforesaid, or intended so to be, unto the Trustee and its successors in trust and their respective assigns forever;

IN CONSIDERATION of the purchase and acceptance of the Bonds authorized to be issued pursuant to this Indenture by those who shall hold the same from time to time: (i) this Indenture shall be deemed to be and shall constitute a contract among the Issuer, the Trustee and the Holders from time to time of the Bonds, and (ii) the pledge made and consolidated in this Indenture and the covenants set forth herein to be performed by the Issuer shall be for the equal and ratable benefit, security and protection of all Holders of the Bonds secured by this Indenture without privilege, priority or distinction as to the Lien (as hereinafter defined) or otherwise of any of the Bonds over any other of the Bonds, except in the case of funds held hereunder for the benefit of particular Holders;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, (i) shall pay or cause to be paid the principal of, premium, if any, and interest on the Bonds at the times and in the manner mentioned herein and in the Bonds, (ii) shall perform and observe all the covenants to be performed and observed hereunder, and (iii) shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof and of the Loan

Agreement, then upon such final payments this Indenture and the rights hereby granted shall cease, terminate and be void, otherwise this Indenture shall be and remain in full force and effect;

AND IT IS HEREBY COVENANTED, DECLARED AND AGREED by and between the parties hereto that all of the Trust Estate is to be held and applied subject to the further covenants, agreements and conditions set forth in the Loan Agreement and herein.

THE TRUSTEE SHALL have and may enforce a security interest to secure payment of all sums due or to become due to the Trustee for the benefit of the Holders under the Bonds, the Indenture, the Loan Agreement and the other Financing Documents in any or all of the Trust Estate. Such security interest is to attach at the earliest moment permitted by law and also to include and attach to all additions and accessions thereto, all substitutions and replacements therefor, all proceeds thereof, including insurance proceeds, and all contract rights, payments and general intangibles of the Issuer obtained in connection with or relating to the Trust Estate (excepting the Unassigned Rights) as well as any and all items of property in the foregoing classifications which are hereafter acquired, reconstructed and equipped. The Issuer shall deliver to the Trustee any and all further instruments which the Trustee shall require in order to further secure and perfect the security interest created by this Indenture. Pursuant to the Uniform Commercial Code of the State, the Issuer hereby appoints and authorizes the Trustee as its lawful agent and attorney, to file any UCC -3 financing statement changes if the Issuer shall determine that such are necessary or advisable in order to perfect its security interests in the Trust Estate and shall pay to the Trustee on demand any expenses incurred by the Trustee in connection with the preparation, execution and filing of any such continuation statements that may be filed by the Trustee.

The following information is stated in order to facilitate filings under the Uniform Commercial Code: The Secured Party is Manufacturers and Traders Trust Company, as Trustee. Its address from which information concerning the security interest may be obtained is: 285 Delaware, 3<sup>rd</sup> Floor, Buffalo, New York 14202, Attention: Corporate Trust Department. The Debtor is Monroe County Industrial Development Corporation, a not-for-profit local development corporation organized under the laws of the State of New York. Its address is: 50 West Main Street, Rochester, New York 14614.

THIS INDENTURE FURTHER WITNESSETH, that the Issuer hereby agrees and covenants with the Trustee for the equal and proportional benefit of the Holders from time to time of the Bonds as follows:

## **ARTICLE I**

### **DEFINITIONS AND RULES OF CONSTRUCTION**

Section 1.01. Definitions of Terms. The following words and terms as used in this Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

“Accountant” means a nationally or regionally recognized firm of independent certified public accountants selected by the University having expertise in the particular businesses in which the University is engaged.

“Act” means Section 1411 of the Not-For-Profit Corporation Law of the State of New York as amended.

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

“Additional Bonds” means any bonds, other than the Series 2023 Bonds, issued pursuant to Section 2.13 of the Indenture.

“Authorized Representative” means with respect to the Issuer, its President, Vice President or Executive Director, with respect to the University, any officer of the University, and with respect to both such additional persons as, at the time, are designated to act on behalf of the Issuer or the University, as the case may be, by written certificate furnished to the Trustee and to the Issuer or the University, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Issuer by its President, Vice President or Executive Director, or (ii) the University by any officer of the University.

“Bond” or “Bonds” means the Series 2023A Bonds, and the Series 2023B Bonds and any Additional Bonds, authorized to be issued pursuant to this Indenture to finance all or a portion of the Cost of the Facility.

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

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

“Bondholder” or “Holder” or “Owner” means the registered owner at the time in question of any Bond, as shown on the registration books maintained by the Bond Registrar pursuant to this Indenture.

“Bond Payment Date” means any date on which a Debt Service Payment shall be payable on any of the Bonds according to their terms so long as any of the Bonds shall be Outstanding.

“Bond Proceeds” means, collectively, the Series 2023A Bond Proceeds and the Series 2023B Bond Proceeds.

“Bond Purchase Contract” means the Bond Purchase Contract, dated December 5, 2023, by and among the Issuer, the University and the Representative.

“Bond Registrar” means the Trustee, acting as such, and any successor bond registrar for the Bonds appointed pursuant to Article IX hereof, their respective successors and any other corporation which may at any time be substituted in their respective places pursuant to this Indenture.



“Bond Resolution” means, collectively, the resolution adopted by the Issuer on October 11, 2023, authorizing the issuance, execution, sale and delivery of the Series 2023 Bonds and the execution and delivery of Issuer Documents, as such resolution may be amended or supplemented from time to time.

“Bond Year” means the one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year begins on the dated date of original issuance of the Bonds and ends one year later.

“Business Day” means a day other than a Saturday, Sunday, legal holiday or other day on which the Trustee is authorized by law or executive order to remain closed.

“Capital Additions” means all property or interests in property, real, personal and mixed (a) which constitute additions, improvements or extraordinary repairs to or replacements of all or any part of the Facility, and (b) the cost of which is properly capitalized under generally accepted accounting principles.

“Capitalized Interest Subaccount” means the subaccount of the Series 2023A Project Account so designated and created by Section 4.01 of this Indenture.

“Certificates of Authentication of the Trustee” and “Trustee’s Certificates of Authentication” means, collectively, the certificates executed by an authorized officer of the Trustee certifying the due authentication of the (i) Series 2023A Bonds in the aggregate principal amount of \$296,880,000, and (ii) Series 2023B Bonds in the aggregate principal amount of \$100,745,000.

“Closing” or “Closing Date” means the date of the sale and delivery of the Series 2023 Bonds and the delivery of the Financing Documents.

“Code” means the Internal Revenue Code of 1986, as amended, and the final, temporary and proposed regulations of the United States Department of the Treasury promulgated thereunder. References to Sections of the Code shall be construed also to refer to successor and renumbered sections.

“Commercial Code” shall mean the Uniform Commercial Code, as the same may from time to time be in effect in the State.

“Completion Date” means, as applicable, the date of completion of the acquisition, construction and equipping of the Series 2023A Facility and the Series 2023B Facility, as certified pursuant to the Loan Agreement.

“Computation Period” means each period from the date of original issuance of the Bonds through the date on which a determination of the Rebate Amount is made.

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

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated as of December 19, 2023, by and among the University, the Trustee and Digital Assurance Certification, L.L.C., as the same may be amended or supplemented from time to time.

“Contract Term” means the period commencing with the Closing Date and continuing until the principal of, premium, if any, and interest on the Bonds have been paid in full, or provision therefor has been made pursuant to Article VII of this Indenture, and all other amounts due under the Loan Agreement have been paid in full.

“Cost of the Facility” means the Project Costs.

“Debt Service Payment” means, with respect to any Bond Payment Date, (i) the interest payable on such Bond Payment Date on the Bonds Outstanding, plus (ii) the principal, if any, payable on such Bond Payment Date on the Bonds Outstanding, plus (iii) the premium, if any, payable on such Bond Payment Date on the Bonds Outstanding.

“Defeasance Obligations” shall mean (i) cash; (ii) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – (SLGS)); (iii) direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury; (iv) obligations of Resolution Funding Corp. (“REFCORP”) (*provided, however*, that, only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book-entry form shall qualify as Defeasance Obligations); (v) pre-refunded municipal bonds rated “Aaa” by Moody’s and “AAA” by S&P (*provided, however*, that, if such pre-funded municipal bonds are only rated by S&P, then such pre-refunded bonds shall have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or “AAA” rated pre-refunded municipals; and (vi) obligations issued by the following agencies which are backed by the full faith and credit of the U.S.: (a) U.S. Export-Import Bank (Eximbank) Direct Obligations or fully guaranteed certificates of beneficial ownership; (b) Farmers Home Administration (FmHA); (c) Federal Financing Bank; (d) General Services Administration; Participation Certificates; (e) U.S. Maritime Administration; Guaranteed Title XI financing; and (f) U.S. Department of Housing and Urban Development (HUD) Project Notes, Local Authority Bonds, New Communities Debentures – U.S. government guaranteed debentures, U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds.

“Depository” or “DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Equipment” means, collectively, the Series 2023A Equipment and the Series 2023B Equipment.

“Event of Default” means any of those events defined as Events of Default by Section 8.01 of this Indenture or, when used with respect to the Loan Agreement, any of those events defined as Events of Default by Section 7.1 of the Loan Agreement.

“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 hereunder, 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 nationally recognized statistical 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 wholly comprised of any of the foregoing obligations.

“Extraordinary Services” and “Extraordinary Expenses” means all services rendered and all reasonable, out-of-pocket expenses incurred by the Trustee or any Paying Agent under this Indenture other than Ordinary Services and Ordinary Expenses including but not limited to, the services rendered and expenses reasonably incurred by the Trustee with respect to any Event of Default under the Financing Documents, or the happening of an occurrence which, with the passage of time or the giving of a notice, would ripen into an Event of Default.

“Facility” means, collectively, the Series 2023A Facility and the Series 2023B Facility.

“Favorable Opinion of Bond Counsel” shall mean, with respect to any action, the occurrence of which requires such an opinion, an unqualified Opinion of Counsel, which shall be a Bond Counsel, to the effect that such action is permitted under the Act and the Indenture and will not impair the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation (subject to the inclusion of any exceptions contained in the opinion delivered upon original issuance of the Bonds).

“Federal Agency Obligation” means (i) an obligation issued by any federal agency or instrumentality; (ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by a federal agency; (iii) 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 (iv) a share or interest in a mutual fund, partnership or other fund wholly comprised of any of the foregoing obligations.

“Financing Documents” or “Bond Documents” means, collectively, the Bonds, this Indenture, the Loan Agreement, the Promissory Note, the Tax Compliance Agreement, the Continuing Disclosure Agreement, any other document or instrument executed in connection therewith to secure the University’s obligation to repay the Series 2023 Bonds or make the debt service payments due under the Loan Agreement, and any other instrument or document supplemental thereto.

“Fiscal Year” means the fiscal year of the University currently commencing on each July 1 and ending on June 30 of the following year.

“Fixed Interest Rate” means the interest rates on the Bonds as set forth in this Indenture, from and including the date of issuance of the Bonds through but not including the final maturity date on the Bonds.

“Governmental Authority” means the United States, the State, and any other state or any political subdivision thereof, and any agency, department, commission, board, bureau or

instrumentality of any of these, having jurisdiction over the construction, equipping, ownership, leasing, operation and/or maintenance of the Facility.

“Governmental Obligations” 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 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 (v) a share or interest in a mutual fund, partnership or other fund wholly comprised of any of the foregoing obligations.

“Hazardous Materials” means any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum-based products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), Articles 15 or 27 of the New York Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

“Indenture” means this Indenture of Trust, dated as of December 1, 2023, by and between the Issuer and the Trustee pursuant to which the Series 2023 Bonds are authorized to be issued, as may be amended or supplemented by any additional Supplemental Indenture.

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court in the State.

“Interest Payment Date” means each July 1 and January 1 (or the next succeeding Business Day if such first day is not a Business Day), commencing with July 1, 2024.

“Investment Agreement” means an agreement for the investment of moneys with a Qualified Financial Institution.

“Issuer” means (i) Monroe County Industrial Development Corporation and its successors and assigns and (ii) any not-for-profit corporation resulting from or surviving any consolidation or merger to which the Monroe County Industrial Development Corporation or its successors or assigns may be a party.

“Issuer Documents” means the Bonds, this Indenture, the Loan Agreement and the Tax Compliance Agreement.

“Lien” means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” includes reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases

and other similar encumbrances, including but not limited to, mechanics', materialmen's, warehousemen's and carriers' liens and other similar encumbrances affecting real property. For the purposes hereof, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Loan Agreement” means the Loan Agreement, dated as of December 1, 2023, by and between the Issuer and the University pursuant to which the Issuer loans the proceeds of the Series 2023 Bonds to the University with the debt-service payments thereunder to be in an amount sufficient to pay, among other things, the principal of and interest on the Series 2023 Bonds.

“Loss Event” means in the event that at any time during the term of the Loan Agreement, the whole or part of the Facility shall be damaged or destroyed, or the whole or any part of the Facility shall be taken or condemned by a competent authority for any public use or purpose, or by agreement between the Issuer and those authorized to exercise such right, or if the temporary use of the Facility or any part thereof shall be so taken by condemnation or agreement.

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

“Office of the Trustee” means the corporate trust officers of the Trustee located at 285 Delaware Avenue – 3<sup>rd</sup> Floor, Buffalo, New York 14202.

“Official Statement” means the Official Statement, dated December 5, 2023, with respect to the offering and sale of the Series 2023 Bonds.

“Opinion of Counsel” shall mean a written opinion of counsel who may (except as otherwise expressly provided in the Loan Agreement or any other Financing Document) be counsel for the University or the Issuer and who shall be acceptable to the Trustee.

“Ordinary Services” and “Ordinary Expenses” means those services normally rendered and those reasonable, out-of-pocket expenses normally incurred by a trustee or paying agent under instruments similar to this Indenture, including reasonable fees and disbursements of counsel to the Trustee.

“Outstanding” or “Bonds Outstanding” or “Outstanding Bonds” means when used with reference to a Bond or Bonds, as of any particular date, all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

- (i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;
- (ii) any Bond (or portion of a Bond) for the payment or redemption of which there has been separately set aside and held in the Bond Fund either:
  - (A) moneys and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys, in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article IV of the Indenture, provided, however, that, in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture, such Bonds including Series 2023 Bonds owned by the University or any affiliate of the University shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith to a Person may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the University or any affiliate of the University.

“Participant” means any of those brokers, dealers, banks and other financial institutions from time to time for which the Depository holds Bonds as securities depository.

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

“Permitted Collateral” means any of the following:

(i) Government Obligations described in clauses (i), (ii) or (iii) of the definition of Government Obligations;

(ii) Federal Agency Obligations described in clauses (i) or (ii) of the definition of Federal Agency Obligations;

(iii) commercial paper that (A) matures within two hundred seventy (270) days after its date of issuance, (B) is rated in the highest short term rating category by at least one nationally recognized statistical rating service, and (C) is issued by a domestic corporation whose unsecured senior debt is rated by at least one nationally

recognized statistical rating service no lower than in the second highest rating category;  
and

(iv) 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 nationally recognized statistical rating service in the highest rating category.

“Permitted Encumbrances” means:

- (i) the Indenture and any other Financing Document;
- (ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not in default;
- (iii) utility, access and other easements and rights-of-way restrictions and exceptions that an Authorized Representative of the University certifies to the Issuer and the Trustee will not interfere with or impair the University’s use of the Facility as provided in the Loan Agreement;
- (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 Facility and as do not, either singly or in the aggregate, materially impair the property affected thereby for the purpose for which it is owned by the University;
- (v) any mechanic’s, workmen’s, repairmen’s, materialmen’s, contractors’, warehousemen’s, carriers’, suppliers’ or vendors’ lien or right in respect thereof if payment is not yet due and payable, or are insured over, or which are not delinquent, or the amount or validity of which, are being contested and execution thereon is stayed or has been due for less than 90 days;
- (vi) any mortgage, lien, security interest or other encumbrance which exists in favor of the Trustee;
- (vii) any lien on Property, Plant or Equipment;
- (viii) such other liens and exceptions to title that do not materially impair the value of the Facility as approved in writing by the Trustee;
- (ix) deposits, endorsements, guaranties, and other encumbrances incurred in the ordinary course of business and which do not secure indebtedness;
- (x) liens granted on a parity or subordinate basis with the Liens granted to the Trustee as security for the Bonds to secure indebtedness incurred or permitted pursuant to the Loan Agreement;
- (xi) Liens to secure indebtedness permitted to be incurred pursuant to the Loan Agreement; and

(xii) those Liens on the Facility in existence as of the date of the Indenture.

“Permitted Investments” means any of the following: (i) Government Obligations; (ii) Federal Agency Obligations; (iii) Exempt Obligations; (iv) uncollateralized 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 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 of credit, contract, agreement or surety bond issued by it, are rated by at least one nationally recognized statistical rating service in at least the second highest rating category, and (B) are fully collateralized by Permitted Collateral; and (vi) Investment Agreements that are fully collateralized by Permitted Collateral.

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

“Plans and Specifications” means, collectively, the plans and specifications for the Series 2023A Facility and the Series 2023B Facility, prepared for the University, as the same may be amended or supplemented from time to time.

“Preliminary Official Statement” means the Preliminary Official Statement, dated November 28, 2023, with respect to the offering and sale of the Series 2023 Bonds.

“Project” means the Project as defined in the WHEREAS paragraphs of this Indenture.

“Project Costs” means, collectively, the Series 2023A Project Costs and the Series 2023B Project Costs.

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

“Promissory Note” shall mean, (i) collectively, the Series 2023A Promissory Note and the Series 2023B Promissory Note, (ii) with respect to any Series of Additional Bonds, that certain Promissory Note in substantially the form of any related Exhibit to an amendment to the Loan Agreement, and (iii) with respect to the Bonds, collectively, those certain Promissory Notes described in clauses (i) and (ii) above, and shall include in each case any and all amendments thereof and supplements thereto made in conformity with the Loan Agreement and this Indenture.

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

“Property, Plant and Equipment” shall mean all property of the University that is considered net property, plant and equipment under generally accepted accounting principles.

“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 nationally recognized statistical rating service not 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 nationally recognized statistical rating service not lower than in the highest rating category; 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 Agency;

(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 nationally recognized statistical 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 nationally recognized statistical rating service no lower than in the highest rating category; 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 Agency;

(iii) a corporation affiliated with or which is a subsidiary of any entity described in (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 nationally recognized statistical 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 nationally recognized statistical rating service not lower than in the highest rating category; 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 Agency;

(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; or

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

“Rating Agency” means any nationally recognized securities rating agency.

“Rebate Amount” means, with respect to the Series 2023A Bonds, the amount computed as described in the Tax Compliance Agreement.

“Rebate Fund” means, with respect to the Series 2023A Bonds, the fund so designated pursuant to Section 4.01 of this Indenture.

“Record Date” means the Regular Record Date or the Special Record Date, as the case may be.

“Redemption Date” means the date determined by the Trustee, following receipt by the Trustee of notice from the Issuer or the University, on behalf of the Issuer, pursuant to this Indenture as of the date as of which a redemption shall be effective.

“Redemption Price” means, when used with respect to a Bond, the principal amount thereof plus the applicable redemption premium, if any, payable thereon, plus accrued interest to the Redemption Date.

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

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

“Representative” means Barclays Capital Inc., as the representative of the Underwriters.

“Request for Disbursement” means a request for disbursement by the University to the Trustee substantially in the form of Exhibit B attached to this Indenture.

“Reserved Rights” means the Unassigned Rights.

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

“Series 2023 Bonds” means, collectively, the Series 2023A Bonds and the Series 2023B Bonds.

“Series 2023A Bonds” means the Issuer’s \$296,880,000 original principal amount Monroe County Industrial Development Corporation Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A.

“Series 2023A Bond Proceeds” means the sum of the face amount of the Series 2023A Bonds plus accrued interest, if any, premium, if any, less the sum of the original issue discount and the Underwriters’ spread or similar discount, if any.

“Series 2023A Equipment” means all machinery, equipment and other tangible personal property used and to be used in connection with the Series 2023A Facility and acquired in whole or in part with the Series 2023A Bond Proceeds with such additions thereto and substitutions therefor as may exist from time to time.

“Series 2023A Facility” means the Series 2023A Facility as defined in the WHEREAS paragraphs of this Indenture.

“Series 2023A Improvements” means the Series 2023A Improvements as defined in the WHEREAS paragraphs of this Indenture.

“Series 2023A Project” means the Series 2023A Project as defined in the WHEREAS paragraphs of this Indenture.

“Series 2023A Project Costs” means the costs of the Series 2023A Project together with the funding of capitalized interest and the payment of certain costs and expenses associated with the issuance of the Series 2023A Bonds.

“Series 2023A Promissory Note” shall mean the Promissory Note with respect to the Series 2023A Bonds in substantially the form of Schedule B to the Loan Agreement.

“Series 2023B Bonds” means the Issuer’s \$100,745,000 original principal amount Monroe County Industrial Development Corporation Taxable Revenue Bonds (University of Rochester Project), Series 2023B.

“Series 2023B Bond Proceeds” means the sum of the face amount of the Series 2023B Bonds plus accrued interest, if any, premium, if any, less the sum of the original issue discount and the Underwriters ‘spread or similar discount, if any.

“Series 2023B Equipment” means all machinery, equipment and other tangible personal property used and to be used in connection with the Series 2023B Facility and acquired in whole or in part with the Series 2023B Bond Proceeds with such additions thereto and substitutions therefor as may exist from time to time.

“Series 2023B Facility” means the Series 2023B Facility as defined in the WHEREAS paragraphs of this Indenture.

“Series 2023B Project” means the Series 2023B Project as defined in the WHEREAS paragraphs of this Indenture.

“Series 2023B Project Costs” means the costs of the Series 2023B Project together with the payment of certain costs and expenses associated with the issuance of the Series 2023 Bonds.

“Series 2023B Promissory Note” shall mean the Promissory Note with respect to the Series 2023B Bonds in substantially the form of Schedule B to the Loan Agreement.

“Special Record Date” means a date for the payment of interest on the Bonds after an Event of Default has occurred fixed by the Trustee pursuant to Section 2.03(b) of this Indenture.

“State” means the State of New York.

“Supplemental Indenture” means any indenture supplemental to or amendatory of this Indenture, which may be executed by the Issuer and the Trustee in accordance with Article X of this Indenture.

“Tax Compliance Agreement” means, with respect to the Series 2023A Bonds, the Tax Regulatory Agreement, dated the Closing Date, by and between the Issuer and the University and acknowledged by the Trustee, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof and this Indenture.

“Tax-Exempt Organization” means any corporation (or other entity) determined by the Internal Revenue Service to be exempt from taxation for federal income tax purposes.

“Trustee” means Manufacturers and Traders Trust Company, a banking corporation organized and existing under the laws of the State of New York, as Trustee under the Indenture, and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as such hereunder.

“Trust Estate” means all Property which may from time to time become subject to the Lien of this Indenture.

“Unassigned Rights” shall mean collectively:

(i) the right of the Issuer in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Issuer under the Loan Agreement;

(ii) the right of the Issuer to grant or withhold any consents or approvals required of the Issuer under the Loan Agreement;

(iii) the right of the Issuer to enforce, in its own behalf, the obligation of the University to complete the Project;

(iv) the right of the Issuer, in its own behalf (or on behalf of the appropriate taxing authorities), to enforce, receive amounts payable under or otherwise exercise its rights under Sections 1.5, 2.1, 2.2, 3.1, 3.3, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 5.1, 6.1, 6.2, 6.3, 6.5, 6.6, 6.10, 6.11, 6.13, 6.18, 6.19, 7.7, 8.1, 8.2, 8.4, 9.3, 9.10, 9.13, 9.17, 9.18 and 9.19 of the Loan Agreement; and

(v) the right of the Issuer, in its own behalf, to declare an Event of Default under Section 7.1 of the Loan Agreement with respect to any of the Unassigned Rights.

“Underwriters” means, collectively, Barclays Capital Inc., Morgan Stanley & Co. LLC, BofA Securities, Inc. and Siebert Williams Shank & Co., or their respective successors or assigns.

“University” means University of Rochester, a not-for-profit education corporation and organization described in Section 501(c)(3) of the Code, organized and existing under the laws of the State of New York, with an office located at Wallis Hall, Room 208, Box 270023, Rochester, New York 14627 and its successors and assigns.

“University Documents” means the Loan Agreement, the Promissory Note, the Tax Compliance Agreement, the Continuing Disclosure Agreement, the Preliminary Official Statement and the Official Statement.

Section 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Indenture:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) Words importing the redemption or calling for redemption of Bonds shall not be deemed to refer to or connote the payment of Bonds at their stated maturity.

(c) All references herein to particular articles or Sections are references to articles or Sections of this Indenture.

(d) The table of contents and headings of the several Sections herein are solely for convenience of reference and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Indenture.

(e) This Indenture shall be construed for the benefit of the University as well as for the parties hereto to the extent not inconsistent with the rights of the Trustee and the Holders.

(f) The use of the neuter gender shall include the masculine and feminine genders as well.

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

Section 2.01. Authorized Amount of Bonds. No Bonds may be authenticated and issued under the provisions of this Indenture except in accordance with this Article II. Except as otherwise provided in Section 2.08 and Section 2.13 hereof, the aggregate principal amount of the Series 2023 Bonds which may be authenticated and issued under this Indenture is \$397,625,000.

Section 2.02. Purpose for Which Series 2023 Bonds May Be Issued. The Series 2023 Bonds may be issued only for the purpose of providing funds to pay the Cost of the Facility. Each Series of Additional Bonds shall be issued only for the purpose provided in the Supplemental Indenture executed in connection therewith.

Section 2.03. Issuance of Series 2023 Bonds; Details of the Series 2023 Bonds.

(a) The Series 2023 Bonds shall be designated (i) “Monroe County Industrial Development Corporation Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A” and shall be issued in the aggregate principal amount of \$296,880,000 and (ii) “Monroe County Industrial Development Corporation Taxable Revenue Bonds (University of Rochester Project), Series 2023B” and shall be issued in the aggregate principal amount of \$100,745,000. The Series 2023 Bonds shall be issuable without coupons in the denomination of \$5,000 or any integral multiple of \$5,000 in excess thereof. Unless the Issuer shall otherwise direct, (i) the Series 2023A Bonds shall be lettered “AR” and shall be numbered consecutively from AR-1 upwards, in the order of issuance according to the records of the Trustee and (ii) the Series 2023B Bonds shall be lettered “BR” and shall be numbered consecutively from BR-1 upwards, in the order of issuance according to the records of the Trustee.

The Series 2023 Bonds shall be dated the Closing Date, and shall bear interest from such date, or from the most recent Bond Payment Date to which interest has been paid, payable semi-annually on July 1 and January 1 of each year, commencing with July 1, 2024.

The Series 2023A Bonds shall mature on July 1 of each of the following years, in the following respective principal amounts and shall bear interest at the following respective per annum interest rates computed on the basis of a three hundred sixty (360) day year composed of twelve (12) thirty (30) day months:

<b>Year</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
2034	\$144,820,000	5.000%
2053	\$152,060,000	5.000%

The Series 2023B Bonds shall mature on July 1 of each of the following years, in the following respective principal amounts and shall bear interest at the following respective per annum interest rates computed on the basis of a three hundred sixty (360) day year composed of twelve (12) thirty (30) day months:

<b>Year</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
2033	\$100,745,000	5.130%

The Bonds shall not be subject to sinking fund redemptions.

(b) Except as provided in Section 2.12 herein, the principal of and premium, if any, on the Bonds shall be payable in lawful money of the United States of America at the Office of the Trustee, or of its successor in trust. Interest on Bonds due on any Bond Payment Date shall be payable to the Person in whose name such Bond is registered at the close of business on the Regular Record Date with respect to such Bond Payment Date, irrespective of any transfer or exchange of such Bond subsequent to such Regular Record Date and prior to such Bond Payment Date, unless the Issuer shall default in the payment of interest due on such Bond Payment Date. In the event of any such default, such defaulted interest shall be payable to the Person in whose name such bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest established by notice mailed by the Trustee to the Owners of Bonds not less

than fifteen (15) days preceding such Special Record Date. Such notices shall be mailed to the Persons in whose names the Bonds are registered at the close of business on the fifth (5<sup>th</sup>) day preceding the date of mailing. Payment of interest on the Bonds will be made by (i) check or draft mailed to the address of the Person in whose name such Bonds are registered, as such address appears on the registration books maintained by the Trustee, or (ii) at such other address furnished to the Trustee in writing by the Holder at least five (5) Business Days prior to the date of payment, or at the election of an Owner of at least \$1,000,000 aggregate principal amount of Bonds, by bank wire transfer to a bank account maintained by such Owner in the United States of America designated in written instructions delivered to the Trustee at least five (5) Business Days prior to the date of such payment, which written instructions may relate to multiple Bond Payment Dates.

Section 2.04. Execution; Special Obligations.

(a) The Bonds shall be executed in the name and on behalf of the Issuer with the manual or facsimile signature of its President, Vice President or Executive Director. Each such facsimile signature shall have the same force and effect as if manually signed. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature shall, nevertheless, be valid and sufficient for all purposes as if he had remained in office until such delivery; and any Bond may be signed on behalf of the Issuer, manually or in facsimile, by the person who, on the date of execution of such Bond, shall be the proper officer of the Issuer, although on the date of execution of this Indenture such person was not such officer.

(b) The Bonds and the premium, if any, and interest thereon shall be special obligations of the Issuer payable solely from the Trust Estate. THE BONDS AND INTEREST THEREON ARE NOT A DEBT OF THE STATE, MONROE COUNTY, NEW YORK, OR OF ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER), AND NEITHER THE STATE, MONROE COUNTY, NEW YORK NOR ANY SUCH POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON.

Section 2.05. Authentication. No Bond shall be valid for any purpose or shall be entitled to any right or benefit hereunder unless there shall be endorsed on such Bond a Certificate of Authentication substantially in the forms attached hereto as part of Exhibit A duly executed by the Trustee. Such executed Certificate of Authentication by the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been executed by the Trustee if signed by an authorized signatory of the Trustee but it shall not be necessary that the same person sign the Certificate of Authentication on all of the Bonds issued hereunder.

Section 2.06. Form of Series 2023 Bonds; Preparation of Series 2023 Bonds.

(a) The Series 2023 Bonds issued under this Indenture shall be substantially in the forms set forth in Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Indenture. Each Series of Additional Bonds issued under this Indenture shall be substantially in the form provided for in the Supplemental Indenture executed by the Issuer and the Trustee in connection therewith in accordance with Article X hereof.

(b) The Bonds shall be prepared, executed and delivered to the Trustee in the form of typewritten bonds printed on bond safety paper.

Section 2.07. Delivery of Series 2023 Bonds.

(a) Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver the Series 2023 Bonds to the Trustee and the Trustee shall authenticate the Series 2023 Bonds and deliver them upon receipt of the Bond Proceeds in accordance with the directions of the Issuer and the provisions of this Section 2.07.

(b) Prior to or simultaneously with the delivery by the Trustee of the Series 2023 Bonds there shall be filed with the Trustee the following:

(i) original executed counterparts of the Financing Documents and the Bond Purchase Contract;

(ii) a duly certified copy of the Bond Resolution authorizing the execution and delivery of the Financing Documents, the Bond Purchase Contract and the issuance, execution and delivery of the Series 2023 Bonds;

(iii) a certificate of the Issuer, dated as of the Closing Date, regarding the corporate existence of the Issuer; the due authorization, execution and delivery by the Issuer of each of the Issuer Documents; the absence of material litigation involving the Issuer; the absence of defaults by the Issuer; and such other matters as the Trustee, the Representative or Bond Counsel may request;

(iv) a certificate of the University, dated as of the Closing Date, regarding the valid corporate existence of the University; the due authorization, execution and delivery by the University of the University Documents; the absence of material litigation involving the University; and the absence of defaults by the University; and such other matters as the Issuer, the Trustee, the Representative or Bond Counsel may request;

(v) a certificate of the Trustee, dated as of the Closing Date, regarding the organization and existence of the Trustee; the due authorization, execution and delivery by the Trustee of this Indenture; the incumbency of officers of the Trustee authorized to execute, acknowledge and deliver this Indenture, and all other instruments necessary or proper in connection with the exercise by the Trustee of its duties under this Indenture; and the due authentication by the Trustee of the Series 2023 Bonds;

(vi) an opinion of counsel for the Issuer, dated as of the Closing Date, to the effect that the Issuer is a duly organized and existing not-for-profit local development corporation; and that each of the Financing Documents to which the Issuer is a party has been duly authorized by the Issuer, is in full force and effect and is valid and binding upon the Issuer in accordance with its terms; and addressing such other matters as the Trustee, the Representative or Bond Counsel may request;

(vii) an opinion of counsel to the Trustee, dated as of the Closing Date, as to the valid existence of the Trustee; the due authorization, execution and delivery by



the Trustee of this Indenture; and such other matters as the Issuer, the Representative or Bond Counsel may reasonably request;

(viii) an opinion or opinions of counsel to the University, dated as of the Closing Date, as to the valid existence of the University; the status of the University as an organization described in Section 501(c)(3) of the Code; the due authorization, execution and delivery by the University of the Financing Documents to which the University is a party and the Bond Purchase Contract; the absence of material litigation involving the University; and such other matters as the Issuer, the Representative or Bond Counsel may request;

(ix) an opinion of Bond Counsel, dated as of the Closing Date, to the effect that (A) the Issuer is duly authorized and entitled to issue the Series 2023 Bonds, (B) upon the execution, authentication and delivery thereof, the Series 2023 Bonds will be duly and validly issued and will constitute valid and binding special obligations of the Issuer, (C) under existing law, the interest on the Series 2023A Bonds is excluded from gross income for Federal income tax purposes except under certain conditions to be more fully expressed in such opinion, and (D) under existing law, the interest on the Series 2023A is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof;

(x) an authorization to the Trustee, signed by an Authorized Representative of the Issuer, to authenticate and deliver the Series 2023 Bonds to the purchaser or purchasers therein identified upon the terms specified therein;

(xi) notice from any rating agencies rating the Series 2023 Bonds on the Closing Date, if any, of the rating(s) to be assigned the Series 2023 Bonds on the Closing Date;

(xii) UCC-1 financing statements relating to the security interests granted pursuant to this Indenture to the Trustee;

(xiii) a copy of Resolution No. 100 of 2010 of the Monroe County Legislature (the “**County Resolution**”);

(xiv) to the extent not previously provided, certificates for policies of insurance with the coverages required to be delivered to the Trustee by the Loan Agreement; and

(xv) such other documents as the Trustee, its counsel or Bond Counsel may reasonably require.

Section 2.08. Mutilated, Lost, Stolen or Destroyed Bonds.

(a) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and, upon its request, the Trustee shall authenticate and deliver a new Bond of like maturity, interest rate and principal amount as the mutilated, destroyed, lost or stolen Bond, in exchange for the mutilated Bond or in substitution for the Bond so destroyed, lost or stolen. In

every case of exchange or substitution, the applicant shall furnish to the Issuer and to the Trustee (i) such security or indemnity as may be required by them to save each of them harmless from all risks, however remote, and (ii) evidence to their satisfaction of the mutilation, destruction, loss or theft of the applicant's Bond and/or the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, the Issuer or the Trustee may require the payment by the Bondholder of a sum sufficient to cover any tax or other governmental charge or expense that may be imposed in relation thereto and any other expenses, including attorneys' fees and expenses, of the Issuer or the Trustee. In case any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Issuer may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Issuer and to the Trustee such security or indemnity as they may require to save them harmless and evidence to the satisfaction of the Issuer and the Trustee of the mutilation, destruction, loss or theft of such Bond and of the ownership thereof. In executing a new Bond or authorizing payment of any mutilated, lost, stolen or destroyed Bond, the Issuer may rely conclusively upon a representation by the Trustee that the Trustee is satisfied with the adequacy of the evidence presented concerning the mutilation, loss, theft or destruction of any Bond and the ownership thereof.

(b) Every Bond issued pursuant to the provisions of this Section 2.08 shall constitute an additional contractual obligation of the Issuer (whether or not the mutilated, destroyed, lost or stolen Bond shall be found at any time to be enforceable) and shall be entitled to all the benefits of this Indenture equally and proportionately with all other Bonds duly issued under this Indenture.

(c) All Bonds shall be held and owned upon the express condition that the provisions of this Section 2.08 are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds and shall preclude all other rights or remedies notwithstanding any law or statute existing or hereinafter enacted to the contrary.

#### Section 2.09. Negotiability of Bonds and Registration Books.

(a) All Bonds issued under this Indenture shall be subject to the provisions for registration and transfer contained in this Indenture and in the Bonds.

(b) So long as any Bonds shall remain Outstanding, the Issuer shall maintain books at the Office of the Trustee for the registration of transfer of Bonds. The Trustee is hereby appointed Bond Registrar for the purpose of registering transfers on such registration books. By executing this Indenture, the Trustee accepts the duties and obligations of Bond Registrar for the Issuer. The Trustee, as Bond Registrar, shall register on such books and permit to be transferred thereon, under such reasonable regulations as the Issuer or the Trustee may prescribe, any Bond entitled to registration or transfer.

#### Section 2.10. Transfer of the Bonds.

(a) Each Bond shall be transferable only on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar. Upon surrender thereof at the Office of the Trustee, duly endorsed for transfer or accompanied by an assignment in form satisfactory to the Trustee

duly executed by the Owner or his attorney duly authorized in writing and in either case accompanied by a guaranty of signature satisfactory to the Trustee, the Issuer shall execute and the Trustee shall authenticate and deliver, in the name of the transferee or transferees, a new Bond or Bonds in authorized denominations for a like aggregate principal amount.

(b) The Issuer, the Trustee, and any Paying Agent may deem and treat the Person in whose name any Bond shall be registered upon the books of the Issuer on the Record Date as the absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal or Redemption Price of and interest on such Bond and for all other purposes. All such payments so made to any such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Bond to the extent of the sum or sums so paid. Neither the Issuer, the Trustee, nor any Paying Agent shall be affected by any notice to the contrary. Any Owner may designate a nominee in whose name such Bond may be registered.

Section 2.11. Regulations with Respect to Transfers.

(a) The Trustee shall not be required to exchange or register a transfer of (1) any Bonds during the fifteen (15) day period next preceding (i) a Bond Payment Date or (ii) the date of selection of Bonds to be redeemed and thereafter until the date of the mailing of a notice of redemption of Bonds selected for redemption, or (2) any Bonds selected, called or being called for redemption in whole or in part except, in the case of any Bond to be redeemed in part, the portion thereof not so to be redeemed.

(b) All Bonds surrendered in any transfer shall forthwith be canceled in accordance with the provisions of Section 5.13 hereof.

(c) For every transfer of Bonds, the Issuer and the Trustee may make a charge sufficient to reimburse them for (i) any tax, fee or other governmental charge required to be paid with respect to such transfer, (ii) the cost of preparing each new Bond, and (iii) any other expenses of the Issuer or the Trustee, as the case may be, incurred in connection therewith, and any such charges shall be paid by the University.

Section 2.12. Book-Entry System. (a) The Series 2023 Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities of the Series 2023 Bonds. Upon initial issuance, the ownership of each such Bond shall be registered in the name of the Nominee (as defined in paragraph (d) of this Section 2.12), as nominee of the Depository. Except as provided in Section 2.12(c) hereof, all of the Outstanding Bonds shall be registered in the name of the Nominee.

(b) With respect to the Bonds registered in the name of the Nominee, the Issuer and the Trustee shall have no responsibility or obligation to any Participant or to any Person on behalf of which a Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee, or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery or timeliness of delivery by the Depository to any Participant or by a Participant to any other Person, of any notice with respect to

the Bonds, including any notice of redemption, (iii) the selection by the Depository and its Participants of the beneficial interests in the Bonds to be redeemed in the event the Issuer redeems the Bonds in part, (iv) the payment by the Depository to any Participant or by any Participant to any other Person, of any amount with respect to the principal amount of, Redemption Price, if any, or interest on the Bonds, or (v) any consent given or other action taken by the Depository, or the Nominee, as Owner. The Issuer and the Trustee may treat and consider the Person in whose name each Bond is registered as the holder and absolute owner of such Bond for the purpose of payment of the principal amount, Redemption Price, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal amount of, Redemption Price, if any, and interest on the Bonds only to or upon the order of the respective Owner, as shown on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar, or his respective attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of the principal amount of, Redemption Price, if any, and interest on the Bonds to the extent of the sum or sums so paid. No Person other than an Owner, shall receive a Bond evidencing the obligation of the Issuer to make payments of the principal amount of, Redemption Price, if any, and interest pursuant to this Indenture. Upon delivery by the Depository to the Owner, the Trustee and the Issuer of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to record dates, the term "Nominee" in this Indenture shall refer to such nominee of the Depository.

(c) In the event (i) the Depository determines not to continue to act as securities depository for the Bonds, or (ii) the Depository shall no longer so act and gives notice to the Trustee of such determination, then the Issuer will discontinue the book-entry system with the Depository with respect to the Bonds. If the Issuer determines to replace the Depository with another qualified securities depository, the Issuer shall prepare or direct the preparation of a new single, separate, fully registered Bond for each of the maturities of the applicable Bonds, registered in the name of such successor or substitute qualified securities depository or its nominee. If the Issuer fails to identify another qualified securities depository to replace the Depository then the Bonds shall no longer be restricted to being registered in the name of the Nominee, but shall be registered in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of the Indenture.

(d) The initial Depository shall be DTC. The initial Nominee shall be Cede & Co., as the Nominee of DTC.

(e) In order to qualify the Bonds for the Depository's book-entry system, an Authorized Representative of the Issuer shall execute and deliver to the Depository a Letter of Representations for the Bonds. The execution and delivery of the Letter of Representations shall not in any way limit the provisions of this Section 2.12 or in any other way impose upon the Issuer any obligation whatsoever with respect to Persons having interests in the Bonds other than the Owners, as shown on the Bond Register. In the written acceptance of the Trustee of the Letter of Representations, the Trustee shall agree to take all action necessary for all representations of the Issuer in the Letter of Representations with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of the Letter of Representations, the Issuer shall take such

other actions, not inconsistent with this Section 2.12, as are reasonably necessary to qualify the Bonds for the Depository's book-entry program.

Section 2.13. Additional Bonds.

(a) The Issuer may issue Additional Bonds hereunder from time to time on a pari passu basis with the Series 2023 Bonds issued hereunder for any of the purposes listed below:

(1) To pay the cost of completing the Facility or completing an addition thereto based on the original general design and scope of the Facility or such addition thereto set forth in the original plans and specifications therefor, with such changes as may have become necessary to carry out such original design, or to reimburse expenditures of the University for any such costs;

(2) To pay the cost of Capital Additions or to reimburse expenditures of the University for any such cost;

(3) To pay the cost of refunding through redemption of any Outstanding Bonds issued under this Indenture and subject to such redemption; or

(4) To pay the cost of any additional project approved by the Issuer.

(b) In any such event the Trustee shall, at the written request of the Issuer, authenticate the Additional Bonds and deliver them as specified in the request, but only upon receipt of:

(1) (A) a Supplemental Indenture setting forth the terms of the Additional Bonds and, for Additional Bonds described in subsection (a)(2) or (4) above, describing the Capital Additions to become part of the Facility; (B) a supplement to the Loan Agreement providing for additional Debt Service Payments to be made by the University sufficient to cover the debt service due on the Additional Bonds, and (C) a new Promissory Note, which shall provide, among other things, for loan payments payable by the University under the Loan Agreement sufficient to amortize in full the principal of and interest on such Additional Bonds;

(2) For Additional Bonds described in subsection (a)(1), (a)(2) or (a) (4) above, a certificate signed by an Authorized Representative of the University stating that the proceeds of the Additional Bonds plus other amounts, if any, available to the University for the purpose will be sufficient to pay the cost thereof; and (ii) payments and additional payments, if any, scheduled to be paid by the University under the Loan Agreement will be adequate to satisfy all of the Debt Service Payments required to be made on the Bonds to remain Outstanding during the remaining life thereof; provided, however, such Additional Bonds shall not be issued to cure any deficiencies existing on the date of such certification in any funds required to be maintained under this Indenture;

(3) For Additional Bonds described in subsection (a)(1) above, (i) a certificate of the University stating (A) the estimated cost of completion of the Facility or the addition thereto and (B) that all approvals required for completion of the Facility or

addition thereto have been obtained, other than building permits for any portions of the Facility or such addition thereto which, based on consultations with the University and contractor or other construction manager, will be obtained in due course so as not to interrupt or delay construction of the Facility or such addition thereto and other than licenses or permits required for occupancy or operation of the Facility or such addition thereto upon its completion;

(4) for Additional Bonds described in subsection (a) (3) above, (A) a certificate of an Authorized Representative of the University that notice of redemption of the Bonds to be refunded has been given or that provisions have been made therefor, and (B) a certificate of an Accountant stating that the proceeds of the Additional Bonds plus the other amounts, if any, stated to be available for the purpose, will be sufficient to accomplish the purpose of the refunding and to pay the cost of refunding, which shall be itemized in reasonable detail;

(5) for any Additional Bonds, a certified resolution of the Issuer (A) stating the purpose of the issue, (B) establishing the series of Additional Bonds to be issued and providing the terms and form of Additional Bonds thereof and directing the payments to be made into the funds established hereunder, (C) authorizing the execution and delivery of the Additional Bonds to be issued and (D) authorizing redemption of any previously issued Bonds which are to be refunded;

(6) for any Additional Bonds, a certificate of an Authorized Representative of the University stating (A) that no Event of Default hereunder or under the Loan Agreement has occurred and is continuing (except, in the case of Additional Bonds described in subsection (a)(1) above, for an Event of Default, if any, resulting from non-completion of the Facility or an addition thereto) and (B) that the proceeds of the Additional Bonds plus other amounts, if any, stated to be available for that purpose will be sufficient to pay the costs for which the Additional Bonds are being issued, which shall be itemized in reasonable detail;

(7) for any Additional Bonds, a certified resolution of the Board of Trustees of the University (A) approving the issuance of the Additional Bonds and the terms thereof, (B) authorizing the execution of any required amendments or supplements to this Indenture and the Loan Agreement, (C) for Additional Bonds described in subsection (a)(1) or (2) above, approving plans and specifications for the Facility or an addition thereto, and (D) for Additional Bonds described in subsection (a)(3) above, authorizing redemption of the Bonds to be refunded;

(8) for any Additional Bonds, an opinion or opinions of Bond Counsel to the effect that (A) the purpose of the Additional Bonds is one for which Additional Bonds may be issued under this Section, (B) all conditions prescribed herein as precedent to the issuance of the Additional Bonds have been fulfilled, (C) the Additional Bonds have been validly authorized and executed and when authenticated and delivered pursuant to the request of the Issuer will be valid, legally binding, special obligations of the Issuer, and are entitled to the benefit and security of this Indenture, (D) all consents of any regulatory bodies required as a condition to the valid issuance of the Additional Bonds have been

obtained and (E) issuance of such Additional Bonds will not adversely affect the tax status of Outstanding Bonds;

(9) [Reserved]; and

(10) for Additional Bonds described in Subsection (a)(1), (a)(2) or (a) (4) above, an opinion of Independent Counsel to the University reasonably acceptable to the Issuer.

### ARTICLE III

#### REDEMPTION OF BONDS PRIOR TO MATURITY

##### Section 3.01. Redemption Dates and Prices.

(a) Special Redemption. The Series 2023 Bonds are subject to redemption prior to maturity at the option of the Issuer (exercised at the direction of the University), in whole or in part on any Interest Payment Date, at a redemption price equal to 100% of the principal amount of Series 2023 Bonds or portions thereof to be redeemed, plus accrued interest to the redemption date (i) from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Facility to which such proceeds relate, and (ii) from unexpended proceeds of the Series 2023 Bonds upon the abandonment of all or a portion of the Facility to which such unexpended proceeds relate due to a legal or regulatory impediment.

If the Series 2023 Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the University is required under the Loan Agreement to deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the University stating that, as a result of the occurrence of the event giving rise to such redemption, the University has discontinued, or at the earliest practicable date will discontinue, its operation of the Facility for its intended purposes.

(b) Reserved.

(c) Reserved.

(d) Reserved.

(e) Optional Redemption. The Series 2023A Bonds are subject to redemption by the Issuer at the option of the University on or after July 1, 2033, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount of such Series 2023A Bonds or portions thereof to be redeemed, plus accrued interest, if any, to the Redemption Date.

The Series 2023B Bonds are subject to redemption by the Issuer at the option of the University in whole or in part at any time, (i) prior to April 1, 2033, at the Make-Whole Redemption Price (as defined below), and (ii) on or after April 1, 2033, at a Redemption Price equal to 100% of the principal amount of such Series 2023B Bonds or portions thereof to be redeemed, plus accrued interest, if any, to the Redemption Date.

With respect to the Series 2023B Bonds, the “Make-Whole Redemption Price” is the greater of (i) 100% of the principal amount of the Series 2023B Bonds to be redeemed or (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the Series 2023B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the Redemption Date, discounted to the Redemption Date on a semiannual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (as defined below) plus the Applicable Spread (as defined below), plus, in each case, accrued and unpaid interest on the Series 2023B Bonds to be redeemed on the Redemption Date.

The “Treasury Rate” is, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two (2) Business Days prior to the Redemption Date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the Redemption Date to the maturity date of the Series 2023B Bonds to be redeemed. However, if the period from the Redemption Date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

The “Applicable Spread” is fifteen (15) basis points.

The Trustee may retain, at the expense of the University, an independent accounting firm or financial advisor to determine the Make-Whole Redemption Price and perform all actions and make all calculations required to determine the Make-Whole Redemption Price. The Trustee, the Issuer and the University may conclusively rely on such accounting firm’s or financial advisor’s calculations in connection with, and determination of, the Make-Whole Redemption Price, and neither the Trustee nor the Issuer nor the University will have any liability for their reliance.

The Trustee shall call Series 2023 Bonds for redemption pursuant to this Section 3.01(e) upon receipt of notice from the Issuer, or the University on behalf of the Issuer, directing such redemption, which notice shall be sent to the Trustee at least thirty (30) days prior to the Redemption Date or such fewer number of days as shall be acceptable to the Trustee and shall specify (i) the principal amount of Series 2023 Bonds so to be called for redemption, and (ii) the applicable Redemption Price. The Issuer shall direct the Trustee to call Series 2023 Bonds for optional redemption when and only when it shall have been notified by the University to do so.

(f) Purchase of Series 2023 Bonds in Lieu of Redemption. If the Series 2023 Bonds are called for redemption in whole or in part pursuant to the terms of this Indenture, the Series 2023 Bonds called for redemption may be purchased in lieu of redemption in accordance with this Section 3.01(f). Purchase in lieu of redemption shall be available for all of the Series 2023 Bonds called for redemption or for such lesser portion of such Series 2023 Bonds as constitute authorized denominations hereunder. The University may direct the Trustee to purchase all or such lesser portion of the Series 2023 Bonds so called for redemption. Any such direction to the Trustee must:

- (i) be in writing;



(ii) state either that all of the Series 2023 Bonds called for redemption are to be purchased or, if less than all of the Series 2023 Bonds called for redemption are to be purchased, identify those Series 2023 Bonds to be purchased in authorized denominations; and

(iii) be received by the Trustee no later than 12:00 noon, New York City time, one (1) Business Day prior to the Redemption Date.

If so directed, the Trustee shall purchase such Series 2023 Bonds on the date which otherwise would be the date of redemption of the Series 2023 Bonds. Any of the Series 2023 Bonds called for redemption that are not purchased in lieu of redemption shall be redeemed as otherwise required by this Indenture on the date set for redemption. On or prior to the scheduled redemption date, any direction given to the Trustee pursuant to this Section 3.01(f) may be withdrawn by notice to the Trustee. The purchase shall be made for the account of the University or its designee. The purchase price of the Series 2023 Bonds shall be equal to the Outstanding principal of, accrued and unpaid interest on, and the redemption premium, if any, which would have been payable on such Series 2023 Bonds on the applicable redemption date for such redemption. To pay the purchase price of such Series 2023 Bonds, the Trustee shall use such moneys (including, to the extent applicable, moneys on deposit in the various funds and accounts established under this Indenture except the Rebate Fund) that the Trustee would have used to pay the Outstanding principal of, accrued and unpaid interest on, and the redemption premium, if any, that would have been payable on the Series 2023 Bonds on the date set for redemption. The Trustee shall not purchase the Series 2023 Bonds pursuant to this Section 3.01(f) if, by no later than the date set for redemption, sufficient moneys have not been deposited with the Trustee, or such moneys are deposited, but are not available. No notice of the purchase in lieu of redemption shall be required to be given to the Holders (other than the notice of redemption otherwise required under this Indenture).

#### Section 3.02. Notice of Redemption.

(a) When Series 2023 Bonds are to be redeemed pursuant to Section 3.01 hereof, the Trustee shall give notice of the redemption of the Series 2023 Bonds in the name of the Issuer and at the expense of the University stating: (1) the Series 2023 Bonds to be redeemed; (2) the Redemption Date; (3) that such Series 2023 Bonds will be redeemed at the Office of the Trustee; (4) that on the Redemption Date there shall become due and payable upon each Series 2023 Bond to be redeemed the Redemption Price thereof; and (5) that from and after the Redemption Date interest thereon shall cease to accrue. With respect to any redemption under Section 3.01(e) hereof, any such notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee, on or prior to the Redemption Date, of moneys sufficient, together with any other moneys held by the Trustee and available therefor, to pay on the Redemption Date the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received on or prior to the Redemption Date such notice shall be of no force or effect and such Bonds shall not be required to be redeemed.

(b) The Trustee shall mail a copy of the notice required by this Section 3.02, postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date, to each Holder at the address of such Holder appearing on the registration books

of the Issuer, maintained by the Trustee, as Bond Registrar. Such mailing shall not be a condition precedent to such redemption, and failure to so mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Series 2023 Bonds.

**Section 3.03. Payment of Redeemed Series 2023 Bonds.**

(a) After notice shall have been given in the manner provided in Section 3.02 hereof, the Series 2023 Bonds or portions thereof called for redemption shall become due and payable on the Redemption Date so designated. Upon presentation and surrender of such Series 2023 Bonds at the Office of the Trustee or as otherwise provided in Sections 2.03(b) hereof, such Series 2023 Bonds shall be paid at the Redemption Price, plus accrued interest to the Redemption Date from moneys on deposit with the Trustee and part of the Trust Estate.

(b) If, on the Redemption Date, moneys for the redemption of all Series 2023 Bonds or portions thereof to be redeemed, together with interest thereon to the Redemption Date, shall be held by the Trustee in the Bond Fund so as to be available therefor on such date, the Series 2023 Bonds or portions thereof so called for redemption shall cease to bear interest, and such Series 2023 Bonds or portions thereof shall no longer be Outstanding hereunder or be secured by or be entitled to the benefits of this Indenture. In the event the Owner fails to present or surrender its Series 2023 Bonds on the Redemption Date, the Trustee shall deposit such moneys in a separate non-interest bearing account, in trust for the benefit of such Owner, and the funds held in such account shall not be invested by the Trustee. If such moneys shall not be available on the Redemption Date, such Series 2023 Bonds shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption and shall continue to be secured by and be entitled to the benefits of this Indenture; additionally, the Trustee shall within fifteen (15) days after the proposed Redemption Date notify all affected Holders that the redemption has been revoked.

**Section 3.04. Partial Redemption of Series 2023 Bonds.** Upon surrender of any Bonds for redemption in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder thereof a new Bond or Bonds of the same series in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered.

**Section 3.05. Selection of Bonds to be Called for Redemption.** If less than all of the Series 2023A Bonds are to be redeemed, the particular Series 2023A Bonds to be redeemed shall be selected by the University at least thirty (30) days prior to the Redemption Date, with the specific maturities to be redeemed as directed by the University, and within each maturity by lot or by such other method as the Trustee shall deem fair and appropriate.

If the Series 2023B Bonds are registered in book-entry form, and so long as DTC or a successor securities depository is the sole registered owner of such Series 2023B Bonds, and if less than all of the Series 2023B Bonds are to be redeemed, the Series 2023B Bonds to be called for redemption shall be selected on a “pro rata pass-through distribution of principal” basis in accordance with DTC procedures, provided that the selection for redemption of such Series 2023B Bonds shall be made in accordance with the operational arrangements of DTC then in effect, and, if the DTC operational arrangements do not allow for redemption on a pro rata pass-through

distribution of principal basis, the Series 2023B Bonds will be selected for redemption, in accordance with DTC procedures, by lot.

In connection with any repayment of principal, the Trustee, as Bond Registrar, shall direct DTC to make a pass-through distribution of principal to the Holders of the Series 2023B Bonds.

For purposes of calculation of the “pro rata pass-through distribution of principal,” “pro rata” means, for any amount of principal to be paid, the application of a fraction to each denomination of the respective Series 2023B Bonds where (a) the numerator of which is equal to the amount due to the respective bondholders on a payment date, and (b) the denominator of which is equal to the total original par amount of the respective Series 2023B Bonds.

If the Series 2023B Bonds are no longer registered in book-entry-only form, each owner will receive an amount of Series 2023B Bonds equal to the original face amount then beneficially held by that owner, registered in such investor’s name. Thereafter, any redemption of less than all of the Series 2023B Bonds will continue to be paid to the registered owners of such Series 2023B Bonds on a pro-rata basis, based on the portion of the original face amount of any such Series 2023B Bonds to be redeemed.

## ARTICLE IV

### FUNDS, REVENUES, BOND PROCEEDS AND APPLICATION THEREOF

Section 4.01. Establishment of Funds and Accounts. The following trust funds and accounts therein are hereby established with the Trustee and shall be held, maintained and administered by the Trustee on behalf of the Issuer in accordance with this Indenture:

(a) Monroe County Industrial Development Corporation Project Fund (University of Rochester Project), Series 2023 (the “**Project Fund**”), within which there shall be two (2) accounts: (1) the Series 2023A Project Account within which there shall be a Capitalized Interest Subaccount and (2) the Series 2023B Project Account;

(b) Monroe County Industrial Development Corporation Bond Fund (University of Rochester Project), Series 2023 (the “**Bond Fund**”), within which there shall be two (2) accounts: (1) the Series 2023A Bond Account and (2) the Series 2023B Bond Account;

(c) Monroe County Industrial Development Corporation Renewal Fund (University of Rochester Project), Series 2023 (the “**Renewal Fund**”), within which there shall be two (2) accounts: (1) the Series 2023A Renewal Account and (2) the Series 2023B Renewal Account; and

(d) Monroe County Industrial Development Corporation Rebate Fund (University of Rochester Project), Series 2023A (the “**Rebate Fund**”).

Section 4.02. Application of Series 2023 Bonds Proceeds and Allocation Thereof. Upon the receipt of the proceeds of the Bonds, the Trustee shall deposit such proceeds as follows:

(a) In the (1) Series 2023A Bond Account: all accrued interest, if any, paid by the purchaser of the Series 2023A Bonds and (2) Series 2023B Bond Account: all accrued interest, if any, paid by the purchaser of the Series 2023B Bonds; and

(b) In the (1) Series 2023A Project Account: the balance of the proceeds received from the sale of the Series 2023A Bonds provided that, of such balance of the proceeds of the Series 2023A Bonds, the Trustee shall credit to the Capitalized Interest Subaccount of the Series 2023A Project Account an amount equal to \$30,332,979.94, and (2) Series 2023B Project Account: the balance of the proceeds received from the sale of the Series 2023B Bonds.

Section 4.03. Moneys to be Held in Trust. All moneys deposited with, paid to or received by the Trustee for the account of the Issuer shall be held by the Trustee in trust and shall be subject to the Lien of this Indenture and held for the security of the Holders until paid in full, subject to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein; provided, however, that moneys which have been deposited with, paid to, or received by the Trustee (i) for the redemption of a portion of the Bonds, notice of the redemption of which has been given or (ii) for the payment of Bonds or interest thereon due and payable otherwise than by acceleration, notice of the acceleration of which has been given by declaration, shall be held in trust for and subject to a Lien in favor of only the Holders of such Bonds so called for redemption or so due and payable; and provided further that moneys paid to the Trustee to be deposited into the Rebate Fund shall not be subject to the Lien of this Indenture and shall be applied only as provided in Section 4.09 hereof.

Section 4.04. Use of the Moneys in the Project Fund.

(a) Moneys in the Project Fund shall be applied and expended by the Trustee in accordance with the provisions of the Loan Agreement and particularly Section 2.4 thereof and this Section 4.04; provided further that, during the time prior to the applicable Completion Date, the Trustee is hereby authorized to disburse from the Capitalized Interest Subaccount of the Series 2023A Project Account on the Business Day prior to an Interest Payment Date for the Series 2023A Bonds, for deposit into the Series 2023A Bond Account, such amount, together with amounts already available as is sufficient to pay the interest on the Series 2023A Bonds coming due on such Interest Payment Date (or, if insufficient funds are then on deposit, the balance of such Capitalized Interest Subaccount).

(b) The Trustee is hereby authorized to disburse from the applicable account of the Project Fund the amount required for the payment of Project Costs and is directed to issue its checks (or, at the direction of the University, make wire transfers) for each disbursement from the applicable account of the Project Fund, upon receipt of a requisition (in substantially the form attached hereto as Exhibit B) submitted to the Trustee and signed by an Authorized Representative of the University. The Trustee shall be entitled to rely on the correctness and accuracy of such requisition as well as the propriety of the signature thereon. Thereafter, the Trustee shall without further authorization transfer any remaining funds into the applicable account of the Bond Fund.

(c) The Trustee shall maintain adequate records pertaining to the Project Fund and all disbursements therefrom. Until the Project Fund has been fully expended, the Trustee shall

furnish the Issuer and the University with monthly statements showing all receipts and disbursements from the Project Fund since the date of the last statement.

(d) The completion of the acquisition, construction and equipping of the Facility and payment or provision for payment of items included within the Cost of the Facility shall be evidenced by the filing with the Trustee of the certificate required by Section 2.2 of the Loan Agreement. As soon as practicable and in any event not more than sixty (60) days from the date of the certificate referred to in the preceding sentence, (1) any balance remaining in the Project Fund, except for (i) amounts the University shall have directed the Trustee to retain for any item included within the Cost of the Facility not then due and payable, and (ii) amounts required to be transferred to the Rebate Fund by the Tax Compliance Agreement and Section 4.09 hereof, shall without further authorization be transferred to the Bond Fund and thereafter be applied to pay interest on the Bonds.

(e) All net income or gain received from investments of amounts held in the applicable account of the Project Fund shall be retained in such account of the Project Fund; provided, however, that net income or gain received from investments of amounts held in the Series 2023A Project Account of the Project Fund may, at the written direction of the University, be transferred to the Capitalized Interest Subaccount of the Series 2023A Project Account of the Project Fund.

(f) If an Event of Default hereunder shall have occurred and the Outstanding principal amount of the Bonds shall have been declared due and payable pursuant to Article VIII hereof, the entire balance remaining in the applicable account of the Project Fund, after making the transfer to the Rebate Fund required by the Tax Compliance Agreement and Section 4.09 hereof, shall be transferred to the applicable account of the Bond Fund.

Section 4.05. Payments into the Bond Fund. There shall be deposited by the Trustee into the Bond Fund when and as received the following: (i) accrued interest, if any, as provided in Section 4.02 hereof, (ii) any and all payments received by the Trustee under Section 3.3(a) of the Loan Agreement, (iii) the balance in the Project Fund, the Renewal Fund and the Rebate Fund to the extent specified in this Article IV, (iv) the amount of net income or gain received from the investments of moneys in the Bond Fund and (v) all other moneys received by the Trustee under and pursuant to any of the provisions of the Loan Agreement or this Indenture which by the terms hereof or the Loan Agreement are required to be or which are accompanied by directions that such moneys are to be paid into the Bond Fund.

Section 4.06. Use of Moneys in the Bond Fund. So long as there remain any Bonds Outstanding, moneys in the Bond Fund shall be used solely for the payment, when due, of Debt Service Payments on the Bonds or for the redemption of the Bonds as herein provided.

Section 4.07. Payments into Renewal Fund; Application of Renewal Fund.

(a) The Net Proceeds resulting from any casualty insurance proceeds or Condemnation award with respect to the Facility deposited or delivered to the Trustee pursuant to the Loan Agreement shall be deposited in the Renewal Fund. The amounts in the Renewal Fund

shall be subject to a security interest, lien and charge in favor of the Trustee until disbursed as provided in this Section.

(b) In the event the Series 2023 Bonds shall be subject to redemption in whole or in part pursuant to the terms set forth in the Series 2023 Bonds or this Indenture, and the University shall have so directed the Trustee in writing within ninety (90) days of the occurrence of such event, the Trustee shall transfer the amounts deposited in the Renewal Fund to the Bond Fund for the redemption of such Series 2023 Bonds.

If, on the other hand,

(i) such Series 2023 Bonds shall not be subject to optional redemption (whether by reason of such event or otherwise), or

(ii) such Series 2023 Bonds shall be subject to optional redemption (whether by reason of such event or otherwise) and the University shall have failed to direct the Trustee, within ninety (90) days of the occurrence of a Loss Event, to transfer the amounts deposited in the Renewal Fund to the Bond Fund for redemption of such Series 2023 Bonds, or

(iii) the University shall have notified the Trustee pursuant to the Loan Agreement of its intent to rebuild, replace, repair and restore the Facility in writing, the Trustee shall, in accordance with subsection (d) below, from time to time disburse the amounts on deposit in the Renewal Fund to the University to pay costs of such rebuilding, replacement, repair and restoration.

(c) Reserved.

(d) The Trustee is hereby authorized to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same have been paid by or on behalf of the University or the Issuer) of the costs required for the rebuilding, replacement, repair and restoration of the Facility upon written instructions from the University. The Trustee is further authorized and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee, signed by an Authorized Representative of the University. Such requisition shall (i) state the requisition number, (ii) specify the nature of each item and certify the same to be correct and proper under this Section and the Loan Agreement, as the case may be, and that such item has been properly paid or incurred as a Cost of the Facility, (iii) certify that none of the items for which the requisition is made has formed the basis for any disbursement theretofore made from such Renewal Fund, (iv) certify that the payee and amount stated with respect to each item in the requisition are correct and that such item is due and owing, (v) specify the name and address of the Person to whom payment is due or has been made, (vi) certify that no Event of Default shall exist and be continuing under this Indenture or the Loan Agreement or any other Financing Document, nor any condition, event or act which, with notice or lapse of time or both would constitute such an Event of Default, (vii) certify that such Authorized Representative of the University has no knowledge of any vendor's lien, mechanic's lien or security interest which should be satisfied or discharged before the payment as requisitioned is made and which will not be discharged by such payment, and (viii) if the payment is a reimbursement to the University for

costs or expenses of the University incurred by reason of work performed or supervised by officers, partners or employees of the University or any affiliate of the University, certify that such officers, partners or employees were specifically employed for such purpose and that the amount to be paid does not exceed the actual cost thereof to the University. The Trustee shall be entitled to rely on such requisition. The Trustee shall keep and maintain adequate records pertaining to the Renewal Fund and all disbursements therefrom and shall furnish copies of same to the Issuer or the University upon reasonable written request therefor.

(e) The date of completion of the restoration of the Facility shall be evidenced to the Issuer and the Trustee by a certificate of an Authorized Representative of the University stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for or will be paid with the final advance, (iii) that the Facility has been restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that all Property included as part of the Facility is subject to the Loan Agreement, and (v) that the restored Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (A) that it is given without prejudice to any rights of the University against third parties that exist at the date of such certificate or which may subsequently come into being, (B) that it is given only for the purposes of this Section and the Loan Agreement, and (C) that no Person other than the Issuer or the Trustee may benefit therefrom. Such certificate shall be accompanied by (1) a certificate of occupancy, if required, and any and all permissions, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by the Loan Agreement; and (2) an Opinion of Counsel addressed to the Issuer and the Trustee to the effect that the Facility as restored is adequately described for such purposes in the Loan Agreement and this Indenture.

(f) All earnings on amounts on deposit in the Renewal Fund shall be retained in such Renewal Fund and shall be disbursed in accordance with the provisions of this Section 4.07.

(g) Any surplus remaining in the Renewal Fund after the completion of the rebuilding, replacement, repair and restoration of the Facility shall be transferred by the Trustee to the Bond Fund for redemption of the Series 2023 Bonds.

Section 4.08. Reserved

Section 4.09. Payments Into Rebate Fund; Application of Rebate Fund.

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

(b) All net income or gain received from investments of moneys held in the Rebate Fund shall be retained by the Trustee in the Rebate Fund.

(c) The Trustee, upon the receipt of a certification of the Rebate Amount from an Authorized Representative of the University together with funds in the amount of such Rebate

Amount, in accordance with the Tax Compliance Agreement, shall deposit such Rebate Amount in the Rebate Fund.

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

(e) With respect to the Series 2023A Bonds, the Trustee, upon the receipt of written instructions from an Authorized Representative of the University, shall pay to the United States, out of amounts in the Rebate Fund, (i) not later than thirty (30) days after the last day of the fifth (5<sup>th</sup>) Bond Year and after every fifth (5<sup>th</sup>) Bond Year thereafter, an amount equal to ninety percent (90%) of the balance, if any, in the Rebate Fund as of the date of such payment and (ii) notwithstanding the provisions of Section 7.02 hereof, not later than thirty (30) days after the date on which all Series 2023A Bonds have been paid in full, the balance in the Rebate Fund.

(f) Notwithstanding any other provision in this Indenture or any of the other Financing Documents, general or specific, to the contrary, the Trustee shall have no obligations hereunder or thereunder relating to rebate requirements except to comply with specific written instructions received by the Trustee from the University with respect to deposits into the Rebate Fund and release of the moneys therefrom. The Trustee shall not have any responsibility hereunder or under any of the Financing Documents to make any calculations relating to arbitrage restrictions or rebate requirements, or the excludability of the interest on the Series 2023A Bonds from gross income for Federal income tax purposes or to verify, confirm or review (and the Trustee shall not verify, confirm or review) any such calculations or requirements, or the excludability of the interest on the Series 2023A Bonds from gross income for Federal income tax purposes or to take any other action with respect thereto hereunder or thereunder. The Trustee shall not have any responsibility to notify the Issuer, the University or any other person of any failure by the University or any other person to provide to the Trustee timely written certifications relating to arbitrage restrictions or rebate requirements as required hereunder or under any other document relating to the Series 2023A Bonds, including, without limitation, certifications regarding investments in certificates of deposit or investment agreements or certifications regarding rebate payments which may be due and payable to the Internal Revenue Service.

Section 4.10. Reserved.

Section 4.11. Investment of Moneys.

(a) Moneys held in any fund established pursuant to Section 4.01 hereof (other than the Bond Fund) shall be invested and reinvested by the Trustee in Permitted Investments, upon and pursuant to direction by the Authorized Representative of the University. In the absence of such direction, moneys held hereunder by the Trustee shall remain uninvested. Moneys held in the Bond Fund shall be invested and reinvested, upon and pursuant to direction by the Authorized Representative of the University, only in Governmental Obligations maturing as needed. The investment direction given by the Authorized Representative of the University may be initially written or oral, but if oral shall be promptly confirmed in writing and upon which direction the



Trustee may rely without further inquiry. Such investments shall mature in such amounts and have maturity dates or be subject to redemption at the option of the Trustee on or prior to the date on which the amounts invested therein will be needed for the purposes of such funds. Upon and pursuant to written direction, the Trustee may at any time sell or otherwise reduce to cash a sufficient amount of such investments whenever the cash balance in such funds is insufficient for the purposes thereof. Any such investments shall be held by or under control of the Trustee and shall be deemed at all times a part of the fund for which such moneys are invested, and the interest accruing thereon and any profit realized from such investments shall be credited to and held in, and any loss shall be charged, with respect to the Bond Fund, the Rebate Fund, the Project Fund, the Renewal Fund and any other special fund held with respect to the Bonds, to such fund. All investments hereunder shall be registered in the name of the Trustee, as Trustee under this Indenture.

(b) In the event that the Trustee shall not have duly received a direction for investment for any moneys in any fund under this Indenture by 11:00 a.m. on the Business Day on which such moneys are to be invested or re-invested, the Trustee may, but shall not be obligated to, invest such moneys as follows: (i) with respect to moneys credited to the Bond Fund in Governmental Obligations, and (ii) with respect to moneys credited to all other funds, money market funds rated “A-1” (or its equivalent) by a Rating Agency; provided, however, that the Trustee shall have no obligation to invest any moneys pursuant to this Section 4.11(b).

(c) Any investment herein authorized is subject to the condition that no use of the proceeds of any Series 2023A Bonds or of any other moneys shall be made which would cause such Series 2023A Bonds to be “arbitrage bonds” within the meaning of such quoted term in Section 148 of the Code or to be “federally guaranteed” within the meaning of such quoted term in Section 149(b) of the Code. The Trustee shall not be liable if such use shall cause the Series 2023A Bonds to be “arbitrage bonds” or to be “federally guaranteed”, provided only that the Trustee shall have made such investment pursuant to the written direction or oral direction by an Authorized Representative of the University as provided in this Section 4.11.

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

(e) The Trustee shall cooperate with the Issuer and the University with respect to filing reports or forms required pursuant to Section 148(f) of the Code, but the Trustee shall not be required to file and shall not be liable for any failure by any person to file any reports or forms required pursuant to Section 148(f) of the Code.

(f) The Trustee shall not be required to obtain and shall not be liable for any failure to obtain any certificate or documentation for the purpose of determining whether a “prohibited payment” has been made under Section 148(f) of the Code.

Section 4.12. Payment to University Upon Payment of Bonds. Except as otherwise specifically provided herein, after payment in full of (1) the principal of, premium, if any, and interest on all the Bonds (or after provision for the payment thereof has been made in accordance with Article VII of this Indenture), (2) the fees, charges and expenses (including, without

limitation, reasonable attorneys' fees and expenses) of the Trustee and Paying Agent, and (3) all other amounts required to be paid under this Indenture and the Loan Agreement, and provided that all moneys required to be paid into the Rebate Fund have been paid or adequately provided for, all amounts remaining in any fund established pursuant to Section 4.01 hereof (except the Rebate Fund) or otherwise held by the Trustee and by any additional Paying Agent for the account of the Issuer or the University hereunder and under the Loan Agreement shall be paid to the University.

Section 4.13. Reports and Information Regarding Funds. The Trustee shall throughout the Contract Term furnish the University as soon as practicable after the first day of each month with a statement showing receipts and disbursements (including all transactions involving cash or Permitted Investments) with respect to any trust fund of the Issuer provided for in this Indenture. In addition, the Trustee agrees to cooperate, in providing such information as may be required by the Issuer to assist it in preparing and furnishing such reports or other accounting statements as may be required by any governmental law or regulation with respect to any of the Issuer's funds held by the Trustee.

## ARTICLE V

### GENERAL COVENANTS AND PROVISIONS

Section 5.01. Authority of Issuer; Validity of Indenture and Bonds. The Issuer hereby covenants that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Act and the County Resolution, to issue the Bonds authorized hereby, to execute this Indenture and to pledge the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture and the Loan Agreement has been duly and effectively taken; and that such Bonds in the hands of the Holders thereof are and will be valid and enforceable special obligations of the Issuer according to the import thereof.

Section 5.02. Performance of Covenants. The Issuer hereby covenants that it will faithfully observe and perform at all times any and all covenants, undertakings, stipulations and provisions on its part to be observed or performed contained (i) in this Indenture, (ii) in any Bond executed, authenticated and delivered hereunder, (iii) in the Loan Agreement and (iv) in the Issuer Documents.

Section 5.03. Payment of Principal, Premium, if any, and Interest. Subject to the limitation contained in Section 2.04(b) hereof, the Issuer hereby covenants that it will promptly pay or cause to be paid the Debt Service Payments on the Bonds at the place, on the dates and in the manner provided herein. All Debt Service Payments on the Bonds shall be a special obligation of the Issuer and payable solely from payments and receipts received pursuant to the Loan Agreement. Nothing in the Bonds or in this Indenture shall be construed as creating a general obligation of the Issuer or pledging any funds or assets of the Issuer other than those pledged hereby. Neither the State, Monroe County, New York, nor any political subdivision thereof (other than the Issuer) shall in any event be liable for the payment of any Debt Service Payment on the Bonds or for the performance of any pledge, mortgage, obligation or agreement undertaken by the Issuer.

Section 5.04. Deposit of Revenues. The Issuer hereby covenants that it will deposit, or cause to be deposited, with the Trustee for its account so much of the payments and receipts derived by the Issuer pursuant to the Loan Agreement (except payments and receipts derived pursuant to the Unassigned Rights), this Indenture or otherwise as may be required to pay the Debt Service Payments on the Bonds as the same become due and payable.

Section 5.05. Priority of Security Interest. The Issuer hereby covenants that the Indenture is a first Lien upon the Trust Estate and the Issuer agrees not to create or suffer to be created any Lien, having priority or preference over this Indenture upon the Trust Estate or any part thereof.

Section 5.06. Enforcement of Duties and Obligations of the University. Subject to the provisions of Section 5.17 hereof, the Issuer hereby covenants, at the request of the Trustee, that it shall take all legally available action to cause the University to fully perform all duties and acts and to fully comply with the covenants of the University contained in the Loan Agreement in the manner and at the times provided in the Loan Agreement.

Section 5.07. Reserved.

Section 5.08. Maintenance and Modification of the Facility. Subject to Section 5.17 hereof, the Issuer hereby covenants that it shall take all legally available action to cause the University to maintain, preserve and keep the Facility in good condition, repair and working order.

Section 5.09. Insurance. Subject to Section 5.17 hereof, the Issuer hereby covenants that it shall take all legally available action to cause the University to procure and maintain insurance on the Facility as provided in Section 4.4 of the Loan Agreement.

Section 5.10. Filing of Documents and Security Instruments.

(a) The Issuer hereby covenants that it will cause to be filed all documents, including without limitation continuation statements under the Uniform Commercial Code of the State, in such manner and in such places as may be required by law in order to create, protect and maintain in force the Lien of, and the security interests created by, this Indenture.

(b) Pursuant to the Uniform Commercial Code of the State, the Issuer hereby appoints and authorizes the Trustee, as its lawful agent and attorney, without the signature of the Issuer, to file any UCC-3 financing statements as directed by counsel to the Trustee, Bond Counsel or the Issuer as are necessary or advisable in order to perfect the Trustee's security interest in the Trust Estate and shall pay to the Trustee, on demand, any expenses incurred by the Trustee in connection with the preparation and filing of such statements.

Section 5.11. Rights Under Financing Documents. The Financing Documents, duly executed counterparts of which have been filed with the Trustee, set forth certain covenants and obligations of the parties thereto. Reference is hereby made thereto for a detailed statement of the covenants, obligations and rights of the parties thereto. The Issuer agrees that the Trustee, in its name or in the name of the Issuer, may enforce all rights of the Issuer (except for certain of the Unassigned Rights) and all obligations of the University under the Loan Agreement for and on behalf of the Bondholders, whether or not any Event of Default exists hereunder.

Section 5.12. Failure to Present Bonds. Subject to the provisions of Section 2.08 hereof, in the event any Bond shall not be presented for payment when the principal or premium thereon, if any, becomes due, either at maturity or at the date fixed for prior redemption thereof or otherwise, if moneys sufficient to pay such Bond shall be held by the Trustee for the benefit of the Holder thereof, all liability of the Issuer to the Trustee thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged. Thereupon, the Trustee shall hold such moneys without liability for interest thereon, for the benefit of the Holder of such Bond who shall thereafter be restricted exclusively to such moneys for any claim under this Indenture or on, or with respect to, said Bond. Except as may otherwise be required by applicable law, if any Bond shall not be presented for payment within the period of three (3) years following the date when such Bond becomes due, whether by maturity or call for redemption or otherwise, the Trustee shall pay to the University the funds theretofore held by it for payment of such Bond, and the Owner of such Bond shall thereafter look only to the University for payment thereof, and such Bond shall, subject to the defense of any applicable statute of limitations, thereafter be an unsecured obligation of the University. Except as may otherwise be required by applicable law, the Trustee shall, at least sixty (60) days prior to the expiration of such three (3) year period, give written notice to any Bondholder who has not presented any Bond for payment at such Bondholder's address on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar that any moneys held for the payment of any such Bond will be returned as provided in this Section 5.12 at the expiration of such three (3) year period. The failure of the Trustee to give any such notice shall not affect the validity of any return of funds pursuant to this Section 5.12.

Section 5.13. Cancellation. All Bonds which have been paid, redeemed, purchased or surrendered shall be canceled and, subject to the record retention requirements of the Securities Exchange Act of 1934, as amended, or other applicable law, cremated or otherwise destroyed by the Trustee. The Trustee shall deliver to the Issuer and the University a certificate evidencing such cremation or other destruction.

Section 5.14. Payments Due on Other Than Business Days. In any case where a Bond Payment Date shall not be a Business Day, then payment of the principal of, premium, if any, and interest on the Bonds need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date due and no interest shall accrue for the period after such date.

Section 5.15. Covenant Against Arbitrage Bonds. Notwithstanding any other provision of this Indenture, so long as the Series 2023A Bonds shall be Outstanding, the Issuer shall not use, or direct or permit the use of, the proceeds of the Series 2023A Bonds or any other moneys within its control (including without limitation any moneys in the Series 2023A Bond Account of the Bond Fund and the proceeds of any insurance award with respect to the Series 2023A Facility) in such a manner as would cause the Series 2023A Bonds to be "arbitrage bonds" within the meaning of such quoted term in Section 148 of the Code and the Issuer further covenants that it will comply with the requirement of such Section and all regulations thereunder.

Section 5.16. Covenant Regarding Adjustment of Debts. In any case under Chapter 9 of Title 11 of the United States Code involving the Issuer as debtor, the Issuer, unless compelled by a court of competent jurisdiction, shall neither list the Trust Estate or any part thereof as an asset

or property of the Issuer nor list any amounts owed upon the Bonds Outstanding as a debt of or claim against the Issuer.

Section 5.17. Limitation on Obligations of the Issuer. Notwithstanding any provision of this Indenture to the contrary, the Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof (other than pursuant to Section 5.03 hereof, and then only to the extent set forth therein), unless (i) it shall have been requested to do so in writing by the Trustee or the Holders of not less than fifty-one percent (51%) of the Bonds then Outstanding or the University and (ii) if compliance with such request is reasonably expected to result in the incurrence by the Issuer or any member, employee, agent or servant of the Issuer of any liability, fees, expenses or other costs it shall have received from the Trustee, such Holders or the University, as the case may be, security or indemnity reasonably satisfactory to the Issuer for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs; provided, however, that no limitation on the obligations of the Issuer contained in this Section 5.17 by virtue of any lack of assurance provided in (ii) hereof shall be deemed to prevent the occurrence and full force and effect of an Event of Default pursuant to Section 8.01 hereof.

Section 5.18. Inspection of Books. All books and records, if any, in the Issuer's possession relating to the Facility and the amounts derived from the Facility shall at all reasonable times be open to inspection by such Accountants or other agents as the Trustee may from time to time designate.

Section 5.19. List of Owners. The Trustee, as Bond Registrar, will keep on file a list of names and addresses of the Owners of all Bonds as from time to time registered on the registration books maintained by the Trustee as Bond Registrar, together with the principal amount and numbers of such Bonds. The Issuer shall have no responsibility with regard to the accuracy of such list. At reasonable times and under reasonable regulations, established by the Trustee, said list may be inspected and copied for any purpose by the University or by the Owners (or designated representative thereof) of fifty-one percent (51%) or more in aggregate principal amount of Outstanding Bonds, such possession or ownership and the authority of such designated representative to be evidenced to the satisfaction of the Trustee. Each Owner, by the purchase and acceptance of a Bond, shall be deemed to consent to the disclosure of his or her name, address, and the principal amount of the Bond held by him or her and to agree that the Trustee shall not be held accountable for the disclosure of such information. SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE BONDS, THE TRUSTEE SHALL TREAT CEDE & CO. AS THE ONLY HOLDER OF THE BONDS FOR ALL PURPOSES HEREUNDER, INCLUDING RECEIPT OF ALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, RECEIPT OF NOTICES, VOTING AND REQUESTING OR DIRECTING THE TRUSTEE TO TAKE OR NOT TO TAKE, OR CONSENTING TO, CERTAIN ACTIONS HEREUNDER.

Section 5.20. Instruments of Further Assurance. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular its interest in all Property purported to be made subject to the Lien hereof by the granting clauses hereof, and in the Trust Estate herein described and pledged hereby

to the payment of the principal of, premium, if any, on and interest on the Bonds. Any and all interest in the Trust Estate or any other property hereafter acquired which is of any kind or nature herein provided to be and become subject to the Lien hereof shall, without any further conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the Lien of this Indenture as fully and completely as though specifically described herein, but nothing contained in this sentence shall be deemed to modify or change the obligations of the Issuer under this Section 5.20. The Issuer covenants and agrees that, except as herein otherwise provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of all or any part of its interest in the Trust Estate.

## **ARTICLE VI**

### **PRIORITY RIGHTS OF TRUSTEE**

Section 6.01. Priority Rights of Trustee. The rights and privileges of the University set forth in the Loan Agreement are specifically made subject and subordinate to the rights and privileges under the Financing Documents of the Trustee and the Holders of the Bonds.

## **ARTICLE VII**

### **DISCHARGE OF LIEN; DEFEASANCE OF BONDS**

Section 7.01. Discharge of Lien.

(a) If the Issuer shall pay or cause to be paid to the Holders of all the Outstanding Bonds the principal thereof, premium, if any, and interest thereon, at the times and in the manner stipulated therein and in this Indenture and if there shall have been paid all fees, charges and expenses (including counsel fees) of the Trustee or any additional Paying Agent required to be paid under Section 9.02 hereof, then the Lien on the Trust Estate hereby created for the benefit of the Bondholders so paid and the Trustee's right, title and interest in and to the Loan Agreement shall be released, discharged and satisfied. In such event, except as otherwise specifically provided herein, the Trustee and any additional Paying Agent shall pay or deliver all moneys or securities held by either of them pursuant to this Indenture which are not required for the payment of such Bonds (except for moneys and securities held with respect to the Unassigned Rights, which shall be paid or delivered to the Issuer and except for moneys in the Rebate Fund which shall be applied only as provided in Section 4.09 hereof) to the University. If the Issuer does not pay or cause to be paid, at the same time, all Outstanding Bonds, then the Trustee and any additional Paying Agent shall not return those moneys and securities held under this Indenture as security for the benefit of the Bondholders not so paid or not caused to be so paid.

(b) When all of the Outstanding Bonds shall have been paid in full or provision for such full payment of all Outstanding Bonds shall have been made in accordance with this Section 7.01, the Trustee and the Issuer shall take all appropriate action to cause the Lien of this Indenture upon the Trust Estate, and the Trustee's right, title and interest in and to the Loan Agreement, to be released, discharged, satisfied and canceled of record.

(c) Notwithstanding the fact that the Lien of this Indenture upon the Trust Estate may have been discharged and canceled in accordance with this Section 7.01 hereof, this Indenture and the rights granted and duties imposed hereby, shall nevertheless continue and subsist until the principal, premium, if any, and interest on all of the Bonds shall have been fully paid or the Trustee shall have returned to the University pursuant to Section 5.12 hereof all funds theretofore held by the Trustee for payment of any Bonds not theretofore presented for payment.

Section 7.02. Defeasance of Bonds.

(a) Any Outstanding Bond shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning of, and with the effect expressed in, subsection (a) of Section 7.01 if (i) there shall have been irrevocably deposited with the Trustee sufficient Defeasance Obligations, in accordance with subsection (b) of this Section 7.02 which will, without further investment, be sufficient, together with other amounts held for such payment, to pay the principal of the Bonds when due or to redeem the Bonds at the Redemption Price, if any, specified in Section 3.01 hereof, (ii) in the event such Bonds are to be redeemed prior to maturity in accordance with Section 3.01 hereof, all action required by the provisions of this Indenture to redeem the Bonds shall have been taken or provided for to the satisfaction of the Trustee, and notice thereof in accordance with Section 3.02 hereof shall have been duly given or provisions satisfactory to the Trustee shall have been made for the giving of such notice, (iii) provision shall have been made for the payment of all fees and expenses of the Trustee and of any additional Paying Agents with respect to the Bonds, (iv) the Issuer shall have been reimbursed for all of its expenses under the Financing Documents and (v) all other payments required to be made under the Loan Agreement and this Indenture with respect to the Bonds shall have been made or provided for. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefit of this Indenture, except for the purposes of any such payment from such moneys or Defeasance Obligations.

(b) For the purposes of subsection (a)(i) of this Section 7.02 the Trustee shall be deemed to hold sufficient moneys to pay the principal of an Outstanding Bond not then due or to redeem Outstanding Bonds prior to the maturity thereof only if there shall be on deposit with the Trustee for such purpose Defeasance Obligations maturing or redeemable at the option of the holder thereof not later than (i) the maturity date of such Bonds, or (ii) the first date following the date on which such Bonds are to be redeemed pursuant to Article III hereof (whichever may first occur), or both cash and such Defeasance Obligations, in an amount which, together with income to be earned on such Defeasance Obligations (without reinvestment) prior to such maturity date or Redemption Date, equals the principal due on such Bond, together with the premium, if any, due thereon and all interest thereon which has accrued and which will accrue to such maturity date or Redemption Date. The Trustee may, at the expense of the University, obtain a certificate from an Accountant as to whether the cash or Defeasance Obligations held by the Trustee meet the requirements of this subsection (b).

(c) Upon the defeasance of all Outstanding Bonds in accordance with this Section 7.02, the Trustee shall hold in trust, for the benefit of the Holders of such Bonds, all such moneys and/or Defeasance Obligations and shall make no other or different investment of such moneys and/or Defeasance Obligations and shall apply the proceeds thereof and the income therefrom only to the payment of such Bonds.

## ARTICLE VIII

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS

Section 8.01. Events of Default. The following shall be “Events of Default” under this Indenture, and the terms “Event of Default” or “Default” shall mean, when they are used in this Indenture, any one or more of the following events:

(a) A default in the due and punctual payment of the interest on any Bond, irrespective of notice; or

(b) A default in the due and punctual payment of the principal or Redemption Price of any Bond whether at the stated maturity thereof, upon proceedings for redemption thereof (except with respect to a proposed redemption under Section 3.01(e) hereof for which the notice of redemption shall no longer be of force or effect in accordance with Section 3.02(a) hereof), or upon the maturity thereof by declaration or otherwise; or

(c) (i) Subject to clause (ii) below, the failure by the Issuer to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in Section 8.01(a) and (b) hereof) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Issuer and the University by the Trustee or by the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of Outstanding Bonds;

(ii) If the covenant, condition, or agreement which the Issuer has failed to observe or perform is of such a nature that it cannot reasonably be fully cured within such thirty (30) days, the Issuer shall not be in default if the Issuer commences a cure within such thirty (30) days and thereafter diligently proceeds with all action required to complete the cure, and, in any event, completes such cure within sixty (60) days of such written notice from the Trustee or the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Bonds Outstanding, unless the Trustee or the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Outstanding Bonds shall give their written consent to a longer period; or

(d) The occurrence and continuance of an “Event of Default” under the Loan Agreement.

### Section 8.02. Acceleration.

(a) Upon the occurrence and continuance of an Event of Default under Section 8.01 hereof, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Outstanding Bonds shall, by written notice delivered to the Issuer and the University declare all Bonds Outstanding immediately due and payable, and such Bonds shall become immediately due and payable, anything in the Bonds or in this Indenture to the contrary notwithstanding.

(b) Upon the acceleration, by declaration or otherwise, of the Bonds, the Trustee shall exercise its option under Section 7.2(a) of the Loan Agreement to declare all unpaid



installments payable by the University under Section 3.3(a) of the Loan Agreement to be immediately due and payable.

Section 8.03. Enforcement of Remedies.

(a) In the event the Bonds are declared immediately due and payable, the Trustee may, and upon the written request of the Holders as set forth in subsection (d) of this Section shall, proceed forthwith to protect and enforce its rights and the rights of the Holders under the Act, the Bonds, the Loan Agreement and this Indenture by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem necessary or expedient. Upon the occurrence and continuance of any Event of Default, and upon being provided with the security and indemnity if so required pursuant to Section 9.01(b)(xiv) hereof, the Trustee shall exercise such of the rights and powers vested in the Trustee by this Indenture and use the same degree of care and skill in their exercise as a prudent man would exercise or use in the circumstances in the conduct of his own affairs. In considering what actions are or are not prudent in the circumstances the Trustee shall consider whether (i) to take such action as may be necessary or proper to sequester the rents and income of the Facility or any portion thereof, (ii) to procure from the Issuer or the University an assignment of rents and/or a consent to enter into possession of the Facility or any portion thereof and to collect rents therefrom, (iii) to apply to the court for the appointment of a receiver of the rents and income of the Facility or any portion thereof, (iv) to declare due and payable forthwith any principal amount remaining due and unpaid and commence an action of foreclosure, (v) to apply the moneys received as rents and income from the Facility or any portion thereof as well as moneys received by the Trustee from any receiver appointed for the Facility or any portion thereof in his discretion, to the maintenance and operation of the Facility or any portion thereof, the payment of taxes, water rents and assessments levied thereon and any arrears thereof, to the payment of underlying liens and to the creation and maintenance of a reserve or sinking fund, and (vi) to take any other remedy allowed under any of the other Financing Documents.

(b) The Trustee may sue for, enforce payment of and receive any amounts due or becoming due from the Issuer or the University for the payment of the principal, premium, if any, and interest on the Outstanding Bonds under any of the provisions of this Indenture, the Bonds or the Loan Agreement without prejudice to any other right or remedy of the Trustee or of the Holders.

(c) Notwithstanding anything to the contrary contained in the foregoing paragraph (a), upon the occurrence and continuance of any Event of Default the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, on and interest on the Bonds then Outstanding and to enforce and compel the performance of the duties and obligations of the Issuer and the University under the Financing Documents. In addition, the Trustee may, without notice to the Issuer or the University, exercise any and all remedies afforded the Issuer under Article VII of the Loan Agreement in its name or the name of the Issuer without the necessity of joining the Issuer.

(d) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than fifty-one percent (51%) in the aggregate principal amount of the Outstanding Bonds may, and if provided with the security and indemnity required by

Section 9.01(b)(xiv) hereof shall, institute and maintain such suits and proceedings as advised by such Holders shall be necessary or expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Indenture or of any resolution authorizing the Bonds, or to preserve or protect the interests of the Holders; provided that such request is in accordance with law and the provisions of this Indenture and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders not making such request.

Section 8.04. Reserved.

Section 8.05. Application of Moneys.

(a) The Net Proceeds received by the Trustee pursuant to any right given or action taken under the provisions of this Article VIII shall be deposited in the Bond Fund.

(b) All moneys in the Bond Fund following the occurrence of an Event of Default shall be applied to the payment of the reasonable fees and expenses of the Issuer and the Trustee and then:

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

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

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

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

(ii) If the principal of all the Bonds shall have become due by declaration or otherwise, to the payment of the principal and interest (at the rate or rates expressed thereon) then due and unpaid upon all of 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 discrimination or preference.

(iii) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article VIII then, subject to the provisions of paragraph (b)(ii) of this Section 8.05 in the event that the principal of all the Bonds shall later become due by declaration or otherwise, the moneys shall be applied in accordance with the provisions of paragraph (b)(i) of this Section 8.05.

(c) Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section 8.05, such moneys shall be applied within five (5) Business Days of the Trustee's receipt of such moneys. On the date of a declaration of an acceleration of the Bonds, pursuant to Section 8.02(a) hereof, interest on the amount of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the application of any such moneys and of the fixing of any such date. The Trustee shall not be required to make payment to the Holder of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 8.06. Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or the Loan Agreement or under the Bonds may be enforced by the Trustee without the possession of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiff or defendant the Holders. Subject to the provisions of Section 8.05 hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 8.07. Remedies Not Exclusive. No remedy conferred upon or reserved to the Trustee or to the Holders by this Indenture is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Holders now or hereafter existing at law or in equity or by statute.

Section 8.08. Majority Bondholders Control Proceedings. If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Indenture to the contrary, the Holders of at least fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Indenture or for the appointment of a receiver or any other proceedings hereunder, provided that the Trustee is provided with the security and indemnity set forth in Section 9.01(b)(xiv) hereof and that such direction is in accordance with law and the provisions of this Indenture and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of Bondholders not joining in such direction, and provided further, that nothing in this Section 8.08 shall impair the right of the Trustee in its discretion to take any other action under this Indenture which it may deem proper and which is not inconsistent with such direction by Bondholders.

Section 8.09. Individual Holder Action Restricted.

(a) No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for any remedy under the Indenture unless:

(i) an Event of Default has occurred of which the Trustee has been notified as provided in Section 9.01(b)(ix) hereof or of which by said Section the Trustee is deemed to have notice, and

(ii) the Holders of at least fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Indenture or to institute such action, suit or proceeding in its own name, and

(iii) such Holders shall have offered the Trustee indemnity as provided in Section 9.01(b)(xiv) hereof, and

(iv) the Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of sixty (60) days after receipt by it of such request and offer of indemnity.

(b) No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of this Indenture or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding.

(c) Nothing contained in this Indenture shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond (i) to receive payment of the principal of or premium, if any, or interest on such Bond on or after the due date thereof, or (ii) to institute suit for the enforcement of any such payment on or after such due date; provided, however, no Holder of any Bond may institute or prosecute any such suit or enter judgment therein if, and to the extent that, the University or prosecution of such suit or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the Lien of this Indenture on the Trust Estate for the equal and ratable benefit of all Holders of Bonds.

Section 8.10. Termination of Proceedings. In case any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Holders, then the Issuer, the University, the Trustee, and the Holders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceeding had been taken.

Section 8.11. Waiver and Non-Waiver of Event of Default.

(a) Subject to the provisions of Section 8.08 hereof, the Trustee may at its discretion waive any Event of Default hereunder and its consequences and annul any acceleration in accordance with Section 8.02 hereof, and shall do so upon the written request of the Holders of

at least fifty-one percent (51%) in aggregate principal amount of all the Bonds then Outstanding; provided, however, that there shall not be waived (A) any Event of Default in the payment of the principal of, or premium, if any, on any Outstanding Bonds when due (whether at maturity or mandatory or optional redemption), or (B) any default in the payment when due of the interest on any such Bonds, or (C) any default upon which prior action has been taken by the Holders of a majority in the aggregate principal amount of the Bonds then Outstanding, unless prior to such waiver or rescission all arrears of interest, with interest, to the extent permitted by law, on all arrears of payments of principal when due, and all expenses of the Trustee in connection with such default shall have been paid or provided for. No such waiver shall extend to or affect any other existing or any subsequent Event of Default.

(b) No delay or omission of the Trustee to exercise any right or power accruing upon any Event of Default shall impair any such right or power nor shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article VIII to the Trustee and the Holders may be exercised from time to time and as often as may be deemed necessary or expedient.

#### Section 8.12. Notice of Defaults.

(a) Promptly after (i) the receipt of notice of an Event of Default as provided in Section 9.01(b)(ix) hereof, or (ii) the occurrence of an Event of Default of which the Trustee is deemed to have notice by such Section, the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Holder; provided that, except in the case of a default in the payment of the principal of or premium, if any, or interest on the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interest of the Holders.

(b) The Trustee shall promptly notify the Issuer and the University of any Event of Default known to the Trustee.

## ARTICLE IX

### THE TRUSTEE AND PAYING AGENT

#### Section 9.01. Appointment of Trustee and Acceptance of Duties.

(a) Manufacturers and Traders Trust Company is hereby appointed as Trustee. The Trustee shall signify its acceptance of the duties and obligations of the Trustee, subject to the terms and conditions set forth in subsection (b) of this Section 9.01, by executing this Indenture.

(b) The acceptance by the Trustee of the trusts imposed upon it by this Indenture and its agreement to perform said trusts is subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(i) Prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred and has not been cured, the Trustee shall exercise such of the rights

and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a reasonable and prudent man would use, under the circumstances, in the conduct of his own affairs.

(ii) The Trustee may execute any of the trusts or powers conferred upon it in this Indenture and perform any of its duties hereunder by or through attorneys, agents or employees, and shall be entitled to act upon the opinion or advice of its counsel concerning all matters with respect to the trust and its duties hereunder and may in all cases pay such reasonable compensation to all such attorneys and agents as may reasonably be employed in connection with the trust hereunder. The Trustee may act upon an opinion of Independent Counsel selected with reasonable care and shall not be responsible for any loss or damages resulting from any action taken or omitted to be taken in good faith in reliance upon such opinion of Independent Counsel.

(iii) Except as expressly provided herein, the Trustee shall not be responsible for any recital herein or in the Bonds (except in respect of the Certificate of Authentication of the Trustee endorsed on the Bonds) or for the validity of the execution by the Issuer of the Indenture or for the sufficiency of security for the Bonds or for the recording or re-recording or the filing or refiling of any of the Financing Documents or for insuring any Property securing the Bonds, or for collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any supplement hereto or any instrument of further assurance, or for the sufficiency or validity of the security for the Bonds, or for any value of or title to any Property securing the Bonds, or for the performance or observance of any covenants, conditions or agreements on the part of the Issuer or on the part of the University under any of the Financing Documents.

(iv) The Trustee may become a Holder of the Bonds with the same rights which it would have if it were not Trustee.

(v) The Trustee may deal with any Person with the same rights which it would have and in the same manner as if it were not Trustee.

(vi) The Trustee shall be protected in acting in good faith upon any resolution, notice, report, request, requisition, consent, certificate, instruction, direction, opinion, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to the Indenture upon the request or authority or consent of any Person who at the time of making such request or giving such authority or consent is the Holder of any Bond shall be conclusive and binding upon all future Owners of the same Bond and of any Bond or Bonds issued in exchange therefor or in place thereof.

(vii) The Trustee may rely upon:

(1) a certificate, signed by an Authorized Representative of the Issuer,

(A) as to the existence or non-existence of any fact or facts stated therein,

(B) as to the sufficiency or validity of any instrument, paper or proceeding, other than a resolution of the Issuer, or

(C) prior to the occurrence of an Event of Default of which the Trustee has been notified as provided in Section 9.01(b)(ix) hereof or of which by said Section the Trustee is deemed to have notice, as to the necessity or appropriateness of any particular dealing, transaction, or action; and

(2) a certificate, signed by the Secretary, Assistant Secretary or other authorized designee of the Issuer, as to the due adoption and validity of a resolution of the Issuer.

(viii) The permissive right of the Trustee to do things enumerated in this Indenture, the Loan Agreement or the other Financing Documents shall not be construed as a duty and, with respect to permissive rights, the Trustee shall not be answerable for other than its willful misconduct or gross negligence.

(ix) The Trustee shall not be required to take notice or be deemed to have notice of Event of Default, except for a default in payment of principal, Redemption Price or interest on any of the Bonds, unless the Trustee shall be specifically notified in writing of such Event of Default by the Issuer, the University or the Holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds, and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the Office of the Trustee, and, in the absence of such notice so delivered, the Trustee may conclusively assume there is no Event of Default, except as aforesaid.

(x) All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust in the manner and for the purpose for which they were received but need not be segregated from other moneys held by the Trustee except to the extent required by this Indenture or by law. The Trustee shall not be liable for any interest on any moneys received hereunder.

(xi) At any reasonable time, the Trustee and its duly authorized agents, experts, and representatives may (but shall not be obligated to) inspect any of the security for the Bonds and any books, papers and records of the Issuer or the University pertaining to the Facility and the Bonds.

(xii) The Trustee shall not be required to give any bond or surety in respect of the execution of the trusts and powers intended to be conferred upon it in this Indenture or otherwise in respect of the premises.

(xiii) The Trustee may (but shall not be obligated to) demand, as a condition of the withdrawal of any moneys or the taking of any other action contemplated by this Indenture, any certificates, opinions, appraisals, or other information, or corporate action or evidence thereof (in addition to any other prerequisites required in any other Section of this Indenture) which the Trustee may reasonably deem desirable for the purpose of establishing the right of the Issuer to the withdrawal of the moneys or the taking of the other action.

(xiv) Before taking any action under this Indenture or the other Financing Documents, the Trustee may require that satisfactory security or indemnity (satisfactory to the Trustee in its sole and absolute discretion) be furnished to it for the reimbursement of all expenses (including attorneys' fee and expenses) to which it may be put and to protect it against all liability, except liability which may be adjudicated by a court of competent jurisdiction to have directly resulted from its own willful misconduct or gross negligence by reason of any action so taken; provided, however, that the failure to provide the Trustee with the security and indemnity referred to in this paragraph (xiv) shall not nullify or otherwise affect the occurrence of an Event of Default hereunder.

(xv) [Reserved].

(xvi) The Trustee (and its directors, officers, employees and agents) shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Indenture upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person, or to have been prepared or furnished pursuant to any of the provisions of this Indenture or, at the sole cost or expense of the University, and when determined necessary in the reasonable discretion of the Trustee upon the written opinion of any attorney (who may be an attorney for the Issuer), engineer, appraiser, accountant or agent believed by the Trustee to be qualified in relation to the subject matter and the Trustee shall not be responsible for any loss or damage resulting from any action taken or omitted to be taken in good faith in reliance upon such opinion.

(xvii) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, debenture or other paper or documents, but the Trustee, in its discretion, may make such further inquiry or investigation, and it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.

(xviii) In no event shall the Trustee be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(xix) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.



(xx) The Trustee shall not be liable for any acts or omissions, except for such losses, damages or expenses which have been finally adjudicated by a court of competent jurisdiction to have directly resulted from the Trustee's gross negligence or willful misconduct.

Section 9.02. Fees, Charges and Expenses of the Trustee, Bond Registrar and Paying Agents. The Issuer shall pay or reimburse or cause the University to pay or reimburse the Trustee, the Bond Registrar, or any Paying Agent or cause the Trustee, the Bond Registrar and any Paying Agent to be paid or reimbursed, for reasonable fees for their Ordinary Services rendered hereunder and all Ordinary Expenses reasonably and necessarily paid or incurred in connection with such Ordinary Services and, in the event that it should become necessary that the Trustee, the Bond Registrar or any Paying Agent perform Extraordinary Services, reasonable extra compensation therefor, and for reasonable and necessary Extraordinary Expenses in connection therewith; provided, that if such Extraordinary Services or Extraordinary Expenses are occasioned by the gross negligence or willful misconduct of the Trustee, the Bond Registrar or any Paying Agent, as the case may be, in the performance of its duties and obligations as are specifically set forth herein, it shall not be entitled to compensation or reimbursement therefor. The Issuer shall pay or reimburse or cause the University to pay or reimburse the Trustee, or cause the Trustee to be paid or reimbursed, for the reasonable fees and expenses, including attorneys' fees and expenses, of the Trustee as Paying Agent and Bond Registrar as hereinabove provided. The obligation of the Issuer under this Section 9.02 to pay and reimburse the Trustee, the Bond Registrar and any Paying Agent for such fees and expenses shall constitute additional indebtedness secured hereunder and the Trustee, the Bond Registrar and any Paying Agent shall have a first Lien, with right of payment prior to payment on account of interest on, or principal of, any Bond, upon the Trust Estate for the foregoing fees and expenses. None of the provisions contained in this Indenture 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 hereunder.

Section 9.03. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which, in the opinion of the Trustee, has a substantial bearing on the interests of the Holders, the Trustee may, and if so requested in writing by the Holders of fifty-one percent (51%) of the aggregate principal amount of the Bonds then Outstanding shall, intervene on behalf of the Holders.

Section 9.04. Right of Trustee to Pay Taxes, Insurance Premiums and Other Charges.

(a) If any tax, assessment or governmental or other charge upon any part of the Trust Estate is not paid or any insurance is not maintained as required herein, or if an Event of Default occurs and the Trustee incurs costs and expenses in accordance with Section 7.7 of the Loan Agreement, the Trustee may pay such tax, assessment, governmental or other charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Holders hereunder arising in consequence of such failure. Any amount so paid under this Section 9.04 shall become so much additional indebtedness secured by this Indenture, and the same shall be given a preference in payment over the Bonds and interest thereon and shall be paid out of the proceeds of revenues collected from the Trust Estate, if not otherwise caused to be paid.

(b) The Trustee shall be under no obligation to make any payment described in subsection (a) of this Section 9.04 unless it shall have been requested in writing to do so by the Holders of at least fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds and shall have been provided with adequate funds to make such payment.

Section 9.05. Merger or Consolidation of Trustee. Any corporation or state or national banking association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto.

Section 9.06. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created and be discharged of its duties and obligations under this Indenture by giving not less than thirty (30) days written notice to the Issuer and the University, and by first class mail, to each Holder of an Outstanding Bond or Bonds. Such resignation shall take effect upon the date specified in such notice; provided, however, that in no event shall such a resignation take effect until a successor Trustee has been appointed pursuant to Section 9.08 of this Indenture; provided, further, however, that if a successor Trustee is not appointed within such thirty (30) day period, the Trustee may petition any court of competent jurisdiction to have a successor Trustee appointed.

Section 9.07. Removal of the Trustee. The Trustee may be removed at any time without cause by an instrument which (i) is signed by the Holders of at least fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds, (ii) specifies the date on which such removal shall take effect and the name and address of the successor Trustee, and (iii) is delivered to the Trustee, the Issuer, and the University at least thirty (30) days prior to the date on which such removal shall take effect. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Indenture or the Loan Agreement, by any court of competent jurisdiction upon the application by the Issuer, the University and the Holders of at least twenty-five percent (25%) in aggregate principal amount of the Outstanding Bonds. Notwithstanding anything herein to the contrary, no removal shall be effective unless and until a successor Trustee is appointed as provided in Section 9.08 hereof and such removal shall not affect any past due and owing fees pursuant to Section 9.02 hereof.

Section 9.08. Appointment of Successor Trustee by the Holders; Temporary Trustee.

(a) In case the Trustee hereunder shall resign, or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor Trustee may be appointed by the Holders of at least fifty-one percent (51%) in aggregate amount of the Outstanding Bonds by an instrument signed by such Holders and delivered to such successor Trustee, the predecessor Trustee, the Issuer and the University. Notice of such appointment shall be given by first class mail to each Owner of Bonds

then Outstanding within thirty (30) days after delivery to the Issuer of the instruments appointing such successor Trustee.

(b) In case of the occurrence of any event affecting the Trustee hereunder described in subsection (a) of this Section 9.08, the Issuer, by an instrument signed by the President, Vice President or Executive Director and attested by the Secretary, Assistant Secretary or other authorized designee of the Issuer, shall appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Holders in the manner provided in subsection (a) of this Section 9.08. Such instrument appointing such temporary Trustee by the Issuer shall be delivered to the temporary Trustee so appointed, to the predecessor Trustee and to the University. Any such temporary Trustee appointed by the Issuer shall immediately and without further act be superseded by any successor Trustee appointed by the Holders. Notice of any such appointment shall be given by first class mail to each Owner of Bonds within thirty (30) days after delivery to the temporary successor Trustee of the instrument appointing such successor Trustee.

(c) Any Trustee appointed pursuant to the provisions of this Section 9.08 shall be a state or national banking association, trust company or bank which is authorized to exercise the corporate trust powers intended to be conferred upon it by this Indenture, having combined capital and surplus of at least \$25,000,000 or any other corporate or individual trustee duly authorized and empowered to act as Trustee hereunder and reasonably acceptable to the Issuer and approved by the Owners of not less than fifty-one percent (51%) of the aggregate principal amount of the Bonds then Outstanding.

(d) In case of the occurrence of an event affecting the Trustee hereunder described in subsection (a) of this Section 9.08, and neither a successor Trustee has been appointed by the Holders pursuant to such subsection (a), nor a temporary Trustee has been appointed by the Issuer pursuant to subsection (b) of this Section 9.08 within sixty (60) days thereafter, the Trustee shall have the right to petition a court of competent jurisdiction for the appointment of a successor Trustee.

#### Section 9.09. Concerning Successor Trustees.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor Trustee and the Issuer an instrument accepting such appointment hereunder. Thereupon such successor, without any further act, deed, or conveyance, shall become fully vested with all the properties, rights, powers, trusts, duties and obligations of its predecessor Trustee.

(b) Upon payment of all fees and expenses, every predecessor Trustee shall, on the written request of the Issuer or the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the Properties, rights, powers and trusts of such predecessor hereunder. Every predecessor Trustee shall deliver to its successor Trustee all securities and moneys held by it as Trustee hereunder. If any instrument from the Issuer shall be requested by any successor Trustee, to more fully and certainly vest in such successor Trustee the Properties, rights, powers and duties hereby vested or intended to be vested hereunder, any and all such instruments shall be executed, acknowledged and delivered by the Issuer.

Section 9.10. Successor Trustee as Custodian of Funds, Paying Agent and Bond Registrar. In the event of a change of Trustees, the predecessor Trustee shall cease to be (i) custodian of the Funds created pursuant to Section 4.01 hereof and of all other moneys, Properties, rights and assets of the Issuer, and (ii) Paying Agent for principal and interest on the Bonds and (iii) Bond Registrar and the successor Trustee shall become such custodian, Paying Agent, and Bond Registrar. Every predecessor Trustee shall deliver to its successor Trustee all books of account, and all other records, documents and instruments relating to its duties as such custodian, Paying Agent and Bond Registrar.

Section 9.11. Appointment, Resignation or Removal of Paying Agent and Bond Registrar; Successors.

(a) The Trustee is hereby designated and, by executing this Indenture, agrees to act as Paying Agent and Bond Registrar for and in respect to the Bonds.

(b) The Issuer from time to time may appoint one or more additional Paying Agents or Bond Registrar, upon the prior written consent of the University, and, in the event of the resignation or removal of any Paying Agent or Bond Registrar, the Issuer may appoint successor Paying Agents or Bond Registrar by an instrument signed by an Authorized Representative of the Issuer and attested by the Secretary, Assistant Secretary or other authorized designee of the Issuer and delivered to such Paying Agent or Bond Registrar and the Trustee. Any such additional Paying Agent or successor Paying Agent or successor Bond Registrar shall be a national banking association, trust company or bank which is authorized by law to perform all the duties imposed upon a Paying Agent by this Indenture and which has a combined capital and surplus of at least \$25,000,000. Any such additional Paying Agent or successor Paying Agent or successor Bond Registrar shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing and delivering to the Issuer and the Trustee a written acceptance thereof.

(c) The principal office of each Paying Agent is hereby designated as the respective office or agency of the Issuer for the payment of the principal or Redemption Price of and the interest on the Bonds. Any additional Paying Agent shall hold all moneys received by it for the payment of principal or Redemption Price of and interest on the Bonds in trust for the benefit of the Holders. Any additional Paying Agent, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds or coupons, and may join in any action which the Holders may be entitled to take with like effect as if such association, bank or trust company were not such Paying Agent.

(d) A Paying Agent or Bond Registrar (other than the Trustee) may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days written notice to the Issuer, the University and the Trustee. A Paying Agent or Bond Registrar (other than the Trustee) may be removed at any time by an instrument signed by the President, Vice President or Executive Director of the Issuer and attested by the Secretary, Assistant Secretary or other authorized designee of the Issuer and delivered to such Paying Agent or Bond Registrar and the Trustee.

(e) In the event of the resignation or removal of a Paying Agent (other than the Trustee), such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee.

(f) In the event of the resignation or removal of a Bond Registrar (other than the Trustee), such Bond Registrar shall turn over all books and records in its possession pertaining to the Bonds to its successor, or if there be no successor, to the Trustee.

Section 9.12. Reserved.

Section 9.13. New York Real Property Law. To the extent, if any, that Article 4-A of the New York Real Property Law, as amended from time to time, may apply to this Indenture or the transactions contemplated hereby, the Trustee shall have the powers and be subject to the duties set forth in Section 126 of the New York Real Property Law, as in effect on the date of this Indenture as originally executed. There are hereby incorporated by reference in this Indenture the provisions described in paragraphs (a) through (f) of Section 130-k of the New York Real Property Law, as in effect on the date of this Indenture as originally executed, including, without limitation, all provisions which are permitted by the terms of paragraphs (b)(1) and (b)(9) of such Section 130-k to be included.

Section 9.14. Continuing Disclosure. Pursuant to the Continuing Disclosure Agreement, the University has undertaken all responsibility for compliance with continuing disclosure requirements, and the Issuer shall have no liability to the Holders of the Bonds or any other person with respect to such disclosure matters. The Trustee hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provisions of this Indenture, failure of the University or the Trustee to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of the Holders of at least 25% aggregate principal amount of Outstanding Bonds, shall) or any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the University to comply with its obligations under the Continuing Disclosure Agreement or to cause the Trustee to comply with its obligations under this Section 9.14.

## ARTICLE X

### SUPPLEMENTAL INDENTURES

Section 10.01. Supplemental Indentures Not Requiring Consent of Holders.

(a) Without the consent of or notice to any of the Holders, the Issuer and the Trustee may enter into one or more Supplemental Indentures, not inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(i) In connection with the issuance of Additional Bonds, to set forth such matters as are specifically required or permitted under the Indenture;

(ii) To cure any ambiguity or formal defect or omission in this Indenture;

(iii) To grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Holders or the Trustee;

(iv) To add to the covenants and agreements of the Issuer in this Indenture, other covenants and agreements to be observed by the Issuer;

(v) To more precisely identify the Trust Estate;

(vi) To subject to the Lien of the Indenture additional revenue, receipts, Property or collateral;

(vii) To evidence the appointment of a successor Trustee;

(viii) To preserve the tax-exempt status of the Series 2023A Bonds; or

(ix) To effect any other change herein which, in the judgment of the Trustee based on an opinion of Independent Counsel, is not to the prejudice of the Trustee or the Holders.

(b) The Trustee may rely upon an opinion of Independent Counsel as conclusive evidence that any such Supplemental Indenture complies with the foregoing conditions and provisions.

(c) The parties hereto acknowledge that the Trustee is not responsible for any fees, costs, expenses (including, without limitation, reasonably attorneys' fees and expenses) incurred in connection with any amendment, modification, or supplement.

#### Section 10.02. Supplemental Indentures Requiring Consent of Holders.

(a) Except as provided in Section 10.01 hereof, the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Trustee of such Supplemental Indentures as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Indenture or in any Supplemental Indenture or in the Bonds; provided, however, that nothing contained in this Section shall permit:

(i) a change in the terms of redemption or maturity of the principal or the time of payment of interest on any Outstanding Bond or a reduction in the principal amount of or premium, if any, on any Outstanding Bond or the rate of interest thereon, without the consent of the Holder of such Bond; or

(ii) the creation of a Lien upon the Trust Estate ranking prior to or on a parity with the Lien created by this Indenture, without the consent of the Holders of all Outstanding Bonds; or

(iii) the creation of a preference or priority of any Bond or Bonds over any other Bond or Bonds, without the consent of the Holders of all Outstanding Bonds; or

(iv) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Indenture, without the consent of the Holders of all Outstanding Bonds.

(b) If at any time the Issuer shall request the Trustee to enter into a Supplemental Indenture for any of the purposes of Section 10.02(a) hereof, the Trustee, upon being satisfactorily indemnified with respect to expenses, shall cause notice of the proposed execution of such Supplemental Indenture to be sent to each Holder at the address of such Holder appearing on the bond register; provided, however, that the failure to give such notice or any defect therein shall not affect the validity of any proceeding taken pursuant hereto. Such notice shall briefly summarize the contents of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Office of the Trustee for inspection by the Holders.

(c) If, within such period after the first mailing of the notice required by Section 10.02(b) hereof as the Issuer shall prescribe, with the approval of the Trustee, the Issuer shall deliver to the Trustee an instrument or instruments executed by the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds referring to the proposed Supplemental Indenture as described in such notice and consenting to and approving the execution thereof, the Trustee shall execute such Supplemental Indenture.

(d) If the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein or in any manner to question the propriety of the execution thereof or enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

(e) The Trustee may rely upon an opinion of Independent Counsel as conclusive evidence that (i) any Supplemental Indenture entered into by the Issuer and the Trustee and (ii) the evidence of requisite consent of the Holders thereto, comply with the provisions of this Section 10.02.

(f) The Trustee shall not be required to execute a Supplemental Indenture or amendment if such Supplemental Indenture or amendment adversely affects its duties, rights or immunities.

(g) The parties hereto acknowledge that the Trustee is not responsible for any fees, costs, expenses (including, without limitation, reasonably attorneys' fees and expenses) incurred in connection with any amendment, modification, or supplement.

Section 10.03. Consent of University to Supplemental Indentures. Notwithstanding anything contained in this Indenture to the contrary, no Supplemental Indenture shall become effective unless and until the University shall have consented in writing to the execution and delivery of such Supplemental Indenture.

Section 10.04. Effect of Supplemental Indentures. Any Supplemental Indenture executed in accordance with the provisions of this Article X shall thereafter form a part of this Indenture. All the terms and conditions contained in any such Supplemental Indenture shall be part of the terms and conditions of this Indenture for any and all purposes.

## ARTICLE XI

### AMENDMENT OF LOAN AGREEMENT AND TAX COMPLIANCE AGREEMENT

#### Section 11.01. Amendments to Loan Agreement.

(a) Without the consent of or notice to the Holders, the Issuer and the University may enter into, and the Trustee may consent to, any amendment, change or modification of the Loan Agreement as may be required (i) by the provisions thereof or of this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission therein, (iii) for the purpose of issuing Additional Bonds under Section 2.13 hereof, (iv) in connection with the description of the Facility, (v) in order to preserve the tax-exempt status of the Series 2023A Bonds or (vi) in connection with any other change therein, which, based on an opinion of Independent Counsel, does not adversely affect the interests of the Trustee or the Holders.

(b) Except for amendments, changes or modifications as provided in subsection (a) of this Section 11.01, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Loan Agreement without notice thereof being given to the Holders in the manner provided in Section 10.02 hereof and the written approval or consent of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Series 2023A Bonds procured and given in the manner set forth in Section 10.02 hereof; provided, however, that no such amendment shall be permitted which changes the terms of payment thereunder or under the Promissory Note without the consent of the Holders of all Outstanding Bonds.

(c) The Trustee may rely on an opinion of Independent Counsel as conclusive evidence that any such amendment, change or modification and the evidence of requisite Holder consent comply with the requirements of this Section 11.01.

#### Section 11.02. Reserved.

#### Section 11.03. Amendments to Tax Compliance Agreement.

(a) Without the consent of or notice to the Holders of the Series 2023A Bonds, the Issuer and the University may enter into, and the Trustee may consent to, any amendment, change or modification of the Tax Compliance Agreement as may be required (i) by the provisions thereof or of this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission therein, (iii) for the purpose of issuing Additional Bonds under Section 2.13 hereof, (iv) in connection with the description of the Series 2023A Facility, (v) in order to preserve the tax-exempt status of the Series 2023A Bonds, or (vi) in connection with any other change therein, which, based on an opinion of Independent Counsel, does not adversely affect the interests of the Trustee or the Holders of the Series 2023A Bonds.



(b) Except for amendments, changes or modifications as provided in subsection (a) of this Section 11.03, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Tax Compliance Agreement without notice thereof being given to the Holders of the Series 2023A Bonds in the manner provided in Section 10.02 hereof and the written approval or consent of the Holders of the Series 2023A Bonds of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Series 2023A Bonds procured and given in the manner set forth in Section 10.02 hereof; provided, however, that no such amendment shall be permitted which changes the terms of payment thereunder without the consent of the Holders of all Outstanding Series 2023A Bonds.

(c) The Trustee may rely on an opinion of Independent Counsel as conclusive evidence that any such amendment, change or modification and the evidence of requisite Holder consent comply with the requirements of this Section 11.03.

Section 11.04. Consent of Trustee. Amendments to the Loan Agreement, the Tax Compliance Agreement or any other Financing Document which modify or affect the duties, liabilities or obligations of the Trustee shall not become effective unless first consented to in writing by the Trustee.

## ARTICLE XII

### MISCELLANEOUS

#### Section 12.01. Consent of Holders.

(a) Any consent, request, direction, approval, objection or other instrument required or permitted by this Indenture to be signed and executed by the Holders may be in any number of writings of similar tenor and may be signed or executed by such Holders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture and may be conclusively relied on by the Trustee with regard to any action taken thereunder:

(i) The fact and date of the execution by any Holder or his attorney of such instrument may be proved by (A) the certificate (which need not be acknowledged or verified) of an officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such instrument acknowledged to him the execution thereof on such date, or (B) by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Holder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice-president of such corporation.

(ii) The ownership of any Bonds shall be proven by the bond register.

(b) Any request, consent or vote of the Holder of any Bond shall bind all future Holders of such Bond with respect to anything done or suffered to be done or omitted to be done by the Issuer or the Trustee in accordance therewith, unless and until such request, consent or vote is revoked by the filing with the Trustee of a written instrument, signed and executed by the Holder of the Bond, in form and substance and within such time as shall be satisfactory to the Trustee.

Section 12.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be inferred from this Indenture or the Bonds is intended or shall be construed to give to any Person, other than the parties hereto, the Holders of the Bonds and their successors and assigns, any legal or equitable right, remedy or claim under or with respect to this Indenture or any covenants, conditions and provisions herein contained. This Indenture and all of the covenants, conditions and provisions hereof are intended to be for the sole and exclusive benefit of the parties hereto, the Holders of the Bonds and their successors and assigns as herein provided.

Section 12.03. Severability.

(a) If any provision of this Indenture shall, for any reason, be held or shall, in fact, be inoperative or unenforceable in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance or render any other provision herein contained inoperative or unenforceable.

(b) The invalidity of any one or more phrases, sentences, clauses, paragraphs or Sections in this Indenture shall not affect the remaining portion of this Indenture or any part thereof.

Section 12.04. Notices. All notices, certificates or other communications hereunder shall be in writing and unless otherwise specifically directed or permitted by another Section of this Indenture, shall be (a) personally delivered, or (b) sent by United States Postal Service prepaid registered or certified mail, return receipt requested, or (c) sent overnight via Federal Express or other substantial national delivery service, addressed as follows:

**To the Issuer:**

Monroe County Industrial  
Development Corporation  
50 West Main Street  
Rochester, New York 14614  
Attn: Executive Director

**With Copy To:**

Nixon Peabody LLP  
1300 Clinton Square  
Rochester, New York 14604  
Attn: Barry Carrigan, Esq.

**To the Trustee:**

Manufacturers and Traders Trust Company  
285 Delaware, 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attn: Corporate Trust Department

**With Copy To:**

Hodgson Russ LLP  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, New York 14202  
Attn: Cristin L. Murray, Esq.

**To the University:**

University of Rochester  
Wallis Hall, Room 208  
Box 270023  
Rochester, New York 14627  
Attn: Sr. VP for Administration & Finance  
& CFO

**With Copy To:**

Bond, Schoeneck & King PLLC  
One Lincoln Center  
Syracuse, New York 13202-1355  
Attn: Matthew Wells, Esq.

A duplicate copy of each notice, certificate or other communication given hereunder by the Issuer or the Trustee to either of the other shall also be given to the University. The Issuer, the University and the Trustee by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. All notices shall be deemed given on the date of personal delivery or, if mailed, five (5) days after mailing, or, if given by overnight delivery service, on the date of receipt, as indicated in the records of the overnight delivery service.

Section 12.05. Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.06. Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State of New York.

Section 12.07. No Recourse; Special Obligations. All covenants, stipulations, promises, agreements and obligations (collectively, the “**Obligations**”) of the Issuer contained in the Bonds and in the other Financing Documents shall be deemed to be the Obligations of the Issuer and not of any member, officer, agent (other than the University), servant, agent (other than the University) or employee of the Issuer (each, an “**Employee of the Issuer**”) in his individual capacity, and no recourse under or upon any Obligation in the Bonds or the other Financing Documents contained or otherwise based upon or in respect of this Indenture, the Bonds or the other Financing Documents or for any claim based hereon or thereon or otherwise in respect hereof or thereof, shall be had against any past, present or future Employee of the Issuer, as such, or of any successor public benefit corporation or political subdivision or any person executing any of the Bonds or the other Financing Documents on behalf of the Issuer, either directly or through the Issuer or any successor public benefit corporation or political subdivision or any person executing the Bonds or any other of such Financing Documents on behalf of the Issuer, it being expressly understood that the other Financing Documents and the Bonds issued thereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by any such Employee of the Issuer or of any successor public benefit corporation or political subdivision or any person executing the Bonds or the other Financing Documents on behalf of the Issuer because of the creation of the indebtedness thereby authorized, or under or by reason of the Obligations contained in the Bonds or the Financing Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such Employee of the Issuer because of the creation of the indebtedness authorized by the Bonds or the other Financing Documents, or under or by reason of the Obligations contained in any of the Financing Documents or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of the Financing Documents

and the issuance of the Bonds. The obligations and agreements of the Issuer contained herein shall not constitute or give rise to an obligation of the State or Monroe County, New York, and neither the State nor Monroe County, New York shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from payments to be made by the University pursuant to the Loan Agreement (except for payments to the Issuer with respect to the Unassigned Rights).

Notwithstanding any provision of this Indenture to the contrary, the Issuer shall not be obligated to take any action pursuant to any provision hereof unless (1) the Issuer shall have been requested to do so in writing by the University or the Trustee and (2) if compliance with such request is reasonably expected to result in the incurrence by the Issuer (or any member, officer, agents, servant or employee of the Issuer) in any liability, fees, expenses or other costs, the Issuer shall have received from the University security or indemnity satisfactory to the Issuer for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

Section 12.08. Entire Agreement. This Indenture and the exhibits hereto set forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written, other than the other Financing Documents.

Section 12.09. Waiver of Trial by Jury. Each party hereto hereby expressly waives all rights to a trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Indenture or any matters whatsoever arising out of or in any way connected with this Indenture. The provisions of this Indenture relating to waiver of trial by jury shall survive the termination or expiration of this Indenture.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO INDENTURE]

IN WITNESS WHEREOF, the Issuer has caused these presents to be signed in its name and behalf by its Executive Director and, to evidence its acceptance of the trust hereby created, the Trustee has caused these presents to be signed in its name and behalf by a duly authorized trust officer and the Issuer and the Trustee have caused this Indenture to be dated as of December 1, 2023.

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**

By: \_\_\_\_\_  
Ana J. Liss, Executive Director

**MANUFACTURERS AND TRADERS TRUST COMPANY, as Trustee**

By: \_\_\_\_\_  
Michelle M. Wojciechowicz, Vice President

STATE OF NEW YORK     )  
COUNTY OF MONROE    )

On the \_\_\_\_ day of December in the year 2023 before me, the undersigned, personally appeared **ANA J. LISS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK     )  
COUNTY OF ERIE        )

On the \_\_\_\_ day of December in the year 2023 before me, the undersigned, personally appeared **MICHELLE M. WOJCIECHOWICZ**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**CONSENT BY THE UNIVERSITY**

The University of Rochester (the “University”) hereby approves, consents to and agrees to be bound by all of the terms and provisions of this Indenture, as such terms or provisions, directly or indirectly, relate to, apply to, require or prohibit action by or deal with the University, or property of the University, including, but not limited to, all provisions for the deposit or payment of moneys to funds held by the Trustee under the Indenture, as so amended. The University hereby agrees, at its own expense, to do all things and take all actions as shall be necessary to enable the Issuer to perform its obligations under the Indenture, as so amended. This paragraph shall bind the University and its successors and assigns.

**UNIVERSITY OF ROCHESTER**

By: \_\_\_\_\_  
Elizabeth Milavec, Executive Vice President  
for Administration and Finance and  
Chief Financial Officer

STATE OF NEW YORK     )  
COUNTY OF MONROE    )

On the \_\_\_\_ day of December in the year 2023 before me, the undersigned, personally appeared **Elizabeth Milavec**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**EXHIBIT A  
FORM OF BONDS**

**Form of Series 2023A Bond**

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

**REGISTERED  
AR-[1][2]**

**[\$144,820,000][152,060,000]**

**Monroe County Industrial Development Corporation  
Tax-Exempt Revenue Bonds  
(University of Rochester Project), Series 2023A**

<b><u>Interest Rate</u></b>	<b><u>Dated Date</u></b>	<b><u>Maturity Date</u></b>	<b><u>CUSIP</u></b>
5.000%	December 19, 2023	July 1, [2034][2053]	61075[TWS3][TWT1]

Registered Owner: CEDE & CO. as nominee of DTC

Principal Sum: [ONE HUNDRED FORTY-FOUR MILLION EIGHT HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$144,820,000)]  
[ONE HUNDRED FIFTY-TWO MILLION SIXTY THOUSAND AND NO/100 DOLLARS (\$152,060,000)]

MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION, a not-for-profit corporation of the State of New York (the “Issuer”), acknowledges itself indebted and for value received does hereby promise to pay, but solely from the source and as hereinafter provided, to the Registered Owner (named above), or registered assigns, on the Maturity Date set forth above (subject to the right of prior redemption as hereinafter provided), the Principal Sum stated above and in like manner to pay interest on said sum from the Dated Date stated above or from the most recent Interest Payment Date to which interest has been paid or provided for, at the interest rate per annum specified above, semi-annually on the first (1<sup>st</sup>) day of July and January of each year (each, a “**Bond Payment Date**”), commencing with July 1, 2024, and continuing to and including the Maturity Date set forth above. Interest on this bond shall be computed on the basis of a 360-day year composed of twelve (12) thirty (30) day months.

Payment of the principal of this bond, and, if this bond shall be redeemed prior to maturity, payment of the principal, redemption premium, if any, and interest accrued to the redemption date, shall be made at the corporate trust office of Manufacturers and Traders Trust Company, as Paying Agent of the Issuer (the “**Paying Agent**”) at 285 Delaware, 3<sup>rd</sup> Floor, Buffalo, New York 14202 or

at the office of its successors in trust or at the office designated for such payment of any successor Paying Agent named by the Issuer. Interest hereon shall be paid to the registered owner hereof as of the close of business on the fifteenth (15<sup>th</sup>) day (whether or not a Business Day) of the calendar month next preceding such Bond Payment Date (the “**Regular Record Date**”), and shall be paid by check or draft mailed to such registered owner at the address appearing on such registration books or, at the election of a registered holder of not less than \$1,000,000 aggregate principal amount of the Bonds (as hereinafter defined), by bank wire transfer to a bank account maintained by such registered owner in the United States of America designated in written instructions delivered to the Trustee (as defined herein) at least five (5) Business Days (as hereinafter defined) prior to the date of such payment. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Regular Record Date, and may be paid to the Person in whose name this Bond is registered at the close of business on a date for the payment of such defaulted interest to be fixed by the Trustee (the “**Special Record Date**”), notice thereof being given to the registered owners of the Bonds not less than fifteen (15) days prior to such Special Record Date. The principal, premium, if any, and interest on this Bond are payable in lawful money of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

Any payment of interest or principal which is due on a day other than a Business Day shall be due and payable on the next succeeding Business Day with the same effect as if paid on the date due. “**Business Day**” means a day other than a Saturday, Sunday, legal holiday or other day on which the Trustee is authorized by law or executive order to remain closed.

This bond is one of a duly authorized issue of bonds limited in the aggregate principal amount of \$296,880,000 (the “**Bonds**”) issued and authorized to be issued for the purpose of assisting in the financing of the Series 2023A Project (as defined in the hereinafter defined Indenture).

The Bonds are all issued under and are equally and ratably secured and entitled to the security given by a certain Indenture of Trust, dated as of December 1, 2023 (the “**Indenture**”), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “**Trustee**”). The Indenture, among other things, grants a security interest in the Trust Estate (as defined in the Indenture) to the Trustee. The Indenture further provides that the Issuer shall deposit the Series 2023A Bond Proceeds with the Trustee for the account of the Issuer, and that the Trustee shall disburse said moneys to pay the Series 2023A Project Costs (as defined in the Indenture), but only upon satisfaction of the requirements set forth in the Indenture for making such disbursements. Financing statements with respect to the Indenture are filed in the Office of the Secretary of State of the State of New York.

Reference is hereby made to the Loan Agreement, the Series 2023A Promissory Note and the Indenture, copies of which are on file at the corporate trust office of the Trustee and at the office of the Issuer, and to all amendments and supplements thereto for the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee, the University and the Holders and the terms upon which the Bonds are or may be secured.



This bond and the issue of which it is a part are special obligations and not general obligations of the Issuer and it is understood and agreed that the Owners shall look exclusively to the Trust Estate, the Indenture, and such other security as may from time to time be given for payment of obligations arising out of the Bonds and the Indenture and that any judgment rendered on the Bonds, the Indenture or such other security shall be limited to the Trust Estate and any such other security so given for the satisfaction thereof; and that no deficiency or personal judgment, nor any order or decree of specific performance shall be sought or rendered against the Issuer, its successors or assigns, in any action or proceeding brought on the Bonds, or any judgment, order or decree rendered pursuant to any such action or proceeding. Pursuant to the Loan Agreement, payments (except payments included in Unassigned Rights) payable to the Issuer are required to be made by the University directly to the Trustee and to be deposited in a separate account of the Bond Fund held by the Trustee for the payment of the principal of, premium, if any, and interest on the Bonds.

NO COVENANT OR AGREEMENT CONTAINED IN THIS BOND OR IN THE INDENTURE OR THE LOAN AGREEMENT, OR IN ANY DOCUMENT CONNECTED THEREWITH SHALL BE DEEMED TO BE THE COVENANT OR AGREEMENT OF ANY MEMBER, OFFICER, AGENT (OTHER THAN THE UNIVERSITY) OR EMPLOYEE OF THE ISSUER IN HIS INDIVIDUAL CAPACITY. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, OR THE INTEREST ON, THIS BOND OR FOR ANY CLAIM BASED THEREON OR ON THE INDENTURE OR THE LOAN AGREEMENT, AGAINST ANY MEMBER, OFFICER, AGENT (OTHER THAN THE UNIVERSITY) OR EMPLOYEE, PAST, PRESENT OR FUTURE, OF THE ISSUER, OR OF ANY SUCCESSOR CORPORATION, AS SUCH, EITHER DIRECTLY, OR THROUGH THE ISSUER OR ANY SUCH SUCCESSOR CORPORATION, WHETHER BY VIRTUE OF ANY CONSTITUTIONAL PROVISION, STATUTE, OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY, OR OTHERWISE, ALL SUCH LIABILITY OF SUCH MEMBERS, OFFICERS, AGENTS (OTHER THAN THE UNIVERSITY) OR EMPLOYEES, BEING RELEASED AS A CONDITION OF, AND AS CONSIDERATION FOR, THE EXECUTION AND DELIVERY OF THIS BOND AND THE INDENTURE.

**THIS BOND IS NOT AND SHALL NOT BE A DEBT OR LOAN OF CREDIT OF THE STATE OF NEW YORK OR MONROE COUNTY, NEW YORK AND NEITHER THE STATE OF NEW YORK NOR MONROE COUNTY, NEW YORK SHALL BE LIABLE HEREON.**

The Bonds are issuable as fully registered bonds without coupons in the denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof.

#### **SPECIAL REDEMPTION**

The Bonds are subject to redemption prior to maturity at the option of the Issuer (exercised at the direction of the University), in whole or in part on any interest payment date, at a redemption price equal to 100% of the principal amount of Bonds or portions thereof to be redeemed, plus accrued interest to the redemption date (i) from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Series 2023A Facility to which such

proceeds relate, and (ii) from unexpended proceeds of the Bonds upon the abandonment of all or a portion of the Series 2023A Facility to which such unexpended proceeds relate due to a legal or regulatory impediment.

### **OPTIONAL REDEMPTION**

The Bonds are subject to redemption by the Issuer at the option of the University on or after July 1, 2033, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount of such Bonds or portions thereof to be redeemed, plus accrued interest, if any, to the Redemption Date.

### **PURCHASE IN LIEU OF REDEMPTION**

If the Bonds are called for redemption in whole or in part pursuant to the terms of the Indenture, the Bonds called for redemption may be purchased in lieu of redemption in accordance with the Indenture. Purchase in lieu of redemption shall be available for all of the Bonds called for redemption or for such lesser portion of such Bonds as constitute authorized denominations. The University may direct the Trustee to purchase all or such lesser portion of the Bonds so called for redemption.

If less than all of the Bonds are to be redeemed pursuant to any of the foregoing paragraphs, the particular Bonds to be redeemed shall be selected by the University at least thirty (30) days prior to the Redemption Date, with the specific maturities to be redeemed as directed by the University, and within each maturity by lot or by such other method as the Trustee shall deem fair and appropriate. If a portion of this bond shall be called for redemption, a new bond in the principal amount equal to the unredeemed portion hereof shall be issued to the Owner upon the surrender hereof.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed and stating certain other matters as set forth in the Indenture shall be given by mailing a copy of such notice, postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date, to each Holder of a Bond to be redeemed at the address of such Holder appearing on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar. Such mailing shall not be a condition precedent to such redemption, and failure to mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Bonds. With respect to any optional redemption under the Indenture, any such notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee, on or prior to the Redemption Date, of moneys sufficient, together with any other moneys held by the Trustee and available therefor, to pay on the Redemption Date the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received on or prior to the Redemption Date such notice shall be of no force or effect and such Bonds shall not be required to be redeemed.

On the specified Redemption Date, all Bonds so called for redemption shall cease to bear interest and shall no longer be secured by the Indenture.

The Holder of this bond shall have no right to enforce the provisions of the Indenture or to institute any action to enforce the covenants therein, or to take any action with respect to any Event

of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as otherwise expressly provided in the Indenture. In addition, the right of the Holder of this bond to institute or prosecute a suit for the enforcement of payment hereof or to enter a judgment in any such suit is limited to the extent that such action would result in the surrender, impairment, waiver or loss of the lien of the Indenture for the equal and ratable benefit of all Holders of Bonds.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

This bond may not be waived, changed, modified or discharged orally, but only by agreement in writing, signed by the party against whom any enforcement of any waiver, change, modification or discharge is sought. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and under the circumstances permitted by the Indenture.

Capitalized terms used in this bond and not defined herein shall have the meaning ascribed to such terms by the Indenture.

This bond is fully negotiable and transferable, as provided in the Indenture, only upon books of the Issuer kept by the Trustee, by the registered owner hereof or by his attorney duly authorized in writing, upon surrender of this bond, together with a written instrument of transfer satisfactory to the Trustee. Thereupon a new bond or bonds, in fully registered form without coupons, in the same aggregate principal amount and of the same maturity and rate of interest as the surrendered bond shall be issued to the transferee in exchange therefor as provided in the Indenture.

The Issuer, the Trustee and any Paying Agent may deem and treat the person in whose name this bond is registered upon the books of the Issuer on the Record Date as the absolute owner hereof, whether this bond shall be overdue or not, for the purpose of receiving payment of the principal of, premium, if any, and interest on this bond and for all other purposes. All such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this bond to the extent of the sum or sums so paid. Neither the Issuer, the Trustee nor any Paying Agent shall be affected by any notice to the contrary. For every transfer of Bonds, the Issuer and the Trustee may make a charge sufficient to reimburse them for (i) any tax, fee or other governmental charge required to be paid with respect to such transfer, (ii) the cost of preparing each new Bond, and (iii) any other expenses of the Issuer or the Trustee incurred in connection therewith, and any such charges shall be paid by the University.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the rights of the owners of the Bonds at any time by the Issuer with the consent of the Holders of fifty-one percent (51%) in aggregate principal amount of the Bonds at the time Outstanding. Any such consent or any waiver by the Holders of fifty-one percent (51%) in aggregate principal amount of the Bonds shall be conclusive and binding upon the Owner and upon all future Owners of this bond and of any bond issued in replacement hereof whether or not notation of such consent or waiver is made upon this

bond. The Indenture also contains provisions which, subject to certain conditions, permit or require the Trustee to waive certain past defaults under the Indenture and their consequences.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the execution and delivery of the Indenture and the issuance of this bond do exist, have happened and have been performed in due time, form and manner as required by law; and that the issuance of this bond and the issue of which it is a part, together with all other obligations of the Issuer, does not exceed or violate any constitutional, statutory or corporate limitations.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION has caused this Series 2023A Bond to be executed in its name by the manual or facsimile signature of its Authorized Representative.

**MONROE COUNTY INDUSTRIAL  
DEVELOPMENT CORPORATION**

By: \_\_\_\_\_  
Ana J. Liss, Executive Director

**FORM OF CERTIFICATE OF AUTHENTICATION**

This bond is one of the Series 2023A Bonds described in and issued under the provisions of the within mentioned Indenture of Trust.

Date of Authentication: December 19, 2023

**MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Trustee**

By: \_\_\_\_\_  
Michelle M. Wojciechowicz, Vice President

**(FORM OF TRANSFER)**

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No.) the within bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

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

Signature Guaranteed

\_\_\_\_\_

Notice: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

[END OF FORM OF SERIES 2023A BOND]

**Form of Series 2023B Bond**

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

**REGISTERED  
BR-1**

\$100,745,000

**Monroe County Industrial Development Corporation  
Taxable Revenue Bonds  
(University of Rochester Project), Series 2023B**

<b><u>Interest Rate</u></b>	<b><u>Dated Date</u></b>	<b><u>Maturity Date</u></b>	<b><u>CUSIP</u></b>
5.130%%	December 19, 2023	July 1, 2033	61075TWU8

Registered Owner: CEDE & CO. as nominee of DTC

Principal Sum: ONE HUNDRED MILLION SEVEN HUNDRED FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$100,745,000)

MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION, a not-for-profit corporation of the State of New York (the “**Issuer**”), acknowledges itself indebted and for value received does hereby promise to pay, but solely from the source and as hereinafter provided, to the Registered Owner (named above), or registered assigns, on the Maturity Date set forth above (subject to the right of prior redemption as hereinafter provided), the Principal Sum stated above and in like manner to pay interest on said sum from the Dated Date stated above or from the most recent Interest Payment Date to which interest has been paid or provided for, at the interest rate per annum specified above, semi-annually on the first (1<sup>st</sup>) day of July and January of each year (each, a “**Bond Payment Date**”), commencing with July 1, 2024, and continuing to and including the Maturity Date set forth above. Interest on this bond shall be computed on the basis of a 360-day year composed of twelve (12) thirty (30) day months.

Payment of the principal of this bond, and, if this bond shall be redeemed prior to maturity, payment of the principal, redemption premium, if any, and interest accrued to the redemption date, shall be made at the corporate trust office of Manufacturers and Traders Trust Company, as Paying Agent of the Issuer (the “**Paying Agent**”) at 285 Delaware, 3<sup>rd</sup> Floor, Buffalo, New York 14202 or at the office of its successors in trust or at the office designated for such payment of any successor Paying Agent named by the Issuer. Interest hereon shall be paid to the registered owner hereof as of the close of business on the fifteenth (15<sup>th</sup>) day (whether or not a Business Day) of the calendar month next preceding such Bond Payment Date (the “**Regular Record Date**”), and shall be paid by check or draft mailed to such registered owner at the address appearing on such registration books or, at the election of a registered holder of not less than \$1,000,000 aggregate principal



amount of the Bonds (as hereinafter defined), by bank wire transfer to a bank account maintained by such registered owner in the United States of America designated in written instructions delivered to the Trustee (as defined herein) at least five (5) Business Days (as hereinafter defined) prior to the date of such payment. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Regular Record Date, and may be paid to the Person in whose name this Bond is registered at the close of business on a date for the payment of such defaulted interest to be fixed by the Trustee (the “**Special Record Date**”), notice thereof being given to the registered owners of the Bonds not less than fifteen (15) days prior to such Special Record Date. The principal, premium, if any, and interest on this Bond are payable in lawful money of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

Any payment of interest or principal which is due on a day other than a Business Day shall be due and payable on the next succeeding Business Day with the same effect as if paid on the date due. “Business Day” means a day other than a Saturday, Sunday, legal holiday or other day on which the Trustee is authorized by law or executive order to remain closed.

This bond is one of a duly authorized issue of bonds limited in the aggregate principal amount of \$100,745,000 (the “**Bonds**”) issued and authorized to be issued for the purpose of assisting in the financing of the Series 2023B Project (as defined in the hereinafter defined Indenture).

The Bonds are all issued under and are equally and ratably secured and entitled to the security given by a certain Indenture of Trust, dated as of December 1, 2023 (the “**Indenture**”), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “**Trustee**”). The Indenture, among other things, grants a security interest in the Trust Estate (as defined in the Indenture) to the Trustee. The Indenture further provides that the Issuer shall deposit the Series 2023B Bond Proceeds with the Trustee for the account of the Issuer, and that the Trustee shall disburse said moneys to pay the Series 2023B Project Costs (as defined in the Indenture), but only upon satisfaction of the requirements set forth in the Indenture for making such disbursements. Financing statements with respect to the Indenture are filed in the Office of the Secretary of State of the State of New York.

Reference is hereby made to the Loan Agreement, the Series 2023B Promissory Note and the Indenture, copies of which are on file at the corporate trust office of the Trustee and at the office of the Issuer, and to all amendments and supplements thereto for the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee, the University and the Holders and the terms upon which the Bonds are or may be secured.

This bond and the issue of which it is a part are special obligations and not general obligations of the Issuer and it is understood and agreed that the Owners shall look exclusively to the Trust Estate, the Indenture, and such other security as may from time to time be given for payment of obligations arising out of the Bonds and the Indenture and that any judgment rendered on the Bonds, the Indenture or such other security shall be limited to the Trust Estate and any such other security so given for the satisfaction thereof; and that no deficiency or personal judgment, nor any order or decree of specific performance shall be sought or rendered against the Issuer, its

successors or assigns, in any action or proceeding brought on the Bonds, or any judgment, order or decree rendered pursuant to any such action or proceeding. Pursuant to the Loan Agreement, payments (except payments included in Unassigned Rights) payable to the Issuer are required to be made by the University directly to the Trustee and to be deposited in a separate account of the Bond Fund held by the Trustee for the payment of the principal of, premium, if any, and interest on the Bonds.

NO COVENANT OR AGREEMENT CONTAINED IN THIS BOND OR IN THE INDENTURE OR THE LOAN AGREEMENT, OR IN ANY DOCUMENT CONNECTED THEREWITH SHALL BE DEEMED TO BE THE COVENANT OR AGREEMENT OF ANY MEMBER, OFFICER, AGENT (OTHER THAN THE UNIVERSITY) OR EMPLOYEE OF THE ISSUER IN HIS INDIVIDUAL CAPACITY. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, OR THE INTEREST ON, THIS BOND OR FOR ANY CLAIM BASED THEREON OR ON THE INDENTURE OR THE LOAN AGREEMENT, AGAINST ANY MEMBER, OFFICER, AGENT (OTHER THAN THE UNIVERSITY) OR EMPLOYEE, PAST, PRESENT OR FUTURE, OF THE ISSUER, OR OF ANY SUCCESSOR CORPORATION, AS SUCH, EITHER DIRECTLY, OR THROUGH THE ISSUER OR ANY SUCH SUCCESSOR CORPORATION, WHETHER BY VIRTUE OF ANY CONSTITUTIONAL PROVISION, STATUTE, OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY, OR OTHERWISE, ALL SUCH LIABILITY OF SUCH MEMBERS, OFFICERS, AGENTS (OTHER THAN THE UNIVERSITY) OR EMPLOYEES, BEING RELEASED AS A CONDITION OF, AND AS CONSIDERATION FOR, THE EXECUTION AND DELIVERY OF THIS BOND AND THE INDENTURE.

**THIS BOND IS NOT AND SHALL NOT BE A DEBT OR LOAN OF CREDIT OF THE STATE OF NEW YORK OR MONROE COUNTY, NEW YORK AND NEITHER THE STATE OF NEW YORK NOR MONROE COUNTY, NEW YORK SHALL BE LIABLE HEREON.**

The Bonds are issuable as fully registered bonds without coupons in the denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof.

#### **SPECIAL REDEMPTION**

The Bonds are subject to redemption prior to maturity at the option of the Issuer (exercised at the direction of the University), in whole or in part on any interest payment date, at a redemption price equal to 100% of the principal amount of Bonds or portions thereof to be redeemed, plus accrued interest to the redemption date (i) from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Series 2023B Facility to which such proceeds relate, and (ii) from unexpended proceeds of the Bonds upon the abandonment of all or a portion of the Series 2023B Facility to which such unexpended proceeds relate due to a legal or regulatory impediment.

## **OPTIONAL REDEMPTION**

The Bonds are subject to redemption by the Issuer at the option of the University in whole or in part at any time, (i) prior to April 1, 2033, at the Make-Whole Redemption Price, and (ii) on or after April 1, 2033, at a Redemption Price equal to 100% of the principal amount of such Bonds or portions thereof to be redeemed, plus accrued interest, if any, to the Redemption Date

The “Make-Whole Redemption Price” is the greater of (i) 100% of the principal amount of the Bonds to be redeemed or (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the Redemption Date, discounted to the Redemption Date on a semiannual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (as defined below) plus the Applicable Spread (as defined below), plus, in each case, accrued and unpaid interest on the Bonds to be redeemed on the Redemption Date.

The “Treasury Rate” is, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two (2) Business Days prior to the Redemption Date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the Redemption Date to the maturity date of the Bonds to be redeemed. However, if the period from the Redemption Date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

The “Applicable Spread” is fifteen (15) basis points.

The Trustee may retain, at the expense of the University, an independent accounting firm or financial advisor to determine the Make-Whole Redemption Price and perform all actions and make all calculations required to determine the Make-Whole Redemption Price. The Trustee, the Issuer and the University may conclusively rely on such accounting firm’s or financial advisor’s calculations in connection with, and determination of, the Make-Whole Redemption Price, and neither the Trustee nor the Issuer nor the University will have any liability for their reliance.

## **PURCHASE IN LIEU OF REDEMPTION**

If the Bonds are called for redemption in whole or in part pursuant to the terms of the Indenture, the Bonds called for redemption may be purchased in lieu of redemption in accordance with the Indenture. Purchase in lieu of redemption shall be available for all of the Bonds called for redemption or for such lesser portion of such Bonds as constitute authorized denominations. The University may direct the Trustee to purchase all or such lesser portion of the Bonds so called for redemption.

If less than all of the Bonds are to be redeemed pursuant to any of the foregoing paragraphs, the Bonds to be called for redemption shall be chosen by the Trustee on a “pro rata pass-through distribution of principal” basis in accordance with DTC procedures, provided that the selection for redemption of such Series 2023B Bonds shall be made in accordance with the operational

arrangements of DTC then in effect, and, if the DTC operational arrangements do not allow for redemption on a pro rata pass-through distribution of principal basis, the Series 2023B Bonds will be selected for redemption, in accordance with DTC procedures, by lot. In connection with any repayment of principal, the Trustee, as Bond Registrar, shall direct DTC to make a pass-through distribution of principal to the Holders of the Series 2023B Bonds in accordance with the Indenture. If a portion of this bond shall be called for redemption, a new bond in the principal amount equal to the unredeemed portion hereof shall be issued to the Owner upon the surrender hereof.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed and stating certain other matters as set forth in the Indenture shall be given by mailing a copy of such notice, postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date, to each Holder of a Bond to be redeemed at the address of such Holder appearing on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar. Such mailing shall not be a condition precedent to such redemption, and failure to mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Bonds. With respect to any optional redemption under the Indenture, any such notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee, on or prior to the Redemption Date, of moneys sufficient, together with any other moneys held by the Trustee and available therefor, to pay on the Redemption Date the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received on or prior to the Redemption Date such notice shall be of no force or effect and such Bonds shall not be required to be redeemed.

On the specified Redemption Date, all Bonds so called for redemption shall cease to bear interest and shall no longer be secured by the Indenture.

The Holder of this bond shall have no right to enforce the provisions of the Indenture or to institute any action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as otherwise expressly provided in the Indenture. In addition, the right of the Holder of this bond to institute or prosecute a suit for the enforcement of payment hereof or to enter a judgment in any such suit is limited to the extent that such action would result in the surrender, impairment, waiver or loss of the lien of the Indenture for the equal and ratable benefit of all Holders of Bonds.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

This bond may not be waived, changed, modified or discharged orally, but only by agreement in writing, signed by the party against whom any enforcement of any waiver, change, modification or discharge is sought. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and under the circumstances permitted by the Indenture.

Capitalized terms used in this bond and not defined herein shall have the meaning ascribed to such terms by the Indenture.

This bond is fully negotiable and transferable, as provided in the Indenture, only upon books of the Issuer kept by the Trustee, by the registered owner hereof or by his attorney duly authorized in writing, upon surrender of this bond, together with a written instrument of transfer satisfactory to the Trustee. Thereupon a new bond or bonds, in fully registered form without coupons, in the same aggregate principal amount and of the same maturity and rate of interest as the surrendered bond shall be issued to the transferee in exchange therefor as provided in the Indenture.

The Issuer, the Trustee and any Paying Agent may deem and treat the person in whose name this bond is registered upon the books of the Issuer on the Record Date as the absolute owner hereof, whether this bond shall be overdue or not, for the purpose of receiving payment of the principal of, premium, if any, and interest on this bond and for all other purposes. All such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this bond to the extent of the sum or sums so paid. Neither the Issuer, the Trustee nor any Paying Agent shall be affected by any notice to the contrary. For every transfer of Bonds, the Issuer and the Trustee may make a charge sufficient to reimburse them for (i) any tax, fee or other governmental charge required to be paid with respect to such transfer, (ii) the cost of preparing each new Bond, and (iii) any other expenses of the Issuer or the Trustee incurred in connection therewith, and any such charges shall be paid by the University.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the rights of the owners of the Bonds at any time by the Issuer with the consent of the Holders of fifty-one percent (51%) in aggregate principal amount of the Bonds at the time Outstanding. Any such consent or any waiver by the Holders of fifty-one percent (51%) in aggregate principal amount of the Bonds shall be conclusive and binding upon the Owner and upon all future Owners of this bond and of any bond issued in replacement hereof whether or not notation of such consent or waiver is made upon this bond. The Indenture also contains provisions which, subject to certain conditions, permit or require the Trustee to waive certain past defaults under the Indenture and their consequences.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the execution and delivery of the Indenture and the issuance of this bond do exist, have happened and have been performed in due time, form and manner as required by law; and that the issuance of this bond and the issue of which it is a part, together with all other obligations of the Issuer, does not exceed or violate any constitutional, statutory or corporate limitations.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION has caused this Series 2023B Bond to be executed in its name by the manual or facsimile signature of its Authorized Representative.

**MONROE COUNTY INDUSTRIAL  
DEVELOPMENT CORPORATION**

By: \_\_\_\_\_  
Ana J. Liss, Executive Director

**FORM OF CERTIFICATE OF AUTHENTICATION**

This bond is one of the Series 2023B Bonds described in and issued under the provisions of the within mentioned Indenture of Trust.

Date of Authentication: December 19, 2023

**MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Trustee**

By: \_\_\_\_\_  
Michelle M. Wojciechowicz, Vice President

**(FORM OF TRANSFER)**

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No.) the within bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

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

Signature Guaranteed

\_\_\_\_\_

Notice: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

[END OF FORM OF SERIES 2023B BOND]



**EXHIBIT B**

**FORM OF REQUISITION FOR PAYMENT AND REIMBURSEMENT**

To: Manufacturers and Traders Trust Company  
285 Delaware, 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attn: Corporate Trust Department

Re: **Monroe County Industrial Development Corporation [Tax-Exempt/Taxable]  
Revenue Bonds (University of Rochester Project) Series 2023[A][B]**  
Requisition Number: [A/B-\_\_\_]

Date: [\_\_\_\_\_]

Ladies and Gentlemen:

You are hereby authorized and directed to make the following disbursements from the applicable account of the Series 2023[A][B] Project Fund in accordance with Section 4.04 of that certain Indenture of Trust, dated as of December 1, 2023 (the “**Indenture**”), by and between the Monroe County Industrial Development Corporation (the “**Issuer**”) and Manufacturers and Traders Trust Company, as trustee (the “**Trustee**”).

(i) Name(s) and address(es) of the person(s) to whom payment is to be made, and the amount to be paid to each:

[\_\_\_\_\_]

(ii) General classification of the expenditure pursuant to the Loan Agreement by and between the Issuer and the University of Rochester (the “**University**”), dated as of December 1, 2023 (the “**Loan Agreement**”):

- |     |   |    |
|-----|---|----|
| 1.  | Architects, Engineers or similar fees:  | \$ |
| 2.  | Costs of acquiring, constructing and equipping the [____ Facility]:                                     | \$ |
| 3.  | Fees and other expenses for recording and filing:   | \$ |
| 4.  | Fees or expenses relating to actions to protect the Trustee’s security interest in the [____ Facility]: | \$ |
| 5.  | Insurance Premiums:   | \$ |
| 6.  | Construction period interest:   | \$ |
| 7.  | Legal, accounting, investment banking, etc. fees:   | \$ |
| 8.  | Trustee’s fees and expenses, including legal fees:  | \$ |
| 9.  | Administrative fee of the Issuer:   | \$ |
| 10. | Title insurance and surveying fees, if any  | \$ |
| 11. | Reimbursement for payment by the University of items in 1-10 above:                                     | \$ |

With respect to the obligation(s) referred to above, the undersigned, an Authorized Representative of the University, hereby certifies to the best of their knowledge that:

- (A) items (i) and (ii) have been completed correctly and accurately;
- (B) the disbursement hereby requested is for a proper expenditure of moneys in the applicable account of the Project Fund pursuant to the Loan Agreement;
- (C) with respect to items covered in this requisition, the undersigned has no knowledge of any vendors', mechanics' or other liens, bailment leases, conditional sale contracts, security interests or laborers' claims which should be satisfied or discharged before the payments as requisitioned are made or which will not be discharged by such payment;
- (D) none of the amounts for which this requisition is made has been the basis for any prior disbursement from the applicable account of the Project Fund;
- (E) the amount hereby requested has been paid or is to be paid or shall be paid from the moneys requested and that insofar as the payment is for work, materials, supplies, or equipment, the work has been performed and the materials, supplies or equipment have been installed in the [Series 2023A][Series 2023B] Facility or have been delivered to the [Series 2023A][Series 2023B] Facility;
- (F) all Persons furnishing material to or performing work on the [Series 2023A][Series 2023B] Facility have been fully paid to date or will be fully paid out of the proceeds of this requisition or future requisitions or with other sources of funds (to the extent of amounts then due and payable);
- (G) the undisbursed portion of the applicable account of the Project Fund, together with other sources of funds, is sufficient to complete the [Series 2023A][Series 2023B] Project
- (H) [with respect to the Series 2023A Bonds, such requested disbursement is consistent in all material aspects with the Tax Compliance Agreement;]
- (I) there exists no "Event of Default" under any of the Financing Documents or any event, condition or act which would constitute an "Event of Default" under any of the Financing Documents but for the requirement that notice be given or time elapse or both;
- (J) if the payment is a reimbursement to the University for costs or expenses incurred by reason of work performed or supervised by officers or employees of the University, such officers or employees were specifically employed for such purpose and the amount to be paid does not exceed the actual cost thereof to the University; [and]
- (K) [the amounts requested by this requisition with respect to Costs of Issuance (as such term is defined in the Tax Compliance Agreement), if any, when added to all prior

amounts disbursed from the Series 2023A Project Fund for Costs of Issuance, does not exceed two percent (2%) of the proceeds of the Series 2023A Bonds].

The capitalized terms herein, unless otherwise defined, will have the meaning provided in the Indenture.

Enclosed with this requisition are true and correct copies of all supporting invoices for the expenditures referred to herein.

UNIVERSITY OF ROCHESTER

By: \_\_\_\_\_

[END OF FORM OF REQUISITION]

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**Form of the Loan Agreement**

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MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION

and

UNIVERSITY OF ROCHESTER

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LOAN AGREEMENT

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Dated as of December 1, 2023

Relating To:

\$397,625,000

Monroe County Industrial Development Corporation  
Revenue Bonds  
(University of Rochester Project), Series 2023

Consisting of:

\$296,880,000

Tax-Exempt Revenue Bonds  
(University of Rochester Project), Series 2023A

and

\$100,745,000

Taxable Revenue Bonds  
(University of Rochester Project), Series 2023B

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## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I Definitions and Representations .....	3
Section 1.1. Definitions.....	3
Section 1.2. Construction.....	3
Section 1.3. Representations and Warranties by Issuer .....	4
Section 1.4. Findings by Issuer.....	5
Section 1.5. Representations and Warranties by University.....	5
ARTICLE II The Project .....	6
Section 2.1. The Project.....	6
Section 2.2. Completion by University.....	7
Section 2.3. Series 2023 Bonds.....	7
Section 2.4. Application of Moneys in Project Fund.....	8
ARTICLE III ISSUANCE OF SERIES 2023 BONDS; PAYMENT PROVISIONS and Related Provisions.....	9
Section 3.1. Issuance of Series 2023 Bonds .....	9
Section 3.2. Promissory Note.....	9
Section 3.3. Payment Provisions; Pledge of Loan Agreement and of the Promissory Note.....	9
Section 3.4. Obligation of University Unconditional .....	11
ARTICLE IV Maintenance, Taxes and Insurance.....	11
Section 4.1. Maintenance, Alterations and Improvements .....	11
Section 4.2. Removal of Property of the Facility.....	12
Section 4.3. Taxes, Assessments and Charges.....	12
Section 4.4. Insurance.....	13
Section 4.5. Advances by Issuer or Bondholders .....	15
Section 4.6. Compliance with Law .....	15
ARTICLE V Damage, Destruction and Condemnation .....	16
Section 5.1. Damage, Destruction and Condemnation .....	16
ARTICLE VI Particular Covenants.....	18
Section 6.1. Restrictions on University.....	18
Section 6.2. Indemnity .....	19
Section 6.3. Compensation and Expenses of Trustee, Bond Registrar, Paying Agent and Issuer .....	22
Section 6.4. Reserved.....	22
Section 6.5. University’s Covenant as to Tax Exemption .....	23
Section 6.6. Notice by the University .....	23
Section 6.7. Discharge of Liens .....	23
Section 6.8. Issuer’s Authority.....	23
Section 6.9. No Warranty of Condition or Suitability .....	23
Section 6.10. Amounts Remaining in Funds .....	24
Section 6.11. Issuance of Additional Bonds .....	24
Section 6.12. Reserved.....	25
Section 6.13. Redemption Under Certain Circumstances; Special Covenants.....	25
Section 6.14. Further Assurances.....	26



Table of Contents (continued)

	Page
Section 6.15. Filing.....	26
Section 6.16. Right to Cure Issuer Defaults.....	27
Section 6.17. Reserved.....	27
Section 6.18. Preservation of Exempt Status.....	27
Section 6.19. Securities Law Status.....	28
ARTICLE VII EVENTS OF DEFAULT; REMEDIES .....	28
Section 7.1. Events of Default .....	28
Section 7.2. Remedies on Default.....	29
Section 7.3. Reserved.....	30
Section 7.4. Remedies Cumulative .....	30
Section 7.5. No Additional Waiver Implied by One Waiver.....	30
Section 7.6. Effect on Discontinuance of Proceedings.....	31
Section 7.7. Agreement to Pay Attorneys’ Fees and Expenses .....	31
ARTICLE VIII Options .....	31
Section 8.1. Options.....	31
Section 8.2. Termination on Exercise of Option to Terminate.....	32
Section 8.3. Option to Purchase or Invite Tenders of Bonds.....	32
Section 8.4. Termination of Loan Agreement .....	33
ARTICLE IX Miscellaneous .....	33
Section 9.1. Indenture; Amendment .....	33
Section 9.2. Force Majeure .....	33
Section 9.3. Assignment .....	34
Section 9.4. Priority of Indenture.....	34
Section 9.5. Benefit of and Enforcement by Bondholders.....	35
Section 9.6. Amendments .....	35
Section 9.7. Notices .....	35
Section 9.8. Prior Agreements Superseded.....	35
Section 9.9. Severability .....	35
Section 9.10. Inspection of Facility .....	35
Section 9.11. Effective Date; Counterparts.....	35
Section 9.12. Binding Effect.....	35
Section 9.13. Net Agreement.....	36
Section 9.14. Laws Governing.....	36
Section 9.15. Investment of Funds.....	36
Section 9.16. Investment Tax Credit.....	36
Section 9.17. Waiver of Trial by Jury.....	36
Section 9.18. Non-Discrimination .....	36
Section 9.19. No Recourse under this Loan Agreement or on Bonds .....	37
Section 9.20. Date of Loan Agreement for Reference Purposes Only .....	37

SCHEDULE A - PROJECT COMPLETION CERTIFICATE

SCHEDULE B – FORM OF PROMISSORY NOTE

## LOAN AGREEMENT

**LOAN AGREEMENT**, made and entered into as of December 1, 2023 (the “Loan Agreement”), by and between the **MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**, a not-for-profit local development corporation of the State of New York, duly organized and existing under the laws of the State of New York, having its principal office at 50 West Main Street, Rochester, New York 14614 (the “**Issuer**”), and the **UNIVERSITY OF ROCHESTER**, a not-for-profit education corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office at Wallis Hall, Room 208, Box 270023, Rochester, New York 14627 (the “**University**”):

### WITNESSETH:

WHEREAS, pursuant to Section 1411 of the Not-for-Profit Corporation Law (“**N-PCL**”) of the State of New York (the “**State**”), as amended (hereinafter collectively called the “**Act**”), and pursuant to its certificate of incorporation, as amended (the “**Certificate**”), the Issuer was established as a not-for-profit local development corporation of the State with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Act further authorizes the Issuer to issue its bonds and to loan the proceeds thereof for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds so issued and any agreements made in connection therewith, to pledge certain revenues and receipts to secure the payment of such bonds and interest thereon; and

WHEREAS, by resolution adopted October 11, 2023 (the “**Bond Resolution**”), the Issuer determined to issue its \$397,625,000 Monroe County Industrial Development Corporation Revenue Bonds (University of Rochester Project), Series 2023 consisting of (A) \$296,880,000 Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A (the “**Series 2023A Bonds**”) for the benefit of the University for the purpose of financing or refinancing the Series 2023A Project (as defined below) and (B) \$100,745,000 Taxable Revenue Bonds (University of Rochester Project), Series 2023B (the “**Series 2023B Bonds**”, and collectively with the Series 2023A Bonds, the “**Bonds**” or the “**Series 2023 Bonds**”) for the benefit of the University for the purpose of financing or refinancing the Series 2023B Project (as defined below), and all located or to be located on the University’s campuses or facilities located in the City of Rochester, New York (and in the Town of Brighton, New York with respect to the South Campus and in the Town of Henrietta, New York with respect to the Orthopaedics Campus, each as specified below) consisting of: (A) the main campus located at 500 Joseph C. Wilson Boulevard, bounded on the west by the City of Rochester’s Bausch & Lomb Riverside Park; on the north by McLean Street; on the east by Mt. Hope Cemetery; on the south by Elmwood Avenue (the “**River Campus**”); (B) the south campus located at 250 East River Road in the

Town of Brighton, New York and 300 and 400 Kendrick Road in the Town of Brighton, New York, bounded on the west by the Lehigh Valley Trail; at the north, east along East River Road; north along Kendrick Road; east along I-390 to the exit; east along East River Road; south along W. Henrietta Road; west along the Southland Drive properties; south along the western edge of Southland Drive, Doncaster Road, Furlong Road, and Lantern Lane; west along the Crittenden Road properties to the Lehigh Valley Trail (collectively, the “**South Campus**”); (C) the central utilities plant located at 390 Elmwood Avenue (the “**Central Utilities Plant**”); (D) the middle campus located at 125 Kendrick Road bounded on the west by Moore Road; at the north, east along Elmwood Avenue; south along Kendrick Road; east along Crittenden Boulevard; south along Castleman Road, west along Westmoreland Drive; south along Kendrick Road; west along the Erie Canal to Moore Road (the “**Middle Campus**”); (E) the University’s Data Center located at 1630 Long Pond Road, Rochester, New York (the “**Data Center**”); (F) the University’s hospital, health care, research and educational facilities located at 601 Elmwood Avenue, including Strong Memorial Hospital, the Golisano Children’s Hospital, and the School of Medicine and Dentistry, and related research facilities and buildings, bounded on the north by Elmwood Avenue; along the east by East Drive; along the south by Crittenden Boulevard; and along the west by Kendrick Road (collectively, the “**Medical Center Campus**”); and (G) the UR Medicine Orthopaedics & Physical Performance Center located at 10 Miracle Mile Drive in the Town of Henrietta, New York (the “**Orthopaedics Campus**”); the Medical Center Campus, the River Campus, the South Campus, the Central Utilities Plant, the Middle Campus, the Orthopaedics Campus, and the Data Center are collectively referred to as the “**Campuses**”); and

WHEREAS, the Series 2023A project (collectively, the “**Series 2023A Project**”) consists of the financing of:

(1) the improvements (collectively, the “**Series 2023A Improvements**”) consisting of the acquisition, construction, renovation, deferred maintenance, improvement, reconstruction, modernization, equipping and furnishing of various buildings and ancillary and related facilities (including site improvements) throughout the Medical Center Campus, including but not limited to the expansion of the existing Emergency Department to add more examination, treatment and patient observation space and a new 9-story inpatient tower, resulting in an approximately 175,000 square foot Emergency Department (the “**ED Tower**”); and

(2) the acquisition and installation in and around the Series 2023A Improvements and other buildings and facilities on the Medical Center Campus (including but not limited to the ED Tower) of certain items of machinery, equipment, fixtures, furniture and other incidental tangible personal property (collectively, the “**Series 2023A Equipment**”, together with the Series 2023A Improvements, the “**Series 2023A Facility**); and

WHEREAS, the Series 2023B Bonds will be used by the University to finance and refinance the costs of a project (the “**Series 2023B Project**”) across all of the University’s Campuses, as follows: (1) the acquisition, construction, renovation, reconstruction, improvement and modernization of various parking lots, buildings, facilities and infrastructure, and (2) the upgrade, development, acquisition and installation of the University’s information technology system, as well as certain machinery, equipment, fixtures, furniture and other incidental tangible personal property (clauses (1) and (2), the “**Series 2023B Facility**” and together with the Series 2023A Facility, the “**Facility**”); and

WHEREAS, proceeds of the Series 2023 Bonds will also be used for (1) funding capitalized interest and a debt service reserve fund, if required; and (2) paying for certain costs and expenses associated with the issuance of the Series 2023 Bonds (clauses (1) and (2), together with the Series 2023A Project and the Series 2023B Project, the “**Project**”); and

WHEREAS, the Issuer, in order to provide funds for all or a portion of the cost of the Project and for incidental and related costs thereto, shall issue the Bonds pursuant to the Act, the Bond Resolution and an Indenture of Trust (the “**Indenture**”), dated as of December 1, 2023, by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “**Trustee**”); and

WHEREAS, in order to provide for the loaning of the proceeds of the Series 2023 Bonds from the Issuer to the University and the payment of the principal of and interest thereon by the University for the benefit of the Holders of the Series 2023 Bonds, (i) the Issuer and the University deem it necessary to enter into this Loan Agreement, and (ii) the University will execute the Promissory Note in favor of the Issuer to evidence the University’s obligation under this Loan Agreement to repay the loan, and the Issuer will endorse the Promissory Note to the Trustee; and

WHEREAS, as security for the Series 2023 Bonds, the Issuer assigned to the Trustee all of its rights (except its Reserved Rights as defined in the Indenture) under this Loan Agreement pursuant to the Indenture.

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Issuer herein contained, any obligation it may incur for the payment of money shall not subject the Issuer to any pecuniary or other liability nor create a debt of the State of New York or of Monroe County, New York and neither the State of New York nor Monroe County, New York shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the payments, revenues and receipts derived from or in connection with moneys received under this Loan Agreement):

## ARTICLE I DEFINITIONS AND REPRESENTATIONS

Section 1.1. Definitions. Terms not otherwise defined herein shall have the same meanings as used in the Indenture or in the Tax Compliance Agreement.

Section 1.2. Construction. In this Loan Agreement, unless the context otherwise requires:

(a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Loan Agreement, refer to this Loan Agreement, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of the execution and delivery of this Loan Agreement.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Loan Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Loan Agreement, nor shall they affect its meaning, construction or effect.

Section 1.3. Representations and Warranties by Issuer. The Issuer makes the following representations and warranties:

(a) The Issuer is a not-for-profit local development corporation duly organized and existing under the laws of the State, and is authorized and empowered to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder. By proper action of its members, the Issuer has duly authorized the execution and delivery of this Loan Agreement.

(b) In order to finance a portion of the costs of the Project, the Issuer issued the Series 2023 Bonds in the aggregate original principal amount of \$397,625,000. The Series 2023 Bonds will mature, bear interest, be redeemable and have the other terms and provisions set forth in the Indenture and in the Series 2023 Bonds.

(c) The execution, delivery and performance of this Loan Agreement and each document to which the Issuer is a party and the consummation by the Issuer of transactions herein and therein contemplated, including, but not limited to, the issuance of the Bonds, have been duly authorized by all requisite action on the part of the Issuer and will not violate the certificate of incorporation or by-laws of the Issuer, or any indenture, agreement or other instrument to which the Issuer is a party or by which it or any of its property is subject or bound, or be in conflict or result in a breach of, or constitute (with due notice and/or lapse of time) a default under such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(d) To the best of the Issuer's knowledge, there is no action or proceeding pending, of which the Issuer has notice, by or before any court or administrative agency that might adversely affect the ability of the Issuer to perform its obligations under this Loan Agreement and each other Financing Document to which the Issuer is a party, and all authorizations, consents and approvals of instrumental bodies or agencies required to be given by the Issuer as of the Closing Date in connection with the execution and delivery of this Loan Agreement and each other document to which the Issuer is a party or in connection with the performance of the obligations of the Issuer hereunder and under each of the Financing Documents to which the Issuer is a party, including, but not limited to, the issuance of the Series 2023 Bonds, have been obtained and given.

Section 1.4. Findings by Issuer. The Issuer, based upon the representations and warranties of the University contained in this Loan Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the University to the Issuer, hereby finds and determines that the financing of a portion of the costs of the Project by the Issuer and the loaning of the proceeds of the Series 2023 Bonds to the University is reasonably necessary to induce the University to proceed with the Project.

Section 1.5. Representations and Warranties by University. The University makes the following representations and warranties:

(a) The University is a not-for-profit education corporation duly organized, validly existing and in good standing under the laws of the State, is not in violation of any provision of its charter or by-laws, has the corporate power and authority to own its property and assets, to carry on its business as now being conducted by it, and to execute, deliver and perform this Loan Agreement.

(b) The execution, delivery and performance of this Loan Agreement and the consummation of the transactions herein contemplated have been duly authorized by all requisite corporate action on the part of the University and will not violate any provision of law, any order of any court or governmental agency, or the charter or by-laws of the University, or any indenture, agreement or other instrument to which the University is a party or by which it or any of its property is subject or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) Expenses for supervision by the officers or employees of the University and expenses for work done by such officers or employees in connection with the Project will be included as a Project Cost only to the extent that such Persons were specifically employed for such particular purpose, the expenses do not exceed the actual cost thereof and are to be treated on the books of the University as a capital expenditure in conformity with generally accepted accounting principles applied on a consistent basis.

(d) The assistance of the Issuer in the financing of a portion of the costs of the Project is reasonably necessary to induce the University to proceed with the Project.

(e) The total cost of the Project being funded with the Series 2023 Bonds is at least \$397,625,000.

(f) Any costs incurred with respect to that part of the Project paid from the proceeds of the sale of the Series 2023A Bonds shall be treated on the books of the University as capital expenditures in conformity with generally accepted accounting principles applied on a consistent basis

(g) The property included in the Facility is either property of the character subject to the allowance for depreciation under Section 167 of the Code, or land.

(h) No part of the proceeds of the Series 2023A Bonds will be used to finance inventory or for working capital.

(i) This Loan Agreement and the other Financing Documents to which the University is a party constitute the legal, valid and binding obligations of the University enforceable against the University in accordance with their respective terms.

(j) The Facility has been designed and the operation of the Facility, upon completion, will be in compliance in all material respects with all applicable federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

(k) There is no action or proceeding pending or to the best knowledge of the University threatened by or against the University by or before any court or administrative agency that might adversely affect the ability of the University to perform its obligations under this Loan Agreement and each other Financing Document to which the University shall be a party.

(l) The University shall operate the Facility or cause the Facility to be operated in accordance with this Loan Agreement.

(m) There is no existing violation against the Facility filed by any court or administrative agency that may prohibit the ability of the University to use or operate the Facility for its intended purposes or for which the University has not agreed or made arrangements to have removed and satisfied of record.

(n) All consents, approvals or authorizations, if any, of any governmental authority required on the part of the University in connection with the execution and delivery of this Loan Agreement and each other document to which the University shall be a party relating to the Project have been duly obtained.

## ARTICLE II THE PROJECT

Section 2.1. The Project. (a) As promptly as practicable after receipt of the proceeds of the sale of the Series 2023 Bonds and out of said proceeds of sale, the Issuer will, subject to the provisions of Section 2.2 hereof, loan the proceeds of the Series 2023 Bonds to the University and the University shall use such proceeds to undertake the Project and, as applicable, complete the Project substantially in accordance with the Plans and Specifications. The costs of the Project shall be paid from the applicable account of the Project Fund established under the Indenture or as otherwise provided in Section 2.2 hereof.

(b) The University covenants that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies with respect to the Project, all of which will be done in compliance in all material respects with all federal, State and local laws, ordinances and regulations applicable thereto and with the conditions and requirements of all policies of insurance with respect to the Facility required to be maintained under this Loan

Agreement. Upon completion of the Project, the University will promptly obtain or cause to be obtained all required occupancy and operation permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of the Facility for the purposes contemplated by this Loan Agreement and shall furnish copies of same to the Issuer and the Trustee immediately upon receipt thereof.

(c) The University shall take such action and institute such proceedings as shall be necessary to cause and require all contractors and material suppliers to complete their contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by the University or the Issuer in connection with the performance of their obligations under this Section to be considered a Project Cost. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, if recovered prior to the date of completion of the Project, shall be deposited into the Project Fund and made available for payment of Project Costs, or if recovered after such date of completion, be deposited in the Bond Fund.

Section 2.2. Completion by University. The University unconditionally covenants and agrees that it will complete the Project, or cause the Project to be completed, by the applicable Completion Date, and that such completion will be effected in a workmanlike manner, using high-grade materials, free of material defects in materials or workmanship (including latent defects), as applicable, and in accordance with this Loan Agreement and the Indenture. In the event that moneys in the Project Fund are not sufficient to pay the costs necessary to complete the Project in full, the University shall pay that portion of such costs of the Project as may be in excess of the moneys therefor in said Project Fund and shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds (except from the proceeds of Additional Bonds which may be issued for that purpose), nor shall the University be entitled to any diminution of the debt service payments payable or other payments to be made under this Loan Agreement or under the Promissory Note.

Upon completion of the Series 2023A Project, the University shall deliver to the Trustee a certificate of an Authorized Representative of the University substantially in the form set forth in Schedule A attached hereto, together with all attachments required therein. Upon completion of the Series 2023B Project, the University shall deliver to the Trustee a certificate of an Authorized Representative of the University substantially in the form set forth in Schedule A attached hereto, together with all attachments required therein

Section 2.3. Series 2023 Bonds. In order to provide funds for payment of a portion of the Project Costs, together with other payments and incidental expenses in connection therewith, the Issuer agrees that it will issue, sell and cause to be delivered to the Trustee the Series 2023 Bonds. The Issuer has, in the Indenture, directed the Trustee to deposit the proceeds from the sale of said Series 2023 Bonds in the applicable account of the Project Fund established with the Trustee. THE ISSUER MAKES NO REPRESENTATION THAT THE MONEYS ON DEPOSIT IN THE PROJECT FUND ARE OR WILL BE SUFFICIENT TO COMPLETE THE PROJECT.



Section 2.4. Application of Moneys in Project Fund.

(a) Moneys in the Project Fund shall, upon submission of a written requisition certified by an Authorized Representative of the University and otherwise in compliance with the requirements of the Indenture, be applied to pay the Projects Costs including the following items of costs and expenses incurred in connection with the Facility and for no other purpose:

(i) the cost of preparing the Plans and Specifications for the Facility (including any preliminary study or planning of the Facility or any aspect thereof);

(ii) all costs of acquiring, constructing and equipping the Facility (including architectural, engineering and supervisory services with respect thereto);

(iii) all fees, taxes, charges and other expenses for filing of any financing statements and any security interest contemplated by the Indenture;

(iv) any expenses of the University in enforcing any remedy against any contractor or subcontractor, or in defending in good faith any claims by any contractor or subcontractor against the University or the Issuer;

(v) the cost of premiums for all insurance maintained pursuant to this Loan Agreement;

(vi) capitalized interest payable prior to the applicable Completion Date on the Series 2023A Bonds and the Series 2023B Bonds;

(vii) all legal, accounting, financial advisory, investment banking, rating agency, blue sky, legal investment and any other fees, discounts, costs and expenses incurred by the Issuer, the University and the Trustee in connection with the preparation, printing, reproduction, authorization, issuance, execution, sale and distribution of the Series 2023 Bonds, the Indenture, this Loan Agreement and all other documents in connection herewith, with the undertaking of the Project and with any other transaction contemplated by or directly related to this Loan Agreement or the Indenture;

(viii) the initial or acceptance fee and the first year's administrative fee and costs and expenses, including reasonable attorneys' fees, of the Trustee under the Indenture;

(ix) the administrative fees of the Issuer, if any; and

(x) reimbursement to the University for any of the above enumerated costs and expenses paid and incurred by it, to the extent permitted under the Tax Compliance Agreement.

(b) Except for the amount retained for the payment of incurred but unpaid items of the Cost of the Facility, all moneys in the applicable account of the Project Fund shall upon completion of the applicable Project be deposited in the applicable account of the Bond Fund and used as provided in the Indenture.

(c) Notwithstanding anything contained in this Section to the contrary, any moneys in the applicable account of the Project Fund which are not required for immediate use or disbursement may be invested or reinvested at the direction of the University as provided in the Indenture. Neither the Issuer nor its members, directors, officers or employees shall be liable for any depreciation in the value of any investments made pursuant to this Section or for any loss arising from any such investment.

ARTICLE III  
ISSUANCE OF SERIES 2023 BONDS; PAYMENT PROVISIONS AND RELATED  
PROVISIONS

Section 3.1. Issuance of Series 2023 Bonds. On the Closing Date, or on such other date as the Issuer, the Trustee, and the University may mutually agree upon, the Trustee shall deposit the proceeds of the Series 2023 Bonds in the applicable account of the Project Fund (i) upon receipt of the Series 2023 Bonds and (ii) subject to the terms and conditions of the Indenture. Additional Bonds may be issued and purchased from time to time, as set forth in the Indenture on a pari passu basis with the Series 2023 Bonds. Each series of Additional Bonds shall be issued only for the purpose provided in the Supplemental Indenture executed in connection therewith.

The Issuer hereby agrees to loan the proceeds of the Series 2023 Bonds to the University and the University hereby agrees to pay to the Trustee the principal of and interest on the Series 2023 Bonds and all other amounts due hereunder in accordance with the terms of this Loan Agreement, the Indenture and the Series 2023 Bonds.

Section 3.2. Promissory Note. The University's obligation to repay the Loan shall be evidenced by this Loan Agreement and the Promissory Note. On the Closing Date, the University shall execute and deliver the Promissory Note payable to the Issuer, and the Issuer will endorse the Promissory Note to the Trustee. The University agrees that repayment of the Loan and the Promissory Note will be made in accordance with Section 3.3.

Section 3.3. Payment Provisions; Pledge of Loan Agreement and of the Promissory Note.

(a) The University covenants to pay the Promissory Note and make debt service payments for and in respect of the Series 2023 Bonds pursuant to this Loan Agreement, which the Issuer agrees shall be paid by the University directly to the Trustee on or prior to each Bond Payment Date for deposit in the Bond Fund in an amount equal to the sum of (i) the interest then becoming due and payable on the Series 2023 Bonds on such Bond Payment Date (less any amount available in the Project Fund for transfer to the Bond Fund), (ii) the principal amount of the Bonds then Outstanding which will become due on such Bond Payment Date (whether at maturity or by redemption or acceleration as provided in the Indenture), and (iii) the principal of and redemption premium, if any, on the Bonds to be redeemed which will become due on such Bond Payment Date together with accrued interest to such date of redemption. The University further agrees to pay such additional amounts as set forth in the Indenture with respect to interest on the Series 2023 Bonds in the event of an Event of Default.

(b) Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal of redemption premium, if any, and interest on the Series 2023 Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the University shall forthwith pay the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund and such payment shall constitute debt service payments under this Section 3.3.

(c) In the event the University should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the University until said amount not so paid shall have been fully paid.

(d) The University shall have the option to prepay its debt service payment obligations with respect to the Series 2023 Bonds, in whole or in part at the times and in the manner provided in Article VIII hereof as and to the extent provided in the Indenture for redemption of the Series 2023 Bonds.

(e) In addition to the debt service payments required pursuant to Sections 3.3(a) and (b) hereof, throughout the term hereof, the University shall pay to the Issuer within ten (10) days of receipt of an invoice setting forth the nature and payee of each such expense and demand for payment therefor, an amount equal to the sum of the reasonable expenses of the Issuer and the members thereof incurred:

(i) by reason of the Issuer's issuance of the Series 2023 Bonds, or

(ii) in connection with the carrying out of the Issuer's duties and obligations under the Financing Documents to which it is a party, the payment of which is not otherwise provided for under this Loan Agreement. The foregoing shall not be deemed to include any annual or continuing administrative or management fee beyond any initial administrative fee or fee for services rendered by the Issuer.

In addition, the University shall pay, as an additional payment, within fifteen (15) days after receipt of an invoice setting forth the nature and payee of each such expense and demand for payment therefor, the expenses payable by the Issuer to the Trustee pursuant to and under the Indenture.

(f) Pursuant to the Indenture, the Issuer has pledged and assigned to the Trustee, as security for the Series 2023 Bonds, all of the Issuer's right, title and interest in this Loan Agreement (except for the Issuer's Reserved Rights), including all debt service payments hereunder, and in furtherance of said pledge the Issuer has unconditionally assigned such debt service payments to the Trustee for deposit in the Bond Fund in accordance with the Indenture. The University hereby consents to the above-described lien and security interest, and pledge and assignment of this Loan Agreement.

(g) The University covenants and agrees that it will comply with the provisions of the Indenture with respect to the University and that the Trustee shall have the

power, authority, rights and protections provided in the Indenture. The University further covenants to use its best efforts to cause there to be obtained for the Issuer any documents or opinions required of the Issuer under the Indenture.

Section 3.4. Obligation of University Unconditional. The obligations of the University to pay debt service payments and all other payments provided for in this Loan Agreement and under the Promissory Note and to maintain the Facility in accordance with this Loan Agreement constitute a general obligation of the University and shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Issuer, the Trustee or the Holder of any Series 2023 Bond and the obligation of the University shall arise whether or not the Project has been completed as provided in this Loan Agreement. The University will not suspend or discontinue any such payment or terminate this Loan Agreement (other than such termination as is provided for hereunder) for any cause whatsoever, and the University waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Loan Agreement or any obligation of the University under this Loan Agreement or the Facility or any part thereof except as provided in this Loan Agreement or to any abatement, suspension, deferment, diminution or reduction in the debt service payments or other payments hereunder or under the Promissory Note.

#### ARTICLE IV MAINTENANCE, TAXES AND INSURANCE

Section 4.1. Maintenance, Alterations and Improvements. (a) During the term of this Loan Agreement, the University will keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was designed and intended and contemplated by this Loan Agreement, and will make all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen). All replacements, renewals and repairs shall be equal in quality, class and value to the original work and be made and installed in compliance with the requirements of all governmental bodies. The Issuer shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility and the University hereby agrees to assume full responsibility therefor.

(b) The University shall have the privilege of making such alterations of or additions to the Facility or any part thereof from time to time as it, in its discretion, may determine to be desirable for its uses and purposes; *provided*, that (i) such additions or alterations are effected with due diligence, in a good and workmanlike manner and in compliance in all material respects with all applicable Legal Requirements (as defined herein), and (ii) such additions or alterations are promptly and fully paid for by the University in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances. All alterations of and additions to the Facility shall constitute a part of the Facility, subject to this Loan Agreement and the Indenture, and the University shall deliver or cause to be delivered to the Issuer appropriate documents as may be applicable and necessary to

subject such property of the University to this Loan Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The University shall have the right to install or permit to be installed at the Facility machinery, equipment and other personal property not constituting part of the Equipment (the “**University’s Property**”) without subjecting such property to this Loan Agreement. The Issuer shall not be responsible for any loss of or damage to the University’s Property. The University shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the University’s Property.

Section 4.2. Removal of Property of the Facility. (a) The University shall have the right from time to time of removing from the Facility any fixture constituting part of the Facility or any machinery, equipment, furnishings or other property constituting part of the Equipment (the “**Existing Facility Property**”) or any other Property; *provided, that*, if necessary for the continued operation of the Facility, such Existing Facility Property is substituted or replaced by property (A) having equal or greater fair market value, operating efficiency and utility and (B) being free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances; *provided, however*, no such removal shall be effected if such removal would impair the usefulness, structural integrity or operating efficiency of the Facility.

(b) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 4.2(a) hereof shall not entitle the University to any abatement or reduction in the amounts payable by the University under this Loan Agreement, or under the Promissory Note.

(c) The University shall not, without the prior written consent of the Issuer and except as permitted above, part with possession or control of or suffer to allow to pass out of its possession or control, any item of the Equipment or change the location of the Equipment or any part thereof from the Facility, other than for temporary removal for purposes of maintenance or repair or relocation to another part of the Campus.

Section 4.3. Taxes, Assessments and Charges. The University shall pay, when the same shall become due, all taxes and assessments, general and specific, if any, levied and assessed upon or against the Facility, any estate or interest of the University in the Facility, or the payments hereunder during the term of this Loan Agreement and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility, all of which are herein called “Impositions”. The University may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

None of the foregoing shall prevent the University from contesting in good faith, the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, and (ii) such contest shall not result in the University, the Issuer or the Trustee being in any

danger of any civil or any criminal liability other than normal accrual of interest, for failure to comply therewith.

Section 4.4. Insurance.

(a) At all times throughout the term of this Loan Agreement including, without limitation, during any period of construction or renovation of the Facility, the University shall maintain insurance with insurance companies licensed and/or authorized to do business in the State (or authorized in the State under the Federal Liability Risk Retention Act), against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the University. In addition to this general requirement, such insurance shall include the insurance coverage described in paragraphs (i) through (iv) below:

(i) [Reserved];

(ii) General Liability insurance (including contractual liability coverage, together with any umbrella liability insurance) naming the University as the primary insured, and the Issuer and the Trustee as additional insureds, in accordance with customary insurance practices for similar operations with respect to the Facility and the business thereby conducted in a minimum amount of **\$5,000,000** (or such lesser amount agreed upon by the Issuer and the Trustee upon written request by the University) per occurrence aggregate, which insurance (A) will also provide for Contractual Liability insurance consistent with that which is commercially available under General Liability policies at commercially reasonable rates and which is customarily maintained by other enterprises of like size and type as that of the University, and (B) may be effected under overall blanket or excess coverage policies of the University; *provided, however*, that, at least \$500,000 is effected by a General Liability insurance policy;

(iii) Workers' compensation insurance, disability benefits insurance (or qualified self-insured alternatives to such coverages) and such other forms of insurance which the University is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of the University, or any contractor or subcontractor performing work with respect to the Facility; the University shall require that all said contractors and subcontractors shall maintain worker's compensation insurance with respect to their employees as required by law; and

(iv) Automobile liability insurance (together with any umbrella liability insurance), to the extent not covered by the general liability insurance, in the amount of **\$2,000,000** (or such lesser amount agreed upon by the Issuer upon written request by the University) covering the University for all owned, non-owned and/or hired automobiles and/or vehicles used in connection with the Facility.

(b) All insurance required by Section 4.4(a) above (other than permitted self-insurance) shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State, but, in no event,

rated lower than B+ by AM Best and with an AM Best Financial Size Category no less than VII, unless otherwise agreed in writing by the Issuer.

(c) Each of the policies evidencing the insurance required above to be obtained shall (or in the case of (v) below, the University shall):

(i) designate (except in the case of automobile liability, workers' compensation and disability benefits insurance) the Trustee and the Issuer as additional insureds;

(ii) provide that there shall be no recourse against the Issuer or the Trustee for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iii) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Issuer or the Trustee to the extent that such other insurance provides the Issuer or the Trustee, as the case may be, with contingent and/or excess liability insurance with respect to their respective interests in the Facility;

(iv) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Issuer or the Trustee until at least thirty (30) days (or ten (10) days due to nonpayment of premium) after receipt by the Issuer and the Trustee, respectively, of written notice of such cancellation, lapse, expiration, reduction or change;

(v) provide the Issuer and the Trustee with a copy of any notice of cancellation, non-renewal or material reduction in coverage received from the insurer for any policy affording the coverage required herein within five (5) days of University's receipt of same; provided, further that the University agrees to provide the Issuer and the Trustee with thirty (30) days advance written notice of cancellation, non-renewal or material reduction in coverage initiated by the University with respect to any of the required insurance coverages (for the purpose of this provision, material reduction in coverage shall mean any change or reduction in the scope of insurance coverage that adversely affects the protection that would otherwise be available to the Issuer or the Trustee); and

(vi) except with respect to worker's compensation insurance and disability benefits insurance, waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Facility shall be applied in accordance with Section 5.1 hereof and in accordance with the Indenture.

(e) The University shall deliver or cause to be delivered to the Issuer and the Trustee, in a form reasonably acceptable to the Issuer, the following documents evidencing compliance with the insurance requirements of this Section 4.4 (upon which the Trustee and the Issuer may conclusively rely to establish compliance with this Section): (i) on or prior to the Closing Date: certificate(s) of insurance or self-insurance reflecting the insurance coverages in accordance with the requirements of this Section 4.4, and (ii) upon request of the Issuer or the Trustee, duplicate copies of insurance policies and/or binders. At least seven (7) Business Days prior to the expiration of any such policy (or within a reasonable time thereafter), the University shall, upon receipt, furnish the Issuer and the Trustee with evidence that such policy has been renewed or replaced or is no longer required by this Loan Agreement.

(f) The University shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Issuer or the Trustee to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.4. The University shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.4 would or might be suspended or impaired.

(g) THE ISSUER DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTEREST OF THE UNIVERSITY.

Section 4.5. Advances by Issuer or Bondholders. In the event the University fails to make any payment or perform or observe any obligation required of it under this Loan Agreement, the Issuer or any Bondholder, after first notifying the University of any such failure on its part, may (but shall not be obligated to), and without waiver of any of the rights of the Issuer or such Bondholder under this Loan Agreement, the Indenture or any other Financing Documents, make such payment or otherwise cure any failure by the University to perform and observe its other obligations hereunder. All amounts so advanced therefor by the Issuer or such Bondholder shall become an additional obligation of the University to the Issuer or such Bondholder, which amounts, together with interest thereon at the rate of the Trustee's "prime rate" plus two percent (2%) per annum from the date advanced, the University will pay upon demand therefor by the Issuer or such Bondholder. Any remedy herein vested in the Issuer, the Trustee or Bondholders for the collection of the debt service payments or other amounts due hereunder shall also be available to the Issuer or such Bondholder for the collection of all such amounts so advanced.

Section 4.6. Compliance with Law. The University agrees that it will, throughout the term of this Loan Agreement and at its sole cost and expense, promptly observe and comply in all material respects with all federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the University, any occupant, user or operator of the Facility or any portion thereof (including



without limitation those relating to zoning, land use, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the “**Legal Requirements**”), and will observe and comply in all material respects with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The University shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure to comply with any Legal Requirement or (b) imposed upon the University or any of the Indemnified Parties by any Legal Requirement; in case any action or proceedings is brought against any of the Indemnified Parties in respect to any Legal Requirement, the University shall, upon notice from any of the Indemnified Parties, defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Party.

The University may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the University, the Issuer or the Trustee being in any danger of any civil or any criminal liability other than normal accrual of interest, for failure to comply therewith, and (iii) the University shall have furnished such security, if any, as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Financing Documents.

## ARTICLE V DAMAGE, DESTRUCTION AND CONDEMNATION

### Section 5.1. Damage, Destruction and Condemnation.

(a) In the event that at any time during the term of this Loan Agreement, the whole or part of the Facility shall be damaged or destroyed, or the whole or any part of the Facility shall be taken or condemned by a competent authority for any public use or purpose, or by agreement between the University and those authorized to exercise such right, or if the temporary use of the Facility or any part thereof shall be so taken by condemnation or agreement (a “Loss Event”):

(i) the Issuer shall have no obligation to rebuild, replace, repair or restore the Facility,

(ii) there shall be no abatement, postponement or reduction in the debt service payments or other amounts payable by the University under this Loan Agreement and under the Promissory Note, and

(iii) the University will promptly give written notice of such Loss Event to the Issuer and the Trustee, generally describing the nature and extent thereof.

(b) Upon the occurrence of a Loss Event, any Net Proceeds derived therefrom shall be paid to the University and the University shall either:

(i) at its own cost and expense (except to the extent paid from the Net Proceeds deposited in the Renewal Fund as provided below and in Section 4.07 of the Indenture), promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the University shall not, by reason of payment of any such excess costs, be entitled to any reimbursement from the Issuer, the Trustee or any Bondholder, nor shall the debt service payments or other amounts payable by the University under this Loan Agreement or the Promissory Note be abated, postponed or reduced, or

(ii) if, to the extent and upon the conditions permitted to do so under Section 8.1 hereof and under the Indenture, exercise its option to make advance debt service payments to redeem the Series 2023 Bonds in whole;

*provided, however*, that, any Net Proceeds derived from a Loss Event affecting the Facility shall be paid to the Trustee and deposited in the Renewal Fund and the University shall elect to comply with either clause (i) or clause (ii) above.

Not later than ninety (90) days after the occurrence of a Loss Event, the University shall advise the Issuer and the Trustee in writing of the action to be taken by the University under this Section 5.1(b), a failure to so timely notify being deemed an election in favor of clause (i) above to be exercised in accordance with the provisions of clause (i) above.

If the University shall elect to or shall otherwise be required to rebuild, replace, repair or restore the Facility as set forth in subdivision (i) above, to the extent the Net Proceeds have been deposited in the Renewal Fund, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in Section 4.07 of the Indenture, to pay or reimburse the University, at the election of the University, either as such work progresses or upon the completion thereof; *provided, however*, the amounts so disbursed by the Trustee to the University shall not exceed the actual cost of such work. If, on the other hand, the University shall, if permitted under this Loan Agreement and the Indenture, exercise its option in subdivision (ii) above, the Trustee shall transfer any Net Proceeds from the Renewal Fund to the Bond Fund to be applied to the redemption of the Series 2023 Bonds in accordance with the Indenture.

(c) All such rebuilding, replacements, repairs or restorations, unless intended to be an additional building or University Property above and beyond such rebuilding, replacement, repair or restoration as so designated in writing by the University and financed out of moneys other than any Net Proceeds from such Loss Event, shall

(i) automatically be deemed a part of the Facility and be subject to this Loan Agreement,

(ii) be in accordance with plans and specifications and cost estimates approved in writing by the Issuer, which approval shall not be unreasonably withheld,

(iii) not change the nature of the Facility,

(iv) [intentionally omitted], and

(v) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable Legal Requirements and be promptly and fully paid for by the University in accordance with the terms of the applicable contract(s) therefore.

(d) Pending the disbursement or transfer thereof, the Net Proceeds in the Renewal Fund, if any, shall be applied and may be invested as provided in the Indenture.

(e) The Issuer, the Trustee and the University shall cooperate and consult with each other in all matters pertaining to the settlement, compromising, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromising, arbitration or adjustment of any such claim or demand shall be subject to the approval of the University.

(f) Notwithstanding the foregoing, if all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the University as contemplated hereby, the University shall exercise its option to terminate this Loan Agreement pursuant to Section 8.1 hereof, and the amount of the Net Proceeds so recovered shall be transferred from the Renewal Fund and deposited in the Bond Fund, and the University shall thereupon pay to the Trustee for deposit in the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Series 2023 Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the expenses of redemption, the fees and expenses of the Issuer, the Bond Registrar, the Trustee and the Paying Agent, together with all other amounts due under the Indenture and under this Loan Agreement, and such amount shall be applied, together with such other available moneys in such Bond Fund, if applicable, to such redemption or retirement of the Bonds on said redemption or maturity date.

(g) The University shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to improvements, machinery, equipment or other property installed on or about the Facility but which, at the time of such damage or taking, is not part of the Facility and is owned by the University.

## ARTICLE VI PARTICULAR COVENANTS

Section 6.1. Restrictions on University. The University covenants that it will maintain its corporate existence, will continue to operate as a not-for-profit organization and as an institution for higher education, will 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 University as an institution for higher education providing such programs of instruction as it may from time to time determine, will not dissolve or otherwise dispose of all or substantially all of its assets and will 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 have occurred and

be continuing and prior written notice shall have been given to the Issuer and the Trustee, the University 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, however, (a) that any such sale, transfer, consolidation, merger or acquisition does not in the opinion of Bond Counsel adversely affect the exemption from federal income tax of the interest paid or payable on the Series 2023A Bonds, (b) that 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) that the surviving, resulting or transferee corporation, as the case may be, assumes in writing all of the obligations of and restrictions on the University hereunder, and 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 each of the provisions hereof and shall meet the requirements of the Act and such other certificates and documents as the Issuer and the Trustee may reasonably request. Furthermore, such sale, transfer, consolidation, merger, acquisition or other disposition shall occur only if, after giving effect to such sale, transfer, consolidation, merger, acquisition or other disposition, (x) no Event of Default would exist hereunder or under the Indenture, (y) the surviving, resulting or transferee corporation will be able to incur at least one dollar (\$1.00) of debt, and (z) the unrestricted net assets (calculated in accordance with generally accepted accounting principles) of the surviving, resulting or transferee corporation are at least ninety percent (90%) of what the unrestricted net assets of the University (calculated in accordance with generally accepted accounting principles) would have been in the absence of any such sale, transfer, consolidation, merger, acquisition or other disposition.

Section 6.2. Indemnity. (a) The University shall at all times protect and hold the Issuer, the Trustee, the Bond Registrar and the Paying Agent, and any of their respective directors, members, officers, employees, servants or agents (excluding for this purpose the University, which is not obligated hereby to indemnify its own employees or affiliate individuals) or any of such Persons and persons under the control or supervision of any of such Persons (collectively, the “**Indemnified Parties**”) harmless of, from and against any and all claims (whether in tort, contract or otherwise), taxes (of any kind and by whomsoever imposed), demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses (collectively, “**Claims**”) of any kind for losses, damage, injury and liability (collectively, “**Liability**”) of every kind and nature (including, without limitation, reasonable attorney’s fees and expenses) and however caused (except, with respect to any Indemnified Party, Liability which shall have been finally adjudicated by a court of competent jurisdiction to have been directly caused by the gross negligence or willful misconduct of such Indemnified Party), arising during the period commencing from the date the Issuer adopted the Bond Resolution for the Project, and continuing throughout the term of this Loan Agreement and for the relevant statute of limitations thereafter for any Claim arising during such term (subject to Section 6.2(e) hereof), upon or about the Facility or resulting from, arising out of, or in any way connected with:

(i) the financing of the Project and the marketing, issuance, sale and remarketing of the Series 2023 Bonds for such purpose,

(ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, or any defects (whether latent or patent) in the Facility or any of the work done on or about the Facility,

(iii) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion of any thereof or the payment of any costs in connection with the Facility,

(iv) the execution and delivery by the Indemnified Party, the University or any other Person of, or performance by the Indemnified Party, the University or any other Person, as the case may be, of, any of their respective obligations under this Loan Agreement, the Indenture or any other Financing Document, or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby,

(v) any injury to any Person or the personal property of any Person in or on the premises of the Facility other than those caused by such Indemnified Party,

(vi) any imposition arising from, burden imposed by, violation of, or failure to comply with any Legal Requirement, including, but not limited to, failure to comply with the requirements of any applicable zoning resolution and the SEQR Act and their respective related regulations,

(vii) any damage or injury to the person or property of (A) the University, or (B) any other Person or their respective officers, directors, officials, partners, members, employees, attorneys, agents or representatives, or persons under the control or supervision of the University or (C) any other Person who may be in or about the premises of the Facility other than those caused by such Indemnified Party,

(viii) the presence, disposal or release, of any Hazardous Materials (as hereinafter defined) that are on or from the Facility, other than those caused by such Indemnified Party; any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or any violation of Legal Requirements, including demands of government authorities, including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses, or

(ix) any Claim commenced against an Indemnified Party, or other action or proceeding taken by an Indemnified Party, in any case with respect to any of the matters set forth in subparagraphs (i) through (viii) of this Section 6.2(a),

Such indemnification set forth above shall be binding upon the University for any and all Claims arising hereunder or under any other Financing Document, and shall survive the termination of this Loan Agreement.

(b) Except as provided in Section 6.2(a) hereof, the University releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable to the University for, any Claims or Liability arising from or incurred as a result of action taken or not taken by such Indemnified Party with respect to any of the matters set forth in Section 6.2(a) hereof, including any Claims or Liability at the direction of the University or any other obligor under any of the Financing Documents with respect to any of such matters referred to above. An Indemnified Party shall promptly notify the University in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the University pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the University to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a default hereunder nor in any way impair the obligations of the University under this Section 6.2; *except, that*, if (i) the Indemnified Party shall have had knowledge or notice of such claim or action but shall not have timely notified the University of any such claim or action, (ii) the University shall not have had knowledge or notice of such claim or action, and (iii) the University's ability to defend or participate in such claim or action is materially impaired by reason of not having received timely notice thereof from the Indemnified Party, then the University's obligation to so defend and indemnify such Indemnified Party shall be qualified to the extent (and only to the extent) of such material impairment.

(c) (i) In addition to and without limitation of any other representations, warranties and covenants made by the University under this Loan Agreement, the University further represents, warrants and covenants that the University has not used Hazardous Materials on, from, or affecting the Facility in any manner that violates any applicable Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best of the University's knowledge, no prior owner of the Facility or any tenant, subtenant, prior tenant or prior subtenant have used Hazardous Materials on, from, or affecting the Facility in any manner which violates any applicable Legal Requirements.

(ii) Without limiting the foregoing, the University shall not cause or permit the Facility or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance in all material respects with all applicable Legal Requirements, nor shall the University cause or permit, as a result of any intentional or unintentional act or omission on the part of the University or any occupant or user of the Facility, a release of Hazardous Materials onto the Facility or onto any other property.

(iii) The University shall comply with and shall use its best efforts to ensure compliance by all occupants and users of the Facility, with all applicable Legal Requirements, whenever and by whomever triggered, and shall obtain and comply in all material respects with, and shall use its best efforts to ensure that all occupants and users of the Facility obtain and comply with, any and all approvals, registrations or permits required thereunder.

(iv) The University shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove or abate, as applicable, all Hazardous Materials, on, from, or affecting the Facility in accordance with all applicable Legal Requirements.

For purposes of this Section 6.2, the term “Hazardous Materials” includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other applicable law, ordinance, rule, or regulation.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended, with respect to each Indemnified Party, to its members, directors, officers, employees, agents and servants and persons under its control or supervision.

(e) Anything to the contrary in this Loan Agreement notwithstanding, the covenants of the University contained in this Section 6.2 shall be in addition to any and all other obligations and liabilities the University may have to any Indemnified Party in any other agreement or at common law, and shall remain in full force and effect after the termination of this Loan Agreement until the latter of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions herein specified.

Section 6.3. Compensation and Expenses of Trustee, Bond Registrar, Paying Agent and Issuer. The University shall, to the extent not paid out of the proceeds of the Series 2023 Bonds as financing expenses, pay the following annual fees, charges and expenses and other amounts: (i) the initial and mutually agreed to annual fees of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, including reasonable fees and out-of-pocket expenses as Bond Registrar (including reasonable counsel fees and out-of-pocket expenses) and in connection with preparation of new Series 2023 Bonds upon exchanges or transfers or making any investments in accordance with the Indenture, (ii) the reasonable fees and charges of the Trustee and any Paying Agent on the Series 2023 Bonds for acting as Paying Agent as provided in the Indenture, including the reasonable fees and out-of-pocket expenses of its counsel, (iii) the reasonable fees and charges of the Trustee for extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, including reasonable counsel fees, and (iv) the fees, costs and expenses (including legal, accounting and other administrative out-of-pocket expenses) of the Issuer. The University shall further pay the reasonable fees, out-of-pocket costs and disbursements incurred by Bond Counsel and local Counsel in performing services for the Issuer in connection with this Loan Agreement or the Indenture or any other Financing Document.

Section 6.4. Reserved.

Section 6.5. University's Covenant as to Tax Exemption. (a) The University covenants with the Issuer, the Trustee and with each of the Holders of the Series 2023A Bonds, that it will comply with all of the terms, provisions and conditions set forth in the Tax Compliance Agreement, including, without limitation, the making of any payments and filings required thereunder.

(b) The representations, warranties, covenants and statements of expectation of the University set forth in the Tax Compliance Agreement are by this reference incorporated in this Loan Agreement as though fully set forth herein.

Section 6.6. Notice by the University. The University shall promptly notify the Issuer and the Trustee of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Financing Document of which it has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the University 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 University shall state this fact on the notice.

Section 6.7. Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "**Liens**"), whether or not valid, is made against the Facility, the University or the Trustee or against any of the debt service payments or other amounts payable under this Loan Agreement or the interest of the University under this Loan Agreement, except for Permitted Encumbrances, or Liens being contested as permitted by Section 6.7(b) below, the University shall, within thirty (30) days of receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice), give written notice thereof to the Issuer and the Trustee and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor.

(b) The University may at its sole expense contest (after prior written notice to the Issuer and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility or any part thereof or interest therein, or in this Loan Agreement, of the Issuer, the University or the Trustee or against any of the debt service payments or other amounts payable under this Loan Agreement, (2) neither the Facility nor any interest therein would be in any danger of being sold, forfeited or lost, and (3) neither the University, the Issuer nor the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith.

Section 6.8. Issuer's Authority. The Issuer covenants and agrees that it has full right and lawful authority to enter into this Loan Agreement for the full term hereof.

Section 6.9. No Warranty of Condition or Suitability. THE ISSUER HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER



EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE UNIVERSITY OR THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE BONDS WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. THE UNIVERSITY ACKNOWLEDGES THAT THE ISSUER IS NOT THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE UNIVERSITY IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR ITS PURPOSES. THE ISSUER SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE UNIVERSITY OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.10. Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Rebate Fund, the Bond Fund, the Project Fund or the Renewal Fund upon the expiration or sooner termination of this Loan Agreement as provided herein, after payment in full of the Bonds (in accordance with Section 7.01 of the Indenture), the fees, charges and expenses of the Trustee, the Bond Registrar, the Paying Agent and the Issuer in accordance with the Indenture and after all debt service payments and all other amounts payable hereunder, shall have been paid in full, and after all amounts required to be rebated to the federal government pursuant to the Tax Compliance Agreement and the Indenture shall have been so paid, shall belong to and be paid to the University by the Trustee as overpayment of debt service payments.

Section 6.11. Issuance of Additional Bonds. The Issuer and the University recognize that under the provisions of and subject to the conditions set forth in the Indenture, the Issuer is authorized to enter into a Supplemental Indenture and issue one or more series of Additional Bonds on a parity with the Series 2023 Bonds for the purposes provided in Section 2.13 of the Indenture. If the University is not in default hereunder, the Issuer will consider the issuance of Additional Bonds in the principal amount as is specified in a written request in accordance with the applicable provisions set forth in the Indenture. If Additional Bonds are to be issued pursuant to the Indenture, the Issuer and the University shall enter into an amendment to this Loan Agreement, providing, among other things, for the payment by the University of such additional debt service payments as are necessary in order to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith.

Any such completion, repair, relocation, replacement, rebuilding, restoration, but not additions, extensions or improvements shall become a part of the Facility and shall, pursuant to

the amendment to this Loan Agreement referenced in the foregoing paragraph, be included under this Loan Agreement to the same extent as if originally included hereunder and thereunder.

Notwithstanding anything contained herein to the contrary, with respect to indebtedness other than Additional Bonds, the University shall not be prohibited hereunder from incurring such indebtedness from time to time.

Section 6.12. Reserved.

Section 6.13. Redemption Under Certain Circumstances; Special Covenants.

(a) Upon the circumstances set forth in Section 3.01(a) of the Indenture, the University shall pay or cause the prepayment of its debt service payment obligations upon the circumstances and in the manner set forth in the Indenture. If the Series 2023 Bonds are to be redeemed in whole as a result of the occurrence of any of the events described in Section 3.01(a) of the Indenture, the University shall deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the University stating that, as a result of the occurrence of the event giving rise to such redemption, the University has discontinued, or at the earliest practicable date will discontinue, its operation of the Facility for its intended purposes.

The University shall, prior to directing the redemption of any Bonds in accordance with subsection (b) below, consult with Bond Counsel for advice as to a manner of selection of Series 2023A Bonds for redemption that will not adversely affect the exclusion of interest on any Series 2023A Bonds from gross income for federal income tax purposes.

(b) (i) If, prior to completion of the construction of a component of the Project, the University receives any gift or grant required by the terms thereof to be used to pay any item which is a cost of such component of the Project, the University shall apply such gift or grant to completion of the construction of such component of the Project. In the event that the amount of such gift or grant is in excess of the amount necessary to complete such component of the Project, and if proceeds of Bonds have been expended on such component of the Project, the University shall deliver to the Trustee, for deposit in a special subaccount of the Bond Fund, an amount equal to such excess only to the extent to which proceeds of Series 2023 Bonds were expended for such component. The Trustee shall apply such moneys, at the written direction of an Authorized Representative of the University, to the purchase (at prices not exceeding par) or redemption of an equal principal amount of Series 2023 Bonds.

(ii) If, after completion of the construction of a component of the Project, the University receives any gift or grant which prior to such completion it reasonably expected to receive and which is required by the terms thereof to be used to pay any item which is a cost of such component of the Project, and if proceeds of the Series 2023 Bonds have been expended on such component of the Project, the University shall, to the extent not inconsistent with the terms of such gift or grant, deliver to the Trustee, for deposit in a special subaccount of the Bond Fund, an amount of money equal to such gift or grant, but only to the extent to which proceeds of Series 2023 Bonds were expended for such component. The Trustee shall apply such moneys, at the written

direction of an Authorized Representative of the University, to the purchase (at prices not exceeding par) or redemption of an equal principal amount of Series 2023 Bonds.

Section 6.14. Further Assurances. The University will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, at the sole cost and expense of the University, as the Issuer or the Trustee deem reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Loan Agreement and any rights of the Issuer or the Trustee hereunder and under the Indenture.

Section 6.15. Filing. The security interest granted by the Issuer to the Trustee pursuant to the Indenture, shall be perfected by the filing of financing statements at the direction of the Issuer (at the sole cost and expense of the University), which financing statements shall be in accordance with the New York State Uniform Commercial Code - Secured Transactions, in the office of the Secretary of State of the State and, as appropriate, the office of the clerk of Monroe County, New York.

The Issuer and the University acknowledge that, as of the Closing Date,

(i) Section 9-515 of the New York State Uniform Commercial Code-Secured Transactions provides that an initial financing statement filed in connection with a “public-finance transaction” is effective for a period of thirty (30) years after the date of filing if such initial financing statement indicates that it is filed in connection with a public finance transaction,

(ii) Section 9-102(67) of the New York State Uniform Commercial Code-Secured Transactions defines a public-finance transaction as a secured transaction in connection with which, in substance, (x) bonds are issued, (y) all or a portion of the bonds have an initial stated maturity of at least twenty (20) years, and (z) the debtor, obligor, secured party or assignee with respect to the collateral or secured obligation is a governmental unit of a state, and

(iii) subject to any future change in law, the initial financing statement as shall be filed with respect to the security interest described above shall therefore have an effective period of thirty (30) years after the date of filing, for the purpose of determining the date by which continuation statements shall be filed.

Any filings with respect to the Uniform Commercial Code financing statements may be made electronically, and the Issuer shall have the right to designate a company (which shall be reasonably acceptable to the Trustee) to facilitate the filing of the Uniform Commercial Code financing statements.

The University acknowledges and agrees that the Issuer shall have no responsibility or liability whatsoever related in any way to the filing of any Uniform Commercial Code financing statements, or the perfection of any security interests, or the recording of any document, or the

failure to effect any act referred to in this Section or a failure of sufficiency of any such act so effected.

All costs (including reasonable attorneys' fees and expenses) incurred in connection with the effecting of the requirements specified in this Section shall be paid by the University.

Section 6.16. Right to Cure Issuer Defaults. The Issuer hereby grants the University full authority for account of the Issuer to perform any covenant or obligation the non-performance of which is alleged to constitute a default in any notice received by the University, in the name and stead of the Issuer, with full power of substitution.

Section 6.17. Reserved.

Section 6.18. Preservation of Exempt Status.

(a) The University represents and warrants that as of the date of execution of this Loan Agreement: (i) it is an organization described in Section 501(c)(3) of the Code; (ii) it has received a ruling letter or determination from the Internal Revenue Service to that effect; (iii) such letter or determination has not been modified, limited or revoked; (iv) it is in compliance with all terms, conditions and limitations, if any, contained in or forming the basis of such letter or determination; (v) the facts and circumstances which form the basis of such letter or determination continue substantially to exist as represented to the Internal Revenue Service; (vi) it is not a "private foundation", as defined in Section 509 of the Code; and (vii) it is exempt from federal income taxes under Section 501(a) of the Code and it is in compliance with the provisions of said Code and any applicable regulations thereunder necessary to maintain such status.

(b) The University agrees that (i) it shall not perform any acts, enter into any agreements, carry on or permit to be carried on at the Series 2023A Facility, or permit the Series 2023A Facility to be used in or for any trade or business, which shall adversely affect the basis for its exemption under Section 501 of such Code; (ii) it shall not use more than five percent (5%) of the proceeds of the Series 2023A Bonds or permit the same to be used, directly or indirectly, in any trade or business that constitutes an unrelated trade or business as defined in Section 513(a) of the Code or in any trade or business carried on by any person or persons who are not governmental units or Section 501(c)(3) organizations; (iii) the Series 2023A Project conforms to the description thereof contained in the Indenture and it shall not directly or indirectly use the proceeds of any Series 2023A Bonds to make or finance loans to persons other than governmental units or Section 501(c)(3) organizations; (iv) it shall not take any action or permit any circumstances within its control to arise or continue, if such action or circumstances, or its expectation on the date of issue of any Series 2023A Bonds, would cause such Series 2023A Bonds to be "arbitrage bonds" under the Code or cause the interest paid by the Issuer on such Series 2023A Bonds to be subject to federal income tax in the hands of the Holders thereof; and (v) it shall use its best efforts to maintain the tax-exempt status of any Series 2023A Bonds.

(c) The University (or any related person, as defined in Section 144(a)(3) of the Code) shall not, pursuant to an arrangement, formal or informal, purchase any Series 2023A

Bonds in an amount related to the amount of the payments due from the University under this Loan Agreement.

(d) The covenants and agreements of the University set forth in this Section 6.18 shall apply to the Series 2023A Facility notwithstanding the release of the Series 2023A Facility from this Loan Agreement until all Series 2023A Bonds shall cease to be Outstanding, except to the extent any such covenant or agreement need not, in the opinion of Bond Counsel addressed to the Issuer and the Trustee, continue to so apply in order to maintain the non-includability in gross income for federal income tax purposes of the interest on the Series 2023A Bonds.

Section 6.19. Securities Law Status. The University affirmatively represents, warrants and covenants that, as of the date of this Loan Agreement, it is a not-for-profit education corporation duly organized and operating: (i) exclusively for civic or charitable purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inure to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and of the Securities Exchange Act of 1934, as amended. The University agrees that it shall not perform any act nor enter into any agreement which shall change such status as set forth in this Section.

## ARTICLE VII EVENTS OF DEFAULT; REMEDIES

Section 7.1. Events of Default. Any one or more of the following events shall constitute an “Event of Default” hereunder:

(a) Failure of the University to pay any debt service payment that has become due and payable by the terms of Section 3.3 hereof which results in a default in the due and punctual payment of the principal of, redemption premium, if any, or interest on any Bond;

(b) Failure of the University to pay any amount (except as set forth in Section 7.1(a) or (g) hereof) that has become due and payable or to observe and perform any covenant, condition or agreement on its part to be performed hereunder, and continuance of such failure for a period of thirty (30) days after receipt by the University of written notice from the Issuer, the Trustee, or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, specifying the nature of such default;

(c) Failure of the University to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 7.1(a), (b) or (g) hereof) and (1) continuance of such failure for a period of thirty (30) days after receipt by the University of written notice specifying the nature of such default from the Issuer, the Trustee, or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (2) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, and the University fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue, with reasonable diligence, its efforts to cure the same;

(d) The University shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) take any action for the purpose of effecting any of the foregoing, or (vii) be adjudicated a bankrupt or insolvent by any court;

(e) A proceeding or case shall be commenced, without the application or consent of the University, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the University or of all or any substantial part of its assets, (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing against the University shall be entered and continue unstayed and in effect, for a period of ninety (90) days or (iv) the University shall fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code; the terms “dissolution” or “liquidation” of the University as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof;

(f) Any representation or warranty made (i) by or on behalf of the University in the application and related materials submitted to the Issuer or the initial purchaser(s) of the Series 2023 Bonds for approval of the Project or its financing, or (ii) by the University herein or in any of the other Financing Documents, or (iii) in the Bond Purchase Contract, or (iv) in the Tax Compliance Agreement, or (v) any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing shall prove to be false, misleading or incorrect in any material respect as of the date made; or

(g) An “Event of Default” caused by the University under the Indenture or under any other Financing Document shall occur and be continuing.

Section 7.2. Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Issuer, or the Trustee where so provided, may take any one or more of the following remedial steps:

(a) The Trustee, as and to the extent provided in Article VIII of the Indenture, may cause all principal installments of debt service payments payable under Section 3.3 hereof for the remainder of the term of this Loan Agreement to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; *provided, however*, that, upon the occurrence of an Event of Default under Section 7.1(d) or (e) hereof, all principal installments of debt service payments payable under Section 3.3 hereof for the remainder of the term of this Loan Agreement, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other

action of the Issuer, the Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration;

(b) Reserved;

(c) The Issuer or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the debt service payments then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the University under this Loan Agreement;

(d) The Trustee may take any action permitted under the Indenture with respect to an Event of Default thereunder; and

(e) The Issuer, without the consent of the Trustee or any Bondholder, may proceed to enforce its Reserved Rights by bringing an action for damages, injunction or specific performance.

In the event that the University fails to make any debt service or other payment required in Section 3.3 and Section 3.4 hereof, the amount so in default shall continue as an obligation of the University until the amount in default shall have been fully paid.

No action taken pursuant to this Section 7.2 shall, except as expressly provided herein, relieve the University from its obligations hereunder, all of which shall survive any such action.

Section 7.3. Reserved.

Section 7.4. Remedies Cumulative. The rights and remedies of the Issuer or the Trustee under this Loan Agreement shall be cumulative and shall not exclude any other rights and remedies of the Issuer or the Trustee allowed by law with respect to any default under this Loan Agreement. Failure by the Issuer or the Trustee to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the University hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the University with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the University be continued or repeated, or of the right to recover possession of the Facility by reason thereof.

Section 7.5. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Issuer and/or the Trustee and the University or any delay or omission on the part of the Issuer and/or the Trustee in exercising any rights hereunder or under the Indenture or under any other Financing Document shall operate as a waiver. To the extent permitted by applicable law, the University hereby waives the benefit and advantage of, and covenants not to assert against the

Issuer or the Trustee, any valuation, inquisition, stay, appraisal, extension or redemption laws now existing or which may hereafter exist which, but for this provision, might be applicable to any sale or reletting made under the judgment, order or decree of any court or under the powers of sale and reletting conferred by this Loan Agreement or otherwise.

Section 7.6. Effect on Discontinuance of Proceedings. In case any proceeding taken by the Trustee under the Indenture or this Loan Agreement or under any other Financing Document on account of any Event of Default hereunder or under the Indenture shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then, and in every such case, the Issuer, the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Trustee shall continue as in effect prior to the commencement of such proceedings.

Section 7.7. Agreement to Pay Attorneys' Fees and Expenses. In the event the University should default under any of the provisions of this Loan Agreement, and the Issuer, the Trustee or any Bondholder should employ attorneys or incur other expenses for the collection of debt service payments or other amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the University herein contained or contained in any other Financing Document, the University agrees that it will, on demand therefor, pay to the Issuer, the Trustee or such Bondholder the reasonable fees and out-of-pocket disbursements of such attorneys and such other out-of-pocket expenses so incurred.

## ARTICLE VIII OPTIONS

Section 8.1. Options. (a) The University has the option to make advance debt service payments for deposit in the Bond Fund to effect the retirement of the Bonds in whole or the redemption in whole or in part of the Bonds or purchase in lieu of redemption of the Bonds, all in accordance with the terms of the Indenture; *provided, however*, that, no partial redemption of the Bonds may be effected through advance debt service payments hereunder if there shall exist and be continuing an Event of Default. The University shall exercise its option to make such advance debt service payments by delivering a written notice of an Authorized Representative of the University to the Trustee in accordance with the Indenture, with a copy to the Issuer, setting forth (i) the amount of the advance debt service payment, (ii) the principal amount of Bonds Outstanding requested to be redeemed or purchased with such advance debt service payment (which principal amount shall be in such minimum amount or integral multiple of such amount as shall be permitted in the Indenture), and (iii) the date on which such principal amount of Bonds are to be redeemed. Such advance debt service payment shall be paid to the Trustee in legal tender on or before the redemption date and shall be an amount which, when added to the amount on deposit in the Bond Fund and available therefor, will be sufficient to pay the Redemption Price of the Bonds to be redeemed, together with interest to accrue to the date of redemption and all expenses of the Issuer, the Bond Registrar, the Trustee and the Paying Agent in connection with such redemption. In the event the Bonds are to be redeemed in whole or otherwise retired, the University shall further pay on or before such redemption date, in legal tender, to the Issuer, the Trustee, the Bond Registrar and the Paying Agent, as the case may be, all fees and expenses owed such party or any other party entitled thereto under this Loan



Agreement or the Indenture together with (i) all other amounts due and payable under this Loan Agreement and the other Financing Documents, and (ii) any amounts required to be rebated to the federal government pursuant to the Indenture or the Tax Compliance Agreement.

(b) The University shall have the option to terminate this Loan Agreement on any date during the term hereof by causing the redemption, purchase or defeasance in whole of all Outstanding Bonds in accordance with the terms set forth in the Indenture.

(c) As a condition precedent to the termination of this Loan Agreement, pursuant to Section 8.1(b) hereof, the University shall pay to the Trustee, in consideration thereof, in legal tender, advance debt service payments, for deposit in the Bond Fund (if payment in full of the principal or the Redemption Price of, and interest on, all the Outstanding Bonds, and the interest thereon at maturity or upon earlier redemption has not yet been made) equal to the sum of the following:

(1) an amount which, when added to the amount on deposit in the Bond Fund and available therefor, will be sufficient to redeem, purchase or defease the Outstanding Bonds in accordance with the provisions of the Indenture including, without limitation, the principal of or the Redemption Price (as the case may be) of, together with interest to maturity or redemption date (as the case may be) on, the Outstanding Bonds; and

(2) expenses of redemption, the fees and expenses of the Issuer and the Trustee and all other amounts due and payable under this Loan Agreement or the Indenture on or before such date.

(d) The University shall not, at any time, assign or transfer its option to terminate this Loan Agreement as contained in this Section 8.1 separate and apart from a permitted assignment of this Loan Agreement pursuant to Section 9.3 hereof without the prior written consent of the Issuer and the Trustee.

Section 8.2. Termination on Exercise of Option to Terminate. Upon termination of this Loan Agreement in accordance with Section 8.1 hereof, the Issuer will, upon payment of the consideration payable in accordance with Section 8.1(c) hereof deliver or cause to be delivered to the University a termination of this Loan Agreement. Concurrently with the delivery of such termination, there shall be delivered by the Issuer to the Trustee any instructions or other instruments required by Section 7.02 of the Indenture to defease and pay the Bonds.

Section 8.3. Option to Purchase or Invite Tenders of Bonds. The University shall have the option, at any time during the term of this Loan Agreement, to purchase Bonds for its own account, whether by direct negotiation, through a broker or dealer, or by making a tender offer to the Holders thereof. The Bonds so purchased by the University shall be, at the option of the University, either (i) delivered to the Trustee for cancellation within fifteen (15) days of the date of purchase or (ii) remarketed by an Underwriter (as remarketing agent), pursuant to a remarketing agreement acceptable to the respective Underwriter, the University, and the Issuer and subject to the delivery of an opinion of Bond Counsel to the effect that the remarketing of the Series 2023A Bonds will not adversely impact the tax exempt status for federal income tax

purposes of interest payable on the Series 2023A Bonds and such other items as required by the respective Underwriter or Bond Counsel. The Issuer shall at all times make available or cause to be made available to the University its registration books (maintained at the principal corporate trust office of the Trustee) containing the names and addresses of the Bondholders if known.

Section 8.4. Termination of Loan Agreement. After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with Section 7.01 of the Indenture and the payment of the fees and expenses of the Issuer, the Paying Agent, the Bond Registrar and the Trustee and all other amounts due and payable under this Loan Agreement or the Indenture, together with any amounts required to be rebated to the federal government pursuant to the Indenture or the Tax Compliance Agreement, this Loan Agreement shall terminate, subject, however, to the survival of the obligations of the University under Sections 6.2 or 6.3 hereof.

## ARTICLE IX MISCELLANEOUS

Section 9.1. Indenture; Amendment. The University shall have and may exercise all the rights, powers and authority stated to be in the University in the Indenture and in the Bonds, and the Indenture and the Bonds shall not be modified, altered or amended in any manner which adversely affects such rights, powers and authority so stated to be in the University or otherwise adversely affects the University without the written consent of the University.

Section 9.2. Force Majeure. In case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Loan Agreement, then except as otherwise expressly provided in this Loan Agreement, if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the University to make the debt service payments or other payments required under the terms hereof, or to comply with Section 4.5 or 6.2 hereof), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term “force majeure”, as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, acts of terrorism, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of existing or impending strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty and that the above requirements that any force majeure shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be fulfilled even though such existing or impending strikes, lockouts and other industrial disturbances may not be settled but could have been settled by acceding to the demands of the opposing person or persons.

Section 9.3. Assignment. The University may not at any time, except as otherwise permitted pursuant to Section 6.1 hereof, assign or transfer this Loan Agreement, without the prior written consent of the Issuer and the Trustee (which consents shall not be unreasonably withheld); *provided, further*, that, (1) the University shall nevertheless remain liable to the Issuer for the payment of all debt service payments and for the full performance of all of the terms, covenants and conditions of this Loan Agreement and of any other Financing Document to which it shall be a party, (2) any assignee or transferee of the University in whole of the Facility shall have assumed in writing and have agreed to keep and perform all of the terms of this Loan Agreement on the part of the University to be kept and performed, shall be jointly and severally liable with the University for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State, (3) in the Opinion of Counsel addressed to the Issuer and Trustee, such assignment or transfer shall not legally impair in any respect the obligations of the University for the payment of all debt service payments nor for the full performance of all of the terms, covenants and conditions of this Loan Agreement, of the Promissory Note, or of any other Financing Document to which the University shall be a party, nor impair or limit in any respect the obligations of any obligor under any other Financing Document, (4) any assignee or transferee shall be a Tax-Exempt Organization or, if not a Tax-Exempt Organization, upon receipt of an opinion of Bond Counsel addressed to the Issuer and the Trustee as to the non-includability in gross income of interest on the Series 2023A Bonds for purposes of federal income taxation, and shall utilize the Facility in compliance with the Act, (5) such assignment or transfer shall not violate any provision of this Loan Agreement, the Promissory Note, the Indenture or any other Financing Document, (6) such assignment or transfer shall in no way diminish or impair the University's obligation to carry the insurance required under Section 4.4 of this Loan Agreement and the University shall furnish written evidence satisfactory to the Issuer and the Trustee that such insurance coverage shall in no manner be limited by reason of such assignment or transfer, (7) each such assignment or transfer contains such other provisions as the Issuer or the Trustee may reasonably require, and (8) in the opinion of Bond Counsel, such assignment or transfer shall not cause the interest on the Series 2023A Bonds to be includable on gross income for federal income taxes. The University shall furnish or cause to be furnished to the Issuer and the Trustee a copy of any such assignment or transfer in substantially final form at least thirty (30) days prior to the date of execution thereof.

Any consent by the Issuer or the Trustee to any act of assignment or transfer shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the University, or the successors or assigns of the University, to obtain from the Issuer and the Trustee consent to any other or subsequent assignment or transfer, or as modifying or limiting the rights of the Issuer or the Trustee under the foregoing covenant by the University.

Section 9.4. Priority of Indenture. Pursuant to the Indenture, the Issuer will pledge and assign the debt service payments and certain other moneys receivable under this Loan Agreement and the Promissory Note to the Trustee as security for payment of the principal, purchase price or Redemption Price of, if any, and interest on the Bonds, and this Loan Agreement and the Promissory Note shall be subject and subordinate to the Indenture, and such security interests, pledges and assignments thereunder.

Section 9.5. Benefit of and Enforcement by Bondholders. The Issuer and the University agree that this Loan Agreement is executed in part to induce the purchase by others of the Bonds and for the further securing of the Bonds, and accordingly all covenants and agreements on the part of the Issuer and the University as set forth in this Loan Agreement are hereby declared to be for the benefit of the Holders from time to time of the Bonds and may be enforced as provided in Article VIII of the Indenture on behalf of the Bondholders by the Trustee (as permitted under the Indenture).

Section 9.6. Amendments. This Loan Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture; *provided, however*, that, any amendment of Section 4.3 hereof shall not require the consent of the Trustee.

Section 9.7. Notices. All notices, certificates or other communications hereunder shall be sufficient if sent by registered or certified United States mail, postage prepaid, addressed, if to the Issuer, to the Monroe County Industrial Development Corporation, 50 West Main Street, Rochester, New York 14614, Attention: Executive Director; if to the University, to University of Rochester, Wallis Hall, Room 208, Box 270023, Rochester, New York 14627, Attention: Exec. VP for Administration & Finance & CFO; if to the Trustee, to Manufacturers and Traders Trust Company, 285 Delaware, 3<sup>rd</sup> Floor, Buffalo, New York 14202, Attention: Corporate Trust Department. The Issuer, the University and the Trustee may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given as of the date it shall have been mailed.

Section 9.8. Prior Agreements Superseded. This Loan Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral (other than any Financing Documents), between the Issuer and the University relating to the Project.

Section 9.9. Severability. If any clause, provision or section of this Loan Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.10. Inspection of Facility. The University will permit the Trustee, or its duly authorized agents, at all reasonable times during normal business hours upon written notice to enter upon the Facility and to examine and inspect the Facility and exercise their rights hereunder, under the Indenture and under the other Financing Documents with respect to the Facility.

Section 9.11. Effective Date; Counterparts. This Loan Agreement shall become effective upon its delivery. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

Section 9.12. Binding Effect. This Loan Agreement shall inure to the benefit of, and shall be binding upon, the Issuer, the University and their respective successors and assigns.

Section 9.13. Net Agreement. It is the intention of the parties hereto that this Loan Agreement and the Promissory Note be “net” to the University and that all of the debt service payments payable hereunder be available for debt service on the Bonds, and this Loan Agreement and the Promissory Note shall be construed to effect such intent.

Section 9.14. Laws Governing. This Loan Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 9.15. Investment of Funds. Any moneys held as part of the Rebate Fund, the Project Fund, the Bond Fund or the Renewal Fund or in any special fund provided for in this Loan Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the University, be invested and reinvested by the Trustee, as provided in the Indenture (but subject to the provisions of the Tax Compliance Agreement). Neither the Issuer nor the Trustee nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged.

Section 9.16. Investment Tax Credit. It is the intention of the parties hereto that any investment tax credit or comparable credit which may ever be available relating to the Facility shall accrue to the benefit of the University and the University shall, and the Issuer upon advice of counsel may, make any election and take other action in accordance with the Code or the laws of the State as may be necessary to entitle the University to have such benefit.

Section 9.17. Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Loan Agreement or the Facility or any matters whatsoever arising out of or in any way connected with this Loan Agreement.

The provision of this Loan Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Loan Agreement.

Section 9.18. Non-Discrimination. (a) At all times during the construction, maintenance and operation of the Facility, the University shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The University shall use its best efforts to ensure that employees and applicants for employment with the University or any subtenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term “treated” shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The University shall, in all solicitations or advertisements for employees placed by or on behalf of the University, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

Section 9.19. No Recourse under this Loan Agreement or on Bonds. All covenants, stipulations, promises, agreements and obligations of the Issuer or University, as applicable, contained in this Loan Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer or University, as applicable, and not of any member, director, officer, employee or agent (in the case of the Issuer, except the University) of the Issuer or University, as applicable, in his/her individual capacity, and no recourse shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent (in the case of the Issuer, except the University) of the Issuer or University, as applicable, or any natural person executing the Bonds.

Section 9.20. Date of Loan Agreement for Reference Purposes Only. The date of this Loan Agreement shall be for reference purposes only and shall not be construed to imply that this Loan Agreement was executed on the date first above written. This Loan Agreement was executed and delivered on the date of original issuance and delivery of the Series 2023 Bonds.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO LOAN AGREEMENT]

IN WITNESS WHEREOF, the Issuer has caused its corporate name to be hereunto subscribed by its duly authorized President, Vice President or Executive Director and the University has caused its name to be subscribed hereto by its Authorized Representative, all being done as of the day and year first above written.

**MONROE COUNTY INDUSTRIAL  
DEVELOPMENT CORPORATION**

By: \_\_\_\_\_  
Ana J. Liss, Executive Director

**UNIVERSITY OF ROCHESTER**

By: \_\_\_\_\_  
Elizabeth Milavec, Executive Vice President  
for Administration and Finance and  
Chief Financial Officer

STATE OF NEW YORK    )  
COUNTY OF MONROE    )

On the \_\_\_ day of December in the year 2023 before me, the undersigned, personally appeared **ANA J. LISS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
COUNTY OF MONROE    )

On the \_\_\_ day of December in the year 2023 before me, the undersigned, personally appeared **ELIZABETH MILAVEC**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**SCHEDULE A**

**PROJECT COMPLETION CERTIFICATE OF THE UNIVERSITY  
AS REQUIRED BY SECTION 2.2 OF THE LOAN AGREEMENT**

THE UNDERSIGNED HEREBY CERTIFIES that he/she is an Authorized Representative (as defined in the Loan Agreement referred to below) of the University of Rochester, a New York not-for-profit education corporation (the “**University**”), and this certificate is being delivered in accordance with the provisions of Section 2.2 of that certain Loan Agreement, dated as of December 1, 2023 (the “**Loan Agreement**”), between the Monroe County Industrial Development Corporation (the “**Issuer**”) and the University, and FURTHER CERTIFIES THAT (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Loan Agreement):

The [Series 2023A/Series 2023B] Project was completed on \_\_\_\_\_.

The [Series 2023A/Series 2023B] Project has been completed substantially in accordance with the plans and specifications therefor and all labor, services, materials and supplies used therefor have been paid for (except for any costs not exceeding \$100,000 in the aggregate (i) not now due and payable or (ii) the liability for payment of which is being contested or disputed in good faith by the University).

All other facilities necessary in connection with the [Series 2023A/Series 2023B] Project have been completed, and all costs and expenses incurred in connection therewith have been paid (except for any costs not exceeding \$100,000 in the aggregate (i) not now due and payable or (ii) the liability for payment of which is being contested or disputed in good faith by the University).

In accordance with all applicable laws, regulations, ordinances and guidelines, the [Series 2023A/Series 2023B] Facility has been made ready for occupancy, use and operation for its intended purposes.

[With respect to the Series 2023A Bonds, the Rebate Amount as calculated in accordance with the Tax Compliance Agreement is \$ \_\_\_\_\_[, and accompanying this certificate is the amount of \$ \_\_\_\_\_ which the Trustee is directed to deposit in the Rebate Fund].]

Attached hereto as Exhibit A is a temporary or permanent certificate of occupancy, if required by applicable law, and any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the [Series 2023A/Series 2023B] Facility for the purposes contemplated by the Loan Agreement for any portion of the [Series 2023A/Series 2023B] Project that prior to the date of issuance of the Bonds did not have a certificate of occupancy.

Attached hereto as Exhibit B is evidence of the issuance of all necessary, unconditional and final permits with respect to the [Series 2023A/Series 2023B] Project, if any, from all appropriate governmental agencies, and evidence that the [Series 2023A/Series 2023B] Project is in compliance with all applicable building, zoning and other governmental codes and regulations, and that all requisite licenses, permits and approvals that may be required so as to permit the use



and operation of the [Series 2023A/Series 2023B] Facility by the University and any uses necessary or incidental thereto for any portion of the [Series 2023A/Series 2023B] Project that prior to the date of issuance of the Bonds did not have such permit.

This certificate (x) is given without prejudice to any rights of the University against third parties which may exist on the date hereof or which may subsequently come into being, and (y) is given only for the purposes of Section 2.2 of the Loan Agreement. No Person other than the Issuer and the Trustee may benefit from this certificate.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

UNIVERSITY OF ROCHESTER

By: \_\_\_\_\_

Name:

Title:

## SCHEDULE B

### FORM OF PROMISSORY NOTE

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS PROMISSORY NOTE, THIS PROMISSORY NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH OF WHICH ARE REFERRED TO HEREIN.

[\$296,880,000][100,745,000]

December 19, 2023

### SERIES 2023[A][B] PROMISSORY NOTE

FOR VALUE RECEIVED, the UNIVERSITY OF ROCHESTER, a not-for-profit education corporation organized and existing under the laws of the State of New York (the “**Borrower**”), by this promissory note hereby promises to pay to the order of MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION (the “**Issuer**”), the principal sum of [TWO HUNDRED NINETY-SIX MILLION EIGHT HUNDRED EIGHTY THOUSAND AND 00/100 DOLLARS (\$296,880,000)][ONE HUNDRED MILLION SEVEN HUNDRED FORTY-FIVE THOUSAND AND 00/100 DOLLARS (\$100,745,000)], together with interest on the unpaid principal amount hereof, from the date of the issuance and delivery of the Series 2023[A][B] Bonds (as such term is hereinafter defined) until paid in full, at a rate per annum equal to the respective rates of interest borne from time to time by the Series 2023[A][B] Bonds, together with all Redemption Price payments as and when due. All capitalized terms used but not defined in this Series 2023[A][B] Promissory Note shall have the respective meanings assigned such terms by the Indenture (as hereinafter defined). All such payments shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America and shall be paid at the designated corporate trust office of the Trustee or its successor under the Indenture.

The principal amount, interest and Redemption Price payments shall be payable on the dates and in the amounts that principal of, interest and Redemption Price payments on the Series 2023[A][B] Bonds are payable under the Loan Agreement, dated as of December 1, 2023 (as the same may be amended or supplemented, the “**Loan Agreement**”), between the Borrower and the Issuer, subject to prepayments and credits to the extent provided in the Indenture and the Loan Agreement, the terms, conditions and provisions of which are hereby incorporated by reference.

This promissory note is the “Series 2023[A][B] Promissory Note” referred to in the Indenture.

This Series 2023[A][B] Promissory Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture of Trust, dated as of December 1, 2023 (as the same may be amended or supplemented, the “**Indenture**”), by and between the Issuer and the Trustee, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of the Issuer’s

[\$296,880,000][\$100,745,000] in aggregate principal amount of [Tax-Exempt][Taxable] Revenue Bonds (University of Rochester Project), Series 2023[A][B] (the “**Series 2023[A][B] Bonds**”), issued by the Issuer pursuant to the Indenture. All the terms, conditions and provisions of the Indenture, the Loan Agreement and the Series 2023[A][B] Bonds are hereby incorporated as a part of this Series 2023[A][B] Promissory Note.

The Borrower may at its option, and may under certain circumstances be required to, prepay together with accrued interest, all or any part of the amounts due under this Series 2023[A][B] Promissory Note, as provided in the Loan Agreement and the Indenture.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay costs of collection and attorneys’ fees in case of default on this Series 2023[A][B] Promissory Note.

(Remainder of Page Intentionally Left Blank –Signature Page Follows)

This Series 2023[A][B] Promissory Note shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflicts of law principles thereof.

**UNIVERSITY OF ROCHESTER**

By: \_\_\_\_\_  
Elizabeth Milavec, Executive Vice President  
for Administration and Finance and  
Chief Financial Officer

**ENDORSEMENT**

Pay to the order of MANUFACTURERS AND TRADERS TRUST COMPANY, without recourse, as Trustee under the Indenture referred to in the within mentioned Loan Agreement, as security for the Series 2023[A][B] Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Series 2023[A][B] Promissory Note.

**MONROE COUNTY INDUSTRIAL  
DEVELOPMENT CORPORATION**

By: \_\_\_\_\_

Name: Ana J. Liss

Title: Executive Director

Dated: December 19, 2023

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**Form of Approving Opinion of Bond Counsel**

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Nixon Peabody LLP  
1300 Clinton Square  
Rochester, NY 14604  
585-263-1000

Attorneys at Law  
nixonpeabody.com  
@NixonPeabodyLLP

December 19, 2023

Monroe County Industrial Development Corporation  
Rochester, New York

Re: \$296,880,000  
Monroe County Industrial Development Corporation  
Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A

\$100,745,000  
Monroe County Industrial Development Corporation  
Taxable Revenue Bonds (University of Rochester Project), Series 2023B

Ladies and Gentlemen:

We have acted as bond counsel to the Monroe County Industrial Development Corporation (Rochester, New York) (the “**Issuer**”), in connection with the issuance on the date hereof by the Issuer of its Tax-Exempt Revenue Bonds (University of Rochester Project), Series 2023A in the aggregate principal amount of \$296,880,000 (the “**Series 2023A Bonds**”) and its Taxable Revenue Bonds (University of Rochester Project), Series 2023B in the aggregate principal amount of \$100,745,000 (the “**Series 2023B Bonds**”; and, together with the Series 2023A Bonds, the “**Bonds**”). The Bonds are authorized to be issued pursuant to:

- (i) Section 1411 of the New York Not-for-Profit Corporation Law (the “**Act**”),
- (ii) the Bond Resolution duly adopted by the Issuer on October 11, 2023 (the “**Resolution**”), and
- (iii) the Indenture of Trust, dated as of December 1, 2023 (the “**Indenture**”), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee for the benefit of the Owners of the Bonds (the “**Trustee**”).

The Bonds are being issued to (i) finance or refinance the costs of the acquisition, construction, renovation and equipping of a certain Facility (as defined in the Indenture referenced below), (ii) fund capitalized interest and a debt service reserve fund, if required; and (2) pay for certain costs and expenses associated with the issuance of the Bonds (collectively, the “**Project**”).

The Issuer will loan the proceeds of the Bonds to University of Rochester (the “**University**”), a not-for-profit education corporation chartered and existing under the laws of the State of New York and a Section 501(c)(3) organization exempt from federal income taxation pursuant to Section 501(a) of the Internal Revenue Code of 1986, as amended (the

“**Code**”), pursuant to the terms of a Loan Agreement, dated as of December 1, 2023 (the “**Loan Agreement**”), between the Issuer and the University.

The Issuer and the University have entered into a Tax Regulatory Agreement, dated the date hereof (the “**Tax Regulatory Agreement**”), in which the Issuer and the University have made certain representations and covenants, established certain conditions and limitations and created certain expectations, relating to compliance with the requirements imposed by the Code. Barclays Capital Inc. (the “**Representative**”), acting on behalf of itself and Morgan Stanley & Co. LLC, BofA Securities, Inc. and Siebert Williams Shank & Co. (collectively with the Representative, the “**Underwriters**”), has agreed to purchase the Bonds pursuant to the terms of a Bond Purchase Contract, dated December 5, 2023 (the “**Bond Purchase Contract**”), among the Issuer, the Representative and the University.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in Section 1.01 of the Indenture.

The Bonds are dated the date hereof, and bear interest from the date thereof pursuant to the terms of the Bonds. The Bonds are subject to prepayment or redemption prior to maturity, as a whole or in part, at such time or times, under such circumstances and in such manner as is set forth in the Bonds and the Indenture.

As bond counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents (including all documents constituting the Record of Proceedings with respect to the issuance of the Bonds) as we have deemed necessary or appropriate for the purposes of the opinions rendered below. In such examination, we have assumed the genuineness of all signatures, the authenticity and due execution of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to any facts material to our opinion, without having conducted any independent investigation, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents.

In rendering the opinions set forth below, we have relied upon, among other things, certain representations and covenants made by the parties in this transaction including: (i) the University in (a) the Bond Purchase Contract; (b) the Tax Regulatory Agreement; (c) the Loan Agreement; (d) the General Certificate of the University, dated of even date herewith; (e) the Continuing Disclosure Agreement, dated December 19, 2023 (the “**Continuing Disclosure Agreement**”), between the University and Digital Assurance Certification, L.L.C., as dissemination agent; and (f) the Bond Counsel Due Diligence Questionnaire submitted to us by the University, as amended and supplemented; and (ii) the Issuer in (a) the Indenture; (b) the Tax Regulatory Agreement; (c) the Loan Agreement; (d) the Certificate of Determination, dated the date hereof; and (e) the General Certificate of the Issuer, dated the date hereof.

We call your attention to the fact that there are certain requirements with which the Issuer and the University must comply after the date of issuance of the Bonds in order for the interest on the Series 2023A Bonds to remain excluded from gross income for Federal income tax purposes. Copies of the aforementioned documents are included in the Record of Proceedings or on file with Bond Counsel.

In addition, in rendering the opinions set forth below, we have relied upon the opinions of counsel to the University, Bond, Schoeneck & King PLLC, Syracuse, New York, and counsel to the Trustee, Hodgson Russ LLP, Buffalo, New York, all of even date herewith. Copies of the aforementioned opinions are contained in the Record of Proceedings.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Issuer is a duly organized and existing corporate entity constituting a local development corporation of the State of New York.
2. The Issuer is duly authorized to issue, execute, sell and deliver the Bonds, for the purpose of paying the costs described above.
3. The Resolution has been duly adopted by the Issuer and is in full force and effect.
4. The Indenture, the Tax Regulatory Agreement, the Loan Agreement and the Bond Purchase Contract (collectively, the “**Issuer Documents**”) have been duly authorized, executed and delivered by the Issuer.
5. Assuming the due authorization, execution and delivery of the Issuer Documents by the other parties thereto, the Issuer Documents are legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms.
6. The Bonds have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding special obligations of the Issuer payable solely from the revenues derived from the Loan Agreement, enforceable against the Issuer in accordance with their respective terms.
7. The Bonds do not constitute a debt of the State of New York or Monroe County, New York and neither the State of New York nor Monroe County, New York will be liable thereon.
8. The Code sets forth certain requirements which must be met subsequent to the issuance and delivery of the Series 2023A Bonds for interest thereon to be and remain excluded from gross income for Federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2023A Bonds to be included in gross

income for Federal income tax purposes retroactive to the date of issuance of the Series 2023A Bonds. Pursuant to the Indenture, the Loan Agreement and the Tax Regulatory Agreement, the Issuer and the University have covenanted to maintain the exclusion from gross income of the interest on the Series 2023A Bonds pursuant to Section 103 of the Code. In addition, the Issuer and the University have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Regulatory Agreement. We are also relying on the opinion of counsel to the University as to all matters concerning the status of the University as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code, and that the intended use of the facilities financed or refinanced with proceeds of Series 2023A Bonds will be in furtherance of the University's exempt purposes under Section 501(c)(3) of the Code. We have not independently verified the accuracy of those certifications and representations or those opinions.

Under existing law, assuming compliance with the tax covenants described herein and the accuracy of the aforementioned representations and certifications, interest on the Series 2023A Bonds is excluded from gross income for Federal income tax purposes under Section 103 of the Code. We are also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code. For taxable years beginning after December 31, 2022, interest on the Series 2023A Bonds will be taken into account in computing the alternative minimum tax imposed on certain corporations under the Code to the extent that such interest is included in the "adjusted financial statement income" of such corporations.

9. Under existing law, interest on the Series 2023A Bonds are exempt from personal income taxes imposed by the State of New York or any political subdivision of the State of New York, assuming compliance with the tax covenants and the accuracy of the representations and certifications described in paragraph 8 herein.

10. Interest on the Series 2023B Bonds is not excluded from gross income for Federal income tax purposes under Section 103 of the Code.

11. Interest on the Series 2023B Bonds is not exempt from personal income taxes imposed by the State of New York or any political subdivision thereof.

Except as stated in paragraphs 8, 9, 10 and 11, we express no opinion as to any other Federal, state or local tax consequences of the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. Furthermore, we express no opinion as to any Federal, state or local tax law consequences with respect to the Bonds, or the interest thereon, if any action is taken with respect to the Bonds or the proceeds thereof upon the advice or approval of other counsel.

The foregoing opinions are qualified to the extent that the enforceability of the Bonds, the Indenture, the Loan Agreement, the Tax Regulatory Agreement and the Bond Purchase Contract may be limited by bankruptcy, insolvency or other laws or enactments

now or hereafter enacted by the State of New York or the United States affecting the enforcement of creditors' rights and by restrictions on the availability of equitable remedies and to the extent, if any, that enforceability of the indemnification provisions of such documents may be limited under law. We express no opinion with respect to the availability of any specific remedy provided for in any of the Bond Documents.

In rendering the foregoing opinions, we are not passing upon and do not assume any responsibility for the accuracy, completeness, sufficiency or fairness of any documents, information or financial data supplied by the Issuer, the University or the Trustee in connection with the Bonds, the Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Continuing Disclosure Agreement, the Bond Purchase Contract and the Project, and we make no representation that we have independently verified the accuracy, completeness, sufficiency or fairness of any such documents, information or financial data.

We express no opinion with respect to the registration requirements under the Securities Act of 1933, as amended, the registration or qualification requirements under the Trust Indenture Act of 1939, as amended, the registration, qualification or other requirements of State Securities laws or the availability of exemptions therefrom.

We express no opinion as to the sufficiency of the description of the Project contained in the Loan Agreement or as to the adequacy, perfection or priority of any security interest in any collateral securing the Bonds.

We express no opinion with respect to whether the Issuer or the University (i) have complied with environmental laws, (ii) have obtained any or all necessary governmental approvals, consents or permits in connection with the construction, renovation, equipping, furnishing and operation of the Facility, or (iii) have complied with the New York Labor Law or other applicable laws, rules, regulations, orders and zoning and building codes, all in connection with the construction, renovation, equipping, furnishing and operation of the Facility.

The opinions expressed herein may be relied upon by the addressee and may not be relied upon by any other person without our prior written consent.

Very truly yours,

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UNIVERSITY of  
ROCHESTER



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