

*In the opinion of Harris Beach PLLC, Bond Counsel to the Issuer, based on existing statutes, regulations, court decisions and administrative rulings, and assuming compliance with the tax covenants described herein, interest on the Series 2018 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"). Furthermore, Bond Counsel is of the opinion that interest on the Series 2018 Bonds is not an "item of tax preference" for purposes of the federal alternative minimum tax imposed on individuals and, for tax years beginning prior to January 1, 2018, the federal alternative minimum tax imposed on certain corporations. Interest on the Series 2018 Bonds is, however, included in the computation of "adjusted current earnings" for purposes of calculating the federal alternative minimum tax imposed on certain corporations with respect to tax years beginning prior to January 1, 2018. Bond Counsel is further of the opinion that, based on existing law, for so long as interest on the Series 2018 Bonds is and remains excluded from gross income for federal income tax purposes, such interest is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof. See "TAX MATTERS" herein regarding certain other tax considerations.*

**\$23,120,000**

**DUTCHESS COUNTY LOCAL DEVELOPMENT CORPORATION  
TAX-EXEMPT REVENUE BONDS, SERIES 2018  
(THE CULINARY INSTITUTE OF AMERICA PROJECT)**

**Dated: Date of Delivery****Due: July 1, as shown on the inside cover**

The Dutchess County Local Development Corporation Revenue Bonds, Series 2018 (The Culinary Institute of America Project) (the "Series 2018 Bonds") are being issued pursuant to an Indenture of Trust, dated as of July 1, 2018 (the "Indenture"), by and between the Dutchess County Local Development Corporation (the "Issuer") and The Bank of New York Mellon, as trustee (the "Trustee") and are payable solely out of the revenues or other receipts, funds or moneys of the Issuer pledged therefor or otherwise available to the Trustee for the payment thereof, including those derived under a Loan Agreement, dated as of July 1, 2018 (the "Loan Agreement"), between the Issuer and The Culinary Institute of America (the "Institute").

The Series 2018 Bonds will bear interest at the rates shown on the inside cover to this Official Statement. The Series 2018 Bonds will be subject to optional and mandatory redemption and to acceleration prior to maturity as described herein under "THE SERIES 2018 BONDS - Redemption Prior to Maturity."

The Series 2018 Bonds are being issued to (i) refinance the Refunded Bonds (as hereinafter defined), (ii) pay redemption premiums and swap termination costs associated with the Refunded Bonds, and (iii) finance certain costs of issuance of the Series 2018 Bonds. See "THE PROJECT" herein.

Interest on the Series 2018 Bonds will be payable on each January 1 and July 1, commencing January 1, 2019. The Series 2018 Bonds will be issued as registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as Securities Depository for the Series 2018 Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their ownership interest in the Series 2018 Bonds. Principal and interest will be paid by the Issuer to the Trustee which will remit such principal and interest to DTC, which will in turn remit such principal and interest to its Participants (as defined herein) for subsequent distribution to the Beneficial Owners (as defined herein) of the Series 2018 Bonds. See "THE SERIES 2018 BONDS - Book-Entry Only System" herein.

THE SERIES 2018 BONDS WILL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM PAYMENTS MADE BY THE INSTITUTE UNDER THE LOAN AGREEMENT AND ANY MONEYS AND SECURITIES HELD BY THE TRUSTEE UNDER THE INDENTURE. THE SERIES 2018 BONDS DO NOT CONSTITUTE AND SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR OF THE COUNTY OF DUTCHESS, NEW YORK AND NEITHER THE STATE OF NEW YORK NOR THE COUNTY OF DUTCHESS, NEW YORK SHALL BE LIABLE THEREON.

THE SERIES 2018 BONDS DO NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE STATE OF NEW YORK OR OF THE COUNTY OF DUTCHESS, NEW YORK. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF OR THE INTEREST ON ANY SERIES 2018 BOND AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT OF THE ISSUER.

This cover page contains information for general reference only. It is not intended as a summary of this transaction. Investors are advised to read the entire Official Statement to obtain information essential to making an informed investment decision.

The Series 2018 Bonds are offered when, as and if issued and received by the Underwriter and subject to the receipt of the unqualified legal opinion as to the validity of the Series 2018 Bonds of Harris Beach PLLC, Pittsford, New York, Bond Counsel. Certain legal matters will be passed upon for the Institute by its counsel, Corbally, Gartland & Rappleyea, LLP, Poughkeepsie, New York. Certain legal matters will be passed upon for the Issuer by its counsel, Cappillino & Rothschild LLP, Pawling, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Cozen O'Connor, New York, New York. It is anticipated that the Series 2018 Bonds will be available for delivery in book-entry only form to DTC on or about July 17, 2018.

**J.P. MORGAN**

**\$23,120,000**  
**DUTCHESS COUNTY LOCAL DEVELOPMENT CORPORATION**  
**TAX-EXEMPT REVENUE BONDS, SERIES 2018**  
**(THE CULINARY INSTITUTE OF AMERICA PROJECT)**

**Maturities, Amounts, Interest Rates and Yields**

<b><u>Due July 1</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Yield</u></b>	<b><u>CUSIP<sup>(1)</sup></u></b>
2019	\$ 895,000	5.000%	1.840%	267045JZ6
2020	940,000	5.000	2.050	267045KA9
2021	990,000	5.000	2.240	267045KB7
2022	1,035,000	5.000	2.370	267045KC5
2023	1,095,000	5.000	2.510	267045KD3
2024	1,150,000	5.000	2.660	267045KE1
2025	1,210,000	5.000	2.810	267045KF8
2026	1,270,000	5.000	2.930	267045KG6
2027	1,330,000	5.000	3.020	267045KH4
2028	1,400,000	5.000	3.110	267045KJ0
2029	1,470,000	5.000	3.150*	267045KK7
2030	1,550,000	5.000	3.190*	267045KL5
2031	1,630,000	5.000	3.230*	267045KM3
2032	1,710,000	5.000	3.270*	267045KN1
2033	1,800,000	5.000	3.320*	267045KP6
2034	1,890,000	5.000	3.360*	267045KQ4
2035	855,000	5.000	3.410*	267045KR2
2036	900,000	5.000	3.440*	267045KS0

- (1) The CUSIP (Committee on Uniform Securities Identification Procedures) numbers on this inside cover page of this Official Statement have been assigned by an organization not affiliated with the Issuer, the Institute, the Underwriter 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 and no representation is made as to the correctness of the CUSIP numbers printed above. CUSIP numbers assigned to the Series 2018 Bonds may be changed during the term of the Series 2018 Bonds based on a number of factors including but not limited to the refunding or defeasance of such issues or the use of secondary market financial products. None of the Issuer, the Institute, the Underwriter 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.

\* Priced at the stated yield to the first optional call date of July 1, 2028.

## **IMPORTANT INFORMATION ABOUT THIS OFFICIAL STATEMENT**

No person has been authorized by the Institute to give any information or to make any representations not contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or solicitation of an offer to buy any of the Series 2018 Bonds in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. The information, estimates 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 affairs of the Institute. The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of its responsibilities under the federal securities law as applied to the facts and circumstances of this transaction, but the Underwriter does not guaranty the accuracy or completeness of such information.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2018 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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**OFFICIAL STATEMENT**  
**of the**  
**\$23,120,000**  
**DUTCHESS COUNTY LOCAL DEVELOPMENT CORPORATION**  
**TAX-EXEMPT REVENUE BONDS, SERIES 2018**  
**(THE CULINARY INSTITUTE OF AMERICA PROJECT)**

**INTRODUCTION**

The purpose of this Official Statement, including the inside cover page and the appendices attached hereto, is to provide information in connection with the issuance by the Dutchess County Local Development Corporation (the “Issuer”) of its \$23,120,000 Tax-Exempt Revenue Bonds, Series 2018 (The Culinary Institute of America Project) (the “Series 2018 Bonds”). The following is a brief description of certain information concerning the Series 2018 Bonds, the Issuer and The Culinary Institute of America (the “Institute”). A more complete description of such information and additional information that may affect decisions to invest in the Series 2018 Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain capitalized terms not otherwise defined herein are defined in APPENDIX C — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT.”

**Purpose of the Issue**

The Series 2018 Bonds are being issued for the purpose of providing funds which, together with other available moneys, will be used to (A) refund the outstanding principal amount of the Dormitory Authority of the State of New York’s The Culinary Institute of America Insured Revenue Bonds, Series 2004D issued for the benefit of the Institution in the original principal amount of Nineteen Million and 00/100 Dollars (\$19,000,000) (the “Series 2004D Bonds”), the proceeds of which Series 2004D Bonds were used to finance all or a portion of the cost of acquiring, constructing, renovating, furnishing and/or equipping or otherwise providing for (i) the construction of a multi-level parking structure to provide approximately 150 spaces for guest parking and a rooftop landscaped terrace, (ii) the construction of an approximately 23,000 square foot two-story addition to The J. Willard Marriott Continuing Education Center to house an expansion of the Admissions Office and (iii) the renovation, equipping and repair of, and infrastructure improvements to, various facilities located throughout the Institution’s property located at 1946 Campus Drive, Hyde Park, New York 12583 (the “Campus”) and owned and operated by the Institution (subsections (i), (ii) and (iii) shall be referred to herein as, the “Series 2004D Facility”); (B) refund the outstanding principal amount of the Dormitory Authority of the State of New York’s The Culinary Institute of America Insured Revenue Bonds, Series 2006 issued for the benefit of the Institution in the original principal amount of Fifteen Million One Hundred Twenty-Five Thousand and 00/100 Dollars (\$15,125,000) (the “Series 2006 Bonds” and together with the Series 2004D Bonds, the “Refunded Bonds”), the proceeds of which Series 2006 Bonds were used to finance all or a portion of the cost of acquiring, constructing, renovating, furnishing and/or equipping or otherwise providing for the construction of two 3-story student townhouses, each with approximately 25,000 square feet and approximately 73 beds, and the reconfiguration of roadways, sidewalks, landscaping and lighting on the Campus and owned and operated by the Institution (the “Series 2006 Facility”; and together with the Series 2004D Facility, the “Facility”); (C) pay redemption premiums in connection with the Refunded Bonds and swap termination costs in connection with the Refunded Bonds and associated costs thereof; and (D) pay all or a portion of the costs incidental to the issuance of the Series 2018 Bonds (including issuance costs of the Series 2018 Bonds) (together with, (A), (B) and (C) of this paragraph, collectively the “Project”). See “THE PROJECT,” “THE REFUNDING PLAN,” and “ESTIMATED SOURCES AND USES OF FUNDS.”

**IRS Audit of the Refunded Bonds**

By letters dated June 18, 2018, the Internal Revenue Service (the “IRS”) notified DASNY that the Series 2004D Bonds and the Series 2006 Bonds were each being audited (each an “Audit Letter” and collectively, the “Audit Letters”). The Audit Letters do not specify the reason the Refunded Bonds were chosen for audit, but each Audit Letter states that the IRS routinely examines municipal debt issuances to determine compliance with federal tax requirements and may select a municipal debt issuance for examination “as part of an initiative, project or referral, due to a questionable or unusual item on the return, or as a random selection.” Each Audit Letter was

accompanied by an Information Document Request seeking documents and posing questions pertaining to the Refunded Bonds and the interest rate swap agreements executed in connection therewith. Responses to each Information Document Request are due by July 11, 2018. It is impossible to predict how long each audit will last or what the outcome of the IRS's findings might be.

### **Authorization of the Series 2018 Bonds**

The Series 2018 Bonds are authorized to be issued pursuant to a resolution of the Issuer adopted on June 19, 2018 (the "Resolution"). The Series 2018 Bonds will be issued under an Indenture of Trust dated as of July 1, 2018 (the "Indenture"), by and between the Issuer and The Bank of New York Mellon, as trustee (the "Trustee"). See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS" herein.

### **The Issuer**

The Issuer is a not-for-profit local development corporation created as a public instrumentality of Dutchess County, New York (the "County"), for the purpose of promoting the economic welfare of the inhabitants of the County. The Issuer was formed under the Not-For-Profit Corporation Law of the State of New York (the "State") and is operated under Article 14 of the Not-For-Profit Corporations Law, as amended from time to time (the "Act"). The Issuer has no taxing power. See "THE ISSUER" herein.

### **The Institute**

The Institute is an independent education corporation chartered by the Board of Regents of the University of the State of New York. The Institute's main campus is located in Hyde Park, New York. For more information on the Institute, see "THE INSTITUTE" herein, APPENDIX A — "CERTAIN INFORMATION CONCERNING THE INSTITUTE" and APPENDIX B — "CONSOLIDATED FINANCIAL STATEMENTS OF THE INSTITUTE WITH REPORT OF INDEPENDENT AUDITORS FOR THE YEARS ENDED MAY 31, 2017 AND 2016" herein.

### **The Project**

The Project consists primarily of the refunding of the Refunded Bonds. See "THE PROJECT."

### **The Refunding Plan**

A portion of the proceeds of the Series 2018 Bonds will be used to refund the Refunded Bonds. Such proceeds and other available moneys will be sufficient to pay the redemption price of and interest on the Refunded Bonds. See "THE REFUNDING PLAN."

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

THE SERIES 2018 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE ISSUER. THE ISSUER IS OBLIGATED TO PAY PRINCIPAL OF AND INTEREST ON THE SERIES 2018 BONDS SOLELY FROM THE NET REVENUES AND OTHER FUNDS OF THE ISSUER PLEDGED THEREFOR UNDER THE TERMS OF THE INDENTURE AND AVAILABLE FOR SUCH PAYMENT. THE SERIES 2018 BONDS ARE NOT A DEBT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE COUNTY, AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE COUNTY, SHALL BE LIABLE THEREON. THE SERIES 2018 BONDS SHALL NOT BE PAYABLE FROM ANY OTHER FUNDS OF THE ISSUER. THE ISSUER HAS NO TAXING POWERS.

### **General**

The Series 2018 Bonds will be issued as "book-entry only" obligations to be held by The Depository Trust Company, as depository (the "Depository") for the Series 2018 Bonds. See "THE SERIES 2018 BONDS — Book-Entry Only System" herein.

The Series 2018 Bonds will be equally and ratably secured as to principal and interest by the Indenture. The Indenture constitutes a first lien on the Trust Estate (as defined in the Indenture).

The purchase of the Series 2018 Bonds involves a degree of risk. Prospective purchasers should carefully consider the material under the caption “BONDHOLDERS’ RISKS” herein.

The Series 2018 Bonds will be sold and delivered by the Issuer to J.P. Morgan Securities LLC, as underwriter (the “Underwriter”), pursuant to a bond purchase agreement (the “Bond Purchase Agreement”) by and among the Issuer, the Institute and the Underwriter. See “UNDERWRITING” herein.

The following summaries are not comprehensive or definitive. All references to the Series 2018 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 office of the Underwriter at 383 Madison Avenue, 8th Floor, New York, New York 10179, after delivery of the Series 2018 Bonds to the Underwriter, and at the principal corporate trust office of the Trustee located at 101 Barclay Street, 7 West, New York, New York 10286.

Capitalized terms used in this Official Statement shall have the meanings specified in APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT.” Terms not otherwise defined in this Official Statement have the meanings provided in the specific documents.

## **THE SERIES 2018 BONDS**

### **General**

The Series 2018 Bonds will be dated, bear interest at the rates per annum and mature in the years and in the principal amounts shown on the inside cover page to this Official Statement, subject to redemption prior to maturity as hereinafter described. The Series 2018 Bonds are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple denominations thereof.

Interest on the Series 2018 Bonds will be payable semiannually on January 1 and July 1, commencing January 1, 2019. Subject to the provisions described below under “Book-Entry Only System,” principal of and any redemption premium on the Series 2018 Bonds are payable upon presentation and surrender of such Series 2018 Bonds at the principal corporate trust office of the Trustee and interest on the Series 2018 Bonds will be payable (i) by check or draft mailed to the registered address of the Person entitled thereto or (ii) by wire transfer to any Owner of at least \$500,000 in aggregate principal amount of Series 2018 Bonds, upon written notice provided by the Owner to the Trustee not later than five (5) days prior to the Record Date for such Debt Service Payment Date, on each Debt Service Payment Date.

### **Redemption Prior to Maturity**

The Series 2018 Bonds maturing on or after July 1, 2029, are subject to redemption by the Issuer, at the option of the Institute, on or after July 1, 2028, in whole or in part at any time, at the Redemption Price (as defined in the Indenture) of 100% of the principal amount outstanding, plus accrued interest to the Redemption Date, upon receipt by the Trustee of notice from the Institute on behalf of the Issuer, directing such redemption, as described below under the heading “Notice of Redemption.” The Institute may direct such prepayment only if it shall prepay an amount under the Loan Agreement equal to the amount of the prepayment price described above.

### ***Extraordinary Redemption***

The Series 2018 Bonds are subject to extraordinary optional redemption prior to maturity, as a whole or in part at any time, without premium or penalty, at a Redemption Price equal to 100% of the principal amount of the Series 2018 Bonds to be prepaid plus interest accrued thereon to the Redemption Date, upon the occurrence of any of the following events:

(a) The Facility or any material portion of the Facility shall have been damaged or destroyed to such extent that, in the opinion of an Authorized Representative of the Institute (expressed in a certificate filed with the Issuer and the Trustee within sixty (60) days after such damage or destruction), (1) the Facility or any such portion of any of the Facility cannot be reasonably restored within a period of twelve (12) consecutive months after such damage or destruction to the condition thereof immediately preceding such damage or destruction, or (2) the Institute is thereby prevented or is reasonably expected to be thereby prevented from carrying on its normal operations within the Facility or any such portion of any of the Facility for a period of twelve (12) consecutive months after such damage or destruction, or (3) the cost of restoration of any of the Facility or such portions of any of the Facility would exceed the Net Proceeds of insurance carried thereon; or

(b) Title to, or the use of, all or any material part of any of the Facility shall have been taken by Condemnation (as defined in the Indenture) such that, in the opinion of an Authorized Representative of the Institute (expressed in a certificate filed with the Issuer and the Trustee within sixty (60) days after the date of such taking), the Institute is thereby prevented from carrying on their respective normal operations therein for a period of twelve (12) consecutive months after such taking.

#### ***Mandatory Redemption from Bond Fund***

The Series 2018 Bonds are subject to mandatory redemption, without premium or penalty, in whole or in part, and shall be prepaid or redeemed prior to maturity with moneys deposited into the Bond Fund created under the Indenture as a result of the unused balance in the Refunded Bonds Redemption Account or the Series 2018 Bonds Construction Account of the Project Fund created under the Indenture.

The Series 2018 Bonds are subject to mandatory redemption, pro rata, without premium or penalty in whole or in part and shall be prepaid or redeemed prior to maturity with moneys deposited into the Bond Fund as a result of the unused balance in the Renewal Fund and deposited in the Bond Fund pursuant to the Indenture. See “APPENDIX C — SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST — Use of the Moneys in Project Fund” and “— Payments into Bond Fund” herein.

#### **Notice of Redemption**

The Trustee shall call the Series 2018 Bonds for optional redemption upon receipt of notice from the Issuer or the Institute directing such redemption, which notice shall be sent to the Trustee and the Issuer at least forty-five (45) days prior to the Redemption Date specified in such notice and shall specify (i) the principal amount of Series 2018 Bonds and their maturities so to be called for redemption, (ii) the applicable Redemption Price and (iii) the provision or provisions of the Indenture pursuant to which such Series 2018 Bonds are to be called for redemption. The Trustee shall call the Series 2018 Bonds for redemption as provided in the first paragraph under the heading “- Mandatory Redemption from Bond Fund” above as soon as practical upon notice from the Institute of the abandonment of the Facility or a portion thereof in accordance with the terms thereof without need for further direction from the Issuer or the Institute. The Trustee shall call Series 2018 Bonds for redemption as provided in the second paragraph under the heading “- Mandatory Redemption from Bond Fund” above and for sinking fund redemption on the applicable Sinking Fund Payment Dates without need for direction from the Institute or Issuer.

When the Series 2018 Bonds are to be redeemed pursuant to the Indenture, the Trustee shall give notice of the redemption of the Series 2018 Bonds in the name of the Issuer, by mail at least thirty (30) days and not more than sixty (60) days prior to said redemption to the Owner of each Series 2018 Bond to be redeemed at the address shown on the registration books, stating: (i) the Series 2018 Bonds to be redeemed; (ii) the Redemption Date; (iii) that such Series 2018 Bonds will be redeemed at the Office of the Trustee; (iv) that on the Redemption Date there shall become due and payable upon each Series 2018 Bond to be redeemed the Redemption Price thereof, together with interest accrued to the Redemption Date; and (v) that from and after the Redemption Date interest thereon shall cease to accrue. Any notice of redemption may be conditioned on sufficient funds being on deposit with the Trustee on the Redemption Date to effect such redemption and if sufficient funds are not on deposit, the redemption shall be rescinded and be of no further force and effect. Notwithstanding anything to the contrary contained in the Indenture,



failure by the Trustee to give such notice by mail, or any defect therein, shall not affect the validity of any proceeding for the redemption of the Series 2018 Bonds.

### **Payment of Redeemed Series 2018 Bonds**

After notice shall have been given in the manner provided above, the Series 2018 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 2018 Bonds at the Office of the Trustee, such Series 2018 Bonds shall be paid at the Redemption Price, plus accrued interest to the Redemption Date.

If, on the Redemption Date, moneys for the redemption of all the Series 2018 Bonds or portions thereof to be redeemed, together with interest thereon to the Redemption Date, shall be held by the Trustee so as to be available therefor on such date, the Series 2018 Bonds or portions thereof so called for redemption shall cease to bear interest, and such Series 2018 Bonds or portions thereof shall no longer be Outstanding under the Indenture or be secured by or be entitled to the benefits of the Indenture except with respect to payment of the Redemption Price thereof and accrued interest thereon to the Redemption Date. If such moneys shall not be so available on the Redemption Date, the notice of redemption shall be rescinded and such Series 2018 Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption and shall continue to be secured by and be entitled to the benefits of the Indenture.

In the event of any partial redemption, the particular Series 2018 Bonds or portions thereof to be redeemed shall be selected by the Trustee not more than sixty (60) days prior to the Redemption Date from maturities designated in writing by the Institute, and within each maturity by lot or by such other method as the Trustee shall deem fair and appropriate, provided that for so long as the Series 2018 Bonds shall be Book Entry Bonds, the particular Series 2018 Bond or portions thereof to be redeemed within a maturity may be selected by lot by the Depository in such manner as the Depository may determine. If any maturity of the Series 2018 Bonds which is subject to sinking fund redemption is to be redeemed in part, the Trustee shall apply any partial redemption payments (other than a scheduled mandatory redemption) to the schedule of mandatory Sinking Fund Payments thereon as designated by the Institute. Further, the Trustee may provide for the selection for redemption of portions (equal to \$5,000 or any integral multiple denominations thereof) of Series 2018 Bonds subject to any partial redemption shall not be other than a whole multiple of \$5,000 thereof.

### **Registration, Transfer and Exchange**

So long as any Series of Bonds shall remain Outstanding, the Issuer shall maintain, at the Office of the Trustee, books for the registration and transfer such series of Bonds. The Trustee is appointed Bond Registrar for the Issuer under the Indenture for the purpose of registering and making transfers on such registration books for each Series of Bonds issued thereunder. The Trustee, as Bond Registrar, shall register in such books and permit to be transferred thereon, under such reasonable regulations as the Trustee may prescribe, any Series of Bonds entitled to registration or transfer.

Each Series 2018 Bond shall be transferable only on the books of the Trustee and upon surrender of the Series 2018 Bond, at the Office of the Trustee, together with a written instrument of transfer, satisfactory to the Trustee, duly executed by the registered owner or his attorney duly authorized in writing. Upon the transfer of any registered Series 2018 Bond, the Issuer shall issue in the name of the transferee a new registered Series 2018 Bond of the same aggregate principal amount and maturity and rate of interest as the surrendered Series 2018 Bond.

The Issuer, the Trustee and any Paying Agent may deem and treat the Person in whose name any Series 2018 Bond shall be registered upon the books of the Trustee as the absolute owner thereof, whether such Series 2018 Bond shall be overdue or not for the purpose of receiving payment of the principal of or Redemption Price and, except as otherwise provided in the Indenture, interest on such Series 2018 Bond and for all other purposes. All such payments so made to any such registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Series 2018 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.

In all cases in which the privilege of exchanging or transferring the Series 2018 Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver the Series 2018 Bonds in accordance with the provisions of the Indenture. All Series 2018 Bonds surrendered in any exchanges or transfers shall forthwith be canceled in accordance with the provisions of the Indenture. For every exchange or transfer of the Series 2018 Bonds, whether temporary or definitive, the Issuer or the Trustee may make a charge sufficient to reimburse it for (i) any tax, fee or other governmental charge required to be paid with respect to the delivery of definitive Series 2018 Bonds in exchange for temporary Series 2018 Bonds, (ii) the cost of preparing each new Series 2018 Bond, and (iii) any other expenses of the Issuer or the Trustee incurred in connection therewith.

Neither the Issuer nor the Trustee shall be obligated to exchange or transfer any Series 2018 Bond during the ten (10) days next preceding (i) a Debt Service Payment Date, or (ii) in the case of any proposed redemption of Series 2018 Bonds, the date of the first mailing of notice of such redemption.

### **Acceleration**

Upon the occurrence of an Event of Default under Section 10.1(a)(v) the Loan Agreement or any similar provision in any other loan agreement with respect to any Additional Bond, all Series of Bonds Outstanding shall become immediately due and payable without action or notice of any kind on the part of the Trustee or the Issuer. Upon the occurrence and continuance of an Event of Default, the Trustee shall, by notice in writing delivered to the Issuer and the Institute, declare all Series of Bonds Outstanding immediately due and payable, and such Series of Bonds shall become and be immediately due and payable, anything in the Series of Bonds or in the Indenture to the contrary notwithstanding. In such event, there shall be due and payable on the Series of Bonds an amount equal to the total principal amount of all such Series of Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment. If all of the Series of Bonds Outstanding shall become so immediately due and payable, the Issuer and the Trustee shall as soon as possible declare by written notice to the Institute all unpaid installments payable by the Institute under the Loan Agreement or any similar provision in any other loan agreement with respect to any Additional Bonds to be immediately due and payable.

At any time after the principal of the Series 2018 Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Indenture, the Trustee may annul such declaration and its consequences with respect to any Series 2018 Bonds not then due by their terms if (i) moneys shall have been deposited in the Bond Fund sufficient to pay all matured installments of interest and principal, or the Redemption Price (other than principal then due only because of such declaration) of such Outstanding Series of Bonds; (ii) sufficient moneys shall be available to pay the amounts described in the Indenture; (iii) all other amounts then payable by the Issuer under the Indenture shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

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

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2018 Bonds. The Series 2018 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2018 Bond will be issued for each maturity of the Series 2018 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. 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 Standard & Poor's 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 2018 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2018 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2018 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 2018 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 Series 2018 Bonds, except in the event that use of the book-entry system for the Series 2018 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2018 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 2018 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2018 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2018 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2018 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2018 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 Series 2018 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, principal and interest payments on the Series 2018 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 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, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments 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 2018 Bonds at any time by giving reasonable written notice to the Issuer or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2018 Bond certificates are required to be printed and delivered.

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 2018 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 INSTITUTE, THE UNDERWRITER OR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO THE 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 PURCHASE PRICE OR INTEREST ON THE SERIES 2018 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 BOND OWNERS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2018 BONDS; OR (5) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS BONDOWNER.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2018 BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE BOND OWNERS OR REGISTERED HOLDERS OF THE SERIES 2018 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2018 BONDS.

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## DEBT SERVICE REQUIREMENTS

The following table sets forth the amounts required to be paid by the Institute during each twelve month period ending May 31 of the Institute's fiscal year shown for the payment of the principal of and interest on the Series 2018 Bonds, debt service on all other currently outstanding indebtedness of the Institute and the total debt service on all indebtedness of the Institute, including the Series 2018 Bonds, after giving effect to the refunding of the Refunded Bonds.

<b>Fiscal Year Ending May 31</b>	<b><u>Series 2018 Bonds</u></b>		<b>Total Debt Service on <u>Series 2018 Bonds</u></b>	<b>Total Debt Service on Other <u>Outstanding Bonds*</u></b>	<b><u>Total Debt Service</u></b>
<b>Principal</b>	<b>Interest</b>				
2019	\$ 0	\$ 526,622	\$ 526,622	\$9,129,347	\$10,182,591
2020	895,000	1,133,625	2,028,625	9,229,261	13,286,511
2021	940,000	1,087,750	2,027,750	9,228,589	13,284,089
2022	999,000	1,039,500	2,029,500	9,214,486	13,273,486
2023	1,035,000	988,875	2,023,875	8,360,896	12,408,646
2024	1,095,000	935,625	2,030,625	7,766,519	11,827,769
2025	1,150,000	879,500	2,029,500	7,537,651	11,596,651
2026	1,210,000	820,500	2,030,500	7,550,902	11,611,902
2027	1,270,000	758,500	2,028,500	7,534,553	11,591,553
2028	1,330,000	693,500	2,023,500	7,918,432	11,965,432
2029	1,400,000	625,250	2,025,250	6,979,046	11,029,546
2030	1,470,000	553,500	2,023,500	6,672,291	10,719,291
2031	1,550,000	478,000	2,028,000	6,646,608	10,702,608
2032	1,630,000	398,500	2,028,500	6,651,156	10,708,156
2033	1,710,000	315,000	2,025,000	6,663,599	10,713,599
2034	1,800,000	227,250	2,027,250	6,638,934	10,693,434
2035	1,890,000	135,000	2,025,000	4,780,592	8,830,592
2036	855,000	66,375	921,375	4,769,879	6,612,629
2037	900,000	22,500	922,500	4,638,990	6,483,990
2038				4,636,842	4,636,842
2039				4,640,019	4,640,019
2040				4,291,863	4,291,863
2041				4,287,506	4,287,506
2042				4,269,413	4,269,413
2043				4,271,944	4,271,944
2044				3,357,594	3,357,594
2045				1,259,200	1,259,200
2046				1,252,800	1,252,800
2047				1,254,600	1,254,600

\* Assumes the net swap rate on the hedged Series 2008 Bonds and the current variable rates on the unhedged Series 2008 Bonds in 2018, increasing 35 basis points in 2019 and 2020. Does not include the Series 2004D or Series 2006 Bonds to be refunded by the Series 2018 Bonds.

## SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS

The Series 2018 Bonds will be secured by (i) the Issuer’s rights and remedies under the Loan Agreement (except with respect to the Unassigned Rights), including the right to collect and receive loan payments required to be made thereunder and (ii) all other moneys and securities held from time to time by the Trustee for the Bondholders pursuant to the Indenture and all proceeds of the Series 2018 Bonds prior to the disbursement pursuant to the terms of the Indenture and the Loan Agreement, except moneys held in the Rebate Fund.

### Loan Agreement

#### *General*

Under the Loan Agreement, the Institute will be absolutely and unconditionally obligated to make loan payments to the Trustee, as the assignee of the Issuer, sufficient to provide for the payment of the principal of, and interest and premium, if any, on the Series 2018 Bonds when due, and to provide for deposits to the Bond Fund, if required, at the times and in the amounts required by the Indenture and the Loan Agreement. See APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT.”

#### *Debt Service Coverage Ratio*

Pursuant to the Loan Agreement, the Institute shall maintain at all times a Debt Service Coverage Ratio (as defined below) as of the last day of each Fiscal Year (a “Testing Date”) of at least 1.25:1.00 (the “Debt Service Coverage Covenant”). If (a) on any two consecutive Testing Dates, the Institute does not satisfy the coverage requirement, or (b) on any Testing Date, the coverage falls below 1.00:1.00, the Trustee may require the Institute to retain a Management Consultant to make recommendations that will enable the Institute to comply with the debt service coverage requirement. Compliance with the Debt Service Coverage Ratio covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2019, on the basis of the Institute’s audited financial statements. Failure to maintain the required Debt Service Coverage Ratio, however, shall not be an Event of Default under the Loan Agreement. For purposes of the covenant, “Debt Service Coverage Ratio” means as of the date of calculation the ratio of (i) Operating Revenues Available for Debt Service to (ii) Annual Debt Service.

The following table sets forth the Debt Service Coverage Ratio of the Institute as measured for its five most recent fiscal years ending May 31:

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Operating Revenue	\$145,278,881	\$144,841,274	\$145,296,750	\$153,278,886	\$149,742,342
Operating Expenses Less Depreciation, Amortization and Interest	124,933,728	125,857,116	126,191,767	133,821,274	129,828,359
Net Operating Income	\$ 20,345,153	\$ 18,984,158	\$ 19,104,983	\$ 19,457,612	\$ 19,913,983
Annual Debt Service	\$ 6,607,069	\$ 5,869,582	\$ 7,380,901	\$ 9,251,837	\$ 9,345,903
Debt Service Coverage	3.08x	3.23x	2.59x	2.10x	2.13x

#### *Available Assets to Debt Ratio*

Pursuant to the Loan Agreement, the Institute further covenants that it shall maintain a ratio of Available Assets to Long-Term Indebtedness at least equal to 0.65:1.00 as of each Testing Date. Compliance with the Available Assets to Debt Ratio Covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2019, on the basis of the Institute’s audited financial statements. If on any Testing Date the Institute does not satisfy the Available Assets to Debt Ratio requirement described above, or the percentage decline in the Available Assets to Debt Ratio from the Fiscal Year two years prior to the current Fiscal Year to the current Fiscal Year is fifty percent (50%) or greater, the Trustee may require the Institute to retain a Management Consultant. Failure to maintain the required Available Assets to Debt Ratio, however, shall not be an Event of Default under the Loan Agreement.

### ***Additional Indebtedness***

Pursuant to the Loan Agreement, the Institute may issue additional Long-Term Indebtedness or request the Issuer to issue one or more series of Additional Bonds under the Indenture, provided that (i) all terms and conditions for the incurrence of such additional Indebtedness or Additional Bonds under the Indenture have been satisfied, (ii) the Institute maintains a long-term debt rating not lower than Baa3 or BBB- from at least one rating agency, and (iii) (a) such additional Indebtedness is less than or equal to ten percent (10%) of the Institute's unrestricted and temporarily restricted net assets, or (b) the Institute provides to the Trustee a certificate containing pro forma calculations demonstrating that the Debt Service Coverage Covenant and the Available Assets to Debt Ratio each would have been met in the most recently completed fiscal year taking into account the proposed additional Indebtedness.

### **Pledged Revenues**

As security for the payment of all liabilities and the performance of all obligations of the Institute pursuant to the Loan Agreement, the Institute pledges, grants a security interest in, and assigns to the Issuer the Pledged Revenues and any deposit account of the Institute that may contain Pledged Revenues, together with the Institute's right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues and of such right pursuant to the Loan Agreement. This pledge, grant of security interest in, and assignment of the Pledged Revenues shall be subordinate only to the Prior Pledges.

Prior Pledges are defined under the Indenture to mean the liens, pledges, charges, encumbrances and security interests made and given pursuant to (i) a loan agreement dated as of September 19, 2012 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2012, (ii) a loan agreement dated as of August 21, 2013 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2013, (iii) a loan agreement dated as of November 1, 2008 relating to the California Statewide Communities Development Authority Variable Rate Demand Revenue Bonds (The Culinary Institute of America) Series 2008 (the "Series 2008 Bonds"), as amended by the First Supplemental Loan Agreement, dated as of October 1, 2010 in connection with the conversion of the Series 2008 Bonds to "qualified tax-exempt obligations", (iv) a loan agreement dated as of August 30, 2016 relating to the California Statewide Communities Development Authority Revenue Bonds, Series 2016B (The Culinary Institute of America Project), and (v) a loan agreement dated as of September 1, 2016 relating to the Issuer's Culinary Institute of America Revenue Bonds, Series 2016A.

The Institute represents and warrants that no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any lien, pledge, security interest of assignment, other than Prior Pledges, and that the Pledged Revenues assigned pursuant hereto are legally available to provide security for the Institute's performance under the Loan Agreement. The Institute agrees that it shall not, after the date of delivery of the Series 2018 Bonds, create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge made by the Loan Agreement.

### **The Mortgage**

In connection with the issuance of the Series 2018 Bonds, the Institute shall execute and deliver a Mortgage and Security Agreement, dated as of July 1, 2018 (the "Mortgage") from the Institute to the Issuer on a parcel including a student dormitory, related property rights and the proceeds thereof (the "Mortgaged Property"), including a security interest in certain fixtures, furnishings and equipment. The lien of the Mortgage will secure the payments required to be made by the Institute pursuant to the Loan Agreement. The Issuer will assign all of its right, title and interest in and to the Mortgage to the Trustee pursuant to an Assignment of Mortgage and Security Agreement, dated the Closing Date (the "Assignment").

## **THE ISSUER**

### **Purpose and Powers**

The Issuer is a not-for-profit local development corporation having an office for the transaction of business located at 3 Neptune Road, Poughkeepsie, New York 12601. The Issuer was formed pursuant to the Act for the purpose of undertaking projects and activities within the County for the purposes of relieving and reducing unemployment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the County by attracting new industry to the County or by encouraging the development of, or retention of, an industry in the County and lessening the burdens of government and acting in the public interest.

### **Limited Recourse on Series 2018 Bonds and the Issuer**

THE SERIES 2018 BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE PAYMENTS MADE UNDER THE LOAN AGREEMENT AND FROM THE MONEYS AND SECURITIES HELD BY THE TRUSTEE UNDER THE INDENTURE. NEITHER THE ISSUER NOR ITS MEMBERS OR OFFICERS ARE PERSONALLY LIABLE WITH RESPECT TO THE SERIES 2018 BONDS. ACCORDINGLY, NO FINANCIAL INFORMATION WITH RESPECT TO THE ISSUER OR ITS MEMBERS OR OFFICERS HAS BEEN INCLUDED IN THIS OFFICIAL STATEMENT.

THE SERIES 2018 BONDS SHALL NOT BE A DEBT OF THE STATE OR THE COUNTY, AND NEITHER THE STATE NOR THE COUNTY SHALL BE LIABLE THEREON. THE ISSUER HAS NO TAXING POWER.

Except for the information contained herein under the caption “THE ISSUER” and “LITIGATION” insofar as it relates to the Issuer, the Issuer has not provided any of the information contained in this Official Statement. The Issuer is not responsible for, has not verified, reviewed or approved and does not certify as to the accuracy or sufficiency of the disclosures made herein or any other information provided by the Institute, the Underwriter or any other person.

## **THE INSTITUTE**

The Institute is a New York education corporation and an organization described under Section 501(c)(3) of the Code. The Institute has the sole responsibility for paying the debt service payments to become due on the Series 2018 Bonds. Certain information, including financial information, concerning the Institute is included in Appendices A and B hereto.

## **THE PROJECT**

The Project consists of (a) the refunding of the Refunded Bonds, (b) paying redemption premiums in connection with the Refunded Bonds and the costs of terminating interest rate swaps in connection with the Refunded Bonds, and (c) the payment of all or a portion of the costs incidental to the issuance of the Series 2018 Bonds (including issuance costs of the Series 2018 Bonds).

## **THE REFUNDING PLAN**

A portion of the proceeds of the Series 2018 Bonds will be used to refund the Refunded Bonds. Upon issuance of the Series 2018 Bonds, a portion of such proceeds are expected to be used, together with other available moneys, to redeem the Refunded Bonds and pay the redemption price of the Refunded Bonds and the interest on such Refunded Bonds to the date fixed for redemption. A portion of the Series 2018 Bonds will be used to pay a portion of the swap termination costs associated with the Refunded Bonds (the “Swap Termination Fee”). The Swap Termination Fee will be paid to Wells Fargo Bank, N.A. and Royal Bank of Canada upon issuance and delivery of the Series 2018 Bonds.



**TABLE OF REFUNDED BONDS**

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
THE CULINARY INSTITUTE OF AMERICA  
INSURED REVENUE BONDS**

<b>DASNY Series</b>	<b>Maturity Date</b>	<b>Principal Amount Outstanding*</b>	<b>Principal Amount to be Refunded*</b>	<b>Redemption Date</b>	<b>Redemption Price</b>
2004D	July 1, 2034	\$12,875,000	\$12,875,000	July 17, 2018	100%
2006	July 1, 2036	\$11,175,000	\$11,175,000	July 17, 2018	100%

\*Reflects July 1, 2018 scheduled principal payment.

**SOURCES AND USES OF FUNDS**

Estimated sources and uses of funds are as follows:

**Sources of Funds**

Principal Amount of Series 2018 Bonds .....	\$23,120,000.00
Plus: Net Original Issue Premium .....	3,023,340.95
Institute Equity .....	55,000.00
Other Available Moneys.....	<u>1,966,223.31</u>
 Total Sources.....	 <u>\$28,164,564.26</u>

**Uses of Funds**

Redemption of Refunded Bonds.....	\$24,050,000.00
Swap Termination Fee.....	3,599,582.61
Costs of Issuance <sup>(1)</sup> .....	<u>514,981.65</u>
 Total Uses .....	 <u>\$28,164,564.26</u>

<sup>(1)</sup> Estimated amount to provide for Underwriter's discount, legal fees, Trustee fees, Issuer fees, financial advisors' fees, printing fees and associated bond issuance costs related to the Series 2018 Bonds.

**BONDHOLDERS' RISKS**

The following is a discussion of certain risks that could affect payments to be made with respect to the Series 2018 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 2018 Bonds should analyze carefully the information contained in this Official Statement, including the appendices hereto, and additional information in the form of the complete documents summarized herein, copies of which are available as described in this Official Statement.

**General**

The Series 2018 Bonds are payable from payments to be made by the Institute under the Loan Agreement. The ability of the Institute to comply with its obligations under the Loan Agreement depends primarily upon the ability of the Institute to continue to attract sufficient tuition-paying students to its educational programs, to obtain sufficient revenues from related activities and to maintain sufficient creditworthiness. The Institute expects that revenues derived from its ongoing operations, together with other available resources, will at all times be sufficient

to make the required payments on the Loan Agreement and the Institute will covenant under the Loan Agreement to make all such payments when due. There are certain risks, however, which might prevent the Institute from obtaining sufficient revenues from tuition and other sources to meet all of its obligations, including its obligations under the Loan Agreement. Purchasers of the Series 2018 Bonds should bear in mind that the occurrence of any number of events could adversely affect the ability of the Institute to generate such revenues. Future economic, demographic and other conditions, including the demand for culinary educational services, the ability of the Institute to provide the services required by students, economic developments and competition from other culinary educational institutions, together with changes in costs, may adversely affect revenues and expenses and, consequently, the ability of the Institute to provide for payments. The future financial condition of the Institute could also be adversely affected by, among other things, legislation and regulatory actions, and a number of other conditions which are unpredictable.

### **Financial Assistance**

The amount of available financial assistance is a significant factor in the decision of many students to attend a particular college or university. During the 2017-2018 academic year, approximately 90% of the Institute's enrolled students receive some form of financial assistance through the Institute. The level of financial assistance is directly affected by funding levels of federal, state and other financial aid programs. Any significant reduction in the level of financial assistance offered to prospective students could reduce the number of students enrolling at the Institute.

### **Investment Income**

The Institute's investment program for endowment and similar funds operates under an investment policy statement and guidelines established by the Board, which delegates direct oversight for the investment program to the Investment Committee of the Board. The consolidated endowment pool is managed by external money managers appointed for the purpose by the Investment Committee. Although the unrestricted portion of the Institute's endowment funds and the payout therefrom are available for debt service payments on the Series 2018 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.

### **Fund Raising**

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

### **Government Funding**

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

### **Risks as Employer**

The Institute is a major employer, combining a complex mix of full-time faculty, part-time faculty, technical and clerical support staff and other types of workers in a single operation. As with all large employers, the Institute bears a wide variety of risks in connection with its employees. These risks include discrimination claims, personal tort actions, work-related injuries, exposure to hazardous materials, interpersonal torts (such as between employees or between employees and students) and other risks that may flow from the relationships between

employer and employee or between students and employees. Certain of these risks are not covered by insurance, and certain of them cannot be anticipated or prevented in advance.

### **Changes in Law**

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

### **Tax-Exempt Status Change**

Loss of tax-exempt status by the Institute could result in loss of tax exemption of interest on the Series 2018 Bonds and defaults in covenants regarding the Series 2018 Bonds and other related tax-exempt debt would likely be triggered. However, loss of tax-exempt status by the Institute would not cause a mandatory redemption or acceleration on the Series 2018 Bonds nor would it cause a change in the interest rates on the Series 2018 Bonds. The maintenance by the Institute of its Section 501(c)(3) tax-exempt status depends, in part, upon compliance with general rules in the Code and related United States Treasury regulations regarding the organization and operation of tax-exempt entities, including their operation for charitable and educational purposes and their avoidance of transactions that may cause their assets to inure to the benefit of private individuals.

### **Additional Indebtedness**

The Institute may issue, incur or assume additional indebtedness without limitation, subject to compliance with the conditions contained in the Loan Agreement. See “Security and Sources of Payment for the Series 2018 Bonds - Loan Agreement - Additional Indebtedness” and “APPENDIX C - Glossary and Summary of Certain Documents - Summary of Certain Provisions of the Loan Agreement.” There is no assurance that, despite compliance with the covenants in the Loan Agreement, the ability of the Institute to make necessary payments to repay the Series 2018 Bonds would not be affected by the issuance of additional indebtedness.

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

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

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

from those of the general public, pursuant to the common law and statutory power to enforce charitable trusts and to see to the application of their funds to their intended charitable uses.

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

The Indenture does not provide for a Debt Service Reserve Fund with respect to the Series 2018 Bonds. Consequently, a failure of the Institute to make all scheduled payments under the Loan Agreement for any reason could result in a default in payments to the Bondholders.

### **Interest Rate Swap Risk**

The Institute is party to an interest rate swap agreement to manage interest rate risk. Swap agreements are subject to periodic "mark-to-market" valuations and may, at any time, have a negative value (which could be substantial) to the Institute. Changes in the market value of such agreements could negatively or positively impact the Institute's financial condition, and such impact could be material. Further, such swap agreement may be subject to early termination upon the occurrence of certain specified events. If either the Institute or the swap provider terminates such an agreement when the agreement has a negative value to the Institute, the Institute could be obligated to make a termination payment to the swap provider in the amount of such negative value, and such payment could be substantial and potentially materially adverse to the Institute's financial condition. In the event of an early termination of a swap agreement, there can be no assurance that (i) the Institute would receive any termination payment payable to it by the applicable swap provider, (ii) the Institute would not be obligated to or would have sufficient monies to make a termination payment payable by it to the applicable swap provider, and (iii) the Institute would be able to obtain a replacement swap agreement with comparable terms.

### **Secondary Market for the Series 2018 Bonds**

There can be no assurance that there will be a secondary market for purchase or sale of the Series 2018 Bonds. From time to time there may be no market for the Series 2018 Bonds depending upon prevailing market conditions, including the financial condition or market position of firms who may make the secondary market, the evaluation of the Institute's capabilities and the financial condition and results of operations of the Institute.

## **CONTINUING DISCLOSURE OBLIGATIONS**

Because the Series 2018 Bonds are limited obligations of the Issuer, payable solely from amounts received from the Institute, financial or operating data concerning the Issuer is not material to an evaluation of the offering of the Series 2018 Bonds or to any decision to purchase, hold or sell the Series 2018 Bonds. Accordingly, the Issuer is not providing any such information. The Institute has undertaken all responsibilities for any continuing disclosure to the Series 2018 Bondholders, as described below, and the Issuer shall have no liability to the Series 2018 Bondholders or any other Person with respect to Rule 15c2-12 ("Rule 15c2-12") promulgated under the Securities Exchange Act of 1934 by the Securities and Exchange Commission.

The Institute believes it has met its past continuing disclosure obligations in all material respects by annually filing within 120 days after the close of its fiscal year its financial statements and operating information. Certain operating information was not available within the 120 days requirement and was filed as "draft information" within 120 days and subsequently filed as "final".

The Institute has since put in place procedures to ensure all Series 2018 Bonds related future filings are completed in accordance with Rule 15c2-12 and is working on revised internal procedures to insure timely compliance with prior continuing disclosure agreements. To further assist the Underwriter in complying with Rule 15c2-12, the Institute will enter into a written agreement (the "Continuing Disclosure Agreement") for the benefit of the Series 2018 Bondholders with Digital Assurance Certification LLC ("DAC"), as disclosure dissemination agent and the Trustee. The proposed form of the Continuing Disclosure Agreement is attached as Appendix D hereto.

## TAX MATTERS

### *Federal Income Taxes*

In the opinion of Harris Beach PLLC, Bond Counsel to the Issuer, and subject to the limitations set forth below, under existing statutes, regulations, administrative rulings and court decisions as of the date of such opinion, interest on the Series 2018 Bonds is excluded from gross income for federal income tax purposes, pursuant to Section 103 of the Internal Revenue Code of 1986 (the “Code”). Furthermore, Bond Counsel is of the opinion that interest on the Series 2018 Bonds is not an “item of tax preference” for purposes of computing the federal alternative minimum tax imposed on individuals and, for tax years beginning prior to January 1, 2018, the federal alternative minimum tax imposed on certain corporations. Interest on the Series 2018 Bonds is, however, included in “adjusted current earnings” for purposes of calculating the federal alternative minimum tax imposed on certain corporations with respect to tax years beginning prior to January 1, 2018. Corporate purchasers of the Series 2018 Bonds should consult with their tax advisors regarding the computation of any alternative minimum tax liability.

The Series 2018 Bonds maturing on July 1 in the years 2019 through 2036, inclusive (collectively, the “Premium Bonds”) are being offered at prices in excess of their principal amounts. As a result of the tax cost reduction requirements of the Code relating to amortization of bond premium, under certain circumstances, an initial owner of Premium Bonds may realize a taxable gain upon disposition of such Premium Bonds even though they are sold or redeemed for an amount equal to such owner’s original cost of acquiring such Premium Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the tax consequences of owning such Premium Bonds.

The Code establishes certain requirements that must be met at and subsequent to the issuance and delivery of the Series 2018 Bonds in order that interest on the Series 2018 Bonds be and remain excluded from gross income for federal income tax purposes, pursuant to Section 103 of the Code. These continuing requirements include certain restrictions and prohibitions on the use of the proceeds of the Series 2018 Bonds and the Project, restrictions on the investment of proceeds and other amounts and the rebate to the United States of certain earnings in respect of such investments. Failure to comply with such continuing requirements may cause the interest on the Series 2018 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2018 Bonds, irrespective of the date on which such noncompliance occurs. In the Indenture, the Loan Agreement, the Tax Compliance Agreement, and accompanying documents, the Issuer and the Institute have covenanted to comply with certain procedures, and have made certain representations and certifications, designed to assure compliance with the requirements of the Code. The opinion of Bond Counsel described above is made in reliance upon, and assumes continuing compliance with, such covenants and procedures and the continuing accuracy, in all material respects, of such representations and certifications.

Bond Counsel expresses no opinion regarding any other federal income tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on, the Series 2018 Bonds. The proposed form of opinion of Bond Counsel is attached to hereto as APPENDIX E.

In addition to the matters referred to in the preceding paragraphs, prospective purchasers of the Series 2018 Bonds should be aware that the accrual or receipt of interest on the Series 2018 Bonds may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences may depend upon the recipient’s particular tax status or other items of income or deduction. Bond Counsel expresses no opinion regarding any such consequences. Examples of such other federal income tax consequences of acquiring or holding the Series 2018 Bonds include, without limitation, that (i) with respect to certain insurance companies, the Code reduces the deduction for loss reserves by a portion of the sum of certain items, including interest on the Series 2018 Bonds, (ii) interest on the Series 2018 Bonds earned by certain foreign corporations doing business in the United States may be subject to a branch profits tax imposed by the Code, (iii) passive investment income, including interest on the Series 2018 Bonds, may be subject to federal income taxation under the Code for certain S corporations that have certain earnings and profits, and (iv) the Code requires recipients of certain Social Security and certain other federal retirement benefits to take into account, in determining gross income, receipts or accruals of interest on the Series 2018 Bonds. In addition, the Code denies the interest deduction for indebtedness incurred or continued by a taxpayer, including, without limitation, banks, thrift companies, and certain other financial companies to purchase or carry tax-exempt obligations, such as the Series 2018 Bonds. The foregoing is not

intended as an exhaustive list of potential tax consequences. Prospective purchasers should consult their tax advisors regarding any possible collateral consequences with respect to the Series 2018 Bonds.

### ***State Income Taxes***

In the opinion of Bond Counsel, under existing law as of the date of the issuance of the Series 2018 Bonds, for so long as interest on the Series 2018 Bonds is and remains excluded from gross income for federal income tax purposes, such interest is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof. Noncompliance with any of the federal income tax requirements set forth above resulting in the interest on the Series 2018 Bonds being included in gross income for federal tax purposes would also cause such interest to be subject to personal income taxes imposed by the State of New York or any political subdivision thereof.

Bond Counsel expresses no opinion regarding any other state or local tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on, the Series 2018 Bonds.

Interest on the Series 2018 Bonds may or may not be subject to state or local income taxes in jurisdictions other than the State of New York under applicable state or local tax laws. Bond Counsel expresses no opinion as to the tax treatment of the Series 2018 Bonds under the laws of such other state or local jurisdictions. Each purchaser of the Series 2018 Bonds should consult his or her own tax advisor regarding the taxable status of the Series 2018 Bonds in a particular jurisdiction other than the State of New York.

### ***Other Considerations***

Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or omitted) or any events occurring (or not occurring) after the date of issuance of the Series 2018 Bonds may adversely affect the value of, or the tax status of interest on, the Series 2018 Bonds.

Certain requirements and procedures contained in or referred to in the Indenture, the Loan Agreement, the Tax Compliance Agreement, and other relevant documents may be changed, and certain actions may be taken or omitted subsequent to the date of issue, under the circumstances and subject to the terms and conditions set forth in such documents or certificates, upon the advice of or with the approving opinion of a nationally recognized bond counsel. Bond Counsel expresses no opinion as to any federal, state or local tax consequences with respect to the Series 2018 Bonds, or the interest thereon, if such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than Harris Beach PLLC.

No assurance can be given that any future legislation or governmental actions, including amendments to the Code or State income tax laws, regulations, administrative rulings, or court decisions, will not, directly or indirectly, cause interest on the Series 2018 Bonds to be subject to federal, State or local income taxation, or otherwise prevent Bondholders from realizing the full current benefit of the tax status of such interest. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any judicial decision or action of the Internal Revenue Service or any State taxing authority, including, but not limited to, the promulgation of a regulation or ruling, or the selection of the Series 2018 Bonds for audit examination or the course or result of an audit examination of the Series 2018 Bonds or of obligations which present similar tax issues, will not affect the market price, value or marketability of the Series 2018 Bonds. Prospective purchasers of the Series 2018 Bonds should consult their own tax advisors regarding the foregoing matters.

All quotations from and summaries and explanations of provisions of law do not purport to be complete, and reference is made to such laws for full and complete statements of their provisions.

**ALL PROSPECTIVE PURCHASERS OF THE SERIES 2018 BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE AS TO THESE AND OTHER FEDERAL AND STATE TAX CONSEQUENCES, AS WELL AS ANY LOCAL TAX CONSEQUENCES, OF PURCHASING OR HOLDING THE SERIES 2018 BONDS.**

The form of the approving opinion of Bond Counsel is attached to this Official Statement as APPENDIX E – “FORM OF APPROVING OPINION OF BOND COUNSEL.”

### **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), and, if no election has been made under Section 410(d) of the Code, church plans (as defined in Section 3(33) of ERISA), are not subject to ERISA requirements. Additionally, such governmental and non-electing church plans are not subject to the requirements of Section 4975 of the Code. Accordingly, assets of such plans may be invested in the Series 2018 Bonds without regard to the ERISA and Code considerations described below, subject to the provisions of applicable federal and state law.

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; and (3) an employer or employee organization any of whose employees or members are covered by the plan. 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.

Certain transactions involving the purchase, holding or transfer of the Series 2018 Bonds might be deemed to constitute prohibited transactions under ERISA and Section 4975 of the Code if assets of the Issuer 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 would be treated as plan assets of a Benefit Plan for the purposes of ERISA and Section 4975 of the Code only if the Benefit Plan acquires an “equity interest” in the Issuer 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 can be no assurances in this regard, it appears that the Series 2018 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 2018 Bonds, including the reasonable expectation of purchasers of Series 2018 Bonds that the Series 2018 Bonds will be repaid when due, traditional default remedies, as well as the absence of conversion rights, warrants and other typical equity features. The debt treatment of the Series 2018 Bonds for ERISA purposes could change subsequent to issuance of the Series 2018 Bonds. In the event of a withdrawal or downgrade to below investment grade of the rating of the Series 2018 Bonds or a characterization of the Series 2018 Bonds as other than indebtedness under applicable local law, the subsequent purchase of the Series 2018 Bonds or any interest therein by a Benefit Plan Investor is prohibited.

However without regard to whether the Series 2018 Bonds are treated as an equity interest for such purposes, though, the acquisition or holding of Series 2018 Bonds by or on behalf of a Benefit Plan could be considered to give rise to a prohibited transaction if the Issuer or the Issuing and Paying Agent, 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 2018 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 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 2018 Bonds, or that, if available, the exemption would cover all possible prohibited transactions.

By acquiring a Series 2018 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 2018 Bond (or interest therein) with the assets of a Benefit Plan Investor, governmental plan or church plan; or (ii) the acquisition and holding of the Series 2018 Bond(or interest therein) will not give rise to a nonexempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code. Benefit Plan Investors may not purchase the Series 2018 Bonds at any time that the ratings on the Series 2018 Bonds are below investment grade or the Series 2018 Bonds have been characterized as other than indebtedness for applicable local law purposes. A purchaser or transferee who acquires Series 2018 Bonds with assets of a Benefit Plan Investor represents that such purchaser or transferee has considered the fiduciary requirements of ERISA or other similar laws and has consulted with counsel with regard to the purchase or transfer.

Any ERISA Plan fiduciary considering whether to purchase the Series 2018 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 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 any similar state or federal law.

#### **FINANCIAL ADVISORS**

Excelsior Capital Advisory Services LLC and PFM Financial Advisors LLC are serving as co-financial advisors to the Institute (collectively, the “Financial Advisors”) in connection with the issuance of the Series 2018 Bonds. The Financial Advisors are not obligated to undertake an independent verification of, or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement and the appendices hereto.

#### **INDEPENDENT AUDITORS**

The consolidated financial statements for the Institute as of and for the years ended May 31, 2017 and 2016, set forth in Appendix B of this Official Statement, have been audited by KPMG LLP, independent auditors, as set forth in their report thereon appearing in Appendix B of this Official Statement.

#### **RATING**

Moody’s Investors Service, Inc. (“Moody’s”) has assigned a rating of “Baa2” (with a stable outlook) to the Series 2018 Bonds. Such rating reflects only the views of such organization and any desired explanation of the significance of such rating should be obtained from Moody’s at 99 Church Street, New York, New York 10007. There is no assurance that such rating will prevail for any given period of time or that it will not be revised downward or withdrawn entirely by such rating agency if, in the judgment of it, circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Series 2018 Bonds.



## LITIGATION

### The Issuer

The Issuer knows of no pending or threatened litigation questioning or affecting the validity of the Series 2018 Bonds or the proceedings or authority under which the Series 2018 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 to the knowledge of the Issuer. The Issuer knows of no litigation pending or threatened which in any manner questions the right of the Issuer to execute and deliver the Indenture or the Loan Agreement.

### The Institute

There is not now pending nor, to the knowledge of the Institute, threatened any litigation restraining or enjoining the execution or delivery of the Bond Documents to which the Institute 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 Institute nor the title of any of the present members or other officers of the Institute 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 Institute to enter into the Bond Documents to which the Institute is a party or which would have a material adverse effect on the ability of the Institute to meet its obligations under the Loan Agreement.

## LEGAL MATTERS

All legal matters incident to the authorization and validity of the Series 2018 Bonds are subject to the approval of Harris Beach PLLC, Bond Counsel, whose approving opinion will be delivered with the Series 2018 Bonds and a form of which is attached as Appendix E. Certain legal matters will be passed upon for the Issuer by Cappillino & Rothschild LLP, Pawling, New York. Certain legal matters will be passed upon for the Institute by Corbally, Gartland & Rappleyea, LLP, Poughkeepsie, New York. Certain legal matters will be passed upon for the Underwriter by Cozen O'Connor, New York, New York.

## UNDERWRITING

The Underwriter has agreed, subject to certain conditions, to purchase the Series 2018 Bonds from the Issuer at an aggregate purchase price of \$26,033,290.60 (consisting of the principal amount of the Series 2018 Bonds plus net original issue premium of \$3,023,340.95 less underwriter's discount of \$110,050.35), and to make a public offering of the Series 2018 Bonds at prices that are not in excess of the public offering prices stated on the inside cover page of this Official Statement. The obligations of the Underwriter are subject to certain conditions precedent, and the Underwriter will be obligated to purchase all such Series 2018 Bonds if any are purchased. The Series 2018 Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices or yields higher than such public offering yields, and such public offering prices or yields may be changed from time to time by the Underwriter.

J.P. Morgan Securities LLC ("JPMS"), the Underwriter of the Series 2018 Bonds, has entered into negotiated dealer agreements (each, a "Dealer Agreement") with each of Charles Schwab & Co., Inc. ("CS&Co.") and LPL Financial LLC ("LPL") for the retail distribution of certain securities offerings at the original issue prices. Pursuant to each Dealer Agreement, each of CS&Co. and LPL may purchase Series 2018 Bonds from JPMS at the original issue price less a negotiated portion of the selling concession applicable to any Series 2018 Bonds that such firm sells.

The Underwriter and its affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. The Underwriter and its affiliates have, from time to time, performed, and may in the future perform,

various investment banking services for the Issuer for which they have received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the Underwriter and its affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (which may include bank loans and/or credit default swaps) for their own account 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 Issuer. In addition, to the extent the Underwriter or its affiliate holds any of the Refunded Bonds, such Underwriter or affiliate, as applicable, would receive a portion of the proceeds from the issuance of the Series 2018 Bonds contemplated herein in connection with the refunding of the Refunded Bonds.

#### **MISCELLANEOUS**

So far as any statements made in this Official Statement involve matters of opinion or estimates, whether or not expressly stated, they are set forth as such and not as representations of fact, and no representation is made that any of such opinions or estimates will be realized. Neither this Official Statement nor any statement which may have been made orally or in writing with regard to the Series 2018 Bonds is to be construed as a contract with the holders of the Series 2018 Bonds.

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## GENERAL INFORMATION

### History and Overview

The Culinary Institute of America (the “CIA” or the “Institute”) is the world’s premier culinary college dedicated to driving leadership development for the food service and hospitality industry. The independent, not-for-profit CIA offers associate degrees in culinary arts and baking and pastry arts; and bachelor degree majors in business administration in food business management, hospitality management, culinary science, and applied food studies. The Institute also offers an accelerated culinary arts certificate, a wine and beverage graduate certificate and executive education through its Food Business School. Conferences and consulting services have made the CIA the “think tank” of the food service industry in the areas of health and wellness, sustainability, world cuisine and cultures, and professional excellence and innovation. The Institute also offers programs and courses for professional and food enthusiasts. Its worldwide network of 49,000 alumni includes leaders in every area of foodservice and hospitality industry. The CIA has campuses in New York, California, Texas and Singapore.

The CIA has enjoyed a distinctive and successful history characterized by rapid expansion in its 72 years of service. The Institute opened in 1946 as the New Haven Restaurant Institute, a storefront cooking school in downtown New Haven, Connecticut, with an enrollment of 50 students and a faculty consisting of a chef, a baker, and a dietitian. The Institute, at that time a vocational training school primarily for World War II veterans, offered a 16-week program featuring instruction in 78 popular menus of the day. Members of the New Haven Restaurant Association sponsored the original school, whose founders, Frances Roth and Katharine Angell, served as its first director and chair of the board, respectively.

As the foodservice industry grew, so did enrollment, necessitating a move in 1947 to larger quarters—a 40-room mansion adjacent to Yale University. The Institute’s name was changed to the Restaurant Institute of Connecticut and in 1952 it became known as The Culinary Institute of America, reflecting the diversity of the student population. The educational program was expanded to two years, and continuing education courses for industry professionals were introduced. By the time of Mrs. Roth’s retirement in 1965, the Institute had increased its enrollment to 400 students and operated a \$2 million facility.

In 1969, double-class sessions were initiated to accommodate a backlog of applications and an auxiliary campus was leased, but with more than 1,000 students and with facilities strained to the maximum, the CIA’s administrators launched a search for a new home. They found it in St. Andrew-on-Hudson, a former Jesuit seminary in Hyde Park, New York.

The Institute purchased the five-story, 150-room building on 80 acres of land overlooking the Hudson River for \$1 million in 1970. Two years and \$4 million in renovations later, the new campus opened, with its main building renamed Roth Hall. In 1972, the Board of Regents of the State of New York granted the CIA a charter to confer an Associate in Occupational Studies (“AOS”) degree. The new campus offered a trimester program in which students entered three times over the course of the year. In 1976, this was replaced by the Progressive Learning Year (“PLY”) program that enabled smaller groups of 72 students to graduate and enter the industry every three weeks, 16 times a year. A paid externship semester was created, offering students the opportunity to gain on-the-job experience by working in the foodservice industry.

The expanding curriculum and the additional space available in Roth Hall enabled the Institute to establish the Epicurean Room in 1973, a public restaurant that provided a realistic, hands-on setting for students. The restaurant was later renamed the Escoffier Restaurant and was awarded a three-star rating by *The New York Times* and four stars by the *Mobil Travel Guide*. The restaurant has also won *Restaurants & Institutions* magazine’s Ivy Award and was inducted into the *Nation’s Restaurant News* Hall of Fame. In 2012, it was transformed into The Bocusse Restaurant.

Today, students on all campuses acquire experience in the CIA's other on-campus restaurants. The New York campus features The Ristorante Caterina de' Medici which highlights seasonal Italian selections. A three-star, fine-dining establishment, the American Bounty Restaurant showcases American food, wine, and beer and is the recipient of the Ivy Award. The Apple Pie Bakery Café, features artisan breads, elegant pastries, and café cuisine. The Post Road Brew House is a "pop-up" restaurant that features elevated pub fare. The California campuses have three restaurants. The Gatehouse serves fresh, local contemporary cuisine and the Bakery Café by Illy which serves café cuisine and freshly baked products and desserts. The Restaurant at CIA Copia is a professionally operated restaurant which features innovative and globally inspired California cuisine paired with Napa Valley Wines. . The Texas campus includes Nao – Latin Gastro Bar featuring Latin American cuisine and the pop-up CIA Bakery Café. CIA students prepare and serve meals in the Institute's on-campus public restaurants for catered functions and for student and employee dining.

As the curriculum—and the CIA's reputation—expanded, the Institute continued to grow. Three residence halls were built on the Hyde Park campus in 1974 to accommodate 880 students, and a fourth residence hall housing 350 students was completed in 1986.

In 1981, the Institute became the only school authorized to administer the American Culinary Federation ("ACF") master chef certification exam. The Institute employs the largest concentration of master chefs certified through the eight-day ACF-sponsored exam.

The CIA began to serve the industry's continuing training needs when it opened the Continuing Education Center in 1984. More than 6,000 foodservice professionals come to the Institute's Hyde Park and Greystone California campuses annually to update and expand their culinary knowledge by participating in continuing education courses.

The CIA received a \$1 million grant in early 1988 from The General Foods Fund, Inc., and used those funds to construct the General Foods Nutrition Center to encourage education and research in nutritional cooking. In 1990, the Institute opened the School of Baking and Pastry, which in 1992 was dedicated as the Shunsuke Takaki School of Baking and Pastry.

In 1992, the CIA purchased 70 additional acres for its Hudson Valley campus. A year later, approval was granted by the New York Board of Regents for the Institute to offer two Bachelor of Professional Studies (BPS) degrees—one in Culinary Arts Management, the other in Baking and Pastry Arts Management. Also in 1993, the CIA opened the Conrad N. Hilton Library thanks in part to a \$1.5 million gift from the Conrad N. Hilton Foundation. The Library houses the Library Learning Commons, which includes the Learning Strategies and Tutoring Center, Disability Support Services and the Student Testing Center.

Responding to a growing need for food and wine professional development on the West Coast, the Institute opened The Culinary Institute of America at Greystone, a branch campus located in the heart of California's Napa Valley, in 1995. Today, the CIA at Greystone offers AOS degree programs in Culinary Arts or Baking and Pastry Arts, a certificate program in Culinary Arts and a graduate certificate in Wines and Beverages, and programs for industry professionals and food enthusiasts.

The CIA continued to pursue ways to give students more opportunities to not only learn, but to enjoy campus life. The Institute opened the Student Recreation Center at its New York campus in July 1998. In January 2000, the Apple Pie Bakery Café commenced operations in Roth Hall in support of the CIA's Baking and Pastry Arts degree programs. In the spring of 2001, the CIA opened The Colavita Center for Italian Food and Wine, an educational facility devoted to the study of the culinary traditions of Italy. And in November 2002, the Institute opened the doors to the newly named Farquharson Hall (formerly Alumni Hall). The site of student dining, and special events, Farquharson Hall was painstakingly restored to its original splendor as the main chapel of the St. Andrew-on-Hudson Jesuit seminary.

In 2004, the New York campus added four Adirondack-style lodges for student housing, and two more in 2007. In 2005, Anton Plaza was completed and the Institute acquired 20 additional acres of land, bringing the total campus acreage to 170. A new Admissions Center was added in 2006, and townhouses were built on the north end of campus in 2012.

The year 2008 marked the opening of The Culinary Institute of America, San Antonio. The Texas branch campus offers Associate in Applied Science (“AAS”) degree programs in Culinary Arts or Baking and Pastry Arts, and programs for industry professionals and food enthusiasts.

In 2010, in partnership with the Singapore Institute of Technology, the CIA opened its Singapore campus. The CIA Singapore offers the Institute’s bachelor degree program in Culinary Arts Management to graduates of polytechnic institutions with related diplomas. In September 2018, a bachelor’s degree in Baking & Pastry Management will be launched on the Singapore campus. Classes are taught in the state-of-the arts facility on the Temasek campus.

The Marriott Pavilion on the Hyde Park campus opened in 2014 and hosts commencement ceremonies, conferences, cultural events, and lectures by luminaries of the food industry. It features an 800-seat theater, culinary demonstration kitchen, conference space for 300, and Gastrotypographicalassemblage—a 33-foot-wide, eight-foot-tall, and a three-dimensional mural that hung at CBS headquarters from the 1960s through 1980s. The 1,650 individual letters spelling out culinary expressions and 65 food-related objects that make up this unique artwork are on display to the general public for the first time ever.

A new student dining facility, The Egg, made its debut in 2015 on the Hyde Park campus. The Egg offers a broad range of healthful and cutting-edge food options to students in a spectacular setting overlooking the Hudson River. To accomplish these objectives, the CIA integrated the principles of its Menus of Change initiative into the menu. These principles include increasing use of vegetables and fruits, developing dishes where meat plays more of a supporting role, making more of the grain options whole grain, and creating conscious menus that promote health and sustainability. Dining stations use local, responsible, and sustainable ingredients. Snacks focus on health, wellness, and the diversity of cultures and cuisines. The pricing structure provides a discount for students ordering healthier tasty dishes. There are no high-fructose sweetened beverages and, to help make caring for the environment part of campus culture, some beverages are free for students carrying reusable cups.

The Egg is also home to experiential classrooms. The High-Volume Production Cookery class serves breakfast, lunch, and dinner from a state-of-the-art kitchen called The Line. Management students in the Intrapreneurship concentration conceive and create a new foodservice operation each semester at the Innovation Kitchen. This program serves as an incubator for restaurant concepts. A microbrewery, The Brooklyn Brewery at the CIA, is home to a bachelor’s-level Art and Science of Brewing class.

The Egg immediately became the focal point of student life on campus. In addition to the many dining options, it features seven lounge areas seating 500 indoors and outdoor seating for 150 more, a special events stage and advanced sound system, large multi-media screens for movie and sports nights, and dozens of charging stations. A marketplace offers fresh, local produce and other artisanal ingredients for students to bring home to cook in their residence hall or off-campus housing.

Expanding the CIA’s presence in the Napa Valley, in 2015 the Institute acquired the Napa, California property that was once known as Copia: The American Center for Wine, Food and the Arts. The Culinary Institute of America at Copia has reestablished the facility with its original goal of providing excellence in culinary education. Located in the heart of downtown Napa, [The CIA at Copia](#) is the ultimate destination for exploring, experiencing, and enjoying the world of food, wine, art, and community. The CIA at Copia offers experiences in cooking and beverage classes taught by CIA experts, curated tasting events and festivals, dining at The Restaurant, artisanal art collections located throughout the building and in the newly renovated Chuck Williams Museum, and private event space, all in one location. The Food Business School, also located at Copia, enables and empowers entrepreneurial leaders to design, deliver and lead transformative innovations that address the world’s most pressing food challenges—and its greatest business opportunities.

In partnership with Salentodamore Societa Consortile A Responsabilita Limitata (“SSCRL”), students from the CIA will have the ability to participate in an immersive academic concentration in Italian cuisines and cultures. The concentration for students pursuing a CIA bachelor’s degree in management features a semester abroad at the Costello di Ugento, a newly restored approximately 900 year-old castle in Puglia. The program began in January 2017 and is offered in the spring and fall semesters.

In November 2017 the CIA has collaborated with Universitat De Barcelona to create the Torribera Center for Mediterranean Food, Culinary Innovation, and Health, which will focus its activities of research support and

promotion, and its academic offering of master's, postgraduate, and other specialized academic programs on aspects relating to the food and culinary culture of the Mediterranean region and the health effects of the Mediterranean diet. Specific attention will be given to those fields relating to nutrition, gastronomy, sustainability, new food technologies and experiences, the characteristics of production and the region's elements of culinary culture and anthropology. A 15-week Concentration Program will be offered within the CIA's Bachelor Degree program and offered at the New York campus.

In April 2018, the CIA and Asahi Shuzo, maker of Dassai super premium sake, announced a collaboration to further the education and awareness of sake in the United States. Asahi Shuzo will build its first U.S. brewery in Hyde Park, New York, becoming the first sake producer from Japan to establish a facility on the East Coast. The company selected the location because of its proximity to the CIA. As part of the partnership, the CIA, with the support of Asahi, will be developing curriculum, certification programs, workshops, and special events and tastings. Sake plays an important role in Japanese society and these new unique education programs around sake will further the education of Japanese cuisine and culture for CIA students, food enthusiasts, food industry professionals, and other visitors to the Hudson Valley.

The Institute plans to issue an RFP in 2018 to partner with a hotel development company to develop and construct a hotel on the north parcel of the Hyde Park campus. The Institute will not have any monetary obligations with respect to this hotel.

Today, the CIA enrolls approximately 3,100 students in its degree programs and employs nearly 148 chef-instructors and other faculty members. The Institute's 49,000 graduates are leaders and pacesetters in the industry.

From the introduction of classes in American regional cuisine to the development of a nutrition program, the Institute has remained at the forefront of the issues and trends in foodservice. In the years ahead, the Institute will continue to carry out its mission of providing the very best education to train tomorrow's culinary leaders and innovators.

#### *Associate Degree Program*

The CIA's 21-month Associate Degree Program offered on all three domestic campuses includes 1,300 hours of hands-on practical kitchen experience as well as lecture-style classes in hospitality/management subjects. The Institute operates on a Progressive Learning Year that affords 16 entry dates and 16 graduations throughout the year. The program is divided into four 15-week semesters of required courses that all students must complete on campus and one 18-week on-the-job training session with a cooperating foodservice establishment. Students who successfully complete this program in Hyde Park and Greystone earn an Associate in Occupational Studies ("AOS") degree. Students in San Antonio earn an Associate in Applied Science ("AAS") degree.

#### *Baccalaureate Degree Program*

The CIA offers four majors that lead to a bachelor's degree: management, applied food studies, culinary science, and hospitality management. The management program stresses hands-on instruction in culinary arts or baking and pastry arts in the Institute's unparalleled facilities, and includes business-related courses in marketing, communications, finance, languages, world culture, and supervisory leadership. These programs are designed to prepare students with the culinary, management, and conceptual skills they need to excel in today's foodservice industry. Students may also opt to participate in an overseas travel experience in Italy, Spain, France, Latin America, or China or to pursue an academic concentration. Current concentrations are offered in American Food Studies: Farm-to-Table Cooking; Advanced Wine, Beverage, and Hospitality; Advanced Concepts in Baking and Pastry; "Intrapreneurship;" Asian Cuisine Studies; Italian Cuisine Studies and Latin Cuisine Studies. Most concentrations include a semester at one of the CIA's branch campuses.

The major in applied food studies provides an in-depth understanding of global food resources, policy and cultures, and their interconnections. Courses such as Anthropology of Food, Food Ecology, Food History, and Social Science complement the college's foundational hands-on kitchen and bake shop classes. Together they prepare graduates to impact food-related issues from a chef's perspective.

The culinary science degree applies a science-based understanding food and ingredients and how to use science to increase customer satisfaction. Graduates pursue careers in culinary research and development, as creative



restaurant chefs, or in food production and delivery at large-scale operations such as the military or healthcare facilities. Courses include Culinary Chemistry, Dynamics of Heat Transfer, Flavor Science and Perception, and Precision Temperature Cooking.

The hospitality degree provides a strong foundation for successful career options at world-class hotels, restaurants, resorts, and other top tourist attractions and destination management locations. CIA students work with top hospitality management executives in the United States and abroad. Students learn the business of running elite hotels, restaurants, resorts, and other top hospitality sites. The CIA offers extensive course work and hands-on experience that is food and beverage focused, over three times more than any other hospitality program nationally—uniquely positioning students for a successful career in hospitality management

### *Continuing Education Courses*

Offered at all three domestic campuses, continuing education courses provide advanced training opportunities for people already employed in the foodservice industry, the CIA offers a year-round schedule of educational programs in cooking, baking and pastry, and hospitality management. The curriculum is designed to strengthen the professional's existing skills, introduce new techniques, and foster an understanding of industry trends and their future applications.

### *Food Enthusiast Programs*

A variety of programs for food enthusiasts are offered as well at all three of the Institute's U.S.-based campuses, including weekend courses, Boot Camps, and Taste of the CIA cooking classes.

## **Accreditation**

The Institute is accredited by the Middle States Commission on Higher Education, an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation. The Middle States Commission reaffirmed the CIA's accreditation in June 2017. The next evaluation visit is scheduled for 2025-26. The Institute holds an Absolute Charter issued by the New York State Board of Regents and is approved for veterans training under the G.I. Bill of Rights. The curricula are registered by the New York State Education Department. The Institute is also authorized by the Texas Higher Education Coordinating Board and holds a Certificate of Approval from the Texas Workforce Commission.

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## **Governance**

The governing body of the CIA, as chartered by the New York State Board of Regents, is a Board of Trustees (the “Trustees”), comprised of 25 elected individuals selected by the Committee on Trusteeship and voted upon by the CIA’s Board of Trustees to serve a three-year term. The Trustees, who are not compensated for their services, meet at least three times a year to discuss, direct, and manage the business concerns and affairs of the Institute. The Board of Trustees has the following committees which meet regularly throughout the year: Advancement, Audit, Compensation, Education, Finance, Investment and Trusteeship.

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## Administration

The CIA is administered on a day-to-day basis by the President and the President's Cabinet, which is comprised of the Provost, Vice President for Finance, Vice President for Strategic Initiatives and Industry Leadership, Vice President for Advancement, Vice President for Enrollment Management & Marketing, Vice President for Academic Degree Programs, Associate Vice President of Branch Campuses, Associate Vice President and Dean for Student Affairs and Chief of Staff/Chief Information Officer. The President is the CIA's Chief Executive Officer appointed by the Board of Trustees and is under his ten year contract with the Institute until May 31, 2021. The CIA's Administrative Officers are the President and Vice President for Finance and Administration.

**L. Timothy Ryan, - President** - Dr. Ryan has been President of The Culinary Institute of America since 2001. A 1977 graduate of the CIA, Dr. Ryan is the first alumnus and first faculty member to rise through the ranks to become the Institute's fifth president. After working as a chef in the restaurant industry, President Ryan returned to the Institute in 1982. During his 31 years at the CIA, Dr. Ryan has been instrumental in strengthening and enhancing the Institute by launching the world's first Bachelor's Degree Program in Culinary Arts Management and Baking and Pastry Arts Management, developing a highly successful publishing program, fashioning award-winning videos and television shows, expanding the Institute's continuing education programs, developing the American Bounty Restaurant, and strengthening an already gifted faculty roster. At age 26, Dr. Ryan became the youngest person ever to earn Certified Master Chef (CMC) status from the American Culinary Federation (ACF) and also holds the distinction of being the youngest national president of the ACF, elected at age 36. He has served as ACF vice president and chairman, and is a former chairman of the editorial council for the ACF's publication, The National Culinary Review. Dr. Ryan was named ACF's Chef of the Year in 1998 and is one of five Americans ever to receive the Presidential Medal from the World Association of Cooks Societies that same year. Dr. Ryan has won numerous Gold Medals in international competitions throughout his career, including four Gold Medals and the World Championship at the 1984 and 1988 Culinary Olympics in Germany. He has produced a host of successful culinary books, all of which are James Beard Award nominees, including The New Professional Chef, Techniques of Healthy Cooking, and An American Bounty. A native of Pittsburgh, Dr. Ryan earned his EdD from The University of Pennsylvania, and his MBA and BS from the University of New Haven.

**Mark Erickson, - Provost** - An honors graduate of the CIA class of 1977, Chef Erickson was employed by the Institute in 1984 as a faculty member, was promoted to Education Department head in 1987, and promoted to director of culinary education in Hyde Park in 1988. He left the CIA in 1990, but returned in 1999 as managing director of Greystone, the CIA's California campus, and was eventually named provost in 2011. Prior to joining the CIA, Mr. Erickson served as chef garde manager of the Palace Hotel in Gstaad, Switzerland, executive sous chef of the Greenbrier Hotel in West Virginia, and executive chef of the Cherokee Town & Country Club in Atlanta, GA. Mr. Erickson earned his B.S. in Restaurant & Hotel Management at the University of New Haven. Chef Erickson was a member of the gold medal-winning United States Culinary Olympic Teams in 1980, 1984, and 1988, and part of the U.S. team that won the 1985 Culinary World Cup. He earned "Crystal Chef" honors by having the highest score in the ten-day Certified Master Chef examination administered by the American Culinary Federation in 1985. Mr. Erickson holds a Bachelor of Science degree in Restaurant & Hotel Management from the University of New Haven and an MBA from Marist College.

**Maria Krupin, - Vice President for Finance & Administration**- As the CIA's Vice President of Finance and Administration, Ms. Krupin is responsible for providing vision and leadership for all financial matters and acts as its chief financial officer. She also oversees legal affairs, human resources, safety and facilities. Ms. Krupin has implemented strategies for managing finances at all four campuses and oversees all higher educational compliance-related financial matters. Ms. Krupin joined the Institute in 2015 after 23 years with Ramapo College ("Ramapo") in Mahwah, New Jersey, the last 17 months as vice president for administration and finance. In addition to serving as vice president at Ramapo, Ms. Krupin was also the associate vice president of budget and fiscal planning, acting controller, executive director of budget and fiscal planning, and both director and associate director of budget and fiscal affairs. During her tenure at Ramapo, she also served as an adjunct instructor for four years. Earlier in her career, she was a senior accountant at Fairleigh Dickinson University in Teaneck, New Jersey and an accountant with a certified public accounting firm in New Rochelle, New York. Ms. Krupin holds a Master of Science in management, with a concentration in finance, from the New Jersey Institute of Technology, and a Bachelor of Business Administration in accounting from Pace University. Among her many financial and higher education affiliations, she serves as a peer evaluator for the Middle States Commission on Higher Education, and has given

presentations to academic peers on the topic of “allocating resources to achieve mission during uncertain times.” She is a member of the National Association of College and University Business Officers, and is a board member of New York College and University Risk Management Group.

**Greg Drescher - Vice President for Strategic Initiatives and Industry Leadership** – Mr. Drescher is responsible for the CIA’s thought leadership, strategic partnerships and initiatives, industry conferences, and new media. Mr. Drescher assumed his current title in 2011 after serving as executive director of strategic initiatives for the Institute. In this role, he created the Institute's influential Worlds of Flavor® International Conference & Festival series, Worlds of Healthy Flavors Leadership Retreat in partnership with the Harvard School of Public Health, and other CIA "think tank" initiatives. Mr. Drescher joined the CIA in 1995, and served nearly 10 years as the first director of education for the Institute's campus in St. Helena, California, where he oversaw the development of the CIA at Greystone's program of continuing and advanced studies. Previously, Mr. Drescher was co-founder and program chairman of the Boston-based Oldways Preservation & Exchange Trust. In this capacity, he designed programs in the United States and throughout the Mediterranean region, and jointly spearheaded a collaboration of some of the world's leading health experts and organizations, including the Harvard School of Public Health and the World Health Organization. In the 1980s, he served as national program director and later as associate director of the American Institute of Wine & Food, an organization co-founded by Julia Child and Robert Mondavi.

**Jackie Nealon- Vice President for Enrollment Management and Marketing** - Dr. Nealon is responsible for all student recruitment and retention efforts for the CIA’s associate, bachelor’s, and graduate-level education programs at the not-for-profit college’s four campuses worldwide. Dr. Nealon joined the CIA in 2016 from Long Island University where she was chief of staff and vice president of enrollment, campus life, and communications. Her strong and varied background in higher education also includes serving as vice president of enrollment, communications, and marketing at the New York Institute of Technology (“NYIT”); director of recruitment and acting director of enrollment services at Seton Hall University; and dean of graduate and part-time admissions at Hofstra University. At NYIT, she also served as an adjunct associate professor of communications. Dr. Nealon earned her doctorate in higher education management from the University of Pennsylvania in Philadelphia, Master of Arts degree in strategic leadership and communication from Seton Hall University, and Bachelor of Arts in English from Adelphi University. Dr. Nealon is a member of the National Association of College Admissions Counselors, National Association of College and University Business Officers, National Association of Student Financial Aid Administrators, New York State Association of College Admissions Counselors, and the American Association of College Registrars and Admissions Officers. She is immediate past president of the Nassau Counselors’ Association and was that organization’s College Counselor of the Year for 2010.

**Michael Sperling - Vice President for Academic Affairs** – Dr. Sperling is responsible for providing leadership in academic administration and faculty management, principally concerning strategy, implementation, and assessment of a coherent and dynamic curriculum. Dr. Sperling joined the Institute’s administration in 2012 after serving five years as Provost and Vice President for Academic Affairs at Mercy College in Dobbs Ferry, New York. During his academic career, he was also Provost and Dean of Faculty at Manhattanville College; Vice Provost for Global Learning, Assistant Provost for Educational Technology, Interim Dean and Psychology Department Chair at Fairleigh Dickinson University; and an American Council on Education Fellow at Baruch College. His collegiate faculty experience includes serving as a Professor in psychology at Mercy, Manhattanville, and Fairleigh Dickinson, and as a visiting fellow of psychology in psychiatry at Cornell University Medical College. Dr. Sperling earned both his Doctor of Philosophy (PhD) and Master of Science degrees in clinical psychology from the University of Massachusetts at Amherst and his Bachelor of Arts in psychology from the University of Pennsylvania. He is a member of the American Council on Education's Council of Fellows, the American Psychological Association, and is Vice Chair of the Board of One to World, a non-profit organization providing enrichment programming to Fulbright Scholars and international students in the New York metropolitan region.

**Kevin Allan – Vice President for Advancement** - Mr. Allan joined the CIA in 2016 as its Vice President of Advancement. He is responsible for all of the Institute’s alumni relations and fundraising initiatives, as well as stewarding the CIA’s relationship with the foodservice industry, including business development and donor support opportunities. Immediately prior to joining the CIA, Mr. Allan was the chief development officer at The Children’s Aid Society, one of the nation’s oldest and largest child-focused nonprofit organizations. Mr. Allan is the former senior vice president of development at Americares, a global health, relief, and development organization based in Stamford, Connecticut. At Americares, Kevin was responsible for all corporate, foundation, and individual giving,

including more than \$550 million in annual product donations from the pharmaceutical and medical supply manufacturers industries. For nearly 10 years, Mr. Allan worked with nonprofit clients to build successful corporate, foundation, and individual giving programs as a senior consultant at Changing Our World, Omnicom's boutique philanthropic consulting agency. Mr. Allan oversaw the company's global portfolio and served clients including the Bill and Melinda Gates Foundation, UNICEF, Texas Children's Hospital, The Global Fund, and the US Green Building Council. Mr. Allan has taught fundraising and development courses at the Milano School for Public Engagement at New School University, where he received his M.S. in nonprofit management. He earned his bachelor's degree at Manhattanville College.

**Sue Cussen - Associate Vice President of Branch Campuses** - Ms. Cussen is responsible for oversight of the day-to-day operations of the Institute's campuses in St. Helena, California; San Antonio, Texas; and Singapore. Prior to her current position, Ms. Cussen was Senior Director of Continuing Education and Publishing and Director of Marketing for the Continuing Education Department at the CIA. She came to the college in 2000 with extensive experience in the marketing arena. She was Director of Marketing, Sales and Communication at Container Machinery Corporation in Kinderhook, New York; Project Manager at Elrick and Lavidge in Clifton Park, NY; Regional Sales Representative at Pitney Bowes, Albany, New York; and Marketing Manager at Certified Reports in Kinderhook, New York. Ms. Cussen holds a Bachelor of Science degree in business economics from the State University of New York at Oneonta and an MBA with a marketing concentration from the State University of New York at Albany.

**Kathy Merget - Associate Vice President and Dean for Student Affairs** - Dr. Merget is directly responsible for all student affairs at the CIA, including residence life and housing, health services, counseling, student activities, and the recreation center. Prior to assuming her current role in 2015, Dr. Merget was dean of liberal arts and business management for 15 years. She joined the CIA in 1994 as one of 12 new faculty members designing the curriculum for the Institute's then-new bachelor's degree in management and teaching Interpersonal Communication and Psychology of Human Behavior in the program. Dr. Merget also has taught freshman- and sophomore-level Nutrition and Introduction to Management courses at the CIA. She previously taught at Marist College as an adjunct graduate instructor. Dr. Merget earned her PhD and master's degrees in Applied Developmental Psychology from Fordham University. She also holds a master's degree in Counseling/Community Psychology from Marist College and a Bachelor of Science from the State University of New York at Cortland. In 2011, Dr. Merget returned to school, enrolling in Duke University's Integrative Medicine program to become a Certified Integrative Health Coach focusing on the health and well-being of those who pursue a career in the culinary profession. She has been instrumental in introducing students, faculty, and staff at the CIA to the concept and practice of mindfulness. Additional areas of research within the food industry include emotional intelligence and non-cognitive skill sets. Dr. Merget is a strong advocate for veterans who are returning to school. Dr. Merget is co-author of *Anorexia, Bulimia, and Compulsive Overeating* (1990). Dr. Merget has 15 years' experience in private practice as a therapist in the Hudson Valley. Dr. Merget is the associate state coordinator for the American Council on Education Women's Network. She has served as regional coordinator and institutional representative for the Mid-Hudson Association of Women in Higher Education and is a founding member of the CIA's Women in Leadership group. Dr. Merget is also a member of the executive board for The Culinary Institute of America/Cornell School of Hotel Administration Alliance.

**Rick Tietjen - Chief of Staff and Chief Information Officer** - Mr. Tietjen is the Chief of Staff and Chief Information Officer. As Chief of Staff, Mr. Tietjen is responsible for the President's Office administration, compliance, policy, business intelligence, the planning and execution of major college initiatives and hospitality. Under the Chief Information Officer role, he oversees the Institute's Information Technology Systems department, which includes enterprise systems, infrastructure services, user support, network services, telecommunications, and audio/video. Prior to his current appointment in 2015, Mr. Tietjen was the Institute's associate vice president of planning and operations support for five years. After joining the CIA in 1990, he advanced through successive responsibilities in the Information Technology department, achieving the senior position of director of systems and networking, followed by an appointment to the college's administration as senior director of planning and operational improvement. He also taught Computers and Food Business as an adjunct instructor from 2005 to 2007, and was awarded CIA Staff Member of the Year in 2002. As background for his work at the college, Mr. Tietjen gained foodservice industry experience in dining operations at the Beekman Arms in Rhinebeck, NY from 1987 to 1992. Mr. Tietjen earned his MBA from Capella University in 2003 and his Bachelor of Science degree in computer science from Marist College in 1991. He also holds Oracle DBA and Novell CNE technical certifications along with

completing other technical and non-technical certificates. Mr. Tietjen is a member of the National Association of College and University Business Officers and EDUCAUSE, a non-profit association that is focused on higher education information technology. Mr. Tietjen also serves on the non-profit boards of Abilities First Incorporated in Poughkeepsie, New York and Hudson Valley Pattern from Progress in Newburgh, New York.

## OPERATING INFORMATION

### Faculty

The Institute's 148 full-time chefs and instructors share their culinary expertise in classes which average an 18:1 student instructor ratio. Each Culinary and Baking and Pastry Chef instructor must have at least seven years of experience in the foodservice industry and most have more than a decade of service in some of the world's finest restaurants, hotels and industry corporations. The following table sets forth the faculty profile for the past five academic years.

#### FACULTY PROFILE

	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>
Full-Time	153	154	147	148	148
Part-Time	<u>2</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	155	156	147	148	148
Full-Time Equiv. Faculty	154	155	147	148	148

### Employee Relations

The faculty on the Hyde Park campus is represented in collective bargaining by the Culinary Teachers Association. The Institute's current contract with the Culinary Teachers Association expires on May 31, 2020. The Hyde Park maintenance staff is represented in collective bargaining by The Culinary Craft Association in conjunction with SEIU Local 200. The Institute has a newly ratified contract with the Culinary Craft Association which will expire on May 31, 2023. The faculty on the Greystone campus in California is represented in collective bargaining by The Greystone Federation of Teachers. The Institute's contract with the Greystone Federation of Teachers expires on May 31, 2021. The CIA characterizes employee relations as good.

### Admissions

Identified in the table below are the numbers of applications received for admission to the Institute for each academic year of study over the past five academic years. Also included are the number of applications accepted and the number of students enrolled for each academic year.

#### ADMISSIONS STATISTICS

##### Applications, Acceptances and Matriculants

	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>
Undergraduate					
Applications	4,456	4,788	4,594	3,296	4,361
Acceptances	2,931	3,103	2,810	2,140	3,455
Accept. Ratio	65.8%	64.8%	61.2%	64.9%	79.2%
Matriculants	1,509	1,474	1,545	1,477	1,343
Matriculation Ratio	51.5%	47.5%	55.0%	69.0%	38.9%

**Student Enrollment**

All matriculated students attend the Institute on a full-time basis. The following table presents the fall enrollment for the last five academic years, beginning in October of each year. Fall enrollment in October 2017 represented the highest number of students for the CIA.

**ENROLLMENT SUMMARY**

**Fall Enrollment by Academic Year**

<u>Year</u>	<u>Number of Students</u>
October 2013	2,912
October 2014	2,855
October 2015	2,940
October 2016	2,918
October 2017	3,131

The Institute attracts students from all over the United States as well as from abroad. More than 82% of the Institute’s degree program enrollment is drawn from outside New York State. In fall 2017, 17.8% of students were from New York State and 15.6% were from foreign countries. The table below presents the geographic profile of the Institute’s enrollment for the fall of 2017.

<u>Origin</u>	<u>2017 Fall Enrollment</u>	<u>Percentage</u>
New York	557	17.8%
New Jersey	259	8.3%
Texas	263	8.4%
California	285	9.1%
Pennsylvania	182	5.8%
Florida	137	4.4%
Connecticut	123	3.9%
Virginia	76	2.4%
Maryland	84	2.7%
Massachusetts	81	2.6%
Ohio	56	1.8%
All Other U.S.	539	17.2%
Foreign	<u>488</u>	<u>15.6%</u>
Total	3,131	100.0%

**Competition**

The CIA considers its major competitors to include Johnson & Wales University and The Arts Institutes (Education Management Corporation). This is based on student cross application data and National Student Clearing House data which reports where students ultimately enroll.



## Continuing Education

The Institute conducts Continuing Education Programs at both the Hyde Park, New York campus as well as both California campuses. Continuing Education encompasses a multitude of educational programs, including courses for professional culinarians which are designed to upgrade the skills of professionals in the hospitality industry, certificate programs, seminars and conferences, wine programs, distance learning, exclusive master chef testing, and adult education for food enthusiasts. Non-credit tuition revenue generated from Continuing Education and Culinary Leadership Conferences totaled \$11.2 million in fiscal year 2016-17.

## Graduation

### DEGREES CONFERRED BY THE CIA

	<u>2012/2013</u>	<u>2013/2014</u>	<u>2014/2015</u>	<u>2015/2016</u>	<u>2016/2017</u>
Associate	1,213	1,152	1,101	1,075	1,034
Bachelor's	<u>344</u>	<u>353</u>	<u>321</u>	<u>336</u>	<u>395</u>
Total	1,557	1,505	1,422	1,411	1,429

## Retention

The Institute has strong retention and graduation rates. The graduation rate for students entering the associate degree programs in Culinary Arts program is 71% and for those entering the Baking & Pastry program is 83% for those students enrolling between September 2011 and August 2012. The completion rate for those students who continue on to the bachelor degree program (2+2 track) is 85% for those students who entered the program between September 2014 and May 2015.

## Tuition and Fees

For the 2018-19 fiscal year, annual full-time tuition at the Institute, for students in either the Associate's or Bachelor's Degree Program was \$30,200, miscellaneous fees totaled \$2,045 and full room and board charges amounted to \$11,210. Miscellaneous fees cover the cost of uniforms, knife kits and general student fees. Net credit program tuition and fees and housing revenues account for approximately 70% of the Institute's unrestricted operating revenues. Tuition, room and board charges and miscellaneous student fees for the last five fiscal years are listed below:

**STUDENT CHARGES FOR DEGREE PROGRAMS**

	<b><u>2014-2015</u></b>	<b><u>2015-16</u></b>	<b><u>2016-17</u></b>	<b><u>2017-18</u></b>	<b><u>2018-19</u></b>
Tuition	\$26,950	\$27,930	\$28,630	\$29,380	\$30,200
Miscellaneous Fees	2,348	2,405	2,050	1,983	2,045
Room and Board	<u>9,312</u>	<u>9,540</u>	<u>10,010</u>	<u>10,780</u>	<u>11,210</u>
Total	\$38,610	\$39,875	\$40,690	\$42,143	\$43,455

In addition to the AOS programs at the Hyde Park and Greystone campuses and the AAS program at the San Antonio campus, there are numerous other credit programs at the Institute. At the Hyde Park campus, there is a bachelor’s degree program. The certificate programs available at the Greystone campus include a 30-week Advanced Culinary Arts Certificate Program and a 30-week Wine & Beverage Graduate Certificate Program. The Institute’s gross credit program tuition and fees from all campuses was \$116.1 million in Fiscal Year 2016-17.

**Student Financial Aid**

The Institute administers a student aid program through which approximately 90% of the student body receives financial assistance in the form of grants, loans or campus employment. In fiscal year 2016-17, the Institute provided \$24.2 million in Institutional grant aid to students. In addition, Federal grants to students from the Pell Program, the Supplemental Educational Opportunity Grants Program and from the Veterans Benefits Program amounted to \$8.7 million. New York residents enrolled at the Institute received \$756,000 in grants from the State’s Tuition Assistance Plan in 2016-17. A summary of the funds provided for scholarships for the past five fiscal years is as follows:

**SOURCES OF SCHOLARSHIP AND GRANT AID**

(in thousands)

<b><u>Fiscal Year</u></b>	<b><u>Institute Grants</u></b>	<b><u>State Grants</u></b>	<b><u>Federal Grants</u></b>	<b><u>Outside Awards</u></b>	<b><u>Total</u></b>
2012-13	17,399	719	9,884	3,621	31,623
2013-14	18,490	847	9,395	3,753	32,485
2014-15	22,450	1,006	9,823	4,595	37,874
2015-16	24,657	797	10,332	5,148	40,934
2016-17	24,221	756	8,738	5,763	39,478

In addition to grant aid, students financed their educational costs with jobs and loans. Students earned approximately \$1.6 million from Institute-sponsored employment opportunities and borrowed approximately \$0.3 million through the Perkins Student Loan Program. In 2016-17 students borrowed an aggregate of \$14.3 million under the Stafford Student Loan program and \$26.3 million in various parent and alternative loan programs.

**ANNUAL FINANCIAL STATEMENT INFORMATION**

The consolidated financial statements of the Institute as of and for the years ended May 31, 2017 and 2016 included in Appendix B to this Official Statement, have been audited by KPMG LLP, independent auditors, as stated in their report.

## **Management Report of Operating Results**

Since fiscal year 2013, the Institute has averaged a yearly net increase in unrestricted net assets of approximately \$11.4 million. For more than 30 consecutive years, the Institute has operated with an unrestricted surplus. Historically, net tuition has represented the largest component of operating revenues. The following chart and summaries are derived from the Institute's consolidated audited financial statements for the five fiscal years ended May 31, 2013 through May 31, 2017. Please see Appendix B for the Institute's most recent audited financial statements and supporting footnotes.

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**Unrestricted Activities**  
**Five Fiscal Years Ended May 31**  
(in thousands)

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Operating revenues and gains:					
Tuition and fees	\$ 119,285	120,446	121,361	128,267	127,356
Less scholarships and awards	(19,635)	(21,453)	(25,458)	(28,933)	(28,837)
Net tuition and fees	99,650	98,993	95,903	99,334	98,519
Contributions for operations	3,561	4,087	4,468	8,272	6,715
Government grants and contracts	700	764	1,828	810	813
Investment return designated for operations	3,348	3,797	4,143	4,458	4,219
Sales and services of educational activities	10,762	10,085	8,693	8,698	8,180
Sales of auxiliary enterprises	17,927	18,040	18,180	23,311	24,324
Other sources	5,723	5,034	5,003	3,296	2,753
Net assets released from restrictions	3,608	4,042	7,078	5,100	4,219
Total operating revenues and gains	145,279	144,841	145,297	153,279	149,742
Operating expenses:					
Instruction	58,417	57,434	56,170	63,019	55,564
Academic support	18,127	18,576	19,228	19,096	17,480
Student services	13,255	13,763	13,641	16,295	16,421
Institutional support	31,806	31,777	33,413	31,346	31,202
Auxiliary enterprises	14,392	14,722	15,868	18,561	23,847
Total operating expenses	135,996	136,272	138,319	148,317	144,514
Increase in net assets from operations	9,282	8,569	6,977	4,962	5,228
Nonoperating:					
Contributions for plant and endowment	846	302	1,138	429	876
Net assets released for plant	7,440	310	257	258	424
Investment return above amounts designated for current operations	6,036	9,003	(254)	(11,351)	4,332
Loss on debt defeasance	—	—	—	—	(1,654)
Depreciation in fair value of derivative instrument	3,870	1,205	(1,360)	(831)	1,078
Change in value of gift annuity agreement	—	—	—	—	—
Cost of debt extinguishment	(316)	—	—	—	—
Net asset reclassification of endowment funds	—	—	—	—	—
Increase in net assets from nonoperating activities	17,876	10,820	(219)	(11,495)	5,056
Increase in net assets	27,158	19,389	6,758	(6,533)	10,284
Net assets at the beginning of the year	145,315	172,473	191,863	198,621	192,088
Net assets at the end of the year	\$ 172,473	191,863	198,621	192,088	202,372

**Net Assets**

Unrestricted net assets of approximately \$202.4 million as of May 31, 2017 consisted primarily of investments, cash, other unrestricted assets and net plant equity. Net plant equity at May 31, 2017 was \$115.6 million. Temporarily restricted net assets are generally available for program purposes such as term endowment, financial aid, facilities and equipment and deferred giving arrangements. Permanently restricted net assets are

restricted by the donor, the investment return from which is used to support program activities such as financial aid, instruction and facility maintenance.

For comparative purposes, the table below presents a summary of the changes in the Institute's net assets for each of the three categories of assets over the past five years based on information derived from the Institute's consolidated audited financial statements for the fiscal years ended May 31, 2013 through May 31, 2017.

**Change in Net Assets**  
**Five Fiscal Years Ended May 31**  
**(in thousands)**

	2013	2014	2015	2016	2017
Unrestricted net assets:					
Operating revenues and gains	\$ 145,279	144,842	145,297	153,279	149,742
Operating expenses	135,996	136,273	138,319	148,317	144,514
Increase in net assets from operations	9,282	8,569	6,977	4,962	5,228
Increase (decrease) from non-operations	17,876	10,820	(219)	(11,495)	5,056
Net change in unrestricted net assets	27,158	19,389	6,758	(6,533)	10,284
Temporarily restricted net assets:					
Contributions	4,240	2,644	6,108	10,224	4,257
Investments return	7,272	3,410	2,188	(850)	5,003
Net assets released for plant	(7,440)	(310)	(257)	(258)	(423)
Net assets released from restrictions	(3,608)	(4,042)	(7,078)	(5,100)	(4,218)
Net asset reclassification of endowment funds	—	—	—		
Net change in temporarily restricted net assets	464	1,701	961	4,016	4,619
Permanently restricted net assets:					
Contributions	1,029	121	301	4,500	886
Investments return	3	0	—	—	—
Net change in temporarily restricted net assets	1,032	121	301	4,500	886
Increase in net assets	28,654	21,212	8,020	1,983	15,789
Net assets at the beginning of the year	199,634	228,288	249,500	257,520	259,503
Net assets at the end of the year	228,288	249,500	257,520	259,503	275,292
Net Assets:					
Unrestricted	172,473	191,863	198,621	192,088	202,372
Temporarily restricted	31,632	33,334	34,294	38,310	42,928
Permanently restricted	24,183	24,304	24,605	29,105	29,992
Total	\$ 228,288	249,500	257,520	259,503	275,292

**Fund Raising**

During fiscal year 2017, the Institute recorded \$12.7 million in net contributions. Of this amount, \$8.6 million represented operating gifts and \$4.1 million represented contributions for plant and endowment. Cash and other gift revenue totaling \$8.9 million were received during the year and \$3.8 million in net pledge gifts were received. The Institute's pledge receivable as of May 31, 2017 was \$10.1 million, which is presented at net present value. For fiscal year 2018 the CIA projects approximately \$15 million in fund raising contributions.

The Institute recently completed its “Building on Excellence Campaign”, the first comprehensive fund raising campaign for the CIA. The campaign started on June 1, 2009 and ended on May 31, 2017. The campaign’s goal was to raise \$101 million to transform the campus and support student and faculty members. At the heart of the campaign the need to create bold new facilities and renovate existing buildings, provide scholarship funds for students and gifts for operations. At the conclusion of the campaign on May 31, 2017, the Institute had exceeded the goal and raised approximately \$108.95 million.

The chart which follows shows a seven-year history of net gifts received.

<u>Fiscal Year</u>	<u>Net Gifts Received</u>
2010	\$9,009,245
2011	16,496,729
2012	18,437,396
2013	9,675,050
2014	7,154,191
2015	12,014,305
2016	23,424,313
2017	<u>12,734,661</u>
Total	<u>\$108,945,890</u>

## Investments

Total investments include long-term and short-term investments and deposits with trustees. The following table provides the market value of the CIA’s total investments for the past four fiscal years ended May 31:

	<u>Total Investments</u>				
	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Time deposits & short term funds	\$ 68,631	\$ 68,316	\$ 136,707	\$ 136,898	\$ 118,413
Comingled equity and debt funds	8,106,866	1,575,195	1,577,815	1,515,232	1,620,330
Real Estate	1,100,000	1,100,000	1,100,000	750,000	205,000
Private Equity	3,222,059	3,447,987	3,182,174	3,005,295	2,582,616
Multi-strategy	119,839,356	139,283,532	139,310,631	116,755,507	130,750,653
Real assets	<u>3,948,573</u>	<u>4,024,246</u>	<u>3,221,667</u>	<u>1,601,737</u>	<u>966,564</u>
Total investments	<u>\$136,285,485</u>	<u>\$149,499,276</u>	<u>\$148,528,994</u>	<u>\$123,764,669</u>	<u>\$136,243,576</u>

At May 31, 2017, total investments had a market value of \$136.2 million, of which the Institute estimates approximately \$79.1 million of investments could be liquidated within 90 days. At May 31, 2017, the Institute’s Multi-Strategy investments were comprised of 41% global equities, 13% fixed income, 17% absolute return, 14% real assets and 15% private equity. The Institute’s total investments managed by Perella Weinberg Partners (PWP), the Institute’s outsourced chief investment officer, had a market an estimated market value of \$142.2 million at May 31, 2018.

During FY2016 the Institute liquidated \$15 million in investments in order to expand its presence in California with the purchase of “Copia” in the City of Napa. The Institute has adopted a total return spending policy on its endowment and similar funds. Under this policy, the Institute accounts for a spending rate of five percent based on the endowment fund’s average fair value of the prior 12 quarters. The spending rate is accounted for as investment return designated for operations in operating revenues. Excess earnings, or investment return shortfalls, are accounted for in non-operating activities.

Historically the Institute’s operations have generated sufficient cash flow such that the Institute has not drawn down funding from long term investments. In fiscal years 2017 and 2016, the Institute generated \$9.8 million and \$4.7 million, in positive cash flows from operations, respectively. The goal established by the Institute’s Board

of Trustees is to grow the Institute's long term investment value through investment earnings and appreciation, new gifts and operating surpluses.

The Institute's endowment is overseen by the Investment Committee of the Board of Trustees, and supported by PWP as investment consultant. The Investment Committee has the responsibility for maintaining the investment policy including the spending policy, asset allocation and rebalancing of the portfolio, and the selection and/or retention of the investment manager(s). The Investment Committee meets on a quarterly basis with PWP to review performance, asset allocation and any other issues.

The following table details the market value of the Institute's endowment investments for the past five fiscal years ended May 31:

<b>Endowment Investments</b>					
	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Endowment and similar purposes	\$115,130,491	\$127,511,912	\$131,235,637	\$109,620,129	\$128,542,675

### **Pension Plans**

All employees of the Institute are eligible to participate in the Defined Contribution Plan sponsored by the Teacher's Insurance and Annuity Association. Under this defined contribution plan, the Institute makes annual contributions to the plans, which are immediately vested, for the benefit of the participants. There are no unfunded past service costs under this plan.

### **Land, Building and Equipment**

The book value of the physical plant of the Institute has increased by more than 26% over the five fiscal years ended May 31, 2017. The following tabulation shows the book value of land, buildings and equipment and furnishings at May 31 of each of the last five fiscal years.

<u>Fiscal Year</u>	<u>Land</u>	<u>Buildings &amp; Improvements</u>	<u>Furniture &amp; Equipment</u>	<u>Construction In Progress</u>	<u>Accumulated Depreciation</u>	<u>Total</u>
<b>2013</b>	7,373,865	231,646,612	63,697,190	11,637,224	(115,393,042)	198,961,849
<b>2014</b>	7,661,136	257,925,817	67,063,440	10,997,650	(123,350,552)	220,277,491
<b>2015</b>	7,661,136	261,005,328	70,874,825	30,185,064	(131,877,102)	237,849,251
<b>2016</b>	8,725,418	305,099,577	76,405,957	469,819	(141,526,088)	249,174,683
<b>2017</b>	8,725,418	310,824,430	80,971,145	2,897,867	(151,676,827)	251,742,033

The Institute presently carries, under blanket policies, insurance on its buildings and their contents, excluding building foundations and land, at 100% of the replacement cost.

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## Outstanding Indebtedness

Long-term indebtedness of the Institute at May 31, 2017 is summarized as follows:

<u>Issue</u>	<u>Rate(s)</u>	<u>Maturity</u>	<u>Outstanding</u>
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2004D	Variable	2034	\$14,000,000**
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2006	Variable	2036	11,975,000**
California Statewide Communities Development Authority Revenue Bonds, Series 2008	Variable	2038	11,925,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2012	3.0%-5.0%	2042	18,725,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2013	3.0%-6.0%	2043	29,735,000
California Statewide Communities Development Authority Revenue Bonds, Series 2016B	5.0%	2046	12,725,000
Dutchess County Local Development Corporation Revenue Bonds, Series 2016A	1.64% -5%	2046	<u>37,040,000</u>
Total long-term obligations			\$136,125,000

**\*\* To be redeemed with a portion of the proceeds of Series 2018 Bonds.**

In connection with the issuance by DASNY the Series 2004D the Institute entered into an interest rate swap agreement the effect of which is to modify the interest rate characteristics of the Series 2004D from a floating to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.597%) and receive variable rate of interest based on fluctuations in the one-month LIBOR rate. The Series 2004D Bonds are secured by a direct letter of credit issued by TD Bank. Upon issuance of the Series 2018 Bonds, the 2004D swap and letter of credit are expected to be terminated.

In connection with the issuance by DASNY of the Series 2006 Bonds, the Institute entered into an interest rate swap agreement with notional amount of \$15,125,000. Such interest rate exchange agreement (the "2006 Swap Agreement") was entered into by the Institute in order to convert the variable rate on its variable rate bonds to a synthetic fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate of 3.678% and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The Series 2006 Bonds are secured by a letter of credit issued by TD Bank. Upon issuance of the Series 2018 Bonds, the 2006 swap and letter of credit are expected to be terminated.

In connection with the 2008 California Statewide Communities Development Authority Revenue Bonds, the Institute entered into an interest rate swap agreement at an original notional amount of \$14,150,000. The current notional amount of the swap is \$6 million. During fiscal year 2011, the Institute completed a remarketing of the Series 2008 bonds which converted the Series 2008 bonds from variable rate bonds secured by a letter of credit to variable rate bank direct placement bonds. The converted Bonds were purchased by TD Bank, N.A. for an initial term of 10 years, expiring in 2020. The 2005 interest rate swap was assumed by TD Bank and the rate was modified to 3.28%. The swap agreement matures in September 2035 unless the bank purchase bonds are not renewed which would cause an automatic swap termination.

The Institute entered into the Swap Agreements as a means of achieving a lower net fixed rate interest cost rather than issuing fixed-rate bonds at the time of issuance. The swap agreements may expose the Institute to certain market, tax-rate and credit risks. The Institute may terminate the swap agreements at any time at market value, or upon the occurrence of certain events. Upon issuance of the Series 2018 Bonds, the Institute will have no exposure



to swap termination if it is downgraded below “Baa2” by Moody’s nor will it be required to post collateral for any swap liabilities

**Insurance**

The Institute carries a broad range of property and general liability coverage, including Directors and Officers liability coverage, in amounts customary for institutions of the size of the Institute.

**Litigation**

There is no material litigation pending or threatened against the Institute which would result in recovery which is not covered by applicable insurance programs less deductible provisions.

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**APPENDIX B**

**CONSOLIDATED FINANCIAL STATEMENTS OF THE INSTITUTE WITH REPORT OF  
INDEPENDENT AUDITORS FOR THE YEAR ENDED MAY 31, 2017 AND 2016**

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**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Financial Statements

May 31, 2017 and 2016

(With Independent Auditors' Report Thereon)

# THE CULINARY INSTITUTE OF AMERICA

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KPMG LLP  
515 Broadway  
Albany, NY 12207-2974

## Independent Auditors' Report

Board of Trustees  
The Culinary Institute of America:

### Report on Financial Statements

We have audited the accompanying consolidated financial statements of The Culinary Institute of America, which comprise the consolidated statements of financial position as of May 31, 2017 and 2016, and the related consolidated statements of activities and cash flows for the years then ended, and the related notes to the consolidated financial statements.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes 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.

### *Auditors' Responsibility*

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements 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 entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### *Opinion*

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of The Culinary Institute of America as of May 31, 2017 and 2016, and the changes in their net assets and their cash flows for the years then ended, in accordance with U.S. generally accepted accounting principles.

**KPMG LLP**

September 27, 2017

**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Statements of Financial Position

May 31, 2017 and 2016

<b>Assets</b>	<b>2017</b>	<b>2016</b>
Cash and cash equivalents	\$ 17,838,897	4,115,238
Cash held as collateral (note 7)	1,047,907	5,073,538
Investments (note 3)	136,243,576	123,764,669
Student accounts receivable, net	8,401,268	5,060,012
Other receivables	2,496,256	4,832,112
Inventory	2,752,790	2,616,073
Prepaid and other assets	3,156,104	3,195,667
Contributions receivable, net (note 5)	10,077,831	15,909,855
Long-term loans to students, net	1,885,328	2,096,715
Deposits with bond trustees (note 8)	28,195,350	10,624,739
Land, buildings and equipment, net (note 6)	<u>251,742,033</u>	<u>249,174,683</u>
Total assets	<u>\$ 463,837,340</u>	<u>426,463,301</u>
<b>Liabilities and Net Assets</b>		
Liabilities:		
Accounts payable	\$ 2,846,826	3,325,296
Deferred revenue	20,533,013	18,940,187
Accrued liabilities	9,718,851	8,074,966
Accrued compensated absences	4,361,900	4,291,857
Fair value of derivative instruments (note 7)	5,718,348	11,854,734
Bonds payable, net (note 7)	143,571,835	118,716,934
U.S. government refundable advances	<u>1,794,824</u>	<u>1,755,887</u>
Total liabilities	<u>188,545,597</u>	<u>166,959,861</u>
Net assets:		
Unrestricted	202,371,607	192,087,946
Temporarily restricted (note 10)	42,928,493	38,309,847
Permanently restricted (note 10)	<u>29,991,643</u>	<u>29,105,647</u>
Total net assets	<u>275,291,743</u>	<u>259,503,440</u>
Total liabilities and net assets	<u>\$ 463,837,340</u>	<u>426,463,301</u>

See accompanying notes to consolidated financial statements.



**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Statement of Activities

Year ended May 31, 2017

(with summarized information for the year ended May 31, 2016)

	2017			Total	2016 Total
	Unrestricted	Temporarily restricted	Permanently restricted		
Operating revenues and gains:					
Tuition and fees	\$ 127,355,642	—	—	127,355,642	128,266,442
Less scholarships and awards	(28,836,803)	—	—	(28,836,803)	(28,932,683)
Net tuition and fees	98,518,839	—	—	98,518,839	99,333,759
Contributions for operations (note 5)	6,715,195	1,878,727	—	8,593,922	11,495,919
Government grants and contracts	813,089	—	—	813,089	810,187
Investment return designated for operations	4,219,035	2,487,783	—	6,706,818	6,892,645
Sales and services of educational activities	8,180,327	—	—	8,180,327	8,698,472
Sales of auxiliary enterprises	24,324,347	—	—	24,324,347	23,311,339
Other sources	2,753,566	—	—	2,753,566	3,295,978
Net assets released from restrictions	4,217,944	(4,217,944)	—	—	—
Total operating revenues and gains	149,742,342	148,566	—	149,890,908	153,838,299
Operating expenses:					
Instruction	55,564,069	—	—	55,564,069	58,234,454
Academic support	17,479,765	—	—	17,479,765	19,095,776
Student services	16,421,093	—	—	16,421,093	16,295,536
Institutional support	31,202,153	—	—	31,202,153	31,345,828
Auxiliary enterprises	23,847,343	—	—	23,847,343	23,345,656
Total operating expenses	144,514,423	—	—	144,514,423	148,317,250
Increase in net assets from operations	5,227,919	148,566	—	5,376,485	5,521,049
Nonoperating:					
Contributions for plant and endowment (note 5)	876,300	2,378,442	885,996	4,140,738	11,928,394
Net assets released for plant	423,524	(423,524)	—	—	—
Investment return, net of amounts designated for current operations	4,331,868	2,515,162	—	6,847,030	(14,635,161)
Loss on debt defeasance	(1,654,336)	—	—	(1,654,336)	—
Change in fair value of derivative instruments (note 7)	1,078,386	—	—	1,078,386	(831,092)
Increase (decrease) in net assets from nonoperating activities	5,055,742	4,470,080	885,996	10,411,818	(3,537,859)
Increase in net assets	10,283,661	4,618,646	885,996	15,788,303	1,983,190
Net assets at the beginning of the year	192,087,946	38,309,847	29,105,647	259,503,440	257,520,250
Net assets at the end of the year	\$ 202,371,607	42,928,493	29,991,643	275,291,743	259,503,440

See accompanying notes to consolidated financial statements.

**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Statement of Activities

Year ended May 31, 2016

	2016			Total
	Unrestricted	Temporarily restricted	Permanently restricted	
Operating revenues and gains:				
Tuition and fees	\$ 128,266,442	—	—	128,266,442
Less scholarships and awards	(28,932,683)	—	—	(28,932,683)
Net tuition and fees	99,333,759	—	—	99,333,759
Contributions for operations (note 5)	8,271,356	3,224,563	—	11,495,919
Government grants and contracts	810,187	—	—	810,187
Investment return designated for operations	4,457,711	2,434,934	—	6,892,645
Sales and services of educational activities	8,698,472	—	—	8,698,472
Sales of auxiliary enterprises	23,311,339	—	—	23,311,339
Other sources	3,295,978	—	—	3,295,978
Net assets released from restrictions	5,100,084	(5,100,084)	—	—
Total operating revenues and gains	<u>153,278,886</u>	<u>559,413</u>	<u>—</u>	<u>153,838,299</u>
Operating expenses:				
Instruction	63,019,131	—	—	63,019,131
Academic support	19,095,776	—	—	19,095,776
Student services	16,295,536	—	—	16,295,536
Institutional support	31,345,828	—	—	31,345,828
Auxiliary enterprises	18,560,979	—	—	18,560,979
Total operating expenses	<u>148,317,250</u>	<u>—</u>	<u>—</u>	<u>148,317,250</u>
Increase in net assets from operations	<u>4,961,636</u>	<u>559,413</u>	<u>—</u>	<u>5,521,049</u>
Nonoperating:				
Contributions for plant and endowment (note 5)	429,084	6,999,045	4,500,265	11,928,394
Net assets released for plant	258,023	(258,023)	—	—
Investment return, net of amounts designated for current operations	(11,350,610)	(3,284,551)	—	(14,635,161)
Change in fair value of derivative instruments (note 7)	(831,092)	—	—	(831,092)
Increase (decrease) in net assets from nonoperating activities	<u>(11,494,595)</u>	<u>3,456,471</u>	<u>4,500,265</u>	<u>(3,537,859)</u>
Increase (decrease) in net assets	<u>(6,532,959)</u>	<u>4,015,884</u>	<u>4,500,265</u>	<u>1,983,190</u>
Net assets at the beginning of the year	<u>198,620,905</u>	<u>34,293,963</u>	<u>24,605,382</u>	<u>257,520,250</u>
Net assets at the end of the year	\$ <u>192,087,946</u>	<u>38,309,847</u>	<u>29,105,647</u>	<u>259,503,440</u>

See accompanying notes to consolidated financial statements.

**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Statements of Cash Flows

Years ended May 31, 2017 and 2016

	<u>2017</u>	<u>2016</u>
Cash flows from operating activities:		
Change in net assets	\$ 15,788,303	1,983,190
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	9,975,161	9,724,139
Net realized and unrealized (gains) losses on investments	(13,775,278)	7,523,321
Loss on debt defeasance	1,361,042	—
Equipment donations	(875,826)	(429,172)
Change in fair value of derivative instruments	(6,136,386)	831,092
Contributions restricted for long-term investment	(4,140,738)	(1,378,394)
Change in operating assets and liabilities that provide (use) cash:		
Student accounts receivable, net	(3,341,256)	195,113
Other receivables	2,335,856	(2,835,151)
Inventory	(136,717)	109,917
Prepaid and other assets	39,563	(379,921)
Contributions receivable, net	5,832,024	(8,016,364)
Accounts payable and accrued liabilities	1,235,458	(1,035,965)
Deferred revenue	1,592,826	(1,615,528)
Net cash provided by operating activities	<u>9,754,032</u>	<u>4,676,277</u>
Cash flows from investing activities:		
Purchases of land, buildings, and equipment	(11,842,263)	(21,646,574)
Long term loans to students, net	211,387	(69,463)
Proceeds from sales and maturities of investments	1,983,203	17,375,525
Purchases of investments	(686,832)	(134,521)
Net cash used in investing activities	<u>(10,334,505)</u>	<u>(4,475,033)</u>
Cash flows from financing activities:		
Repayments of principal of indebtedness	(4,635,000)	(4,480,000)
Change in cash held as collateral by swap counterparties	4,025,631	(1,033,538)
Proceeds from issuance of bonds payable	49,765,000	—
Extinguishment of bonds payable	(29,400,000)	—
Bond issuance costs paid	(1,236,369)	—
Premium received from bond issuance	9,175,806	—
Net proceeds from line of credit draws	—	(4,000,000)
Change in deposits with bond trustees	(17,570,611)	2,788,972
Net decrease in U.S. government grants refundable	38,937	115,082
Contributions restricted for long-term investment	4,140,738	1,378,394
Net cash provided by (used in) financing activities	<u>14,304,132</u>	<u>(5,231,090)</u>
Increase (decrease) in cash and cash equivalents	13,723,659	(5,029,846)
Cash and cash equivalents at beginning of year	<u>4,115,238</u>	<u>9,145,084</u>
Cash and cash equivalents at end of year	\$ <u>17,838,897</u>	<u>4,115,238</u>
Supplemental data:		
Interest paid	\$ 4,710,903	4,771,837
Gifts-in-kind	3,031,644	2,573,229
Change in purchases of plant and equipment included in accounts payable	—	(1,101,328)

See accompanying notes to consolidated financial statements.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2017 and 2016

#### (1) The Institute

The Culinary Institute of America (Institute) has been a leader in culinary education since 1946. The Institute has three domestic campuses, located on the East and West coasts of the United States of America in Hyde Park, NY and St. Helena and Napa, CA (Greystone and Copia), respectively, as well as a campus in San Antonio, TX. The Institute also has an international campus located in Singapore that is operated through The Culinary Institute of America Singapore, Ltd., a wholly owned subsidiary of the Institute.

At its Hyde Park campus, the Institute offers associate's degrees, in either culinary arts or baking and pastry arts, bachelor's of professional studies degrees in culinary arts management or baking and pastry arts management, and a bachelor's degree in culinary science. At its Greystone campus, the Institute offers either culinary arts or baking and pastry associate's degrees. At its San Antonio campus, the Institute offers an associate in applied science (AAS) degree in culinary arts. At the Greystone campus, credit bearing certificate programs are also offered. In addition, the Institute offers continuing education programs at all of its campuses. At the Singapore campus, the Institute has a collaboration agreement with the Singapore Institute of Technology for the culinary education of undergraduate degree students. Also, the Institute operates nine public restaurants, five at the Hyde Park campus, two at the Greystone campus, one at the San Antonio campus and one at the Copia campus.

#### (2) Summary of Significant Accounting Policies

##### (a) Basis of Presentation

The accompanying consolidated financial statements include the accounts of The Culinary Institute of America and its wholly owned subsidiary (collectively, the Institute). All significant intercompany balances and transactions have been eliminated in consolidation.

The Institute's consolidated financial statements, which have been prepared on the accrual basis of accounting and are presented in accordance with U.S. generally accepted accounting principles, have been prepared to focus on the Institute as a whole and to present balances and transactions according to the existence or absence of donor-imposed restrictions. The net assets of the Institute are classified as follows:

*Unrestricted net assets* – generally are not subject to donor-imposed stipulations, but may be designated for specific purposes by the board of trustees or may otherwise be limited by contractual agreements with outside parties.

*Temporarily restricted net assets* – are subject to donor-imposed stipulations that expire by the passage of time or can be fulfilled or removed by actions pursuant to the stipulations. Temporarily restricted net assets consist primarily of gifts restricted by donors for capital projects and other operating purposes.

*Permanently restricted net assets* – are subject to donor-imposed stipulations that they be maintained in perpetuity. Generally, donors of these assets usually permit the use of all or part of the investment return on these assets. Permanently restricted net assets primarily consist of the Institute's permanent endowment funds.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2017 and 2016

Expenses are reported as decreases in unrestricted net assets. Expirations of donor-imposed stipulations are reported as a reclassification between the applicable classes of net assets as an increase in one class of net assets and decrease in another. It is the Institute's policy to record temporarily restricted contributions received and expended in the same accounting period as unrestricted.

Nonoperating activities include contributions to be used for facilities and equipment, or contributions for the endowment fund. Nonoperating activities also includes investment return net of amounts designated for current operations, as well as gains or losses resulting from nonrecurring financing activities.

#### **(b) Contributions**

Contributions, including unconditional promises to give, are recognized as revenues when donors' commitments are received. Contributions of assets other than cash are recorded at their estimated fair value. Conditional pledges are recognized as revenues when conditions are substantially met. Unconditional pledges, net of an allowance for uncollectible amounts, are reported at their estimated net present values, and are classified as either temporarily or permanently restricted. The allowance for uncollectible contributions is estimated based upon management's judgment and includes factors such as prior collection history.

#### **(c) Cash Equivalents**

For the purposes of the statements of cash flows, the Institute considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents, unless they are part of long-term investment funds.

#### **(d) Revenue Recognition and Receivables**

Students are billed prior to the start of each semester. The related net revenue is deferred and recognized when the educational services are rendered. The Institute extends credit, primarily to students, in the form of notes and accounts receivable for educational expenses. Student accounts receivable do not bear interest, but long-term loans to students bear interest at rates averaging 5%.

The receivables are recorded at their current unpaid principal balance and associated interest income, if applicable, is accrued based on the principal amount outstanding and applicable interest rates. Allowances for doubtful accounts are recorded representing the amounts that, in the opinion of management of the Institute, are necessary to account for probable losses related to the receivables. These allowances are determined based upon numerous considerations, including economic conditions, the specific composition of the receivable balance, as well as trends of delinquencies and write-offs. On a periodic basis, these factors are considered and the allowances for doubtful accounts are adjusted accordingly, with a corresponding adjustment to the provision for allowance for doubtful accounts.

Reserves have been provided for accounts receivable estimated to be uncollectible at May 31, 2017 and 2016 of \$4,864,471 and \$4,162,000, respectively.

Reserves have been provided for long-term loans to students estimated to be uncollectible at May 31, 2017 and 2016 of \$96,498 and \$439,221, respectively.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2017 and 2016

#### **(e) Investments**

Investments are recorded at fair value. If an investment is held directly by the Institute and in an active market where quoted prices exists, the Institute reports the fair value as the market price of an identical security. Shares in mutual funds are based on share values reported by the funds as of the last business day of the fiscal year. The Institute also holds shares or units in alternative investment funds involving hedge and private equity strategies. Such alternative investment funds may hold securities or other financial instruments for which a ready market exists and are priced accordingly. In addition, such funds may hold assets that require the estimation of fair values in the absence of readily determinable market values. Such valuations are determined by fund managers and generally consider variables such as operating results, comparable earnings multiples, projected cash flows, recent sales prices, and other pertinent information, and may reflect discounts for the illiquid nature of certain investments held.

The Institute utilizes the net asset value (NAV) reported by each of the alternative investment funds as a practical expedient for determining the fair value of the investment. These investments are redeemable at NAV under the original terms of the subscription agreements and operations of the underlying funds. However, it is possible that these redemption rights may be restricted or eliminated by the funds in the future in accordance with the underlying fund agreements. Due to the nature of the investments held by these funds, changes in market conditions and the economic environment may significantly impact the NAV of the funds and, consequently, the fair value of the Institute's interests in the funds. Furthermore, changes to the liquidity provisions of the funds may significantly impact the fair value of the Institute's interest in the funds.

Endowment and investment return includes interest and dividends, realized gains and losses, and the change in unrealized appreciation (depreciation) on the associated investments. The average cost of investment securities sold is used to determine the basis for computing realized gains or losses, and the Institute accounts for investment sales and purchases on a trade date basis.

#### **(f) Inventory**

Inventory primarily represents restaurant operating supplies and food and beverage and are stated at the lower of cost, determined principally on the weighted average cost method, or market.

#### **(g) Land, Buildings, and Equipment**

Land, buildings, and equipment are recorded at cost at the date of acquisition or fair value at date of donation.

Depreciation is recorded using the straight-line method with estimated useful lives used in the calculation of depreciation by major category of assets are as follows:

Buildings and building improvements	50 years
Kitchen equipment and renovations	15 years
Furniture and equipment	7 years
Computer equipment	5 years

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2017 and 2016

In June 2011, the Institute entered into a long-term ground lease with a component of the Collegiate Housing Foundation (CHF), an unrelated national not-for-profit organization, for the construction of three separate townhouses to be utilized for a 161-bed student housing facility. Pursuant to this 40-year agreement, the development, construction and financing of the facility is the exclusive responsibility of the CHF-CIA, LLC, the component of CHF. The facility is owned by CHF-CIA, LLC, a separate 501(c)(3) entity, and financed through tax-exempt bonds issued by the Dutchess County Local Development Corporation. The Institute does not pay nor is it responsible for the debt. When the financing is paid in full, the ownership interest in the facility may be conveyed to the Institute. Accordingly, the assets, related long-term debt and associated results of operations of CHF-CIA, LLC have been excluded from the Institute's consolidated financial statements.

#### **(h) Discount and Bond Premium**

Bonds payable are recorded net of the discount or premium. Amortization and accretion of this discount or premium is recorded using the straight-line method. Net accretion (amortization expense) amounted to \$333,008 and \$101,613 for the fiscal years ended May 31, 2017 and 2016.

#### **(i) Bond Issuance Costs**

Bond issuance costs are capitalized and amortized over the term of the related bond, using the straight-line method. Bond issuance costs are \$3,148,957 and \$3,379,005, net of amortization, at May 31, 2017 and 2016, respectively and are included in the bonds payable balance on the consolidated statements of financial position. Amortization expense amounted to \$157,429 and \$176,765, respectively, in 2017 and 2016.

#### **(j) Interest Rate Swap Agreements**

The Institute uses interest rate swap agreements as part of its risk management strategy to manage exposure to fluctuations in interest rates and to manage the overall cost of its debt. The interest rate swap agreements in place are not designated as a hedge of cash flows related to the corresponding debt agreements. The fair value of the interest rate swaps is recognized as either an asset or liability based on dealer quotes of the estimated settlement amounts required of the Institute if the agreement was terminated, taking into consideration current interest rates. Gains and losses on settlements and changes in the fair value of the interest rate swap transactions are reflected in the consolidated statement of activities.

#### **(k) Income Taxes**

The Institute has a tax determination letter dated February 22, 1973, from the Internal Revenue Service stating that it qualifies under the provisions of Section 501(c)(3) of the Internal Revenue Code and is generally exempt from Federal income taxes under Section 501(a) of the Internal Revenue Code. The Institute believes it has no significant uncertain tax positions.

#### **(l) Commitments and Contingencies**

Liabilities for loss contingencies arising from claims, assessments, litigation, and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated. Legal costs incurred in connection with loss contingencies are expensed as incurred.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2017 and 2016

#### **(m) Management Estimates**

The preparation of consolidated financial statements in accordance with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses during the reporting period. Significant items subject to such estimates and assumptions include the valuation of interest rate swaps, valuation allowances for receivables, and the valuation of certain investments. Actual results could differ from those estimates.

#### **(n) Fair Value**

The following methods and assumptions were used to estimate the fair value of each class of financial instruments for which it is practicable to estimate that value:

*Cash and cash equivalents, investments, student accounts receivable, other receivables, deposits with bond trustees, accounts payable* – The carrying amounts approximate fair value because of the short-term maturity of these instruments or they have been otherwise recorded at their estimated fair value.

*Long-term loans to students* – Determination of the fair value cannot be made as these notes are comprised of federally sponsored student loans that bear interest rates and repayment terms, and are subject to significant restrictions on their transfer and disposition.

*Interest rate swaps* – The interest rate swap agreements are recorded at fair value within the accompanying consolidated financial statements based on dealer quotes of the estimated settlement amounts required of the Institute if the agreement was terminated, taking into consideration current interest rates. The interest rate swaps are categorized as Level 2 in the fair value hierarchy.

#### **(o) Reclassifications**

Certain reclassifications have been made to the 2016 information to conform with the 2017 presentation.

### **(3) Investments**

The investment objective of the Institute is to invest its assets in a prudent manner to achieve a long-term rate of return sufficient to fund a portion of its spending and to increase investment value after inflation. The Institute's investment strategy incorporates a diversified asset allocation approach that maintains, within defined limits, exposure to domestic and international equities, fixed income, real estate, and private equity markets. The majority of the Institute's investments are managed in a pooled fund that consists primarily of endowment assets.



## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2017 and 2016

Investments and other financial instruments are reported at fair value. Fair value represents the price that would be received upon the sale of an asset or paid upon the transfer of a liability in an orderly transaction between market participants as of the measurement date. Items measured and reported at fair value are classified and disclosed in one of the following categories:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the Institute has the ability to access at the measurement date. Assets and liabilities classified as Level 1 generally include listed equities. Level 1 also includes cash and cash equivalents given the short maturity of these investments.
- Level 2 inputs are quoted market prices for markets that are not active or financial instruments for which all significant inputs are observable, either directly or indirectly. Assets and liabilities classified as Level 2 generally include fixed income securities.
- Level 3 inputs include pricing inputs that are unobservable for the assets and reflect certain assumptions to determine fair value.

With respect to those investments reported at NAV as a practical expedient, fair value hierarchy categorization is not required. The fair value amounts presented as NAV are intended to permit reconciliation of the fair value hierarchy disclosure to the amounts presented in the consolidated statements of financial position. As of May 31, 2017, the Institute had no specific plans or intentions to sell investments at amounts different than NAV.

The level in the fair value hierarchy within which a fair measurement in its entirety falls is based on the lowest level input that is significant to the fair value measurement in its entirety. Accordingly, the inputs or methodology used for valuing or classifying investments for financial reporting purposes is not necessarily an indication of the risk associated with investing in those investments or a reflection on the liquidity of each fund's underlying assets and liabilities.

The Institute's investments at May 31, 2017 are summarized in the following table by their fair value hierarchy classification:

	<u>May 31, 2017</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Redemption frequency</u>	<u>Days' notice</u>
Investments at fair value:						
Time deposits and short-term funds	\$ 118,413	118,413	—	—	Daily	1–3
Commingled equity and debt funds	1,620,330	1,620,330	—	—	Daily	1–3
Private equity	318,958	—	—	318,958	Illiquid	—
Real estate	205,000	—	—	205,000	—	—
	<u>2,262,701</u>	<u>1,738,743</u>	<u>—</u>	<u>523,958</u>		
Investments measured at net asset value:						
Private equity	2,263,658				Illiquid	—
Multi-strategy	130,750,653				Monthly – Illiquid	5–90
Real assets	966,564				Illiquid	—
	<u>\$ 136,243,576</u>					

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### Notes to Consolidated Financial Statements

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As of May 31, 2017, 96% of the Institute's total investments were invested in a fund-of-funds managed by Perella Weinberg Partners, the Institute's outsourced chief investment officer. This particular fund offers the Institute the ability to direct investments via share classes offering exposure in global equities, fixed income, absolute return, real assets and private equity. As of May 31, 2017, the Institute's investment in this multi-strategy fund was comprised of 41% global equities, 13% global fixed income, 17% absolute return, 14% real assets and 15% private equity.

The Institute's investments at May 31, 2016 are summarized in the following table by their fair value hierarchy classification:

	May 31, 2016	Level 1	Level 2	Level 3	Redemption frequency	Days' notice
Investments at fair value:						
Time deposits and short-term funds	\$ 136,898	136,898	—	—	Daily	1-3
Commingled equity and debt funds	1,515,232	1,515,232	—	—	Daily	1-3
Private equity	367,579	—	—	367,579	Illiquid	—
Real estate	750,000	—	—	750,000	—	—
	<u>2,769,709</u>	<u>1,652,130</u>	<u>—</u>	<u>1,117,579</u>		
Investments measured at net asset value:						
Private equity	2,637,716				Illiquid	—
Multi-strategy	116,755,507				Monthly – Illiquid	5-90
Real assets	1,601,737				Illiquid	—
	<u>\$ 123,764,669</u>					

As of May 31, 2016, 95% of the Institute's total investments were invested in a fund-of-funds managed by Perella Weinberg Partners, the Institute's outsourced chief investment officer. This particular fund offers the Institute the ability to direct investments via share classes offering exposure in global equities, fixed income, absolute return, real assets and private equity. As of May 31, 2016, the Institute's investment in this multi-strategy fund was comprised of 46% global equities, 12% global fixed income, 16% absolute return, 13% real assets and 12% private equity.

There were no purchases, realized or unrealized gains, or redemptions for the Institute's investment assets measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the year ended May 31, 2017 and 2016. Other Level 3 activity was attributable to unrealized losses totaling \$48,621 and \$3,530 for the Institute's private equity investment for the year ended May 31, 2017 and 2016, respectively. In addition, during the year ended May 31, 2017, the Institute sold a portion of the real estate holdings for \$295,000, incurring a loss of \$100,500. Also during the year, the remaining real estate holding was adjusted to market, which resulted in an unrealized loss of \$149,500.

There were no transfers between Level 1 and Level 2 investments or between Level 2 and Level 3 investments during the fiscal years ended May 31, 2017 and 2016 due to changes in fair value measurements.

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The following schedule summarizes the investment return and its classification in the accompanying consolidated statements of activities:

	<u>2017</u>	<u>2016</u>
Interest income and dividends	\$ 101,073	57,311
Net realized and unrealized gains (losses)	13,526,594	(7,539,317)
Directly paid managed investment fees	<u>(73,819)</u>	<u>(260,510)</u>
Total return on investments	13,553,848	(7,742,516)
Investment return designated for current operations	<u>(6,706,818)</u>	<u>(6,892,645)</u>
Investment return, net of amounts designated for current operations	\$ <u>6,847,030</u>	\$ <u>(14,635,161)</u>

*Liquidity*

The investments fair value as of May 31, 2017 are summarized below by redemption period:

Investments redemption period:	
Daily (up to 3 days)	\$ 1,738,743
Monthly	11,968,867
Quarterly	65,376,372
Not redeemable until liquidated	<u>57,159,594</u>
Total	\$ <u>136,243,576</u>

The limitations and restrictions on the Institute's ability to redeem or sell certain investments vary by investment and range from required notice periods (generally 30 to 180 days after initial lock-up periods) for certain limited partnership and real asset funds, to specified terms at inception (generally 10 years) associated with private equity interests.

From the investment fund managed by Perella Weinberg Partners, the Institute has the ability to redeem 9% within 30 days. In total, 50% of the investments are redeemable based on a quarterly withdrawal schedule and 41% of investments are not redeemable until the designated investments are liquidated based on their individual agreements.

Under the terms of certain limited partnership agreements, the Institute is obligated periodically to advance additional funding for certain funds that the Institute is invested in. At May 31, 2017, the Institute had capital commitments of \$411,000 for which calls had not been exercised. Such commitments generally have fixed expiration dates or other termination dates. The Institute maintains sufficient liquidity in its investment portfolio to cover such commitments.

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### Notes to Consolidated Financial Statements

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#### **(4) Endowment Funds**

The Institute's endowment consists of funds established for a variety of purposes, including both donor restricted endowment funds and funds designated by the Institute to function as endowments (board designated).

##### **(a) Return Objectives and Risk Parameters**

The Institute has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment while seeking to maintain the purchasing power of the endowment assets. Endowment assets include those assets of donor-restricted funds that the Institute must hold in perpetuity or for a donor-specified period, as well as board-designated funds. The primary investment objective of the management of the endowment fund is to maintain and grow the fund's real value by generating average annual real returns that meet or exceed the spending rate, after inflation, management fees, and administrative costs. Consistent with this goal, the Board of Trustees and the Investment Committee intend that the endowment fund be managed with an intention to maximize total returns consistent with prudent levels of risk, and reduce portfolio risk through asset allocation and diversification.

##### **(b) Strategies Employed for Achieving Objects**

To satisfy its long-term rate-of-return objectives, the Institute relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The Investment Committee is responsible for establishing an asset allocation policy. The asset allocation policy is designed to attempt to achieve diversity among capital markets and within capital markets, by investment discipline and management style. The Investment Committee designs a policy portfolio in light of the endowment's needs for liquidity, preservation of purchasing power, and risk tolerance.

The Institute targets a diversified asset allocation that places emphasis on investments in global equities, global fixed income, absolute return, real assets, and private equity strategies to achieve its long-term return objectives within prudent risk constraints. The Investment Committee reviews the policy portfolio asset allocation, exposures, and risk profile on an ongoing basis.

##### **(c) Spending Policy**

The Institute has a policy of appropriating for distribution each year a percentage of its endowment fund based on the fund's average fair value over the prior 12 quarters. The spending rate approved by the Board of Trustees was 5.0% for each of the years ended May 31, 2017 and 2016. In establishing this policy, the Institute considered the long-term expected return on its endowment. Accordingly, over the long-term, the Institute expects the current spending policy to allow its endowment to grow at an average of 2.0% real growth plus the rate of inflation (as measured by the Consumer Price Index). This is consistent with the Institute's objective to maintain the purchasing power of the endowment assets held, as well as to provide additional growth through new gifts and investment return. The effective spending rate was 5.5% and 4.7% for the years ended May 31, 2017 and 2016, respectively.

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In establishing these policies, the Institute considered the expected return on its endowment and its programming needs. Accordingly, the Institute expects the current spending policy to allow its endowment to maintain its purchasing power and to provide a predictable and stable source of revenue to the annual operating budget. Additional real growth will be provided through new gifts, any excess investment return, or additions by the Board of Trustees.

The following is a summary of the Institute's endowment net asset composition by type of fund as of May 31, 2017 and 2016:

<b>2017</b>				
	<u><b>Unrestricted</b></u>	<u><b>Temporarily restricted</b></u>	<u><b>Permanently restricted</b></u>	<u><b>Total</b></u>
Donor restricted	\$ (1,169,186)	30,612,354	29,256,646	58,699,814
Board designated (quasi)	69,842,861	—	—	69,842,861
	<u>\$ 68,673,675</u>	<u>30,612,354</u>	<u>29,256,646</u>	<u>128,542,675</u>

  

<b>2016</b>				
	<u><b>Unrestricted</b></u>	<u><b>Temporarily restricted</b></u>	<u><b>Permanently restricted</b></u>	<u><b>Total</b></u>
Donor restricted	\$ (2,161,621)	23,269,084	25,472,649	46,580,112
Board designated (quasi)	63,040,017	—	—	63,040,017
	<u>\$ 60,878,396</u>	<u>23,269,084</u>	<u>25,472,649</u>	<u>109,620,129</u>

Annually, the Institute's management assesses whether certain endowment balances comprising its restricted endowment fund, as of May 31, 2017, had market values less than their historical corpus values. Aggregate shortfalls amounted to \$1,169,186 and \$2,161,621 at May 31, 2017 and 2016, respectively, and are accounted for in the unrestricted fund. Term and permanent endowment corpuses are separately maintained in the temporarily and permanently restricted funds. Endowment earnings shortfalls are covered by investments held in unrestricted net assets.

The reconciliation of permanently restricted endowment net assets to permanently restricted net assets at May 31, 2017 and 2016 is as follows:

	<u><b>2017</b></u>	<u><b>2016</b></u>
Permanent endowment corpus	\$ 29,256,646	25,472,649
Permanent endowment pledge receivable	734,997	3,632,998
Permanently restricted net assets	<u>\$ 29,991,643</u>	<u>29,105,647</u>

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The following is a summary of the components of the return of the endowment pool and changes in endowment net assets for the years ended May 31, 2017 and 2016:

	<b>2017</b>			
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Endowment net assets, beginning of year	\$ 60,878,396	23,269,084	25,472,649	109,620,129
Investment return	8,256,996	5,051,566	—	13,308,562
Amounts appropriated for spending	(3,932,304)	(2,487,783)	—	(6,420,087)
Endowment reinvestment of appropriated spending and changed restrictions	3,470,112	(195,565)	—	3,274,547
Contributions, pledge payments and other transfers	475	4,975,052	3,783,997	8,759,524
Endowment net assets, end of year	\$ <u>68,673,675</u>	<u>30,612,354</u>	<u>29,256,646</u>	<u>128,542,675</u>
	<b>2016</b>			
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Endowment net assets, beginning of year	\$ 81,670,227	25,422,620	24,142,790	131,235,637
Investment return	(5,389,832)	(846,085)	—	(6,235,917)
Amounts appropriated for spending	(3,809,728)	(2,434,934)	—	(6,244,662)
Special Appropriation – Board Approved	(15,000,000)	—	—	(15,000,000)
Endowment reinvestment of appropriated spending and changed restrictions	3,406,322	102,535	—	3,508,857
Contributions, pledge payments and other transfers	1,407	1,024,948	1,329,859	2,356,214
Endowment net assets, end of year	\$ <u>60,878,396</u>	<u>23,269,084</u>	<u>25,472,649</u>	<u>109,620,129</u>

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The Institute follows the New York Prudent Management of Institutional Funds Act (NYPMIFA) in the management of its endowment. The Institute has interpreted NYPMIFA as allowing the Institute to spend or accumulate the amount of an endowment fund that the Institute determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established, subject to the intent of the donor as expressed in the gift instrument. The Institute classifies as permanently restricted net assets (a) the original values of gifts donated to permanent endowments, (b) the original values of subsequent gifts to permanent endowments, and (c) accumulations to permanent endowments made in accordance with the directions of the applicable donors' gift instruments at the times the accumulations are added to the funds. U.S. generally accepted accounting principles requires the portion of a donor restricted endowment fund that is not classified in permanently restricted net assets to be classified as temporarily restricted net assets until those amounts are appropriated for spending by the Institute's Board of Trustees in a manner consistent with the standard of prudence prescribed by NYPMIFA.

In accordance with NYPMIFA, the Investment Committee considers the following factors in making a determination to appropriate or accumulate endowment funds:

- The duration and preservation of the fund
- The purposes of the Institute and the endowment fund
- General economic conditions
- The expected total return from income and the appreciation of investments
- Other resources of the Institute
- Where appropriate and where circumstances would otherwise warrant, alternatives to expenditure of an endowment fund, giving due consideration to the effect that such alternatives may have on the Institute
- The investment policies of the Institute

**(5) Contributions and Contributions Receivable**

At May 31, 2017 and 2016, contributions receivable estimated to be collected are as follows:

	<b>2017</b>	<b>2016</b>
Less than one year	\$ 2,824,064	10,467,690
One to five years	5,990,524	5,641,845
Thereafter	2,583,005	835,505
	11,397,593	16,945,040
Less present value discount (3% on May 31, 2017 and May 31, 2016)	(1,097,221)	(861,196)
Less allowance for doubtful receivables	(222,541)	(173,989)
Total	\$ 10,077,831	15,909,855

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Net contributions include gifts which support both operating and nonoperating activities of the Institute are comprised of the following:

	<u>2017</u>	<u>2016</u>
Pledge revenue	\$ 4,162,499	16,363,339
Cash and other gift revenue	5,825,097	4,415,888
Gifts-in-kind	<u>3,031,643</u>	<u>2,573,229</u>
Gross contributions	13,019,239	23,352,456
Receivable write-offs and net change in allowance for doubtful receivables	(48,552)	(105,016)
Net change in present value adjustment	<u>(236,027)</u>	<u>176,873</u>
Net contributions	\$ <u>12,734,660</u>	<u>23,424,313</u>

For the years ended May 31, 2017 and 2016, the Institute's fundraising expense amounted to \$1,746,207 and \$1,731,494, respectively. These amounts do not include expenses incurred for fundraising events which amounted to \$788,980 and \$639,263, respectively.

**(6) Land, Buildings, and Equipment**

Land, buildings, and equipment as of May 31, 2017 and 2016 consists of:

	<u>2017</u>	<u>2016</u>
Land	\$ 8,725,418	8,725,418
Buildings and building improvements	310,824,430	305,099,577
Furniture and equipment	80,971,145	76,405,957
Construction-in-progress	<u>2,897,867</u>	<u>469,819</u>
	403,418,860	390,700,771
Less accumulated depreciation	<u>(151,676,827)</u>	<u>(141,526,088)</u>
Total	\$ <u>251,742,033</u>	<u>249,174,683</u>

During fiscal year 2017, the Institute began major construction at both of the California campuses. To finance these projects, the Institute issued California Statewide Communities Development Authority in August 2016 (see note 7).

Depreciation of buildings and building improvements, and furniture and equipment was \$10,150,739 and \$9,648,986 for the fiscal years ended May 31, 2017 and 2016, respectively.

Interest costs incurred during construction are capitalized, net of interest earned on construction funds. Capitalized interest during fiscal years ended May 31, 2017 and 2016 was \$504,562 and \$116,776, respectively.



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**(7) Bonds Payable**

Bonds payable are comprised of the following at May 31, 2017 and 2016:

	<u>Interest rate</u>	<u>Original issue</u>	<u>Outstanding at May 31, 2017</u>	<u>Outstanding at May 31, 2016</u>
State of New York				
Revenue bonds:				
Series 2004A (a)	2.0%–4.0%	9,760,000	\$ —	6,045,000
Series 2004B (a)	2.5%–4.0%	9,720,000	—	965,000
Series 2004C (a)	Variable	23,725,000	—	23,725,000
Revenue bonds:				
Series 2004D (b)	Variable	19,000,000	14,000,000	14,525,000
Revenue bonds:				
Series 2006 (c)	Variable	15,125,000	11,975,000	12,350,000
Revenue bonds:				
Series 2012 (e)	3.0%–5.0%	22,150,000	18,725,000	19,680,000
Revenue bonds:				
Series 2013 (f)	2.0%–5.0%	30,800,000	29,735,000	30,260,000
Revenue bonds:				
Series 2016A (g)	1.64%–5.0%	37,040,000	37,040,000	—
Communities Development Authority:				
Revenue bonds:				
Series 2008 (d)	Variable	18,200,000	11,925,000	12,845,000
Series 2016B (h)	5.0 %	12,725,000	<u>12,725,000</u>	<u>—</u>
			136,125,000	120,395,000
Add bond premium			10,811,483	1,980,914
Less bond discounts			(215,691)	(279,975)
Less bond issue costs			<u>(3,148,957)</u>	<u>(3,379,005)</u>
Bonds payable, net			<u>\$ 143,571,835</u>	<u>118,716,934</u>

(a) During the fiscal year, the Series 2004B Bonds final principal payment was made on July 1, 2016. Also, the Series 2004A and 2004C bonds were refunded in full with the proceeds from the Series 2016A Bonds. In addition, as part of the refunding, the Institute terminated the interest rate swap liability of \$5,058,000 during the year ended May 31, 2017. As a result, the Institute recorded a loss on defeasance of \$1,654,336 on the Consolidated Statement of Activities for the year ended May 31, 2017.

(b) The Series 2004D Bonds are secured by the pledge and assignment to a financial institution (Trustee) of amounts recorded in the Debt Service Reserve Fund (note 8). Additionally, the Series 2004 D Bonds are secured by pledged tuition revenues (as defined in the loan agreement), a mortgage on the Admissions Building and Anton Parking Plaza and security interests in certain fixtures, furnishings and equipment located therein. The variable rate mode of the bonds are weekly. For the Series 2004D Bonds, the Institute

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entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics of the Series 2004D Bonds from a floating to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.597%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$14,000,000 and decreases consistent with the scheduled principal payments on the associated Series 2004D Bonds. The swap agreement matures on July 1, 2034. The fair value of the interest swap is a liability of \$2,550,894 and \$3,227,639 at May 31, 2017 and 2016, respectively.

Also, Series 2004D Bonds have been secured by an irrevocable, transferable direct pay letter of credit issued by TD Bank under terms of a Reimbursement Agreement dated May 1, 2014 between the Institution and the aforementioned bank. This letter of credit will expire in April of 2019.

- (c) The Series 2006 Bonds are secured by the pledge and assignment to a financial institution (Trustee) of amounts recorded in the Debt Service Reserve Fund (note 8). Additionally, the Series 2006 Bonds are secured by pledged tuition revenues (as defined in the loan agreement), a mortgage on the associated townhouses and security interests in certain fixtures, furnishings, and equipment located therein. The variable rate mode of the bonds are weekly. For the Series 2006 Bonds, the Institute entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics of the Series 2006 Bonds from a floating to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.678%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$15,125,000 and decreases consistent with the scheduled principal payments on the associated Series 2006 Bonds. The swap agreement matures on July 1, 2036. The fair value of the interest rate swap is a liability of \$2,571,261 and \$3,225,302 at May 31, 2017 and 2016, respectively.

Also, the Series 2006 Bonds have been secured by an irrevocable, transferable direct pay letter of credit issued by TD Bank under terms of a Reimbursement Agreement dated May 1, 2014 between the Institution and the aforementioned bank. This letter of credit expires in April of 2019.

- (d) The Series 2008 Bonds were issued to (1) finance the renovation and equipping of the student residential property and the campus store located at Greystone and (2) refund in full the previously issued California Statewide Communities Development Authority (Series 2005 Bonds).

The bonds are secured by pledged tuition revenues (as defined in the loan agreement) subject to the prior Dormitory Authority of the State of New York (DASNY) pledges and a first lien mortgage on the Greystone campus. Concurrent with the issuance of the Series 2008 bonds, the Institute entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics from a floating rate to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.23%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$14,150,000 and decreases consistent with the scheduled principal payments on the associated Series 2005 Bonds which were refunded by the Series 2008 Bonds. The fair value of the interest rate swap is a liability of \$596,193 and \$823,261 at May 31, 2017 and 2016, respectively.

During the fiscal year 2011, the Institute completed a remarketing of the Series 2008 Bonds which converted the Series 2008 Bonds from variable rate bonds secured by a bank letter of credit to variable rate bank qualified private placement bonds. The converted Series 2008 Bonds were purchased by TD

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Bank and are subject to a Continuing Covenants Agreement dated October 29, 2010 between the Institute and the aforementioned bank. The purchase period is for ten years expiring in 2020. The 2005 interest rate swap agreement continues to hedge a portion of the converted Series 2008 Bonds, as the swap was assumed by TD Bank and the rate was modified to 3.28%. The Institute was in compliance with its debt covenants as of May 31, 2017.

- (e) The Series 2012 Bonds were issued to (1) finance the construction and equipping of a new conference center located at the Hyde Park Campus and (2) refund in full, the previously issued DASNY Series 1999 Bonds. These bonds are secured by pledged tuition revenues (as defined by the loan agreement). The bonds were issued at fixed interest rates ranging from 3.0% to 5.0% at the date of issuance depending on the underlying principal maturity date. These bonds were issued at a premium that is being amortized using the straight-line method over the remaining life of the bonds, resulting in a yield ranging from 0.98% to 4.07%.
- (f) The Series 2013 Bonds were issued to (1) finance the major renovation and equipping of a Institute's student recreation center and (2) finance land improvements for the areas surrounding the new conference center at the Hyde Park campus. These bonds are secured by pledged tuition revenues (as defined by the loan agreement). The bonds were issued at fixed interest rates ranging from 2.0% to 5.0% at the date of issuance depending on the underlying principal maturity date. These bonds were issued at a premium that is being amortized using the straight-line method over the remaining life of the bonds, resulting in a yield ranging from 0.87% to 5.18%.
- (g) The Series 2016A Bonds were issued to (1) finance the construction and equipping of various capital projects located at the Hyde Park campus and (2) refund in full the previously issued Dormitory Authority of the State of New York (Series 2004A and Series 2004C Bonds). The Series 2016A Bonds were issued for a principal value of \$37,040,000. The bonds are secured by pledged tuition revenues (as defined in the loan agreement) subject to the prior Dormitory Authority of the State of New York (DASNY) pledges.
- (h) The Series 2016B Bonds were issued to (1) finance the construction and equipping of various capital projects located at both California campuses. The Series 2016B Bonds were issued for a principal value of \$12,725,000. The bonds are secured by pledged tuition revenues (as defined in the loan agreement) subject to the prior pledges.

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Scheduled principal payments of bonds payable are summarized as follows:

Year ending May 31:		
2018	\$	4,790,000
2019		5,060,000
2020		5,230,000
2021		5,455,000
2022		5,705,000
Thereafter through 2044		<u>109,885,000</u>
Bond principal maturities		136,125,000
Add bond premium		10,811,483
Less bond discounts		(215,691)
Less bond issue costs		<u>(3,148,957)</u>
Bonds payable, net	\$	<u><u>143,571,835</u></u>

Total interest expense for the years ended May 31, 2017 and 2016, was \$5,091,571 and \$4,812,518, respectively.

The fair values of the aforementioned interest rate swaps are included on the accompanying consolidated statements of financial position and the change in the fair values is reported as appreciation or depreciation in fair value of derivative instruments within the consolidated statements of activities. The counterparties to these arrangements are major financial institutions with which the Institute also has other financial relationships. The Institute is exposed to credit loss in the event of nonperformance by the counterparties. However, the Institute does not anticipate nonperformance by the counterparties. Further, in accordance with collateral requirements set forth in the swap agreements, the Institute deposited \$1,047,907 and \$5,073,538 with the counterparties at May 31, 2017 and 2016, respectively.

*Credit Facility*

The Institute has unsecured lines of credit totaling \$9 million in 2017 and 2016. At May 31, 2017 and 2016, there were no outstanding borrowings under these lines. The interest rate fluctuates from time to time based on changes in the LIBOR interest rates. Total interest expense paid on the lines of credit for the years ended May 31, 2017 and 2016, was \$54,637 and \$75,167 respectively.

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**(8) Deposits with Bond Trustees**

Funds on deposit with bond trustees, primarily representing investments in U.S. Treasury obligations at fair value, relate to the Series 2004D, Series 2006, Series 2008, Series 2012, Series 2013, and Series 2016 Bonds as follows:

	<b>Debt service fund</b>	<b>Debt service reserve fund</b>	<b>Project fund</b>	<b>Total</b>
Series 2004D	\$ 570,015	1,094,379	—	1,664,394
Series 2006	395,413	886,356	—	1,281,769
Series 2008	—	—	23,741	23,741
Series 2012	1,362,989	1,486,653	—	2,849,642
Series 2013	1,174,644	—	—	1,174,644
Series 2016	1,857,449	—	19,343,711	21,201,160
2017 Total	<u>\$ 5,360,510</u>	<u>3,467,388</u>	<u>19,367,452</u>	<u>28,195,350</u>
2016 Total	\$ 4,295,503	6,305,503	23,733	10,624,739

The amounts in the debt service funds are for the anticipated principal and bond interest payments due July 1, and October 7.

At May 31, 2017, the Institute is required to maintain debt service reserve funds of an aggregate minimum in the amount of \$3,453,269 which are available to cover any deficits in the debt service fund. The Institutes' aggregate minimum is covered by funding in the Debt Service Reserve and Project funds.

**(9) Retirement Plan**

All employees of the Institute who have been employed by the Institute for at least one year and work in excess of 1,000 hours annually are eligible to participate in the Institute's Retirement Defined Contribution Plan with the Teacher's Insurance and Annuity Association (TIAA). Under this plan, the Institute makes annual contributions which are immediately vested for the benefit of the participants. For the years ended May 31, 2017 and 2016, the expense amounted to \$3,400,474 and \$3,489,732, respectively.

The Institute also has a Supplemental Tax Deferred Annuity Plan with TIAA for employees who want to make additional retirement contributions. There is no pension expense to the Institute for this plan.

**THE CULINARY INSTITUTE OF AMERICA**

Notes to Consolidated Financial Statements

May 31, 2017 and 2016

**(10) Temporarily Restricted and Permanently Restricted Net Assets**

Temporarily restricted net assets were available for the following purposes:

	<u>2017</u>	<u>2016</u>
Gifts for operations	\$ 1,684,350	1,767,602
Gifts for scholarships	1,950,820	1,815,597
Gifts for campaign for excellence	5,789,012	5,502,405
Gifts for plant and endowment	2,891,956	5,955,159
Term endowment corpus	25,612,848	20,637,797
Accumulated endowment return	<u>4,999,506</u>	<u>2,631,287</u>
Total	<u>\$ 42,928,492</u>	<u>38,309,847</u>

Temporarily restricted net assets included contributions receivable of \$9,342,834 and \$12,276,857 at May 31, 2017 and 2016, respectively.

Permanently restricted net assets consist entirely of endowment corpus and pledges, with donor stipulations that they be invested in perpetuity for the following purposes:

	<u>2017</u>	<u>2016</u>
Student scholarships	\$ 15,742,313	14,856,317
Library support	10,112,550	10,112,550
Building maintenance	2,460,380	2,460,380
Operating support	<u>1,676,400</u>	<u>1,676,400</u>
Total	<u>\$ 29,991,643</u>	<u>29,105,647</u>

**(11) Subsequent Events**

The Institute evaluated subsequent events for potential recognition or disclosure through September 27, 2017, the date on which the consolidated financial statements were available to be issued.

## SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT

Summary of Schedule of Definitions

*As used in this Official Statement, the following terms shall have the meanings set forth below.*

“Account” means any Account within any Fund created and maintained pursuant to the Indenture.

“Act” means Section 1411 of the New York Not-For-Profit Corporation Law.

“Act of Bankruptcy” means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Institution or the Issuer under any applicable bankruptcy, reorganization, insolvency or similar law as is now or hereafter in effect.

“Additional Bonds” or “Series of Additional Bonds” means any Series of Additional Bonds issued by the Issuer on behalf of the Institution pursuant to the Indenture.

“Affiliate” shall mean a corporation, partnership, association, limited liability company, joint venture, business trust or similar entity organized under the laws of any state that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common contract with, the Institution.

“Annual Debt Service” when used in connection with any Indebtedness, means as of any particular date of calculation the amount required to be paid by the Institution during the then current Fiscal Year to pay the principal, whether at maturity or upon mandatory redemptions and prepayments, of and interest on such Indebtedness; provided, however, that such amounts required to be paid on Short-Term Indebtedness shall include interest only; and provided further that such amount shall not include interest to be paid from proceeds of Indebtedness (i.e. capitalized interest) or principal amounts paid during the then current Fiscal Year from the proceeds of Refunding Debt. In the event the Institution has entered into variable rate to fixed rate swap agreement or agreements in connection with all or a portion of its Indebtedness, “Annual Debt Service” shall include payments exchanged by the Institution and the interest rate swap provider(s) under such interest rate swap agreement(s) by adding any amounts paid by the Institution to the swap provider(s) and subtracting any amounts received by the Institution from the swap provider(s).

“Applicable Elected Representative” means any Person constituting an “applicable elected representative” within the meaning given to the term in Section 147(f)(2)(E) of the Code.

“Assignment of Mortgage” means the Assignment of Mortgage, dated as of July 1, 2018, given by the Issuer to the Trustee, as the same may be amended, modified or assigned from time to time.

“Authorized Investments” means:

- A. Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.
- B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):
  1. U.S. Export-Import Bank (Eximbank)  
Direct obligations are fully guaranteed certificates of beneficial ownership

2. Farmers Home Administration (FmHA)  
Certificates of beneficial ownership
  3. Federal Financing Bank
  4. Federal Housing Administration Debentures (FHA)
  5. General Services Administration  
Participation Certificates
  6. Government National Mortgage Association (GNMA or "Ginnie Mae")  
GNMA – guaranteed mortgage-backed bonds  
GNMA – guaranteed pass-through obligations  
(not acceptable for certain cash-flow sensitive issues)
  7. U.S. Maritime Administration  
Guaranteed Title XI financing
  8. 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
- C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):
1. Federal Home Loan Bank System  
Senior debt obligations
  2. Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")  
Participation Certificates  
Senior debt obligations
  3. Federal National Mortgage Association (FNMA or "Fannie Mae")  
Mortgage-backed securities and senior debt obligations
  4. Resolution Funding Corp. (REFCORP) obligations
  5. Farm Credit System  
Consolidated systemwide bonds and notes
- D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933.
- E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the Trustee must have a perfected first security interest in the collateral.
- F. Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.
- G. Investment Agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements provided by banks and other institutions rated A by S&P and A by Moody's without regard to rating qualifier (+ or -).
- H. Commercial paper rated, at the time of purchase, Prime – 1 by Moody's and A-1 or better by S&P.
- I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.
- J. Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of Prime – 1 or A3 or better by Moody's and A-1 or A or better by S&P.



- K. Repurchase agreements providing for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date.
1. Repurchase agreements must be between the Issuer and a dealer bank or securities firm.
    - a. Primary dealers on a Federal Reserve reporting dealer list which are rated A or better by S&P and Moody's or
    - b. Banks rated A or above by S&P, Fitch and Moody's.
  2. The written repurchase agreements contract must include the following:
    - a. Securities which are acceptable for transfer are:
      - (1) Direct U.S. governments, or
      - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA and FHLMC)
    - b. The term of the repurchase agreements may be up to 30 days.
    - c. The collateral must be delivered to the Issuer, the Trustee (if the Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
    - d. Valuation of collateral:
      - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest.
        - (a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repurchase agreements plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.
  3. Legal opinion which must be delivered to the Issuer:
    - a. Repurchase agreements meet guidelines under state law for legal investment of public funds.

All references in this definition of "Authorized Investments" to the ratings shall be the rating at the time such investment is made. Any subsequent downgrading or rating withdrawal shall not affect the status of an Authorized Investment.

"Authorized Representative" means, in the case of the Issuer, the Chairman, the Vice Chairman, the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Assistant Secretary of the Issuer; in the case of the Institution, the President or the Chief Financial Officer of the Institution; and, in the case of either of the Issuer and the Institution, such additional persons as, at the time, are designated to act on behalf of the Issuer or the Institution, as the case may be, by written certificate furnished to the Trustee, the Issuer or the Institution, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Issuer by the Chairman, the Vice Chairman, the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Assistant Secretary of the Issuer, or (ii) the Institution by the President or the Chief Financial Officer of the Institution.

"Available Assets" means the sum of all cash and cash equivalents, investments and assets held by trustees under bond indenture agreements (exclusive of amounts held by trustees attributable to Non-Recourse Indebtedness), and any cash, cash equivalents or investments held as collateral, less all permanently restricted net assets of the Institution, all as shown on the audited financial statements of the Institution, determined in accordance with generally accepted accounting principles then applicable to the Institution.

“Available Assets to Debt Ratio Covenant” means a ratio of Available Assets to Long-Term Indebtedness at least equal to 0.65:1.

“Balloon Indebtedness” means Long-Term Indebtedness of which twenty-five percent (25%) or more in principal amount matures, is mandatorily required to be redeemed or prepaid, or is required to be purchases by the Institution (either automatically or at the option of the holder of such Balloon Indebtedness) in any one year.

“Bankruptcy Code” means the United States Bankruptcy Code, as amended from time to time.

“Bond” or “Bonds” or “Series of Bonds” means collectively, the Series 2018 Bonds and any Series of Additional Bonds.

“Bond Counsel” means the law firm of Harris Beach PLLC or an attorney or other firm of attorneys whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

“Bond Documents” means the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Note, the Mortgage, the Assignment of Mortgage, the Continuing Disclosure Agreement, the Preliminary Official Statement and the Official Statement.

“Bond Fund” means the fund so designated which is established by the Indenture.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated June 27, 2018, between the Issuer and the Underwriter, and approved by the Institution, as the same may be amended from time to time.

“Bond Proceeds” means the aggregate amount, including any accrued interest, paid to the Issuer by the Bondholders pursuant to the Indenture as the purchase price of the Series 2018 Bonds.

“Bond Rate” means the Tax-Exempt rate of interest from time to time payable on any of the Series 2018 Bonds as defined therein.

“Bond Registrar” means the Trustee, acting in its capacity as Bond Registrar with respect to the Bonds, and its successors and assigns in such capacity.

“Bond Resolution” means the resolution duly adopted by the Issuer on June 19, 2018, authorizing the issuance, execution, sale and delivery of the Bonds and the execution and delivery of Issuer Documents, as such resolution may be amended or supplemented from time to time.

“Bond Year” shall have the meaning in the Tax Regulatory Agreement.

“Bondholder” means Owner.

“Business Day” means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York or any city in which the principal office of the Trustee or any Paying Agent is located are authorized by law or executive order to remain closed.

“Certificate of Authentication of the Trustee” and “Trustee’s Certificate of Authentication” means the certificate executed by an authorized signatory of the Trustee certifying the due authentication of each of the Series 2018 Bonds issued under the Indenture.

“Closing Date” means the date of sale and delivery of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the final, temporary and proposed rules, regulations, rulings and interpretations of the Department of the Treasury promulgated thereunder.

“Comparable Treasury Issue” means, with respect to the Bonds of a particular maturity, the United States Treasury security selected by the Independent Investment Banker which has an actual maturity comparable to the remaining average life of the Bonds of such maturity to be redeemed, and that would be utilized in accordance with customary financial practice in pricing new issues of debt securities of comparable maturity to the remaining average life of the Bonds of such maturity to be redeemed.

“Comparable Treasury Price” means, with respect to any redemption date, with respect to the Bonds of a particular maturity, (A) the average of the applicable Reference Treasury Dealer Quotations for that redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (B) if the Independent Investment Banker for the Bonds obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.

“Completion Certificate” means the Completion Certificate delivered by the Institution to the Issuer and the Trustee pursuant to the Loan Agreement.

“Completion Date” means the date of completion for the Project.

“Computation Period” means “Computation Period” as defined in the Tax Regulatory Agreement.

“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 July 1, 2018, between the Institution and the Trustee.

“Cost of the Project” or “Costs of the Project” means all those costs and items of expense listed in the Loan Agreement.

“DASNY” means the Dormitory Authority of the State of New York.

“Debt Service Coverage Covenant” means a Debt Service Coverage Ratio of at least 1.25:1.00.

“Debt Service Coverage Ratio” means the ratio of (i) Operating Revenues Available for Debt Service to (ii) Annual Debt Service.

“Debt Service Payment” means, with respect to any Debt Service Payment Date, (i) the interest payable on such Debt Service Payment Date on all Bonds then Outstanding, plus (ii) the principal or Redemption Price, if any, payable on such Debt Service Payment Date on all such Bonds.

“Debt Service Payment Date” means any date on which each Debt Service Payment shall be payable on any of the Series 2018 Bonds so long as the Series 2018 Bonds shall be outstanding.

“DTC” means The Depository Trust Company, New York, New York.

“DTC Letter of Representations” means the Letter of Representations from the Issuer to DTC.

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

“Equipment” means all machinery, equipment and other personal property used and to be used in connection with the Project and financed with Bond Proceeds.

“Event of Default” (i) when used with respect to the Indenture means any of those events defined as an Event of Default by the Indenture, and (ii) when used with respect to the Loan Agreement, means any of the events defined as Events of Default by the Loan Agreement.

“Exempt Organization” means an organization described in Section 501(c)(3) of the Code and which is exempt from federal income taxation pursuant to Section 501(a) of the Code.

“Extraordinary Services” and “Extraordinary Expenses” means all services rendered and all fees and expenses incurred by or due to the Trustee or any Paying Agent under the Indenture other than Ordinary Services and Ordinary Expenses, including reasonable fees and disbursements of Trustee’s counsel.

“Financing Documents” means the Indenture and the Loan Agreement.

“Fiscal Year” means the twelve (12) month period beginning on June 1 in any year or such other fiscal year as the Institution may select from time to time.

“Fitch” means Fitch Ratings and its successors and assigns.

“Fund” means any Fund created and maintained pursuant to the Indenture.

“Government Obligations” means:

1. U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series — “SLGS”).
2. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.
3. Resolution Funding Corp. (REFCORP). 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 are acceptable.
4. Pre-refunded municipal bonds rated Aaa by Moody’s and AAA by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations or AAA rated pre-refunded municipals to satisfy this condition.
5. 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 are fully guaranteed certificates of beneficial ownership
  - b. Farmers Home Administration (FmHA)  
Certificates of beneficial ownership
  - c. Federal Financing Bank
  - d. General Services Administration  
Participation Certificates
  - e. U.S. Maritime Administration  
Guaranteed Title XI financing
  - 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

“Hazardous Substance” means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum constituents, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, pollutants, or toxic pollutants, as defined in the Comprehensive Environmental Response, Compensation and

Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Sections 1251 et seq.), Articles 17 and 27 of the New York State Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

“Holder” means Owner.

“Improvements” means all those buildings, improvements, structures and other related facilities (i) financed with Bond Proceeds or of any payment by the Institution pursuant to the Loan Agreement, and (ii) not part of the Equipment, all as they may exist from time to time.

“Indebtedness” shall mean any obligation of the Institution for the payment of money, including without limitation (i) indebtedness for money borrowed, (ii) purchase money obligations, (iii) leases evidencing the acquisition of capital assets, (iv) reimbursement obligations, and (v) guarantees of any such obligation of a third party.

“Indenture” means the Indenture of Trust, dated as of July 1, 2018, by and between the Issuer and the Trustee, entered into in connection with the issuance, sale, delivery and payment of the Series 2018 Bonds and the security therefor as the same may be amended or supplemented from time to time.

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Issuer, the Institution or the Trustee.

“Independent Engineer” means an engineer or engineering firm registered and qualified to practice the profession of engineering under the laws of the State selected by the Institution and not a full time employee of the Issuer, the Institution or the Trustee.

“Independent Investment Banker” means one of the Reference Treasury Dealers as designated by the Issuer.

“Information Report” means Form 8038 used by the issuers of certain tax-exempt bonds to provide the Internal Revenue Service with the information required to monitor the State volume limitations.

“Initial Bondholder” means Cede & Co., as nominee for DTC, as the initial owner of the Series 2018 Bonds.

“Institution” means The Culinary Institute of America, a duly organized and validly existing New York education corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and its successor and assigns.

“Institution Documents” means the Bond Purchase Agreement, the Letter of Representation, the Loan Agreement, the Tax Regulatory Agreement, the Note, the Mortgage, the Continuing Disclosure Agreement, the Preliminary Official Statement, and the Official Statement.

“Issuer” means (i) the Dutchess County Local Development Corporation, its successors and assigns, and (ii) any local governmental body resulting from or surviving any consolidation or merger to which the Issuer or its successors may be a party.

“Issuer Documents” means the Bond Purchase Agreement, the Series 2018 Bonds, the Loan Agreement, the Indenture, the Note, the Mortgage, the Assignment of Mortgage, the Tax Regulatory Agreement, the Information Report, the Preliminary Official Statement and the Official Statement.

“Letter of Representation” means the Letter of Representation, dated June 27, 2018, from the Institution to the Issuer and the Underwriter.

“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 the 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” also means any reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar encumbrances affecting real property. For the purposes of this definition, 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 July 1, 2018 by and between the Institution and the Issuer, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof, or any other Loan Agreement entered into in connection with any Series of Additional Bonds.

“Loan Term” means the duration of the loan created in the Loan Agreement.

“Management Consultant” means a nationally recognized accounting or management consulting firm or other similar firm, experienced in reviewing and assessing the Institution’s operations, acceptable to the Issuer.

“Maximum Annual Debt Service” when used in connection with any Indebtedness, means as of any particular date of calculation the greatest amount of Annual Debt Service required to be paid by the Institution during the then current or any future Fiscal Year, provided, however, that in the event the Institution has entered into a variable rate to fixed rate swap agreement in connection with all or a portion of such Indebtedness, Annual Debt Service in any future Fiscal Year shall be calculated using the fixed payment due to the interest rate swap provider (s) under such interest rate swap agreement associated with such Indebtedness.

“Moody’s” means Moody’s Investor Service.

“Mortgage” means the Mortgage and Security Agreement, dated as of July 1, 2018, from the Institution to the Issuer, as the same may be amended, modified and supplemented from time to time.

“Mortgage Property” has the meaning ascribed thereto in the Mortgage.

“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) incurred in obtaining such gross proceeds.

“Non-recourse Indebtedness” means Indebtedness secured by a mortgage or other lien on property on which the creditor has agreed that it will not seek to enforce or collect such Indebtedness out of any property or assets of the Institution other than the property securing the same or to collect any deficiency upon a foreclosure, forced sale or other realization upon such property out of any other property or assets of the Institution.

“Note” or “Promissory Note” means the Promissory Note dated the Closing Date, from the Institution to the Issuer, substantially in the form of Exhibit D to the Loan Agreement, evidencing the Institution’s obligations to make Loan Payments to the Issuer.

“Office of the Trustee” means the principal corporate trust office of the Trustee, as specified in the Indenture, or such other address as the Trustee shall designate.

“Official Statement” means the Official Statement, dated June 27, 2018, distributed by the Underwriter and the Institution in connection with the sale of the 2018 Bonds.

“Operating Revenues Available for Debt Service” means total unrestricted operating revenues, minus total unrestricted operating expenses, exclusive of depreciation and interest paid, all as shown on the audited financial statements of the Institution stated in accordance with generally accepted accounting principles then application to the Institution.

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

“Outstanding” or “Bonds Outstanding” or “Outstanding Bonds” means all bonds which have been authenticated by the Trustee and delivered by the Issuer under the Indenture, or any supplement thereto, except: (i) any Bond cancelled by the Trustee because of payment or redemption prior to maturity; (ii) any bond deemed paid in accordance with the provisions of the Indenture, except that any such Bond shall be considered Outstanding until the maturity date thereof only for the purposes of being exchanged or registered; and (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to the Indenture, unless proof satisfactory to the Trustee is presented that any Bond, for which a Bond in lieu of or in substitution therefor shall have been authenticated and delivered, is held by a bona fide purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, as amended, in which case both the Bond so substituted and replaced and the Bond or Bonds so authenticated and delivered in lieu thereof or in substitution therefor shall be deemed Outstanding.

“Owner” means the registered owner of any Bond as shown on the registration books maintained by the Bond Registrar pursuant to the Indenture.

“Paying Agent” means the Trustee, acting as such, and any additional paying agent for the Series 2018 Bonds appointed pursuant to the Indenture, their respective successors and any other corporation which may at any time be substituted in their respective places pursuant to the Indenture.

“Permitted Encumbrances” means (i) the Loan Agreement, (ii) utility, access and other easements and rights-of-way, restrictions and exceptions that do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (iii) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar Liens which are approved in writing by the Issuer, (iv) Liens for taxes not yet delinquent, (v) equipment leases of less than one (1) year, (vi) indebtedness in connection with the acquisition of real property secured solely by non-recourse purchase money mortgages on such real property, which indebtedness is not a general obligation of the Institution, (vii) Liens which are in existence as of the Closing Date or described in the audited consolidated financial statements of the Institution, (viii) the Mortgage and (ix) the Assignment of Mortgage..

“Person” or “Persons” means an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision or branch thereof.

“Plans and Specifications” means those plans and specifications, if any, for the Improvements, as may be from time to time prepared for the Institution, as revised from time to time in accordance with the Loan Agreement.

“Pledged Revenues” means an amount equal to the Maximum Annual Debt Service from (i) tuition and fees charged to students for academic instruction, the right to receive the same, the proceeds thereof and any and all deposit accounts containing Pledged Revenues, and (ii) any other moneys, income, rents or revenues of the Institution, the right to receive the same and the proceeds thereof pledged to the Issuer in connection with the issuance of a Series of Bonds, which other moneys, income, rents or revenues or the right to receive the same may be subject to pledges thereof made prior to the issuance of the Series of Bonds in connection with which such moneys, income, rents or revenues, the right to receive the same and the proceeds thereof are pledged to the Issuer.

“Preliminary Official Statement” means the Preliminary Official Statement, dated June 21, 2018, as supplemented by the Supplement to Preliminary Official Statement, dated June 26, 2018, distributed by the Underwriter and the Institution in connection with the sale of the Series 2018 Bonds.

“Prior Pledges” means the liens, pledges, charges, encumbrances and security interests made and given pursuant to (i) a loan agreement dated July 22, 2004 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2004D, (ii) a loan agreement dated as of August 31, 2006 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2006, (iii) a loan agreement dated as of September 19, 2012 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2012, (iv) a loan agreement dated as of August 21, 2013 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2013, (v) a loan

agreement dated as of November 1, 2008 relating to the California Statewide Communities Development Authority Variable Rate Demand Revenue Bonds (The Culinary Institute of America) Series 2008 (the “Series 2008 Bonds”), as amended by the First Supplemental Loan Agreement, dated as of October 1, 2010 in connection with the conversion of the Series 2008 Bonds to “qualified tax-exempt obligations”, (vi) a loan agreement dated as of August 30, 2016 relating to the California Statewide Communities Development Authority Revenue Bonds, Series 2016B (The Culinary Institute of America Project), and (vii) a loan agreement dated as of September 1, 2016 relating to the Issuer’s Culinary Institute of America Revenue Bonds, Series 2016A.

“Project” or “Project” means the Project as more particularly described in the Loan Agreement and including the Improvements and the Equipment financed or refinanced by the Institution the proceeds of the Series 2018 Bonds loaned by the Issuer to the Institution under the Loan Agreement.

“Project Fund” means the fund so designated which is created by the Indenture.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“Rating Agency” means Moody’s, Fitch, S&P or such other nationally recognized rating agency which shall have issued and is maintaining a rating on the Series 2018 Bonds.

“Rating Agency Letter” means the rating letter from each Rating Agency assigning a rating on the Series 2018 Bonds.

“Rebate Amount” means, with respect to the Series 2018 Bonds, the amount computed as described in the Tax Regulatory Agreement.

“Rebate Fund” means the fund so designated pursuant to the Indenture.

“Record Date” means, with respect to any Debt Service Payment Date, the fifteenth (15<sup>th</sup>) day of the month next preceding such Debt Service Payment Date (whether or not a Business Day).

“Redemption Date” means, when used with respect to a Bond, the date of redemption thereof established pursuant to the Indenture.

“Redemption Price” means, when used with respect to a Bond, the principal amount thereof plus the applicable premium, if any, payable upon the prior redemption thereof pursuant to the Indenture.

“Reference Treasury Dealer” means each of four firms, as designated by the Issuer, and their respective successors; provided, however, that if any of them ceases to be a primary U.S. Government securities dealer in the City of New York (a “Primary Treasury Dealer”), the Issuer will substitute another Primary Treasury Dealer.

“Reference Treasury Dealer Quotation” means, with respect to each Reference Treasury Dealer and any redemption date for the Bonds of a particular maturity, the average, as determined by the Independent Investment Banker and communicated to the Issuer, of the bid and asked prices for the applicable Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Independent Investment Banker and communicated to the Trustee by such Reference Treasury Dealer at 3:30 p.m., New York City time, on the third Business Day preceding that Redemption Date.

“Refunding Debt” means Indebtedness issued or incurred to pay or provide for the payment of other Indebtedness.

“Renewal Fund” means the fund so designated and created pursuant to the Indenture.

“Schedule of Definitions” means the words and terms set forth in the Schedule of Definitions attached to the Indenture as the same may be amended from time to time.



“SEQR Act” means the State Environmental Quality Review Act and the regulations thereunder.

“Series 2004D Bonds” means the Dormitory Authority of the State of New York’s The Culinary Institute of America Insured Revenue Bonds, Series 2004D.

“Series 2004D Bonds Trustee” means U.S. Bank National Association.

“Series 2006 Bonds” means the Dormitory Authority of the State of New York’s The Culinary Institute of America Insured Revenue Bonds, Series 2006.

“Series 2006 Bonds Trustee” means U.S. Bank National Association.

“Series 2018 Bonds” means the Issuer’s Tax-Exempt Revenue Bonds, Series 2018 (The Culinary Institute of America Project) issued pursuant to the terms of the Indenture on July 17, 2018 in the aggregate principal amount of \$23,120,000 and substantially in the form of Exhibit A-1 of the Indenture.

“Short-Term Indebtedness” means indebtedness with a term of one (1) year or less, but not including accounts payable or accrued liabilities by the Institution in the ordinary course of its operations.

“Sinking Fund Payments” means payments made on a Debt Service Payment Date to pay the Redemption Price of bonds called for redemption pursuant to the Indenture.

“S&P” or “Standard & Poor’s” means Standard & Poor’s Financial Services LLC, a division of The McGraw Hill Companies, Inc.

“State” means the State of New York.

“Sub-Account” means any Sub-Account established for a particular Series of Bonds in any Account in any Fund created and maintained pursuant to the Indenture.

“Supplemental Indenture” means any indenture supplemental to or amendatory of the Indenture or in connection with the issuance of any Additional Bonds adopted by the Issuer in accordance with the Indenture.

“Tax Regulatory Agreement” means the Tax Regulatory Agreement, dated the Closing Date, between the Issuer and the Institution, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof and with the terms of the Indenture.

“Testing Date” means last day of the Institution’s Fiscal Year.

“Treasury Rate” means, with respect to any redemption date, with respect to the Bonds of a particular maturity, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue with respect thereto, computed as of the second business day immediately preceding that redemption date, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price with respect thereto for that redemption date.

“Trust Estate” means the rights assigned pursuant to the Indenture and all Property which may from time to time be subject to the lien of the Indenture.

“Trustee” means (i) The Bank of New York Mellon, a banking corporation having trust powers duly organized and existing under the laws of the State of New York, having an office at 101 Barclay Street, Floor 7W, New York, NY 10286, and (ii) its successors 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 successor trustee under the Indenture.

“Unassigned Rights” means the rights of the Issuer and moneys payable pursuant to and under Sections 5.3(b), 6.4(b) and (c), 6.7, 8.2, 8.8, 10.2(a)(i)(A) (but only to the extent related to the Issuer’s costs and fees) and (B), (iii) and (vi), 10.4(a) and 11.2(b) of the Loan Agreement.

“Underwriter” means J.P. Morgan Securities LLC having an office at 383 Madison Avenue, 8<sup>th</sup> Floor, New York, New York 10179, and its successors and assigns.

## SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following is a summary of certain provisions of the Indenture. Certain provisions of the Indenture are also described in the Official Statement. This summary does not purport to be complete and reference is made to the Indenture for the detailed provisions thereof. This summary is qualified in its entirety by such reference. Headings are not part of the Indenture and are included for ease of reference only.*

### **Authentication**

No Series 2018 Bond shall be valid for any purpose or shall be entitled to any right or benefit under the Indenture unless there shall be endorsed on such Series 2018 Bond a Certificate of Authentication, duly executed by the Trustee, substantially in the form set forth in the Form of Series 2018 Bond included in the Indenture as Exhibit A-1. Such executed Certificate of Authentication by the Trustee upon any such Series 2018 Bond shall be conclusive evidence that such Series 2018 Bond has been authenticated and delivered under the Indenture. The Trustee's Certificate of Authentication on any Series 2018 Bond shall be deemed to have been executed by it 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 Series 2018 Bonds issued under the Indenture. (*Section 2.05*)

### **Mutilated, Lost, Stolen or Destroyed Bonds**

(a) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and, upon its request, the Trustee shall authenticate and deliver, a new Bond of like maturity, series, interest rate and principal amount and bearing the same number (or such number as the Trustee shall permit) 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 hold 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 of the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees, 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 hold 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.

(b) Every new Bond issued pursuant to the provisions of the Indenture shall constitute an additional contractual, special obligation of the Issuer (whether or not the destroyed, lost or stolen Bond shall be found at any time after the issuance of such new Bonds, in which case the destroyed, lost or stolen Bond shall be void and unenforceable) and shall be entitled to all the benefits of the Indenture equally and proportionately with any and all other Bonds duly issued under the Indenture.

(c) All Bonds shall be held and owned upon the express condition that the provisions of the Indenture 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*)

## **Transfer of Bonds**

(a) Each Series 2018 Bond shall be transferable only on the books of the Trustee and upon surrender of the Bond, at the Office of the Trustee, together with a written instrument of transfer, satisfactory to the Trustee, duly executed by the registered owner or his attorney duly authorized in writing. Upon the transfer of any registered Series 2018 Bond, the Issuer shall issue in the name of the transferee a new registered Series 2018 Bond of the same aggregate principal amount and maturity and rate of interest as the surrendered Series 2018 Bond.

(b) The Issuer, the Trustee and any Paying Agent may deem and treat the Person in whose name any Series 2018 Bond shall be registered upon the books of the Trustee as the absolute owner thereof, whether such Series 2018 Bond shall be overdue or not for the purpose of receiving payment of the principal of or Redemption Price and, except as otherwise provided in the Indenture, interest on such Series 2018 Bond and for all other purposes. All such payments so made to any such registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Series 2018 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. (*Section 2.11*)

## **Regulations with Respect to Exchanges and Transfers**

(a) In all cases in which the privilege of exchanging or transferring the Series 2018 Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver the Series 2018 Bonds in accordance with the provisions of the Indenture. All Series 2018 Bonds surrendered in any exchanges or transfers shall forthwith be canceled in accordance with the provisions of the Indenture. For every exchange or transfer of the Series 2018 Bonds, whether temporary or definitive, the Issuer or the Trustee may make a charge sufficient to reimburse it for (i) any tax, fee or other governmental charge required to be paid with respect to the delivery of definitive Series 2018 Bonds in exchange for temporary Series 2018 Bonds, (ii) the cost of preparing each new Series 2018 Bond, and (iii) any other expenses, including counsel fees, of the Issuer or the Trustee incurred in connection therewith.

(b) Neither the Issuer nor the Trustee shall be obligated to exchange or transfer any Series 2018 Bond during the ten (10) days next preceding (i) a Debt Service Payment Date, or (ii) in the case of any proposed redemption of Series 2018 Bonds, the date of the first mailing of notice of such redemption. (*Section 2.12*)

## **Additional Bonds**

(a) So long as the Indenture is in effect, one or more Series of Additional Bonds may be issued, authenticated and delivered upon original issuance for the purpose of (i) financing additional costs with respect to the Project, (ii) providing funds in excess of Net Proceeds to repair, relocate, replace, rebuild or restore the Project in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions, improvements or facilities to the Project, (iv) funding the costs of acquiring, constructing, equipping and start-up costs of any capital project of the Institution, (v) refunding Outstanding Bonds or other Indebtedness of the Institution, or (vi) refunding any other Indebtedness or bonds for which the Institution is the primary obligor, or for which the Institution is responsible for paying the debt service payments in connection therewith, or which the Institution has guaranteed. Such Additional Bonds shall be payable from the receipts and revenues payable to the Issuer from a Loan Agreement between the Issuer and the Institution. Prior to the issuance of a Series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, (x) the Issuer and the Institution shall enter into a new Loan Agreement providing, among other things, that the payments payable under the new Loan Agreement shall be computed so as to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith and (y) the Mortgage shall be amended, modified or supplemented and consolidated to secure such Series of Additional Bonds or a new mortgage on new mortgaged property shall be granted by the Institution to the Issuer to secure such Additional Bonds, if required.

(b) Each such Series of Additional Bonds shall be deposited with the Bond Registrar and thereupon shall be authenticated by the Authenticating Agent. Upon payment to the Trustee of the proceeds of sale of the Additional Bonds, they shall be delivered by the Bond Registrar at the direction of the Trustee to or upon the order of the purchaser or purchasers thereof, but only upon receipt by the Trustee of:

(i) a copy of the resolution, duly certified by the Chairman, Vice Chairman, Chief Executive Officer, or Chief Financial Officer, of the Issuer, authorizing, issuing and awarding the Additional Bonds to the purchaser or purchasers thereof and providing the terms thereof and authorizing the execution of any Supplemental Indenture and any amendments of or supplements to the Loan Agreement;

(ii) original executed counterparts of the Supplemental Indenture and the new Loan Agreement, expressly providing that, to the extent applicable, for all purposes of the Supplemental Indenture and the new Loan Agreement, the project referred to therein and the premises financed or refinanced thereunder shall include the buildings, structures, improvements, machinery, equipment or other facilities being financed, and the Bonds referred to therein shall mean and include the Additional Bonds being issued as well as the Bonds now being issued and any Additional Bonds theretofore issued;

(iii) a written opinion of Bond Counsel, to the effect that the issuance of the Additional Bonds and the execution thereof have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled;

(iv) a certificate of an Authorized Representative of the Institution to the effect that each Bond Document, as amended, to which it is a party continues in full force and effect and that there is no Event of Default nor any event which upon notice or lapse of time or both would become an Event of Default;

(v) an original, executed counterpart of the amendment to each Bond Document with respect to such Additional Bonds;

(vi) if applicable, an executed municipal bond insurance policy issued by a bond insurer or other credit facility issued by a bank which guarantees or secures the payment of principal of and interest on the Additional Bonds, in each case, only if such Additional Bonds (or portion thereof) are to be insured by a bond insurer or secured by a credit facility issued by a bank; and

(vii) a written order to the Trustee executed by an Authorized Representative of the Issuer to authenticate and deliver the Additional Bonds to the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price therein specified, plus accrued interest, if any; and

(viii) a certificate of the President or other Authorized Officer of the Institution evidencing that the issuance of such series of Additional Bonds complies with the Loan Agreement.

(c) (i) Upon the request of the Institution, one or more series of Additional Bonds may be authenticated and delivered upon original issuance to refund (“Refunding Bonds”) all Outstanding Bonds or any part of Outstanding Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make such deposits required by the provisions of the Indenture and of the resolution authorizing said Refunding Bonds. In the case of the refunding pursuant to the Indenture of less than all Bonds Outstanding, the Trustee shall proceed to select such Bonds in accordance with the Indenture.

(ii) Refunding Bonds may be authenticated and delivered only upon receipt by the Trustee (in addition to the receipt by it of the documents required by the Indenture, as may be applicable) of:

(A) Irrevocable written instructions from the Issuer, to the Trustee, at least forty-five (45) days prior to the Redemption Date, satisfactory to the Trustee, to give due notice of redemption pursuant to the Indenture to the Holders of all the Outstanding Bonds to be refunded prior to maturity on the Redemption Date specified in such instructions;

(B) Either:

(1) moneys in an amount sufficient to effect payment at maturity or upon redemption at the applicable Redemption Price, together with accrued interest on such Bonds to the maturity or Redemption Date, which moneys shall be held by the Trustee or any Paying Agent in a separate account irrevocably in trust for and assigned to the respective Holders of the Outstanding Bonds being refunded, which moneys shall be held in trust and used as provided in the Indenture, or

(2) Government Obligations in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of the Indenture, and any moneys required pursuant to said Indenture (with respect to all Outstanding Bonds or any part of one or more series of Outstanding Bonds being refunded), which Government Obligations and moneys shall be held in trust and used only as provided in the Indenture.

(iii) The Institution shall furnish to the Trustee and the Issuer at the time of delivery of the Series of Refunding Bonds a certificate of an independent public accountant stating that the Trustee and/or the Paying Agent (and/or any escrow agent as shall be appointed in connection therewith) shall hold in trust the moneys or such Government Obligations and moneys required to effect such payment at maturity or earlier redemption.

(d) Each Series of Additional Bonds issued pursuant to the provisions under this heading shall be equally and ratably secured under the Indenture with the Series 2018 Bonds and all other Series of Additional Bonds, if any, issued pursuant to the Indenture, without preference, priority or distinction of any Bond over any other Bonds except as expressly provided in or permitted by the Indenture.

(e) Notwithstanding anything in the Indenture to the contrary, no Series of Additional Bonds shall be issued unless: (i) at the time of issuance of such Series of Additional Bonds and after the application of proceeds thereof, there is no Event of Default under any Bond Document; (ii) the Loan Agreement is in effect and at the time of issuance there is no Event of Default under any such document nor any event which upon notice or lapse of time or both would become such an Event of Default; and (iii) the Rating Agency, if any, has confirmed in writing that the issuance of such Additional Bonds will not result in a reduction or withdrawal of the then current rating on the Bonds Outstanding.

(f) The Supplemental Indenture providing for the issuance of any Series of Additional Bonds shall contain applicable provisions for the payment of principal of, Redemption Price of, and interest on such Series of Additional Bonds including any interest rate modes applicable to such Series of Additional Bonds, redemption provisions applicable to such Series of Additional Bonds, such Funds, Accounts or subaccounts to be created or held by the Trustee under the Indenture with respect to such Series of Additional Bonds, collateral and security (including credit facilities securing such Series of additional Bonds) and such other terms and provisions as the Issuer may determine are necessary in connection with the issuance of such Additional Bonds. (*Section 2.14*)

### **Establishment of Funds**

The following trust funds are established with the Trustee and shall be held, maintained and administered by the Trustee on behalf of the Issuer in accordance with the Indenture:

(a) Dutchess County Local Development Corporation Bond Fund – The Culinary Institute of America, Series 2018 (the “Bond Fund”), and within such Bond Fund, an “Interest Account” and a “Principal Account”.

(b) Dutchess County Local Development Corporation Project Fund — The Culinary Institute of America, Series 2018 (the “**Project Fund**”), and within such Project Fund, a “Series 2004D Bonds Redemption Account”, a “Series 2006 Bonds Redemption Account”, a “Series 2018 Bonds Project Account”, a “Series 2004D SWAP Account”, and a “Series 2006 SWAP Account”.

(c) Dutchess County Local Development Corporation Rebate Fund – The Culinary Institute of America, Series 2018 (the “Rebate Fund”).

(d) Dutchess County Local Development Corporation Renewal Fund – The Culinary Institute of America, Series 2018 (the “Renewal Fund”).

(e) Upon the issuance of any series of Additional Bonds pursuant to the Indenture, the Supplemental Indenture entered into with such series of Additional Bonds shall create such Funds and Accounts and/or Subaccounts within any Account with respect to such series of Bonds. (*Section 4.01*)

### **Moneys to Be Held in Trust**

All moneys deposited with, paid to or received by the Trustee for the accounts of the Issuer (other than amounts deposited in the Rebate Fund) shall be held by the Trustee in trust, and shall be subject to the lien of the Indenture and held for the security of the Owners of the particular Series of Bonds until paid in full; 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 particular Series of Bonds, notice of the redemption of which has been given, or (ii) for the payment of the particular Series of Bonds or interest thereon due and payable otherwise than upon acceleration by declaration, shall be held in trust for and subject to a lien in favor of only the Owners of such Series of Bonds so called for redemption or so due and payable. Upon the issuance of any series of Additional Bonds pursuant to the Indenture, the Supplemental Indenture entered into with such series of Additional Bonds shall create such Funds and Accounts and/or subaccounts within any Account with respect to such series of Bonds. The Issuer authorizes and directs the Trustee to withdraw moneys from said funds for the purposes specified in the Indenture, which authorization and direction the Trustee accepts. (*Section 4.03*)

### **Use of the Moneys in Project Fund**

(a) Moneys in the Project Fund shall be applied and expended by the Trustee in accordance with the provisions of the Indenture and of the Loan Agreement.

(b) The Trustee is authorized and directed, on the Closing Date, to transfer amounts on deposit from the Series 2004D Bonds Redemption Account to the Series 2004D Trustee to redeem and defease the Series 2004D Bonds, (ii) transfer amounts on deposit in the Series 2006 Bonds Redemption Account to the Series 2006 Trustee to redeem and defease the Series 2006 Bonds, (iii) transfer amounts on deposit in the Series 2004D SWAP Account to pay the costs of terminating the interest rate swap in connection with the Series 2004D Bonds, and (iv) transfer amounts on deposit in the Series 2006 SWAP Account to pay the costs of terminating the interest rate swap in connection with the Series 2006 Bonds.

(c) Except as otherwise provided in paragraph (b) immediately above, the Trustee is directed to issue its checks or send its wires for each disbursement from the Project Account of the Project Fund upon being furnished with a written requisition therefor certified by an Authorized Representative of the Institution and substantially in the form of Exhibit B annexed to the Indenture to pay the Costs of the Project. The Trustee shall maintain adequate records pertaining to the Project Fund and all disbursements therefrom.

(d) The completion of the Project and payment or provision for payment of all Costs of the Project shall be evidenced by the filing with the Trustee of the Completion Certificate required by the Loan Agreement. As soon as practicable and in any event not more than sixty (60) days after the date of the filing with the Trustee of the Completion Certificate referred to in the preceding sentence, any balance remaining in the Accounts of the Project Fund, except amounts the Institution shall have directed the Trustee, in writing, to retain for any Cost of the Project not then due and payable, and after the making of any transfer to the Rebate Fund that the Institution shall have directed the Trustee, in writing, to make as required by the Tax Regulatory Agreement and the Indenture, shall (i) be used to defease the Series 2018 Bonds to the first optional call date and provided in the Indenture, in accordance with the provision of the Indenture, or (ii) upon delivery to the Issuer and the Trustee of an opinion of Bond Counsel, be transferred to the applicable corresponding Subaccounts of the Accounts of the Bond Fund and thereafter applied as provided in the Indenture.

(e) Within sixty (60) days after transfer of the balance in the Project Fund to the Bond Fund, the Trustee shall file an accounting thereof with the Issuer and the Institution.

(f) All earnings on amounts held in the Project Fund shall be retained in the respective account of the Project Fund until the Completion Date. Any transfers by the Trustee of amounts to the Rebate Fund (which transfers may only be made at the written direction of the Institution) shall be drawn by the Trustee from the Project Fund.

(g) If an Event of Default under the Indenture shall have occurred and the outstanding principal amount of the Bonds shall have been declared due and payable, the entire balance remaining in the Project Fund, after making any transfer to the Rebate Fund directed to be made by the Institution pursuant to the Tax Regulatory Agreement and the Indenture, shall be transferred to the Bond Fund for the redemption of the Series 2018 Bonds.

(h) If, prior to the completion of the Project, the Institution elects to abandon the Project or a portion thereof due to a legal or regulatory impediment, the Institution shall provide notice thereof to the Trustee. Upon receipt of such notice the Trustee shall transfer the unused balance of the Project Fund to the Bond Fund and shall be used to redeem the Series 2018 Bonds in accordance with the Indenture. (*Section 4.04*)

### **Payments into Bond Fund**

There shall be deposited in the Subaccounts of the Accounts of the Bond Fund, as and when received (a) all payments received by the Trustee under the Loan Agreement or any similar provision in any Loan Agreement with respect to the payment of debt service on any Series of Additional Bonds; (b) the balance in the Project Fund and the Renewal Fund to the extent authorized and specified in the Indenture; (c) the amount of net income or gain received from the investments of moneys in the Bond Fund and all Funds and Accounts (other than the Rebate Fund) held under the Indenture after the Completion Date; and (d) all other moneys received by the Trustee pursuant to any of the provisions of the Loan Agreement or the Indenture and designated for deposit in the Bond Fund. (*Section 4.05*)

### **Use of Moneys in Bond Fund**

(a) Except as otherwise expressly provided in the Indenture, moneys in the Bond Fund shall be used solely for the purchase or redemption of Series 2018 Bonds and any Series of Additional Bonds as provided in the Indenture. Moneys deposited in the Bond Fund in accordance with the provisions of the Indenture, however, may not be used for the payment of interest on the Series 2018 Bonds and any Series of Additional Bonds.

(b) The Trustee shall, on or before each Debt Service Payment Date of the Series 2018 Bonds, pay out of the monies then held for the credit of the Series 2018 Bonds Sub-Account of the Interest Account the amounts required for the payment of interest becoming due on the respective series of the Series 2018 Bonds and any Series of Additional Bonds on such Debt Service Payment Date, and such amounts so withdrawn are irrevocably dedicated for and shall be applied to the payment of interest.

(c) The Trustee shall, on or before each Debt Service Payment Date, when principal of the Series 2018 Bonds and any Series of Additional Bonds or Sinking Fund Payments are due, pay out of the monies then held for the credit of the respective Sub-Account of the Principal Account the amounts required for the payment of principal or Sinking Fund Payments becoming due at maturity, on a Sinking Fund Payment Date, or upon redemption of the respective series of the Series 2018 Bonds and any Series of Additional Bonds on such Debt Service Payment Date or Sinking Fund Payment Date and such amounts so withdrawn are irrevocably dedicated for and shall be applied to the payment of principal or Sinking Fund Payments.

(d) Moneys transferred to the corresponding Subaccounts of the Accounts of the Bond Fund from the Project Fund pursuant to the Indenture or from the Renewal Fund pursuant to the Indenture shall be invested, at the written direction of the Institution, with yield not in excess of (i) the yield on the Series 2018 Bonds, or (ii) the yield on tax-exempt obligations as described in Section 148(b)(3) of the Code, subject to limitations on earnings as set forth in the Tax Regulatory Agreement, and such moneys and earnings thereon shall be applied only to pay the



principal or Sinking Fund Installments of the Series 2018 Bonds and any Series of Additional Bonds as they become due and payable or the Redemption Price of Bonds subject to redemption pursuant to the Indenture.

(e) Reserved.

(f) The Trustee shall call Bonds for redemption according to the Indenture, upon written direction of the Issuer or the Institution to the Trustee, on or after the date the Series 2018 Bonds are subject to optional redemption pursuant to the Indenture, whenever the assets of the Bond Fund shall be sufficient in the aggregate to provide monies to pay, redeem or retire all the Bonds then Outstanding or to redeem the Series 2018 Bonds in part pursuant to the Indenture, including accrued interest thereon to the Redemption Date. The Trustee shall call any series of Additional Bonds for redemption in accordance with the Supplemental Indenture providing for the issuance of such series of Additional Bonds.

(g) Reserved.

(h) Reserved.

(i) If the balance in the Bond Fund, not otherwise required for scheduled payments of principal of, Redemption Price or interest on the Series 2018 Bonds or any Series of Additional Bonds, forty-five (45) days prior to any date on which the Series 2018 Bonds or any Series of Additional Bonds are subject to redemption pursuant to the Indenture equals or exceeds \$50,000, the Trustee shall, upon the written request of an Authorized Representative of the Institution, apply as much of such balance as can be so applied to the redemption of the Series 2018 Bonds or any Series of Additional Bonds on such next succeeding Redemption Date in the manner provided in the Indenture. The Trustee shall promptly notify the Issuer and the Institution of the principal amount and maturity of each Series 2018 Bond or any Series of Additional Bonds so redeemed and the balance held in the Bond Fund after such redemption.

(j) Whenever the amount in the respective Account or Subaccount in the Bond Fund is sufficient to redeem all of the Outstanding Series 2018 Bonds or any Series of Additional Bonds and to pay accrued interest to maturity or the date of redemption, the Trustee shall, upon written request of an Authorized Representative of the Institution, take and cause to be taken the necessary steps to redeem all such Series 2018 Bonds or any Series of Additional Bonds on the next succeeding Redemption Date for which the required redemption notice may be given or on such later Redemption Date as may be specified by the Institution. *(Section 4.06)*

#### **Payments into Renewal Fund; Application of Renewal Fund**

(a) The Net Proceeds resulting from any insurance award, condemnation award or recovery from any contractor or subcontractor with respect to the Project 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 the Indenture.

(b) In the event the Series 2018 Bonds or any Series of Additional Bonds shall then be subject to redemption in whole (either by reason of such damage, destruction or condemnation or otherwise) pursuant to the terms thereof or of the Indenture, the Trustee shall, after making any transfer to the Rebate Fund, at the written direction of the Institution, as required by the Tax Regulatory Agreement and the Indenture, transfer the amounts deposited in the Renewal Fund to the Bond Fund. If, on the other hand, the Institution is permitted to replace, repair, rebuild, restore or relocate the Facility pursuant to the Loan Agreement, the Trustee shall, at the written direction of the Institution, apply the amounts on deposit in the Renewal Fund, after making any transfer to the Rebate Fund, at the written direction of the Institution, as required by the Tax Regulatory Agreement and the Indenture, to such replacement, repair, rebuilding, restoration or relocation. Upon the completion of such replacement, repair, rebuilding, restoration or relocation, and after making any transfer to the Rebate Fund, at the written direction of the Institution, as required by the Tax Regulatory Agreement and the Indenture, any balance remaining in the Renewal Fund shall without further authorization be transferred to the Principal Account of the Bond Fund and thereafter applied to pay the principal or Sinking Fund Installments of the Series 2018 Bonds or any Series of Additional Bonds as they become due and payable.

(c) If any Event of Default shall exist at the time of the receipt by the Trustee of the Net Proceeds in the Renewal Fund and be continuing, the Trustee, unless it exercises the remedy provided by the Loan Agreement, shall, after making any transfer to the Rebate Fund, at the written direction of the Institution, as required by the Tax Regulatory Agreement and the Indenture, transfer the amounts deposited in the Renewal Fund to the Bond Fund to be applied in accordance with the Indenture.

(d) If the Institution elects to replace, repair, rebuild, restore or relocate the Projects pursuant to the Loan Agreement, the Trustee is authorized to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same shall have been paid by or on behalf of the Institution or the Issuer) of the costs required for the replacement, repair, rebuilding, restoration or relocation of the Facility. The Trustee is further authorized upon the written direction of the Institution, and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee and signed by an Authorized Representative of the Institution. Such requisition shall be in the same form and subject to the same conditions as requisitions from the Project Fund. *(Section 4.07)*

### **Investment Earnings on Funds; Application of Investment Earnings on Funds**

(a) All investment income or earnings on amounts held in the Project Fund, the Renewal Fund, the Bond Fund or any other special fund held under any of the Bond Documents (other than the Rebate Fund) prior to the Completion Date shall be deposited upon receipt by the Trustee into the Project Fund and used for the purposes set forth in the Indenture and after the Completion Date shall be used to pay any remaining sums due for costs of the Project not previously paid, or deposited by the Trustee into the Interest Account of the Bond Fund and used to pay the interest component of the next upcoming Debt Service Payment. The Trustee shall keep separate accounts of all investment earnings from each fund and account under the Indenture to indicate the source of the income or earnings.

(b) Within thirty (30) days after the end of each Computation Period, the Trustee, at the written direction of an Authorized Representative of the Institution, shall transfer to the Rebate Fund instead of the Project Fund or the Interest Account of the Bond Fund an amount of the investment earnings on the funds and accounts under the Indenture, such that the amount transferred to the Rebate Fund is equal to that amount as is set forth as the Rebate Amount in a written certificate delivered by the Institution to the Trustee pursuant to the Tax Regulatory Agreement and the Indenture. *(Section 4.08)*

### **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 or any Owner of any Series of Bond or any other Person.

(b) The Trustee, upon the receipt of a certification of the Rebate Amount from an Authorized Representative of the Institution, shall transfer, from moneys in the Project Fund or the Renewal Fund, or from any other moneys paid by the Institution in accordance with the Tax Regulatory Agreement, into the Rebate Fund, within thirty (30) days after the end of each Bond Year, an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of the last day of the immediately preceding Bond Year. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion of the Project pursuant to the Loan Agreement at any time during a Bond Year, the Trustee shall deposit in the Rebate Fund within thirty (30) days of the Completion Date an amount received from the Institution such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated at the completion of the Project. The amount deposited in the Rebate Fund pursuant to this paragraph shall be paid by the Institution pursuant to the Tax Regulatory Agreement.

(c) 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 Institution, shall withdraw such excess amount and deposit it in the Series 2018 Bonds Project Account of the Project Fund until the completion of the Project, or, after the Completion Date, deposit it in the applicable Subaccounts of the Accounts of the Bond Fund.

(d) The Trustee, upon the receipt of written instructions from an Authorized Representative of the Institution, 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 Bond Year and after every fifth Bond Year thereafter, an amount such that, together with prior amounts paid to the United States, the total paid to the United States is equal to ninety percent (90%) of the Rebate Amount with respect to the Series 2018 Bonds as of the date of such payment, and (ii) notwithstanding the provisions of the Indenture, not later than thirty (30) days after the date on which all Series 2018 Bonds have been paid in full, one hundred (100%) percent of the Rebate Amount as of the date of payment.

(e) The Trustee shall have no obligation under the Indenture to transfer any amounts to the Rebate Fund unless the Trustee shall have received specific written instructions from the Institution to make such transfer. *(Section 4.09)*

### **Investment of Moneys**

(a) Moneys held in any fund established pursuant to the Indenture shall be invested and reinvested by the Trustee in Authorized Investments, pursuant to written direction by an Authorized Representative of the Institution. Such investments shall mature in such amounts and have maturity dates or be subject to redemption at the option of the owners thereof on or prior to the date on which the amounts invested therein will be needed for the purposes of such fund or accounts. Upon 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 fund or accounts is insufficient for the purposes thereof. The Trustee, if instructed in writing to invest in money market funds, is to liquidate money market funds to cover all payments unless written instructions are received to liquidate other securities. 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 or the respective account within a fund or special trust account for which such moneys are invested, and the interest accruing thereon and any profit realized from such investment shall be credited to and held in and any loss shall be charged to the applicable fund.

(b) The Trustee may make any investment permitted by the Indenture through its own bond department. Notwithstanding anything to the contrary contained in the Indenture, the Trustee shall not be liable for any depreciation in the value of any investment made pursuant to the Indenture or for any loss arising from any such investment.

(c) Any investment authorized in the Indenture is subject to the condition that no use of the proceeds of any of the Series 2018 Bonds or of any other moneys shall be made which would cause such Series 2018 Bonds (i) to be “arbitrage bonds” within the meaning of such quoted term in Section 148 of the Code, (ii) to be “federally guaranteed” within the meaning of such quoted term in Section 149(b) of the Code, or (iii) to otherwise fail to comply with the terms of the Tax Regulatory Agreement. The Trustee shall not be liable if such use shall cause the Series 2018 Bonds to be “arbitrage bonds”, “federally guaranteed” or otherwise fail to comply with the terms of the Tax Regulatory Agreement provided only that the Trustee shall have made such investment pursuant to the written direction or confirmation by an Authorized Representative of the Institution as provided in the Indenture.

(d) Reserved.

(e) The Trustee shall, at the written direction of the Institution, sell at the best price obtainable by the Trustee, or present for redemption, any obligation purchased by it as an investment whenever it shall be necessary in order to provide monies to meet any payment or transfer from the Fund or account for which such investment was made. *(Section 4.11)*

### **Payment to Institution upon Payment of Bonds**

Except as otherwise specifically provided in the Indenture, after payment in full of the principal or Redemption Price of and interest on all the Series 2018 Bonds or any Series of Bonds (or after provision for the payment thereof has been made in accordance with the Indenture) and after payment in full of the fees, charges and expenses of the Trustee and any Paying Agent, including reasonable attorneys’ fees, and all other amounts required to be paid under the Indenture, and the fees, charges and expenses of the Issuer and all other amounts required to be

paid under the Loan Agreement, all amounts remaining in any fund established pursuant to the Indenture with respect to such Series of Bonds (except the Rebate Fund) or otherwise held by the Trustee and by any additional Paying Agent for the account of the Issuer or the Institution under the Indenture or under the Loan Agreement shall be paid to the Institution. *(Section 4.12)*

### **Failure to Present Bonds**

Subject to the provisions under the heading “Mutilated, Lost, Stolen or Destroyed Bonds”, in the event any Bond shall not be presented for payment when the principal or Redemption Price thereof 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 Owner thereof, all liability of the Issuer to the Owner 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 Owner of such Bonds, who shall thereafter be restricted exclusively to such moneys for any claim under the Indenture or on, or with respect to, said Bond. Subject to any law to the contrary, if any Bond shall not be presented for payment within the period of two (2) years following the date when such Bond becomes due, whether by maturity or call for prior redemption or otherwise, the Trustee shall return to the Issuer the funds theretofore held by it for payment of such Bond, and thereafter (a) all liability of the Trustee with respect to such moneys shall terminate, and (b) such Bond shall, subject to the defense of any applicable statute of limitations, thereafter be an unsecured obligation of the Issuer. The Trustee shall, at least sixty (60) days prior to the expiration of such two (2) year period, give notice to any Owner who has not presented any Bond for payment that any moneys held for the payment of any such Bond will be returned as provided in the Indenture at the expiration of such two (2) year period. The failure of the Trustee to give any such notice shall not affect the validity of any return of funds pursuant to the Indenture. *(Section 5.11)*

### **Cancellation**

All Bonds which have been paid, redeemed, purchased or surrendered shall be cancelled and delivered by the Trustee to the Issuer. A copy of the cancelled Bond or other form of notice of such cancellation shall be delivered to the Institution upon its written request. *(Section 5.12)*

### **Payments Due on Days Other Than Business Days**

In any case where the date that any payment of the principal of, premium, if any, Sinking Fund Payment or interest on any Bonds issued under the Indenture or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then such payment shall 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 5.13)*

### **Agreement to Provide Information**

The Trustee agrees, whenever requested in writing by the Issuer or the Institution, to provide such information that is known to the Trustee relating to the Bonds as the Issuer or the Institution, from time to time, may reasonably request, including, but not limited to, such information as may be necessary to enable the Issuer or the Institution to make any reports required by any federal, state or local law or regulation or to request any consent or waiver from the holders of the Bonds. *(Section 5.14)*

### **Continuing Disclosure Agreement**

Pursuant to the Loan Agreement, the Institution has undertaken responsibility for compliance with, and the Issuer shall have no liability to the holders of the Bonds or any other person with respect to, any reports, notices or disclosures required by or provided pursuant to the Continuing Disclosure Agreement authorized by said Loan Agreement. Notwithstanding any other provision of the Indenture, failure of the Institution or the Trustee to perform in accordance with the Continuing Disclosure Agreement shall not constitute a default or an Event of Default under the Indenture, and the rights and remedies provided by the Indenture upon the occurrence of such a default or an Event of Default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein. *(Section 5.15)*

## **Discharge of Lien**

(a) If the Issuer shall pay or cause to be paid to the Owners of any series of Bonds or of all Outstanding Bonds the principal thereof, redemption premium, if any, and interest thereon, at the times and in the manner stipulated therein and in the Indenture, and if there shall have been paid all fees, charges and expenses required to be paid under the Indenture, then the lien on the Trust Estate created for the benefit of the Owners of such Series of Bonds so paid shall be released, discharged and satisfied. In such event, except as otherwise specifically provided in the Indenture, the Trustee and any additional Paying Agent shall pay or deliver to the Institution all moneys or securities held by it pursuant to the Indenture which are not required for the payment of principal of, interest and premium, if any, on such Series of Bonds. The Issuer may pay or cause to be paid any Series of Bonds without at the same time paying or causing to be paid all other Series of Outstanding Bonds. 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 the Indenture as security for the benefit of the Owners of Bonds not so paid or caused to be paid.

(b) When all of the Outstanding Bonds shall have been paid in full, or provisions for such full payment of all Outstanding Bonds shall have been made in accordance with the Indenture, the Trustee and the Issuer shall promptly execute and deliver to the Institution such written certificates, instruments and documents as the Institution shall reasonably provide to cause the lien of the Indenture upon the Trust Estate to be discharged and canceled.

(c) Notwithstanding the fact that the lien of the Indenture upon the Trust Estate may have been discharged and canceled in accordance with the Indenture, the Indenture and the rights granted and duties imposed, to the extent not inconsistent with the fact that the lien upon the Trust Estate may have been discharged and canceled, shall nevertheless continue and subsist until the principal or Redemption Price of and interest on all of the Bonds shall have been fully paid or the Trustee shall have returned to the Issuer pursuant to the Indenture all funds theretofore held by the Trustee for payment of any Bonds not theretofore presented for payment. *(Section 7.01)*

## **Discharge of the Indenture**

(a) Any Outstanding Bond or installments of interest with respect thereto 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 the heading "Discharge of the Lien" if: (i) there shall have been deposited with the Trustee sufficient cash and/or Government Obligations, in accordance with subsection (b) below which will, without further investment, be sufficient, together with the other amounts held for such payment, to pay the principal of the Series of Bonds when due or to redeem the Series of Bonds on the earliest possible redemption date thereof at the Redemption Price specified in the Indenture; (ii) in the event such Bonds are to be redeemed prior to maturity in accordance with the Indenture or in a Supplemental Indenture with respect to such Series of Bonds, all action required by the provisions of the Indenture to redeem the Bonds shall have been taken or provided for to the satisfaction of the Trustee and notice thereof in accordance with the Indenture or in a Supplemental Indenture with respect to such Series of Bonds shall have been duly given or provision 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 Agent with respect to the Series of Bonds of which the Bond is a part; (iv) the Issuer shall have been reimbursed for all of its expenses under the Loan Agreement with respect to the Series of Bonds of which such Series of Bonds is a part; (v) all other payments required to be made under the Loan Agreement and the Indenture or any Supplemental Indenture with respect to such Series of Bonds of which the Bond is a part shall have been made or provided for; (vi) the Issuer causes to be delivered an opinion of Bond Counsel stating that all conditions precedent with respect to the satisfaction and discharge of the Indenture have been met; and (vii) there shall have been delivered to the Issuer and to the Trustee a verification report from a verification agent (in each case reasonably satisfactory to the Issuer and the Trustee) to the effect that the moneys and/or Government Obligations are sufficient, together with any income to be earned thereon, without reinvestment, to pay the principal of, interest on, and redemption premium, if any, of the Bonds to be defeased.

(b) For the purpose of the provisions under this heading, the Trustee shall be deemed to hold sufficient moneys to pay the principal of an Outstanding Bond not then due or to redeem an Outstanding Bond prior to the maturity thereof only if there shall be on deposit with the Trustee and available for such purpose an amount of

cash and/or a principal amount of Government Obligations, maturing or redeemable at the option of the owner thereof not later than (i) the maturity date of such Series of Bonds, or (ii) the first date following the date of computation on which such Series of Bonds may be redeemed pursuant to the Indenture (whichever may first occur), which, together with income to be earned on such Government Obligations prior to such maturity date or Redemption Date, equals the principal and redemption premium, if any, due on such Series of Bonds, together with all interest thereon (at the maximum applicable rate) which has accrued and which will accrue to such maturity or Redemption Date.

(c) Upon the defeasance of any series of Series of Bonds or of all Outstanding Bonds in accordance with the Indenture, the Trustee shall hold in trust, for the benefit of the Owners of such Series of Bonds, all such cash and/or Government Obligations, shall make no other or different investment of such cash and/or Government Obligations and shall apply the proceeds thereof and the income therefrom only to the payment of such Bonds. *(Section 7.02)*

### **Lien Law Section 73 Covenant**

The Institution, for itself covenants to the Issuer and to the Trustee, as a third-party beneficiary of the provisions under this heading, that the Institution will receive advances of monies under the Bond Documents and will hold the right to receive such advances as trust funds to be first applied to the payment of trust claims as defined in Section 71 of the Lien Law of the State, and that the Institution will apply the same to such payments only, before using any part of such advances for any other purpose. *(Section 7.03)*

### **Events of Default**

The following shall be “Events of Default” under the Indenture with respect to any Bond or any Series of Bonds:

(a) A default in the due and punctual payment of any interest or any principal, Sinking Fund Payments, or Redemption Price of any Bond, whether at the stated maturity thereof, upon proceedings for redemption thereof or upon the maturity thereof by declaration, or any other amounts due under the Indenture or the other Bond Documents or any other bond documents entered into in connection with any series of Additional Bonds; or

(b) A default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in the Indenture or in any Series of Bonds and the continuance thereof for a period of thirty (30) days after written notice given by the Trustee or by the Owners of not less than fifty percent (50%) of the principal amount of the applicable Series of Bonds then Outstanding; or if such default cannot be cured within thirty (30) days, but the Issuer is proceeding diligently to cure such default, then the Issuer shall be permitted an additional ninety (90) days within which to remedy the default; or

(c) The occurrence of an Event of Default under any Loan Agreement. *(Section 8.01)*

### **Acceleration; Annulment of Acceleration**

(a) Upon the occurrence of an Event of Default under the Loan Agreement or any similar provision in any other Loan Agreement with respect to any Additional Bonds, all Series of Bonds Outstanding shall become immediately due and payable without action or notice of any kind on the part of the Trustee or the Issuer. Upon the occurrence and continuance of an Event of Default, the Trustee shall, by notice in writing delivered to the Issuer and the Institution, declare all Series of Bonds Outstanding immediately due and payable, and such Series of Bonds shall become and be immediately due and payable, anything in the Series of Bonds or in the Indenture to the contrary notwithstanding. In such event, there shall be due and payable on the Series of Bonds an amount equal to the total principal amount of all such Series of Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment. If all of the Series of Bonds Outstanding shall become so immediately due and payable, the Issuer and the Trustee shall as soon as possible declare by written notice to the Institution all unpaid installments payable

by the Institution under the Loan Agreement or any similar provision in any other Loan Agreement with respect to any Additional Bonds to be immediately due and payable.

(b) At any time after the principal of the Series 2018 Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Indenture, the Trustee may annul such declaration and its consequences with respect to any Series 2018 Bonds not then due by their terms if (i) moneys shall have been deposited in the Bond Fund sufficient to pay all matured installments of interest and principal, Sinking Fund Payments, or the Redemption Price (other than principal then due only because of such declaration) of such Outstanding Series of Bonds; (ii) sufficient moneys shall be available to pay the amounts described in the Indenture; (iii) all other amounts then payable by the Issuer under the Indenture shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

(c) Reserved. (*Section 8.02*)

### **Enforcement of Remedies**

(a) Upon the occurrence and continuance of any Event of Default, and upon being provided with security or indemnity reasonably satisfactory to the Trustee against any liability or expense which might thereby be incurred, the Trustee shall proceed forthwith to protect and enforce its rights and the rights of the Owners under the Act, the applicable Series of Bonds and the applicable Loan Agreement by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient. In considering what actions are or are not prudent in the circumstances, the Trustee shall consider whether or not to take such action as may be permitted to be taken by the Trustee under any of the Financing Documents.

(b) The Trustee acting directly may sue for, enforce payment of and receive any amounts due or becoming due from the Issuer or the Institution for principal, Redemption Price, interest or otherwise under any of the provisions of the Series of Bonds, the Bond Documents, and any bond documents entered into in connection with any Series of Additional Bonds without prejudice to any other right or remedy of the Trustee or of the Owners.

(c) Regardless of the happening of an Event of Default, the Trustee shall have the right to institute and maintain such suits and proceedings as it may be advised by such Owners shall be necessary or expedient (i) to prevent any impairment of the security under the Indenture by any acts which may be unlawful or in violation of the Indenture or of any resolution authorizing any Series of Bonds, or (ii) to preserve or protect the interests of the Owners, provided that such request is in accordance with law and the provisions of the Indenture and is not unduly prejudicial to the interests of the Owners not making such request. (*Section 8.03*)

### **Appointment of Receivers**

Upon the occurrence of an Event of Default and upon the filing of a suit or commencement of other judicial proceedings to enforce the rights of the Trustee or the Owners under the Indenture, the Trustee shall, to the extent permitted by law, be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues and receipts thereof, pending such proceedings, with such powers as the court making such appointment shall confer. (*Section 8.04*)

### **Application of Moneys**

(a) The Net Proceeds received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture shall be, after paying the fees and expenses of the Trustee, deposited in the Bond Fund.

(b) All moneys held in a Sub-Account of the Bond Fund for any particular Series of Bonds during the continuance of an Event of Default shall be applied as follows:

(i) Unless the principal of all the Bonds of a particular Series of 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, to the Persons entitled thereto without any discrimination or preference; and

SECOND - To the payment of the unpaid principal or Redemption Price, if any, of any Series of Bonds or principal installments which shall have become due (other than any Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of the 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; and

THIRD - To the payment of the principal or Redemption Price of and interest on such Bonds as the same become due and payable; and

(ii) If the principal of all such Bonds shall have become due or shall have been declared due and payable, to the payment of the principal and interest (at the rate or rates expressed thereon) then due and unpaid upon all such 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 Bonds of such series, ratably according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference; and

(iii) If the principal of all such Bonds shall have been declared due and payable and if such declaration shall thereafter have been annulled pursuant to provisions of the Indenture, the moneys shall be applied in accordance with the provisions of paragraph (i) of paragraph (i) of subsection (b) above.

(c) Whenever moneys are to be applied by the Trustee pursuant to the provisions under this heading, such moneys shall be applied at such time or times as the Trustee shall determine in good faith, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. On the date fixed by the Trustee for application of such moneys, interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the application of any such moneys and of the fixing of any such date. (*Section 8.05*)

### **Remedies Vested in Trustee**

No remedy conferred upon or reserved to the Trustee or to the Owners by the 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 Owners under the Indenture or now or hereafter existing at law or in equity or by statute. (*Section 8.07*)

### **Resignation by Trustee**

The Trustee and any successor Trustee may, at any time, resign from the trusts created and be discharged of their duties and obligations under the Indenture by giving not less than sixty (60) days written notice to the Issuer and, by first class mail, to each Owner of each Series of Bonds then Outstanding. 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 the Indenture. If no successor Trustee shall have been appointed within 45 days of the notice of resignation or removal of the Trustee, the Trustee shall have the right, at the expense of the Issuer, to petition a court of competent jurisdiction for the appointment of a successor Trustee. (*Section 9.06*)



## **Removal of Trustee**

The Trustee may be removed at any time without cause by an instrument which (i) is signed by the Owners of not less than fifty-one percent (51%) in aggregate principal amount of each Series of Bonds then Outstanding, (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 Institution. Notice of any such removal shall be given, by first class mail, to the Trustee and each Owner of Bonds then Outstanding not less than sixty (60) days before such removal is to take effect as stated in such instrument. 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 the Indenture or the Loan Agreement, by any court of competent jurisdiction upon the application by the Issuer, the Institution or the Owners of not less than fifty-one percent (51%) in aggregate principal amount of each Series of Bonds then Outstanding. (*Section 9.07*)

## **Appointment of Successor Trustee; Temporary Trustee**

(a) In case the Trustee under the Indenture shall resign, or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting under the Indenture, 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 Issuer or the Owners of not less than fifty-one percent (51%) in aggregate principal amount of each Series of Bonds then Outstanding by an instrument signed by such Owners and delivered to such successor Trustee, the predecessor Trustee, the Issuer and the Institution. Notice of any such appointment shall be given, by first class mail, to each Owner of each Series of Bonds then Outstanding within thirty (30) days after delivery to the Issuer of the instrument appointing such successor Trustee.

(b) In case of the occurrence of any event affecting the Trustee under the Indenture described in subsection (a) under this heading, the Issuer, by an instrument signed by the Chairman and attested by the Secretary, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Owners in the manner provided in subsection (a) under this heading. Such instrument appointing such successor Trustee by the Issuer shall be delivered to the successor Trustee so appointed, to the predecessor Trustee and to the Institution. Notice of any such appointment shall be given, by first class mail, to each Owner of each Series of Bonds then Outstanding within thirty (30) days after delivery to the successor Trustee of the instrument appointing such successor Trustee. Any such temporary Trustee appointed by the Issuer shall immediately and without further act be superseded by any successor Trustee appointed by the Owners.

(c) Any Trustee appointed pursuant to the provisions under this heading shall be a national banking association, trust company or bank which is authorized to exercise the corporate trust powers intended to be conferred upon it by the Indenture and has 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 under the Indenture and reasonably acceptable to the Issuer and approved by all Owners. (*Section 9.08*)

## **Concerning Successor Trustees**

(a) Every successor Trustee appointed under the Indenture shall execute, acknowledge and deliver to its predecessor Trustee and the Issuer an instrument accepting such appointment under the Indenture. Thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Property, rights, powers, trusts, duties and obligations, with respect to the Indenture, of its predecessor Trustee.

(b) 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 Property, rights, powers and trusts of such predecessor under the Indenture. Every predecessor Trustee shall deliver to its successor Trustee all securities and moneys held by it as Trustee under the Indenture. If any instrument from the Issuer shall be requested by any successor Trustee, acknowledging the transfer to such successor Trustee of the Property, rights, powers and duties vested or intended to be vested under the Indenture, any and all such instruments shall be executed, acknowledged and delivered by the Issuer.

(c) The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor under the Indenture, together with all other instruments provided for the Indenture, shall be filed and/or recorded by the successor Trustee with the Issuer. *(Section 9.09)*

### **Supplemental Indentures Not Requiring Consent of Owners**

(a) Without the consent of or notice to any of the Owners of each Series of Bonds issued under the Indenture, the Issuer and the Trustee may enter into one or more Supplemental Indentures, not inconsistent with the terms and provisions of the Indenture, for any one or more of the following purposes:

- (i) To cure any ambiguity or formal defect or omission in the Indenture;
- (ii) To cure, correct or supplement any defective provision of the Indenture in such manner as shall not be inconsistent with the Indenture and shall not impair the security of the Indenture nor adversely affect the Owners;
- (iii) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee, but only with the prior written consent of the Institution not unreasonably to be withheld;
- (iv) To add to the covenants and agreements of the Issuer in the Indenture, other covenants and agreements to be observed by the Issuer;
- (v) To identify more precisely the Trust Estate;
- (vi) To subject to the lien of the Indenture additional revenues, receipts, Property or collateral, but only with the prior written consent of the Institution not unreasonably to be withheld;
- (vii) To release Property from the lien of the Indenture or to grant or release easements to the extent permitted by the Indenture;
- (viii) To make any other changes in the Indenture which do not prejudice the interests of the Trustee, the Institution or the Owners;
- (ix) To make any change which, in the opinion of Bond Counsel, is necessary or desirable in order to preserve the exclusion of interest on the Series 2018 Bonds or any other series of Tax-Exempt Additional Bonds issued under the Indenture from gross income for federal income tax purposes;
- (x) To make any change requested by a Rating Agency in connection with obtaining or maintaining a rating on any Series of Bonds; or
- (xi) To issue any series of Additional Bonds in accordance with the provisions of the Indenture.

(b) In connection with the execution and delivery of any Supplemental Indenture to be entered into under the provisions of the Indenture, the Trustee shall be entitled to receive and may rely upon an opinion of Independent Counsel as conclusive evidence that any such Supplemental Indenture complies with the foregoing conditions and provisions. *(Section 10.01)*

### **Supplemental Indentures Requiring Consent of Owners**

(a) Except as provided under the heading “Supplemental Indentures Not Requiring Consent of Owners.” the Owners of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding (or if less than all Series of Bonds then Outstanding are affected by such Supplemental Indenture, then the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Series of Bonds so affected) 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 the Indenture or in any Supplemental Indenture or in the Series 2018 Bonds or any other Series of Bonds issued under the Indenture; provided, however, that nothing contained under this heading shall permit:

(i) A change in the terms of redemption or maturity of the principal of or the time of payment of interest on any Outstanding Series of Bonds or a reduction in the principal amount or Redemption Price of any Outstanding Series of Bonds or the rate of interest thereon, without the consent of the Owners of such Series of Bonds; or

(ii) The creation of a lien upon the Trust Estate ranking prior to or on a parity with the lien created by the Indenture, without the consent of the Owners of all Outstanding Series of Bonds; or

(iii) A preference or priority of any Bond or Series of Bonds over any other such Bond or Series of Bonds, without the consent of the Owners of all such Outstanding Bonds so affected; or

(iv) A reduction in the aggregate principal amount of any Series of Bonds required for consent to such Supplemental Indenture, without the consent of the Owners of all Outstanding Series of Bonds.

(b) If at any time the Issuer shall request the Trustee to enter into a Supplemental Indenture for any of the purposes of subsection (a) under this heading, the Trustee, upon being satisfactorily indemnified with respect to expenses, shall cause notice of the proposed execution of such Supplemental Indenture to be given, by first class mail, to each Owner of Series of Bonds then Outstanding at their addresses as they appear on the registration books kept by the Trustee. 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 all Owners.

(c) The Trustee shall not, however, be subject to any liability to any Owner by reason of its failure to mail the notice required by subsection (b) under this heading.

(d) If, within such period after the mailing of the notice required by subsection (b) under this heading 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 Owners of not less than fifty-one percent (51%) in aggregate principal amount of Series of Bonds then Outstanding, 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.

(e) If the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Series of Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as provided in the Indenture, no Owner of such Series of Bonds 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.

(f) The Trustee shall be entitled to receive and 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 Owner consent thereto comply with the provisions under this heading. (*Section 10.02*)

#### **Amendments to the Loan Agreement Not Requiring Consent of Owners**

Without the consent of or notice to any of the Owners, the Issuer may enter into, and the Trustee may consent to, any amendment, change or modification of any Loan Agreement as may be required (a) by the provisions thereof or of the Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission therein, (c) in connection with the description of the Project and the substitution, addition or removal of a portion of the Facility as provided in the Loan Agreement and the Indenture, (d) in connection with additional real estate which is to become part of the Project, or (e) in connection with any other change therein which, in the sole judgment of the Trustee, does not adversely affect the interests of the Trustee or the Owners of the applicable Series of Bonds.

The Trustee shall be entitled to receive and may rely upon an opinion of Independent Counsel stating that and as conclusive evidence that any such amendment, change or modification complies with the provisions under this heading. *(Section 11.01)*

#### **Amendments to the Loan Agreement Requiring Consent of Owners**

Except for amendments, changes or modifications as provided under the heading “Amendments to the Loan Agreement Not Requiring Consent of Owners”, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Loan Agreement without mailing of notice and the written approval or consent of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the applicable Series of Bonds at the time Outstanding procured and given in the manner set forth in the Indenture; provided, however, that no such amendment shall be permitted which changes the terms of payment thereunder without the consent of the Owners of all the applicable Series of Bonds then Outstanding. The Trustee shall be entitled to receive and may rely on an opinion of Independent Counsel stating that and as conclusive evidence that any such amendment, change or modification and the evidence of requisite Owner consent comply with the requirements of the provisions under this heading. *(Section 11.02)*

#### **Amendments of Tax Regulatory Agreement Not Requiring Consent of Owners**

Without the consent of or notice to any of the Owners, the Issuer and the Institution may consent to any amendment, change or modification of the Tax Regulatory Agreement as may be required (a) for the purpose of curing any ambiguity or formal defect or omission, or (b) in connection with any other change therein which, in either case, does not adversely affect the interests of the Issuer, the Institution or the Owners of the applicable Series of Bonds. The Issuer and the Institution shall be entitled to receive and may rely upon an opinion of Bond Counsel stating that and as conclusive evidence that any such amendment, change or modification complies with the provisions under this heading. *(Section 11.05)*

#### **Amendments of Tax Regulatory Agreement Requiring Consent of Owners**

Except for amendments, changes or modifications as provided under the heading “Amendments of Tax Regulatory Agreement Not Requiring Consent of Owners”, neither the Issuer nor the Institution shall enter into any amendment, change or modification of the Tax Regulatory Agreement without mailing of notice and the written approval or consent of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the applicable Series of Bonds at the time Outstanding procured and given in the manner set forth in the Indenture. The Issuer shall be entitled to receive and may rely upon an opinion of Bond Counsel stating that and as conclusive evidence that any such amendment, change or modification and the evidence of requisite Owner consent comply with the provisions under this heading. *(Section 11.06)*

## SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

*The following is a summary of certain provisions of the Loan Agreement. Certain provisions of the Loan Agreement are also described in the Official Statement. This summary does not purport to be complete and reference is made to the Loan Agreement for the detailed provisions thereof. This summary is qualified in its entirety by such reference. Headings are not part of the Loan Agreement and are included for ease of reference only.*

### **Loan of Series 2018 Bond Proceeds**

The Issuer agrees to loan the Series 2018 Bond Proceeds to the Institution in accordance with the provisions of the Loan Agreement. Such Series 2018 Bond Proceeds shall be disbursed to the Institution in accordance with the provisions of the Loan Agreement and of the Indenture. *(Section 5.1)*

### **Financing and Refinancing of the Project**

(a) The Institution agrees, and covenants and warrants to the Issuer that the proceeds of the Series 2018 Bonds will be used to finance and refinance the Project.

(b) The Institution agrees, and covenants and warrants to the Issuer, it has or will acquire, renovate, construct, equip and furnish the Facility in accordance with the Plans and Specifications.

(c) The Institution shall pay all fees, costs and expenses incurred in the construction and renovation of the Improvements and the acquisition and installation of the Equipment from funds made available therefor in accordance with the Loan Agreement, and shall ask, demand, sue for, levy, recover and receive all such sums or money, debts, dues and other demands whatsoever which may be due, owing and payable to the Institution under the terms of any contract, order, receipt, or writing in connection with the construction, renovation and completion of the Improvements and the acquisition and installation of the Equipment, and to enforce the provisions of any contract, agreement, obligation, bond or other performance security. *(Section 4.1)*

### **Issuance of the Series 2018 Bonds; Disbursement of Bond Proceeds**

In order to provide funds for payment of the Costs of the Project, together with other payments and incidental expenses in connection therewith, the Issuer agrees that it will authorize, issue, sell and cause the Series 2018 Bonds to be delivered on the terms set forth in the Indenture. Bond Proceeds shall be disbursed in accordance with the provisions of the Indenture and the Loan Agreement. *(Section 4.2)*

### **Application of Series 2018 Bond Proceeds**

The Bond Proceeds shall be deposited in the Project Fund and used to pay the costs of the Project. Except as provided in subsection (a)(ii) under the heading "Remedies on Default", the Bond Proceeds, upon the written direction of an Authorized Representative of the Institution, and on the conditions provided for in the Indenture, shall be applied to pay only the following costs and items of expense paid by or on behalf of the Issuer as provided under the Tax Regulatory Agreement or included in a resolution of the Board of Trustees of the Institution indicating an intent to reimburse the Institution for costs of the Project incurred prior to that date:

- (i) the cost to defease and redeem the Series 2004D Bonds,
- (ii) the cost to defease and redeem the Series 2006 Bonds,
- (iii) the cost of terminating any interest rate swap in connection with the Series 2004D Bonds,
- (iv) the costs of terminating any interest rate swap in connection with the Series 2006 Bonds,

(v) all fees, taxes, charges and other expenses for recording or filing, as the case may be, any documents that the Issuer or the Trustee may deem desirable in order to protect or perfect any security interest contemplated by the Indenture,

(vi) all legal, accounting and any other fees, costs and expenses incurred in connection with the preparation, printing, reproduction, authorization, issuance, execution, sale and distribution of the Series 2018 Bonds and the Bond Documents and all other documents in connection herewith or therewith, and with any other transaction contemplated by this Loan Agreement or the Indenture and the fees and expenses in connection with obtaining a rating, if any, on the Series 2018 Bonds,

(vii) any administrative fee and fee for services of the Issuer,

(viii) reimbursement to the Institution for any of the above-enumerated costs and expenses. (*Section 4.3*)

### **Completion by Institution**

(a) In the event that the Net Proceeds of the Series 2018 Bonds are not sufficient to pay in full the Costs of the Project, the Institution agrees to pay, for the benefit of the Issuer and the Trustee, all such sums as may be in excess of the Net Proceeds of the Series 2018 Bonds. The Institution shall execute, deliver and record or file such instruments as the Issuer or the Trustee may request in order to perfect or protect the Issuer's security interests contemplated by the Indenture and the Note.

(b) The Institution shall not be entitled to any reimbursement for such excess cost or expense from the Issuer or the Trustee or the Owners of any of the Series 2018 Bonds, nor shall it be entitled to any diminution or abatement of any other amounts payable by the Institution under the Loan Agreement. (*Section 4.5*)

### **Loan Payments and Other Amounts Payable**

(a) The Institution shall pay to the Issuer on the Closing Date the Issuer's administrative fee. In addition, the Institution shall pay to the Issuer an annual compliance fee of \$500.00 on or before January 1 of each year commencing January 1, 2019 and continuing through the duration of the Loan Agreement. The Institution shall pay basic loan payments five (5) Business Days before each Debt Service Payment Date directly to the Trustee, in an amount equal to the Debt Service Payment becoming due and payable on the Series 2018 Bonds on such Debt Service Payment Date. The Institution's obligation to pay such basic loan payments shall be evidenced by the Promissory Note, substantially in the form attached to the Loan Agreement as Exhibit B-1.

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

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

(d) Reserved.

(e) The Institution, under the provisions under this heading, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Institution shall fail timely to make any payment required in subsection (a) above, the Institution shall pay the same together with interest on such payment at the Late Payment Rate, but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on

which such payment is made. In the event the Institution shall fail timely to make any payment required in subsection (b) above, the Institution shall pay the same together with interest on such payment at the per annum rate of ten percent (10%), but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made. *(Section 5.3)*

### **Obligations of Institution Under the Loan Agreement Unconditional**

The obligations of the Institution to make the payments required in the Loan Agreement, and to perform and observe any and all of the other covenants and agreements on its part contained in the Loan Agreement, shall be a general obligation of the Institution, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Issuer. The Institution agrees it will not (i) suspend, discontinue or abate any payment required under the Loan Agreement, (ii) fail to observe any of its other covenants or agreements in the Loan Agreement, or (iii) terminate the Loan Agreement for any cause whatsoever unless and until the Series 2018 Bonds, including premium, if any, and interest thereon, have been paid or provided for in the Bond Documents.

Subject to the foregoing provisions, nothing contained in the Loan Agreement shall be construed to release the Issuer from the performance of any of the agreements on its part contained in the Loan Agreement or to affect the right of the Institution to seek reimbursement from, or institute any action against any party as the Institution may deem necessary to compel performance or recover damages for non-performance from such party. *(Section 5.4)*

### **Payment of Additional Moneys in Prepayment of Series 2018 Bonds**

In addition to any other moneys required or permitted to be paid pursuant to the Loan Agreement, the Institution may, subject to the terms of the Indenture, pay moneys to the Trustee (i) to be applied as the prepayment of amounts to become due and payable by the Institution pursuant to the Loan Agreement and the Promissory Note, or (ii) to be used for the redemption or prepayment of any Series 2018 Bonds at such time or times and on such terms and conditions as is provided in such Series 2018 Bonds and in the Indenture. The Institution shall notify the Issuer and the Trustee in writing as to the purpose of any such payment. *(Section 5.5)*

### **Rights and Obligations of the Institution upon Prepayment of Series 2018 Bonds**

In the event the Series 2018 Bonds shall have been paid in full prior to the termination of the Loan Agreement, or provision for such payment shall have been made in accordance with the Indenture, the Issuer, at the sole cost of the Institution, shall obtain and record or file appropriate terminations, discharges or releases of any security interest relating to the Project or under the Indenture. *(Section 5.6)*

### **Maintenance and Modifications of Facility by Institution**

(a) The Institution shall not abandon the Facility or cause or permit any waste to the Improvements. During the Loan Term, the Institution shall not remove any part of the Facility outside of the jurisdiction of the Issuer and shall (i) keep the Facility in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Facility (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); and (iii) operate the Facility in a sound and economic manner.

(b) With the written consent of the Issuer, which shall not be unreasonably withheld, the Institution, from time to time, may make any material structural additions, modifications or improvements to the Facility or any part thereof, provided (i) such actions do not adversely affect the structural integrity of the Facility, (ii) such actions do not materially impair the use of the Facility or materially decrease their value. All such additions, modifications or improvements made by the Institution shall become a part of the Facility. The Institution agrees to deliver to the Issuer all documents which may be necessary or appropriate to protect the lien of the Mortgage. *(Section 6.1)*

## **Installation of Additional Equipment**

Subject to the provisions of the Loan Agreement and the Mortgage, the Institution or any permitted sublessee of the Institution from time to time may install additional machinery, equipment or other personal property in the Project (which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility, provided that the acquisition and installation of such property is not financed from either the Project Fund or the Renewal Fund. Subject to the provisions of the Mortgage, the Institution from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the Institution from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility, provided that any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended, and provided further that, if any damage is occasioned to the Facility by such removal, the Institution agrees promptly to repair such damage at its own expense. (*Section 6.2*)

## **Insurance Required**

(a) At all times throughout the Loan Term, including, when indicated in the Loan Agreement, during the Construction Period, the Institution shall, at its sole cost and expense, maintain or cause to be maintained insurance covering the Facility against such risks and for such amounts as are customarily insured against by facilities of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Institution, but in no event less than the principal amount of the Bonds. During any construction or reconstruction period of the Facility, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Institution is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Institution who are located at or assigned to the Facility.

(c) Insurance protecting the Issuer, the Trustee and the Institution against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Institution under the Loan Agreement) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage) and with a blanket excess liability coverage in an amount not less than \$5,000,000 protecting the Issuer, the Trustee and the Institution against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) During any construction or reconstruction period of the Facility (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Institution shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation and employer's liability with limits in accordance with applicable law.

(ii) Comprehensive general liability providing coverage for:

Premises and Operations



Products and Completed Operations  
Owners Protective  
Contractors Protective  
Contractual Liability  
Personal Injury Liability  
Broad Form Property Damage  
(including completed operations)  
Explosion Hazard  
Collapse Hazard  
Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iii) Business auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iv) Excess “umbrella” liability providing liability insurance in excess of the coverage’s in (ii) and (iii) above with a limit of not less than \$5,000,000.

(e) A policy or policies of flood insurance in an amount not less than the principal amount of the Loan or the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Issuer that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards. (*Section 6.4*)

#### **Additional Provisions Respecting Insurance**

(a) All insurance required by the Loan Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. The company issuing the policies required by subsections (a) and (e) under the heading “Insurance Required” shall be rated “A” or better by A.M. Best Co., Inc. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by subsections (a) and (e) under the heading “Insurance Required” shall provide for payment to the Trustee of the Net Proceeds of insurance resulting from any claim for loss or damage thereunder, and all policies of insurance required by the Loan Agreement shall provide for at least thirty (30) days’ prior written notice of the restriction, cancellation or modification thereof to the Issuer and the Trustee. The policy evidencing the insurance required by subsection (c) under the heading “Insurance Required” shall name the Issuer and the Trustee as additional insureds. All policies evidencing the insurance required by subsections (d)(ii) and (iv) under the heading “Insurance Required” shall name the Issuer and the Institution as additional insureds. Upon request of the Trustee, the Institution will assign and deliver to the Trustee the policies of insurance required under subsection (a) under the heading “Insurance Required”, so and in such manner and form that the Trustee shall at all times, upon such request and until the payment in full of the Series 2018 Bonds, have and hold said policies and the Net Proceeds thereof as collateral for the payment of the Series 2018 Bonds. The policies under subsection (a) under the heading “Insurance Required” shall contain appropriate waivers of subrogation.

(b) The policies (or certificates and binders) of insurance required by subsection (a) under the heading “Insurance Required” shall be deposited with the Trustee on or before the Closing Date. A copy of the policy (or certificate and binder) of insurance required by subsection (c) under the heading “Insurance Required” shall be delivered to the Issuer on or before the Closing Date. A copy of the policies (or certificates and binders) of insurance required by subsections (d)(ii) and (iv) under the heading “Insurance Required” shall be delivered to the Issuer on or before the commencement of any construction or reconstruction period. The Institution shall deliver to the Issuer and the Trustee before the first Business Day of each twelve (12) month period thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at

least the next succeeding twelve (12) month period, insurance of the types and in the amounts required by the Loan Agreement and complying with the additional requirements of subsection (a) under the heading “Additional Provisions Respecting Insurance”. Prior to the expiration of each such policy or policies, the Institution shall furnish to the Issuer and the Trustee a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by the Loan Agreement. The Institution shall provide such further information with respect to the insurance coverage required by the Loan Agreement as the Issuer and the Trustee may from time to time reasonably require. (*Section 6.5*)

### **Application of Net Proceeds of Insurance**

The Net Proceeds of the insurance carried pursuant to the provisions of the Loan Agreement shall be applied as follows: (i) the Net Proceeds of the insurance required by subsection (a) under the heading “Insurance Required” shall be applied as provided in the Loan Agreement, and (ii) the Net Proceeds of the insurance required by subsections (b), (c) and (d) under the heading “Insurance Required” shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid. (*Section 6.6*)

### **Damage or Destruction of the Facility**

(a) If any portion of the Facility shall be damaged or destroyed (in whole or in part) at any time during the Loan Term:

(i) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate the Facility or any project thereof comprising a portion of the Facility; and

(ii) there shall be no abatement or reduction in the Loan Payments or other amounts payable by the Institution under the Loan Agreement (whether or not such project comprising a portion of the Facility is replaced, repaired, rebuilt, restored or relocated); and

(iii) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in the Loan Agreement, the Institution shall at its option either (A) replace, repair, rebuild, restore or relocate such project comprising a portion of the Project, or (B) direct the Trustee to apply such Net Proceeds to the payment of the principal of the Series 2018 Bonds or any Additional Bonds as they become due and payable or the Redemption Price of the Bonds subject to Redemption in accordance with the Indenture.

If the Institution replaces, repairs, rebuilds, restores or relocates the Facility, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in the Indenture to pay or reimburse the Institution for the cost of such replacement, repair, rebuilding, restoration or relocation.

(b) Any such replacements, repairs, rebuilding, restorations or relocations shall be subject to the following conditions:

(i) such project comprising a portion of the Facility shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction;

(ii) the exclusion of the interest on the Series 2018 Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;

(iii) the Facility (or such portion thereof) will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Issuer may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility (or such portion thereof) shall 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 Institution in accordance with the terms of the applicable contracts.

(d) If the Institution elects to replace, repair, rebuild, restore or relocate the Facility pursuant to the Loan Agreement, then in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, restoration or relocation, the Institution shall nonetheless complete the work and pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. All such replacements, repairs, rebuilding, restoration or relocations made pursuant to the provisions under this heading, whether or not requiring the expenditure of the Institution's own money, shall automatically become a part of the Facility as if the same were specifically described in the Loan Agreement.

(e) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration or relocation shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, be used to redeem the Series 2018 Bonds as provided in the Indenture.

(f) If the Institution shall exercise its option to terminate the Loan Agreement pursuant to the provisions under the heading "Early Termination of Loan Agreement", such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement. If an Event of Default under the Loan Agreement shall have occurred and is continuing and the Trustee shall have exercised its remedies under the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement.

(g) If the entire amount of the Series 2018 Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the Institution.

(h) Except upon the occurrence and continuation of an Event of Default, the Institution with the consent of the Issuer, not to be withheld unreasonably, shall have the right to settle and adjust all claims under any policies of insurance required by subsections (a) and (d) under the heading "Insurance Required" on behalf of the Issuer and on its own behalf. *(Section 7.1)*

## **Condemnation**

(a) If title to or use of the Facility or any portion thereof comprising a portion of the Facility shall be taken by Condemnation (in whole or in part) at any time during the Loan Term:

(i) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate such project comprising a portion of the Facility or acquire, by construction or otherwise, facilities of substantially the same nature as the Facility (the "**Substitute Facility**"); and

(ii) there shall be no abatement or reduction in the amounts payable by the Institution under the Loan Agreement (whether or not Facility (or such portion thereof) is replaced, repaired, rebuilt, restored or relocated or the Substitute Facility acquired); and

(iii) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in the Loan Agreement, the Institution shall

(A) replace, repair, rebuild, restore or relocate the Facility (or such portion thereof) or acquire the Substitute Facility, or

(B) redeem an amount of Series 2018 Bonds equal to the Net Proceeds in accordance with the Indenture.

If the Institution replaces, repairs, rebuilds, restores or relocates the Facility (or such portion thereof) or acquires the Substitute Facility, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in the Indenture to pay or reimburse the Institution for the cost of such replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Facility.

(b) Any such replacements, repairs, rebuilding, restorations, relocations or acquisitions of the Substitute Facility shall be subject to the following conditions:

(i) the Facility (or such portion thereof) or the Substitute Project shall be in substantially the same condition and value as an operating entity as existed prior to the condemnation;

(ii) the exclusion of the interest on the Series 2018 Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;

(iii) the Facility (or such portion thereof) or the Substitute Facility will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Issuer may reasonably impose.

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

(d) If the Institution elects to replace, repair, rebuild, restore or relocate pursuant to the Loan Agreement, then in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Facility, the Institution shall nonetheless complete the work or the acquisition and pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. All such replacements, repairs, rebuilding, restoration, relocations and such acquisition of the Substitute Facility made pursuant to the provisions under this heading, whether or not requiring the expenditure of the Institution's own money, shall automatically become a part of the Facility as if the same were specifically described in the Loan Agreement.

(e) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Facility shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, be used to redeem the Series 2018 Bonds as provided in the Indenture.

(f) If the Institution shall exercise its option to terminate the Loan Agreement pursuant to the provisions under the heading "Early Termination of Loan Agreement", such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement. If any Event of Default under the Loan Agreement shall have occurred and is continuing and the Trustee shall have exercised its remedies under the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement.

(g) If the entire amount of the Series 2018 Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the Institution.

(h) Except upon the occurrence and continuation of an Event of Default, the Institution with the consent of the Issuer, not to be unreasonably withheld, shall have the right to settle and adjust all claims under any Condemnation proceedings on behalf of the Issuer and on its own behalf. (*Section 7.2*)

### **Hold Harmless Provisions**

(a) The Institution agrees that the Issuer, the Trustee and each Paying Agent shall not be liable for and agrees to defend, indemnify, release and hold the Issuer, the Trustee and each Paying Agent harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land; (ii) any violation of any Environmental Regulations with respect to, or the release of any Hazardous Substances from the Facility or any part thereof; or (iii) liability arising from or expense incurred in connection with the Issuer's financing and refinancing of the Project, including without limiting the generality of the foregoing, all claims arising from the breach by the Institution of any of its covenants contained in the Loan Agreement, and all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Issuer, the Trustee or any Paying Agent are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Issuer, the Trustee or any Paying Agent or any of their respective members, directors, trustees, officers, agents or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Issuer, the Trustee or any Paying Agent, or any of their respective members, directors, trustees, officers, agents or employees, and irrespective of the breach of a statutory obligation (other than a breach caused by any of their respective gross negligence or intentional or willful wrongdoing) or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(b) Notwithstanding any other provisions of the Loan Agreement, the obligations of the Institution pursuant to the provisions under this heading shall remain in full force and effect after the termination of the Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters described in the Loan Agreement may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters described in the Loan Agreement and the payment of all expenses and charges incurred by the Issuer, the Trustee or their respective members, directors, officers, agents and employees, relating to the enforcement of the provisions specified in the Loan Agreement.

(c) In the event of any claim against the Issuer, the Trustee or any Paying Agent or their respective members, directors, officers, agents or employees by any employee or contractor of the Institution or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Institution under the Loan Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

(d) The Trustee and each Paying Agent shall be third party beneficiaries of the Institution's obligations under this heading. (*Section 8.2*)

### **Right to Inspect Facility**

The Issuer and the Trustee and the duly authorized agents of either of them shall have the right at all reasonable times upon prior written notice to the Institution to inspect the Facility. (*Section 8.3*)

### **Institution to Maintain Its Existence**

The Institution agrees that during the Loan Term (a) it will maintain its existence as an education corporation constituting an Exempt Organization subject to service of process within the State; (b) it will preserve its status as an organization described in Section 501(c)(3) of the Code; (c) it will operate the Facility as an institution of higher education which, together with other available funds, will be sufficient in each fiscal year to provide funds

for the following: (1) the payment by the Institution of all of its expenses for the operation, maintenance and repair of its facilities, including the Facility in such year; (2) the payment of all amounts due under the Loan Agreement in such year; and (3) the payment of all indebtedness and all other obligations of the Institution due in such year; and (e) it will not perform any act, enter into any agreement, or use or permit the Project to be used in any manner or for any unrelated trade or business as described in Section 513(a) of the Code, which could adversely affect the exemption of interest on the Series 2018 Bonds from federal income taxes pursuant to Section 103 and 145 of the Code except as provided in the Tax Regulatory Agreement. Except as permitted by the Tax Regulatory Agreement, prior to the Institution performing any act, entering into any agreement or using or permitting the Facility to be used in any manner that would constitute an unrelated trade or business within the meaning of Section 513(a) of the Code, the Institution shall provide written notice to the Issuer and the Trustee and the Issuer and the Trustee shall receive an opinion of counsel satisfactory to each of them to the effect that such contemplated act, agreement or use will not adversely affect the exemption of interest on the Bonds for federal income tax purposes. *(Section 8.4)*

### **Qualification in State**

The Institution throughout the Loan Term shall continue to be duly authorized to do business in the State as an institution of higher education. *(Section 8.5)*

### **Agreement to Provide Information**

The Institution agrees within a reasonable period of time following a written request by the Issuer to provide and certify or cause to be provided and certified such information concerning the Institution, its finances, its operations and its affairs necessary to enable the Issuer to make any report required by law, including without limitation pursuant to the Public Authorities Accountability Act of 2005 (the “PAAA”), or the Public Authorities Reform Act of 2009 (the “PARA”) as amended from time to time, governmental regulation or any of the Issuer Documents or Institution Documents. *(Section 8.6)*

### **Books of Record and Account; Financial Statements**

The Institution at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the Institution. *(Section 8.7)*

### **Compliance with Orders, Ordinances, Etc.**

(a) The Institution, throughout the Loan Term, agrees that it will promptly comply, and take all reasonable steps to cause any tenant or occupant of the Project to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof or to the renovation, construction and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers having jurisdiction of the Facility or any part thereof, or to the renovation, construction, equipping and furnishing thereof, or to any use, manner of use or condition of the Facility or any part thereof and of all companies or associations insuring the premises.

(b) The Institution shall keep or cause the Facility to be kept free of Hazardous Substances, except in compliance with applicable law. Without limiting the foregoing, the Institution shall not cause or permit the Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws, regulations and permits, nor shall the Institution cause or permit, as a result of any intentional or unintentional act or omission on the part of the Institution or any contractor, subcontractor, tenant or subtenant, a release of Hazardous Substances onto the Facility or onto any other property. The Institution shall comply with and shall take all reasonable steps to ensure compliance by all contractors, subcontractors, tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and shall take all reasonable steps to ensure that all contractors, subcontractors, tenants and subtenants obtain

and comply with, any and all approvals, registrations or permits required thereunder. The Institution shall (a) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Substances, on, from, or affecting the Facility (i) in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations, and policies, (ii) to the reasonable satisfaction of the Trustee and the Issuer, and (iii) in accordance with the orders and directives of all federal, state, and local governmental authorities; and (b) defend, indemnify, and hold harmless the Trustee and the Issuer, their employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release, or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise, (ii) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Trustee and the Issuer, which are based upon or in any way related to such Hazardous Substances, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses. The provisions under this heading shall be in addition to any and all other obligations and liabilities the Institution may have to the Trustee at common law, and shall survive the transactions contemplated in the Loan Agreement.

(c) Notwithstanding the provisions of subsections (a) and (b) above, the Institution may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Institution may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the Institution that by failure to comply with such requirement or requirements, the Facility or any part thereof may be subject to loss, penalty or forfeiture, in which event the Institution shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the Trustee and to the Issuer. If at any time the then existing use or occupancy of the Facility shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Institution shall use all reasonable efforts to not cause or permit such use or occupancy to be discontinued without the prior written consent of the Issuer and the Trustee.

(d) Notwithstanding the provisions of under this heading, if, because of a breach or violation of the provisions of subsections (a) or (b) above (without giving effect to subsection (c) above), either the Issuer, the Trustee, or any of their respective members, directors, officers, agents, or employees, shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Issuer or the Trustee, the Institution shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Issuer or the Trustee, as the case may be, and their respective members, directors, officers, agents and employees deem sufficient, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(e) Notwithstanding any provisions of under this heading, the Trustee and the Issuer retain the right to defend themselves in any action or actions which are based upon or in any way related to such Hazardous Substances. In any such defense of themselves, the Trustee and the Issuer shall each select their own counsel, and any and all reasonable costs of such defense, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses, shall be paid by the Institution. (*Section 8.8*)

### **Discharge of Liens and Encumbrances**

(a) The Institution, throughout the Loan Term, shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Facility, the Mortgaged Property and the Pledged Revenues or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) above, the Institution may in good faith contest any such Lien. In such event, the Institution may permit the items so contested to remain undischarged and

unsatisfied during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the Institution that by nonpayment of any such item or items, the lien of the Mortgage may be materially endangered, the Facility, the Mortgaged Property or any part thereof may be subject to loss or forfeiture, in which event the Institution shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Issuer, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the Issuer to protect its interests. Mechanics' Liens shall be discharged or bonded within ninety (90) days following the Institution's receipt of notice of the filing or perfection thereof. (*Section 8.9*)

### **Additional Indebtedness**

The Institution may incur additional Long-Term Indebtedness or request the Issuer to issue one or more series of Additional Bonds under the Indenture, provided that (i) all terms and conditions for the incurrence of such additional Indebtedness or Additional Bonds under the Indenture have been satisfied, (ii) the Institution maintains a long-term debt rating not lower than Baa3 or BBB- from at least one rating agency and (iii) (a) such additional Indebtedness is less than or equal to ten percent (10%) of the Institution's unrestricted and temporarily restricted net assets, or (b) the Institution provides to the Trustee a certificate containing pro forma calculations demonstrating that the Debt Service Coverage Covenant and the Available Assets to Debt Ratio each would have been met in the most recently completed fiscal year taking into account the proposed additional Indebtedness. (*Section 8.13*)

### **Certain Additional Covenants**

(a) The Institution agrees to furnish to the Issuer and the Trustee, as soon as available and in any event within one hundred fifty (150) days after the close of each fiscal year of the Institution, a copy of the annual audited financial statements of the Institution, including statements of financial position as of the end of such year, and the related statement of activities for such fiscal year, prepared in accordance with generally accepted accounting principles, audited by a firm of independent certified public accountants. Simultaneously therewith, the Institution shall provide to the Issuer and the Trustee a certificate of an Authorized Officer of the Institution stating whether at the immediately preceding Testing Date the Institution had met the Debt Service Coverage Ratio and the Available Assets to Debt Ratio and setting for the calculations upon which such statements are based.

(b) The Institution shall deliver to the Issuer and the Trustee with each delivery of annual financial statements required by subsection (a) above, a certificate of an Authorized Representative of the Institution as to whether or not, as of the close of such preceding fiscal year of the Institution, and at all times during such fiscal year, the Institution was in compliance in all material respects with all the provisions which related to the Institution in the Bond Documents, and if such Authorized Representative of the Institution shall have obtained knowledge of any default in such compliance or notice of such default, such Authorized Representative of the Institution shall disclose in such certificate, such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default under the Loan Agreement, and any action proposed to be taken by the Institution with respect thereto.

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

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

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



(f) The Trustee shall be under no obligation to review the financial statements received under the provisions under this heading for content and shall not be deemed to have knowledge of the contents thereof. *(Section 8.14)*

### **Continuing Disclosure Agreement**

The Institution has executed and delivered to the Trustee and DAC a Continuing Disclosure Agreement, dated the date of initial delivery of the Series 2018 Bonds. The Institution covenants and agrees with the holders from time to time of the Series 2018 Bonds that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement, as amended from time to time, applicable to it. Notwithstanding any other provision of the Loan Agreement, failure of the Institution to comply with the Continuing Disclosure Agreement shall not be considered a default or an event of default under the Loan Agreement and the rights and remedies provided by the Loan Agreement upon the occurrence of such a default or an event of default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein. *(Section 8.15)*

### **Securities Law Status**

The Institution affirmatively represents, warrants and covenants that, as of the date of the Loan Agreement, it is an organization organized and operated: (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 Institution agrees that it shall not perform any act nor enter into any agreement which shall change such status as set forth under this heading. *(Section 8.16)*

### **Rebate Covenant**

The Institution covenants to make, or cause to be made, any and all payments required to be made to the United States Department of the Treasury in connection with the Series 2018 Bonds pursuant to Section 148(f) of the Code and to comply with instructions received from Bond Counsel pursuant to the certification with respect to the making of any such payments. *(Section 8.17)*

### **Financial Covenants**

(a) Debt Service Coverage Ratio. The Institution covenants that it shall charge and maintain during each fiscal year, student tuition fees, and other charges sufficient to provide a debt service coverage ratio as of the last day of each Fiscal Year (a “**Testing Date**”) of at least 1.25:1.00. If (a) on any two consecutive Testing Dates, the Institution does not satisfy the coverage requirement, or (b) on any Testing Date, the coverage falls below 1.00:1.00, the Trustee may require the Institution to retain a Management Consultant to make recommendations that will enable the Institution to comply with the debt service coverage requirement. Compliance with the Debt Service Coverage Ratio covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2019, on the basis of the Institution’s audited financial statements required pursuant to the Loan Agreement. Failure to maintain the required Debt Service Coverage Ratio, however, shall not be an Event of Default under the Loan Agreement.

(b) Available Assets to Debt Ratio. The Institution covenants that it shall maintain a ratio of Available Assets to Long-Term Indebtedness at least equal to 0.65:1 as of each Testing Date. Compliance with the Available Assets to Debt Ratio Covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2019, on the basis of the Institution’s audited financial statements required pursuant to the Loan Agreement. If on any Testing Date the Institution does not satisfy the Available Assets to Debt Ratio requirement described above, or the percentage decline in the Available Assets to Debt Ratio from the Fiscal Year two years prior to the current Fiscal Year to the current Fiscal Year is fifty percent (50%) or greater, the Trustee may require the Institution to retain a Management Consultant. Failure to maintain the required Available Assets to Debt Ratio, however, shall not be an Event of Default under the Loan Agreement. *(Section 8.19)*

## Security in Pledged Revenues

As security for the payment of all liabilities and the performance of all obligations of the Institution pursuant to the Loan Agreement, the Institution does continuously pledge, grant a security interest in, and assign to the Issuer the Pledged Revenues and any deposit account of the Institution that may contain Pledged Revenues, together with the Institution's right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues and of such right. This pledge, grant of security interest in and assignment of the Pledged Revenues shall be subordinate only to the Prior Pledges.

The Institution represents and warrants that no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any lien, pledge, security interest or assignment, other than Prior Pledges, and that the Pledged Revenues assigned pursuant to the Loan Agreement are legally available to provide security for the Institution's performance under the Loan Agreement. The Institution agrees that it shall not create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge made by the provisions under this heading. (*Section 8.20*)

## Assignment, Leasing and Subleasing

(a) The Loan Agreement may not be assigned, in whole or in part, and except in the ordinary course of the operations of the Institution, the Facility may not be leased, in whole or in part, without the prior written consent of the Issuer in each instance except as provided in the Tax Regulatory Agreement. Any permitted assignment or lease shall be on the following conditions:

- (i) no assignment or lease shall relieve the Institution from primary liability for any of its obligations under the Loan Agreement or under any other of the Institution Documents;
- (ii) the assignee or lessee (in the discretion of the Issuer) shall assume the obligations of the Institution under the Loan Agreement to the extent of the interest assigned or leased, shall be jointly and severally liable with the Institution for the performance thereof and shall be subject to service of process in the State of New York;
- (iii) the Institution shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Issuer and to the Trustee a true and complete copy of such assignment or lease and the instrument of assumption;
- (iv) neither the validity nor the enforceability of the Series 2018 Bonds or any Bond Document shall be adversely affected thereby;
- (v) the exclusion of the interest on the Series 2018 Bonds from gross income for Federal income tax purposes will not be adversely affected;
- (vi) the assignee or lessee (in the discretion of the Issuer) shall be an Exempt Organization and shall utilize the Facility substantially in the same manner as the Institution.

(b) To establish the purported effective date of any assignment or lease pursuant to subsection (a) above, the Institution, at its sole cost, shall furnish the Trustee or the Issuer, as appropriate, with an opinion, in form and substance satisfactory to the Trustee or the Issuer, as appropriate, (i) of Bond Counsel as to items (v) and (vi) above, and (ii) of Independent Counsel as to items (i), (ii) and (iv) above. (*Section 9.3*)

## Merger of Issuer

(a) Nothing contained in the Loan Agreement shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of its interest, if any, in the entire Project to any other public benefit corporation or political subdivision which has the legal authority to enter into the Loan Agreement, provided that:

(i) upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of the Loan Agreement to be kept and performed by the Issuer shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Issuer's interest in the Project shall be transferred; and

(ii) the exclusion of the interest on the Series 2018 Bonds from gross income for federal income tax purposes shall not be adversely affected thereby.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of interest, the Issuer shall give notice thereof in reasonable detail to the Institution and the Trustee and shall furnish to the Institution and the Trustee (i) a favorable opinion of Independent Counsel as to compliance with the provisions of subsection (a)(i) above, and (ii) a favorable opinion of Bond Counsel opining as to compliance with the provisions of subsection (a)(ii) above. The Issuer promptly shall furnish such additional information with respect to any such transaction as the Institution or the Trustee may reasonably request. (*Section 9.5*)

### **Events of Default Defined**

(a) The following shall be "Events of Default" under the Loan Agreement:

(i) the failure by the Institution to pay or cause to be paid on the date due, the amounts specified to be paid pursuant to subsections (a), (b) and (c) under the heading "Loan Payments and Other Amounts Payable";

(ii) the failure by the Institution to observe and perform any covenant contained in Sections 6.3, 6.4, 6.5, 8.2, 8.4, 8.5, 8.6, 8.8, 8.12, 8.13, 8.14 and 9.3 of the Loan Agreement;

(iii) any representation or warranty of the Institution in the Loan Agreement or in the Bond Purchase Agreement shall prove to have been false or misleading in any material respect and the same shall have a materially adverse effect upon the Institution, the Project, or the exclusion of interest on the Series 2018 Bonds from gross income for federal income tax purposes;

(iv) the failure by the Institution to observe and perform any covenant, condition or agreement under the Loan Agreement on its part to be observed or performed (except obligations referred to in subsections (a)(i), (ii) or (iii) above) for a period of thirty (30) days after receiving written notice, specifying such failure and requesting that it be remedied, given to the Institution by the Issuer or the Trustee; provided, however, that if such default cannot be cured within thirty (30) days but the Institution is proceeding diligently and in good faith to cure such default, then the Institution shall be permitted an additional ninety (90) days within which to remedy the default;

(v) the dissolution or liquidation of the Institution; or the failure by the Institution to release, stay, discharge, lift or bond within sixty (60) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Institution generally to pay its debts as they become due; or an assignment by the Institution for the benefit of creditors; the commencement by the Institution (as the debtor) of a case in Bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the Institution (as the debtor) and a court having jurisdiction in the premises enters a decree or order for relief against the Institution as the debtor in such case or proceeding, or such case or proceeding is consented to by the Institution or remains undismissed for sixty (60) days, or the Institution consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Institution for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors

(the term “dissolution or liquidation of the Institution” as used in this subsection shall not be construed to include any transaction permitted by the Loan Agreement);

(vi) an Event of Default under or a default on the part of the Institution of its obligations under the Indenture or the Loan Agreement shall have occurred and be continuing;

(vii) the invalidity, illegality or unenforceability of any of the Bond Documents, provided the same does not permit the Issuer or the Trustee, as the case may be, to recognize the material benefits of the respective documents; or

(viii) an Event of Default under the Mortgage has occurred and is continuing.

(b) Notwithstanding the provisions of subsection (a) above, if by reason of force majeure any party to the Loan Agreement shall be unable in whole or in part to carry out its obligations under the Loan Agreement (other than its obligations under subsections (a), (b), (c) or (e) under the heading “Loan Payments and Other Amounts Payable”) and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Trustee, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under the Loan Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term “force majeure” as used in the Loan Agreement shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties. (*Section 10.1*)

### **Remedies on Default**

(a) Whenever any Event of Default shall have occurred and be continuing, the Issuer or the Trustee may take, to the extent permitted by law, any one or more of the following remedial steps:

(i) declare, by written notice to the Institution, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid Loan Payments payable pursuant to subsection (a) under the heading “Loan Payments and Other Amounts Payable” and pursuant to the Promissory Note in amount equal to the aggregate unpaid principal balance of all Series 2018 Bonds together with all interest which has accrued and will accrue thereon to the date of payment and all premium, if any, and (B) all other payments due under the Loan Agreement; provided, however, that if an Event of Default specified in subsection (a)(v) under the heading “Events of Default Defined” shall have occurred, such Loan Payments and other payments due under the Loan Agreement shall become immediately due and payable without notice to the Institution or the taking of any other action by the Trustee;

(ii) (a) apply any undisbursed money in the Project Fund and Renewal Fund to the payment of the costs and expenses incurred in connection with the enforcement of the rights and remedies of the Trustee and the Issuer, and (b) apply any undisbursed monies in the Project Fund, the Renewal Fund, and any other Fund or Account under the Indenture (other than those sums attributable to Unassigned Rights and except for the monies and investments from time to time in the Rebate Fund) to the payment of the outstanding principal amount of the Series 2018 Bonds and premium, if any, and accrued and unpaid interest on the Bonds;

(iii) direct the Trustee to foreclose on the Mortgage or otherwise realize upon or seize the Trust Estate; or

(iv) take any other action at law or in equity that may appear necessary or desirable to collect the payments then due or thereafter to become due under the Loan Agreement and to enforce the obligations, agreements or covenants of the Institution under the Loan Agreement.

(b) Reserved.

(c) Any sums payable to the Issuer as a consequence of any action taken pursuant to the provisions under this heading (other than those sums attributable to Unassigned Rights and except for the moneys and investments from time to time in the Rebate Fund) shall be paid to the Trustee and applied to the payment of the Series 2018 Bonds.

(d) No action taken pursuant to the provisions under this heading shall relieve the Institution from its obligation to make all payments required by the provisions under the heading "Loan Payments and Other Amounts Payable" and pursuant to the Promissory Notes.

(e) Reserved.

(f) The Issuer shall have all of the rights, powers and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation, the right to seize or otherwise dispose of any or all of the Collateral described in the Loan Agreement, and to receive the payment of or take possession of the Collateral or the proceeds thereof. Upon the occurrence and during the continuation of an Event of Default by the Institution under the Loan Agreement, the Institution agrees that it will not commingle any moneys or other proceeds received by it in connection with any Collateral with any other moneys, funds or accounts of the Institution. (*Section 10.2*)

### **Remedies Cumulative**

No remedy conferred upon or reserved to the Issuer or the Trustee in the Loan Agreement is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under the Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee, as appropriate, to exercise any remedy reserved to it in the Loan Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in the Loan Agreement. (*Section 10.3*)

### **Agreement to Pay Attorneys' Fees and Expenses**

(a) In the event the Institution should default under any of the provisions of the Loan Agreement and the Issuer should employ attorneys or incur other expenses for the collection of amounts payable under the Loan Agreement or the enforcement of performance or observance of any obligations or agreements on the part of the Institution contained in the Loan Agreement, the Institution shall, on demand therefor, pay to the Issuer the reasonable fees of such attorneys and such other reasonable out-of-pocket expenses so incurred.

(b) In the event the Institution should default under any of the provisions of the Loan Agreement and the Trustee should employ attorneys or incur other expenses for the collection of amounts payable under the Loan Agreement or the enforcement of performance or observance of any obligations or agreements on the part of the Institution contained in the Loan Agreement, the Institution shall, on demand therefor, pay to the Trustee the reasonable fees of such attorneys and such other reasonable out-of-pocket expenses so incurred. (*Section 10.4*)

### **No Additional Waiver Implied by One Waiver**

In the event any agreement contained in the Loan Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Loan Agreement. *(Section 10.5)*

### **Early Termination of Loan Agreement**

The Institution shall have the option to terminate the Loan Agreement at any time that the Series 2018 Bonds are subject to redemption in whole under the Indenture and upon filing with the Issuer and the Trustee a certificate signed by an Authorized Representative of the Institution stating the Institution's intention to do so pursuant to the Loan Agreement and the date upon which such payment shall be made (which date shall not be less than forty-five (45) nor more than ninety (90) days from the date such certificate is filed) and upon compliance with the requirements set forth under the heading "Conditions to Early Termination of Loan Agreement". *(Section 11.1)*

### **Conditions to Early Termination of Loan Agreement**

In the event the Institution exercises its option to terminate the Loan Agreement in accordance with the provisions of under the heading "Early Termination of Loan Agreement", the Institution shall make the following payments:

(a) To the Trustee for the account of the Issuer: an amount certified by the Trustee which, when added to the total amount on deposit with the Trustee for the account of the Issuer and the Institution and available for such purpose, will be sufficient to pay the principal of, Redemption Price of, and interest to maturity or the earliest practicable redemption date, as the case may be, on the Series 2018 Bonds, all expenses of redemption and the Trustee's fees and expenses.

(b) To the Issuer: an amount certified by the Issuer sufficient to pay all unpaid fees and expenses of the Issuer incurred under the Bond Documents.

(c) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under the Bond Documents. *(Section 11.2)*

**FORM OF CONTINUING DISCLOSURE AGREEMENT**

AGREEMENT TO PROVIDE CONTINUING DISCLOSURE

DUTCHESS COUNTY LOCAL DEVELOPMENT CORPORATION  
REVENUE BONDS, SERIES 2018  
(THE CULINARY INSTITUTE OF AMERICA PROJECT)

This AGREEMENT TO PROVIDE CONTINUING DISCLOSURE (the “Disclosure Agreement”), dated as of July 1, 2018, is executed and delivered by The Culinary Institute of America (the “Obligated Person”), The Bank of New York Mellon, as Trustee (the “Trustee”) and Digital Assurance Certification, L.L.C. (“DAC”), as exclusive Disclosure Dissemination Agent (the “Disclosure Dissemination Agent”) for the benefit of the Holders (hereinafter defined) of the Bonds (hereinafter defined) and in order to provide certain continuing disclosure with respect to the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”).

The services provided under this Disclosure Agreement solely relate to the execution of instructions received from the parties hereto through use of the DAC system and are not intended to constitute “advice” within the meaning of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”). DAC will not provide any advice or recommendation to the Issuer, the Obligated Person or anyone on the Issuer’s or the Obligated Person’s behalf regarding the “issuance of municipal securities” or any “municipal financial product” as defined in the Act and nothing in this Disclosure Agreement shall be interpreted to the contrary.

SECTION 1. Definitions. Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Resolution (hereinafter defined). The capitalized terms shall have the following meanings:

“Annual Filing Date” means the date, set in Sections 2(a) and 2(f), by which the Annual Report is to be filed with the MSRB.

“Annual Financial Information” means annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(a) of this Disclosure Agreement.

“Annual Report” means an Annual Report described in and consistent with Section 3 of this Disclosure Agreement.

“Audited Financial Statements” means the financial statements (if any) of the Obligated Person for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(b) of this Disclosure Agreement.

“Bonds” means the bonds as listed on the attached Exhibit A, with the 9-digit CUSIP numbers relating thereto.

“Certification” means a written certification of compliance signed by the Disclosure Representative stating that the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure delivered to the Disclosure Dissemination Agent is the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure required to be or voluntarily submitted to the MSRB under this Disclosure Agreement. A Certification shall accompany each such document submitted to the Disclosure Dissemination Agent by the Obligated Person and include the full name of the Bonds and the 9-digit CUSIP numbers for all Bonds to which the document applies.

“Disclosure Dissemination Agent” means Digital Assurance Certification, L.L.C., acting in its capacity as Disclosure Dissemination Agent hereunder, or any successor Disclosure Dissemination Agent designated in writing by the Issuer pursuant to Section 9 hereof.

“Disclosure Representative” means the chief financial officer of the Obligated Person or his or her designee, or such other person as the Obligated Person shall designate in writing to the Disclosure Dissemination Agent from time to time as the person responsible for providing Information to the Disclosure Dissemination Agent.

“Failure to File Event” means the Obligated Person’s failure to file an Annual Report on or before the Annual Filing Date.

“Force Majeure Event” means: (i) acts of God, war or terrorist action; (ii) failure or shut-down of the Electronic Municipal Market Access System maintained by the MSRB; or (iii) to the extent beyond the Disclosure Dissemination Agent’s reasonable control, interruptions in telecommunications or utilities services, failure, malfunction or error of any telecommunications, computer or other electrical, mechanical or technological application, service or system, computer virus, interruptions in Internet service or telephone service (including due to a virus, electrical delivery problem or similar occurrence) that affect Internet users generally, or in the local area in which the Disclosure Dissemination Agent or the MSRB is located, or acts of any government, regulatory or any other competent authority the effect of which is to prohibit the Disclosure Dissemination Agent from performance of its obligations under this Disclosure Agreement.

“Holder” means any person (a) having the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) or (b) treated as the owner of any Bonds for federal income tax purposes.

“Indenture” means the Indenture of Trust, dated as of July 1, 2018, by and between the Issuer and the Trustee.

“Information” means collectively, the Annual Reports, the Audited Financial Statements (if any), the Notice Event notices, the Failure to File Event notices, the Voluntary Event Disclosures and the Voluntary Financial Disclosures.

“Issuer” means the Dutchess County Local Development Corporation, as conduit issuer of the Bonds.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the United States Securities Exchange Act of 1934, as amended.

“Notice Event” means any of the events enumerated in paragraph (b)(5)(i)(C) of the Rule and listed in Section 4(a) of this Disclosure Agreement.

“Obligated Person” means any person who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), as shown on Exhibit A.

“Official Statement” means that Official Statement prepared by the Obligated Person in connection with the Bonds, as listed on Exhibit A.

“Trustee” means The Bank of New York Mellon and its successors and assigns.

“Voluntary Event Disclosure” means information of the category specified in any of subsections (e)(vi)(1) through (e)(vi)(11) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the



Disclosure Representative containing the information prescribed by Section 7(a) of this Disclosure Agreement.

“Voluntary Financial Disclosure” means information of the category specified in any of subsections (e)(vii)(1) through (e)(vii)(9) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(b) of this Disclosure Agreement.

**SECTION 2. Provision of Annual Reports.**

(a) The Obligated Person shall provide, annually, an electronic copy of the Annual Report and Certification to the Disclosure Dissemination Agent, together with a copy for the Trustee, not later than 150 days after the end of each fiscal year of the Obligated Person (or any time thereafter following a Failure to File Event as described in this Section), commencing with the fiscal year ending May 31, 2018, such date and each anniversary thereof, the “Annual Filing Date.” Promptly upon receipt of an electronic copy of the Annual Report and the Certification, the Disclosure Dissemination Agent shall provide the Annual Report to the MSRB through its Electronic Municipal Market Access (“EMMA”) System for municipal securities disclosures. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 3 of this Disclosure Agreement.

(b) If on the fifteenth (15th) day prior to the Annual Filing Date, the Disclosure Dissemination Agent has not received a copy of the Annual Report and Certification, the Disclosure Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail), to remind the Obligated Person of its undertaking to provide the Annual Report pursuant to Section 2(a). Upon such reminder, the Disclosure Representative shall, not later than two (2) business days prior to the Annual Filing Date, either: (i) provide the Disclosure Dissemination Agent with an electronic copy of the Annual Financial Information, Audited Financial Statements, if available, and unaudited financial statements, if audited financial statements are not available in accordance with subsection (d) below and the Certification, or (ii) instruct the Disclosure Dissemination Agent in writing, with a copy to the Trustee, that a Failure to File Event may occur, state the date by which the Annual Financial Information and Audited Financial Statements for such year are expected to be provided, and, at the election of the Obligated Person, instruct the Disclosure Dissemination Agent to send a notice to the MSRB in substantially the form attached as Exhibit B on the Annual Filing Date, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(c) If the Disclosure Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on the Annual Filing Date (or, if such Annual Filing Date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a Failure to File Event shall have occurred and the Obligated Person hereby irrevocably directs the Disclosure Dissemination Agent to immediately send a notice to the MSRB in substantially the form attached as Exhibit B without reference to the anticipated filing date for the Annual Report, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(d) If Audited Financial Statements of the Obligated Person are prepared but not available prior to the Annual Filing Date, the Obligated Person shall provide unaudited financial statements for filing prior to the Annual Filing Date in accordance with Section 3(b) hereof and, when the Audited Financial Statements are available, provide in a timely manner an electronic copy to the Disclosure Dissemination Agent, accompanied by a Certification, together with a copy for the Trustee, for filing with the MSRB.

(e) The Disclosure Dissemination Agent shall:

- (i) verify the filing specifications of the MSRB each year prior to the Annual Filing Date;
- (ii) upon receipt, promptly file each Annual Report received under Section 2(a) and 2(b) with the MSRB;

- (iii) upon receipt, promptly file each Audited Financial Statement received under Section 2(d) with the MSRB;
- (iv) upon receipt, promptly file the text of each Notice Event received under Sections 4(a) and 4(b)(ii) with the MSRB, identifying the Notice Event as instructed pursuant to Section 4(a) or 4(b)(ii) (being any of the categories set forth below) when filing pursuant to the Section 4(c) of this Disclosure Agreement:
  - 1. Principal and interest payment delinquencies;
  - 2. Non-Payment related defaults, if material;
  - 3. Unscheduled draws on debt service reserves reflecting financial difficulties;
  - 4. Unscheduled draws on credit enhancements reflecting financial difficulties;
  - 5. Substitution of credit or liquidity providers, or their failure to perform;
  - 6. Adverse tax opinions, IRS notices or events affecting the tax status of the securities;
  - 7. Modifications to rights of securities holders, if material;
  - 8. Bond calls, if material;
  - 9. Defeasances;
  - 10. Release, substitution, or sale of property securing repayment of the securities, if material;
  - 11. Ratings changes;
  - 12. Tender offers;
  - 13. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;
  - 14. Merger, consolidation, or acquisition of the Obligated Person, if material; and
  - 15. Appointment of a successor or additional trustee, or the change of name of a trustee, if material;
- (v) upon receipt (or irrevocable direction pursuant to Section 2(c) of this Disclosure Agreement, as applicable), promptly file a completed copy of Exhibit B to this Disclosure Agreement with the MSRB, identifying the filing as “Failure to provide annual financial information as required” when filing pursuant to Section 2(b)(ii) or Section 2(c) of this Disclosure Agreement;
- (vi) upon receipt, promptly file the text of each Voluntary Event Disclosure received under Section 7(a) with the MSRB, identifying the Voluntary Event Disclosure as instructed by the Issuer or the Obligated Person pursuant to Section 7(a) (being any of the categories set forth below) when filing pursuant to Section 7(a) of this Disclosure Agreement:
  - 1. “amendment to continuing disclosure undertaking;”
  - 2. “change in obligated person;”

3. “notice to investors pursuant to bond documents;”
4. “certain communications from the Internal Revenue Service;”
5. “secondary market purchases;”
6. “bid for auction rate or other securities;”
7. “capital or other financing plan;”
8. “litigation/enforcement action;”
9. “change of tender agent, remarketing agent, or other on-going party;”
10. “derivative or other similar transaction;” and
11. “other event-based disclosures;”

(vii) upon receipt, promptly file the text of each Voluntary Financial Disclosure received under Section 7(b) with the MSRB, identifying the Voluntary Financial Disclosure as instructed by the Issuer or the Obligated Person pursuant to Section 7(b) (being any of the categories set forth below) when filing pursuant to Section 7(b) of this Disclosure Agreement:

1. “quarterly/monthly financial information;”
2. “change in fiscal year/timing of annual disclosure;”
3. “change in accounting standard;”
4. “interim/additional financial information/operating data;”
5. “budget;”
6. “investment/debt/financial policy;”
7. “information provided to rating agency, credit/liquidity provider or other third party;”
8. “consultant reports;” and
9. “other financial/operating data;”

(viii) provide the Obligated Person and the Issuer evidence of the filings of each of the above when made, which shall be by means of the DAC system, for so long as DAC is the Disclosure Dissemination Agent under this Disclosure Agreement.

(f) The Obligated Person may adjust the Annual Filing Date upon change of its fiscal year by providing written notice of such change and the new Annual Filing Date to the Disclosure Dissemination Agent, the Trustee and the MSRB, provided that the period between the existing Annual Filing Date and new Annual Filing Date shall not exceed one year.

(g) Any Information received by the Disclosure Dissemination Agent before 6:00 p.m. Eastern time on any business day that it is required to file with the MSRB pursuant to the terms of this Disclosure Agreement and that is accompanied by a Certification and all other information required by the terms of this Disclosure Agreement will be filed by the Disclosure Dissemination Agent with the MSRB no later than 11:59 p.m. Eastern time on the

same business day; provided, however, the Disclosure Dissemination Agent shall have no liability for any delay in filing with the MSRB if such delay is caused by a Force Majeure Event provided that the Disclosure Dissemination Agent uses reasonable efforts to make any such filing as soon as possible.

### SECTION 3. Content of Annual Reports.

Each Annual Report shall contain:

(a) Annual Financial Information with respect to the Obligated Person which shall include operating data and financial information of the type included in the Official Statement for the Bonds as described in “APPENDIX A-CERTAIN INFORMATION CONCERNING THE INSTITUTE” under the headings “GENERAL INFORMATION”, “OPERATING INFORMATION” and “ANNUAL FINANCIAL STATEMENT INFORMATION” relating to: (1) *student admissions*, similar to that set forth under the heading “ADMISSION STATISTICS”; (2) *student enrollment*, similar to that set forth under the headings “ENROLLMENT SUMMARY” and “CONTINUING EDUCATION”; (3) *tuition and other student charges*, similar to that set forth under the heading “STUDENT CHARGES FOR DEGREE PROGRAMS”; (4) *financial aid*, similar to that set forth under the heading “SOURCES OF SCHOLARSHIP AND GRANT AID”; (5) *faculty*, similar to that set forth under the heading “FACULTY PROFILE”; (6) *graduation statistics*, similar to that set forth under the headings “DEGREES CONFERRED BY THE CIA” and “RETENTION”; (7) *employee relations*, including material information about union contracts and, unless such information is included in the audited financial statements of the institution, post retirement benefits and pension plans; (8) *restricted and designated net assets and investments and cash equivalents*, unless such information is included in the audited financial statements of the Institution; (9) *investment in plant*, unless such information is included in the audited financial statements of the Institution; and (10) *outstanding long-term indebtedness*, unless such information is included in the Audited Financial Statements; together with a narrative explanation as may be necessary to avoid misunderstanding regarding the presentation of such Annual Financial Information concerning the Obligated Person; and

(b) Audited Financial Statements prepared in accordance with generally accepted accounting principles (“GAAP”) OR alternate accounting principles as described in the Official Statement will be included in the Annual Report. If Audited Financial Statements are not available, then the Obligated Person shall be in compliance under this Disclosure Agreement if unaudited financial statements, prepared in accordance with GAAP or alternate accounting principles as described in the Official Statement, are included in the Annual Report. Audited Financial Statements (if any) will be provided pursuant to Section 2(d).

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Obligated Person is an “obligated person” (as defined by the Rule), which have been previously filed the Securities and Exchange Commission or available from the MSRB Internet Website. If the document incorporated by reference is a Final Official Statement, it must be available from the MSRB. The Obligated Person will clearly identify each such document so incorporated by reference.

Any Annual Financial Information containing modified operating data or financial information shall include an explanation, in narrative form, of such modifications.

### SECTION 4. Reporting of Notice Events.

(a) The occurrence of any of the following events with respect to the Bonds constitutes a Notice Event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;

5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations with respect to the tax status of the securities or other material events affecting the tax status of the securities;
7. Modification to rights of the security holders, if material;
8. Bond calls, if material;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Tender Offers;
13. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;

**Note to subsection (a)(13) of this Section 4:** For the purposes of the event described in subsection (a)(13) of this Section 4, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

14. The consummation of a merger, consolidation or acquisition involving the Obligated Person, or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
15. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The Obligated Person shall, in a timely manner not in excess of ten business days after its occurrence, notify the Trustee and the Disclosure Dissemination Agent in writing upon the occurrence of a Notice Event. Upon actual knowledge of the occurrence of a Notice Event, the Trustee shall promptly notify the Obligated Person and also may notify the Disclosure Dissemination Agent in writing of the occurrence of such Notice Event. Each such notice shall instruct the Disclosure Dissemination Agent to report the occurrence pursuant to subsection (c) and shall be accompanied by a Certification. Such notice or Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the desired text of the disclosure, the written authorization for the Disclosure Dissemination Agent to disseminate such information, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(b) The Disclosure Dissemination Agent is under no obligation to notify the Obligated Person or the Disclosure Representative of an event that may constitute a Notice Event. In the event the Disclosure Dissemination Agent so notifies the Obligated Person or the Disclosure Representative, such notified party will within two business days of receipt of such notice (but in any event not later than the tenth business day after the occurrence of the

Notice Event, if the Obligated Person determines that a Notice Event has occurred), instruct the Disclosure Dissemination Agent that (i) a Notice Event has not occurred and no filing is to be made or (ii) a Notice Event has occurred and the Disclosure Dissemination Agent is to report the occurrence pursuant to subsection (c) of this Section 4, together with a Certification. Such Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, contain the written authorization of the Obligated Person for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(c) If the Disclosure Dissemination Agent has been instructed as prescribed in subsection (a) or as prescribed in subsection (b) of this Section 4 to report the occurrence of a Notice Event, the Disclosure Dissemination Agent shall promptly file a notice of such occurrence with MSRB, in accordance with Section 2(e)(iv) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

#### SECTION 5. CUSIP Numbers.

Whenever providing information to the Disclosure Dissemination Agent, including but not limited to Annual Reports, documents incorporated by reference in the Annual Reports, Audited Financial Statements, Notice Event notices and Voluntary Event Disclosure, the Obligated Person shall indicate the full name of the Bonds and the 9-digit CUSIP numbers for the Bonds as to which the provided information relates.

#### SECTION 6. Additional Disclosure Obligations.

The Obligated Person acknowledges and understands that other state and federal laws, including but not limited to the United States Securities Act of 1933, as amended, and Rule 10b-5 promulgated under the United States Securities Exchange Act of 1934, as amended, may apply to the Obligated Person, and that the duties and responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement do not extend to providing legal advice regarding such laws. The Obligated Person acknowledges and understands that the duties of the Disclosure Dissemination Agent relate exclusively to execution of the mechanical tasks of disseminating information as described in this Disclosure Agreement.

#### SECTION 7. Voluntary Filing.

(a) The Obligated Person, may instruct the Disclosure Dissemination Agent to file Voluntary Event Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Event Disclosure (which shall be any of the categories set forth in Section 2(e)(vi) of this Disclosure Agreement), include the text of the disclosure that Obligated Person desires to make, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(a) to file a Voluntary Event Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Event Disclosure with the MSRB in accordance with Section 2(e)(vi) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-2.

(b) The Obligated Person, may instruct the Disclosure Dissemination Agent to file Voluntary Financial Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Financial Disclosure (which shall be any of the categories set forth in Section 2(e)(vii) of this Disclosure Agreement), include the desired text of the disclosure, contain the written authorization for the Disclosure Dissemination Agent to disseminate such information, if applicable, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(b) to file a Voluntary Financial Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Financial Disclosure with the MSRB in accordance with Section 2(e)(vii) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-3.

(c) The parties hereto acknowledge that the Obligated Person is not obligated pursuant to the terms of this Disclosure Agreement to file any Voluntary Event Disclosure pursuant to Section 7(a) hereof or to file any Voluntary Financial Disclosure pursuant to Section 7(b) hereof.

(d) Nothing in this Disclosure Agreement shall be deemed to prevent the Obligated Person, from disseminating any other information through the Disclosure Dissemination Agent using the means of dissemination set forth in this Section 7, or including any other information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement. If the Obligated Person chooses to include any information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement or to file Voluntary Event Disclosure or Voluntary Financial Disclosure, the Obligated Person shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report, Voluntary Financial Disclosure, Voluntary Event Disclosure, Failure to File Event Notice or Notice Event notice.

SECTION 8. Termination of Reporting Obligation.

The obligations of the Obligated Person and the Disclosure Dissemination Agent under this Disclosure Agreement shall terminate with respect to the Bonds upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Obligated Person is no longer an Obligated Person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Disclosure Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required.

SECTION 9. Disclosure Dissemination Agent.

The Obligated Person has appointed DAC as exclusive Disclosure Dissemination Agent under this Disclosure Agreement pursuant to the Disclosure Dissemination Agreement. The Obligated Person may, upon thirty days written notice to the Disclosure Dissemination Agent and the Trustee, replace or appoint a successor Disclosure Dissemination Agent. Upon termination of DAC's services as Disclosure Dissemination Agent, whether by notice of the Obligated Person or DAC, the Obligated Person agrees to appoint a successor Disclosure Dissemination Agent or, alternatively, agrees to assume all responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. Notwithstanding any replacement or appointment of a successor, the Obligated Person shall remain liable until payment in full for any and all sums owed and payable to the Disclosure Dissemination Agent. The Disclosure Dissemination Agent may resign at any time by providing thirty days' prior written notice to the Obligated Person.

SECTION 10. Remedies in Event of Default.

In the event of a failure of the Obligated Person or the Disclosure Dissemination Agent to comply with any provision of this Disclosure Agreement, the Holders' rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the parties' obligation under this Disclosure Agreement. Any failure by a party to perform in accordance with this Disclosure Agreement shall not constitute a default on the Bonds or under any other document relating to the Bonds, and all rights and remedies shall be limited to those expressly stated herein.

SECTION 11. Duties, Immunities and Liabilities of Disclosure Dissemination Agent.

(a) The Disclosure Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Obligated Person has provided such information to the Disclosure Dissemination Agent as provided in this Disclosure Agreement. The Disclosure Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Disclosure Dissemination Agent shall have no duty or obligation to review or verify any Information, or any other information, disclosures or notices provided to it by the Obligated Person and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Obligated Person, the Holders of the Bonds or any other party. The Disclosure Dissemination Agent shall have no responsibility for the Obligated Person's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure

Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Obligated Person has complied with this Disclosure Agreement. The Disclosure Dissemination Agent may conclusively rely upon certifications of the Issuer or the Obligated Person at all times.

THE OBLIGATED PERSON AGREES TO INDEMNIFY AND SAVE THE DISCLOSURE DISSEMINATION AGENT, THE ISSUER AND THE TRUSTEE AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS AGAINST ANY LOSS, EXPENSE AND LIABILITY WHICH THEY MAY INCUR ARISING OUT OF OR IN THE EXERCISE OR PERFORMANCE OF THEIR POWERS AND DUTIES HEREUNDER, INCLUDING THE COSTS AND EXPENSES (INCLUDING ATTORNEYS FEES) OF DEFENDING AGAINST ANY CLAIM OF LIABILITY, BUT EXCLUDING LOSSES, EXPENSES AND LIABILITIES DUE TO THE DISCLOSURE DISSEMINATION AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND THE TRUSTEE'S (AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS') NEGLIGENCE OR WILLFUL MISCONDUCT.

The obligations of the Obligated Person under this Section shall survive resignation or removal of the Disclosure Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Disclosure Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and neither of them shall incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The fees and expenses of such counsel shall be payable by the Obligated Person.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an electronic format through the EMMA System and accompanied by identifying information as prescribed by the MSRB.

#### SECTION 12. No Trustee Responsibility.

The Obligated Person and the Disclosure Dissemination Agent acknowledge that the Trustee has undertaken any responsibility, and shall not be required to undertake any responsibility, with respect to any reports, notices or disclosures required by or provided pursuant to this Disclosure Agreement other than those notices required under Section 4(b) hereof, and shall have no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures other than those notices required under said Section 4(b). The Issuer (as conduit issuer) is not, for purposes of and within the meaning of the Rule, (i) committed by contract or other arrangement to support payment of all, or part of, the obligations on the Bonds, or (ii) a person for whom annual financial information and notices of material events will be provided. The Trustee shall be indemnified and held harmless in connection with this Disclosure Agreement to the same extent provided in the Indenture for matters arising thereunder.

#### SECTION 13. Amendment; Waiver.

Notwithstanding any other provision of this Disclosure Agreement, the Obligated Person, the Trustee and the Disclosure Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to each of the Obligated Person, the Trustee and the Disclosure Dissemination Agent to the effect that such amendment or waiver does not materially impair the interests of Holders of the Bonds and would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule; provided none of the Obligated Person, the Trustee or the Disclosure Dissemination Agent shall be obligated to agree to any amendment modifying their respective duties or obligations without their consent thereto.

Notwithstanding the preceding paragraph, the Obligated Person, the Trustee and the Disclosure Dissemination Agent shall have the right to amend this Disclosure Agreement for any of the following purposes:



(i) to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time;

(ii) to add or change a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;

(iii) to evidence the succession of another person to the Obligated Person, the Trustee or the Issuer and the assumption by any such successor of the covenants of the Obligated Person, the Trustee hereunder;

(iv) to add to the covenants of the Obligated Person or the Disclosure Dissemination Agent for the benefit of the Holders, or to surrender any right or power herein conferred upon the Obligated Person, the Issuer or the Disclosure Dissemination Agent;

(v) for any purpose for which, and subject to the conditions pursuant to which, amendments may be made under the Rule, as amended or modified from time to time, or any formal authoritative interpretations thereof by the Securities and Exchange Commission.

SECTION 14. Beneficiaries.

This Disclosure Agreement shall inure solely to the benefit of the Obligated Person, the Trustee, the Disclosure Dissemination Agent, the underwriter, and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 15. Governing Law.

This Disclosure Agreement shall be governed by the laws of the State of New York (without regard to its conflicts of laws provisions).

SECTION 16. Counterparts.

This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

The Disclosure Dissemination Agent, the Trustee and the Obligated Person have caused this Disclosure Agreement to be executed, on the date first written above, by their respective officers duly authorized.

**DIGITAL ASSURANCE CERTIFICATION, L.L.C.,**  
as Disclosure Dissemination Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE CULINARY INSTITUTE OF AMERICA,**  
Obligated Person

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE BANK OF NEW YORK MELLON,**  
as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**NAME AND CUSIP NUMBERS OF BONDS**

Name of Issuer: Dutchess County Local Development Corporation  
Obligated Person(s): The Culinary Institute of America  
Name of Bond Issue: Revenue Bonds, Series 2018 (The Culinary Institute of America Project)  
Date of Issuance: [ ], 2018  
Date of Official Statement: [ ], 2018

Maturity

CUSIP No.

**NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Dutchess County Local Development Corporation  
Obligated Person(s): The Culinary Institute of America  
Name of Bond Issue: Revenue Bonds, Series 2018 (The Culinary Institute of America Project)  
Date of Issuance: [ ], 2018

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the Obligated Person has not provided an Annual Report with respect to the above-named Bonds as required by the Agreement to Provide Continuing Disclosure, dated as of [ ], 2018, by and among the Obligated Person, The Bank of New York Mellon, as Trustee and Digital Assurance Certification, L.L.C., as Disclosure Dissemination Agent. The Obligated Person has notified the Disclosure Dissemination Agent that it anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

Digital Assurance Certification, L.L.C., as Disclosure  
Dissemination Agent, on behalf of the Obligated Person

\_\_\_\_\_

cc: Issuer  
Obligated Person

EVENT NOTICE COVER SHEET

This cover sheet and accompanying "event notice" will be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer's and Obligated Person's Names:

\_\_\_\_\_

Issuer's Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

\_\_\_\_\_ Description of Notice Events (Check One):

- 16. 1. \_\_\_\_\_ "Principal and interest payment delinquencies;"
- 17. 2. \_\_\_\_\_ "Non-Payment related defaults, if material;"
- 18. 3. \_\_\_\_\_ "Unscheduled draws on debt service reserves reflecting financial difficulties;"
- 19. 4. \_\_\_\_\_ "Unscheduled draws on credit enhancements reflecting financial difficulties;"
- 20. 5. \_\_\_\_\_ "Substitution of credit or liquidity providers, or their failure to perform;"
- 21. 6. \_\_\_\_\_ "Adverse tax opinions, IRS notices or events affecting the tax status of the security;"
- 22. 7. \_\_\_\_\_ "Modifications to rights of securities holders, if material;"
- 23. 8. \_\_\_\_\_ "Bond calls, if material;"
- 24. 9. \_\_\_\_\_ "Defeasances;"
- 25. 10. \_\_\_\_\_ "Release, substitution, or sale of property securing repayment of the securities, if material;"
- 26. 11. \_\_\_\_\_ "Rating changes;"
- 27. 12. \_\_\_\_\_ "Tender offers;"
- 28. 13. \_\_\_\_\_ "Bankruptcy, insolvency, receivership or similar event of the obligated person;"
- 29. 14. \_\_\_\_\_ "Merger, consolidation, or acquisition of the obligated person, if material;" and
- 30. 15. \_\_\_\_\_ "Appointment of a successor or additional trustee, or the change of name of a trustee, if material."

\_\_\_\_\_ Failure to provide annual financial information as required.

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

**VOLUNTARY EVENT DISCLOSURE COVER SHEET**

This cover sheet and accompanying “voluntary event disclosure” will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Issuer, the Obligated Person, the Trustee and DAC.

Issuer’s and Obligated Person’s Names:

\_\_\_\_\_

Issuer’s Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

\_\_\_\_\_ Description of Voluntary Event Disclosure (Check One):

- 31. 1. \_\_\_\_\_ “amendment to continuing disclosure undertaking;”
- 32. 2. \_\_\_\_\_ “change in obligated person;”
- 33. 3. \_\_\_\_\_ “notice to investors pursuant to bond documents;”
- 34. 4. \_\_\_\_\_ “certain communications from the Internal Revenue Service;”
- 35. 5. \_\_\_\_\_ “secondary market purchases;”
- 36. 6. \_\_\_\_\_ “bid for auction rate or other securities;”
- 37. 7. \_\_\_\_\_ “capital or other financing plan;”
- 38. 8. \_\_\_\_\_ “litigation/enforcement action;”
- 39. 9. \_\_\_\_\_ “change of tender agent, remarketing agent, or other on-going party;”
- 40. 10. \_\_\_\_\_ “derivative or other similar transaction;” and
- 41. 11. \_\_\_\_\_ “other event-based disclosures.”

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

**VOLUNTARY FINANCIAL DISCLOSURE COVER SHEET**

This cover sheet and accompanying "voluntary financial disclosure" will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Issuer, the Obligated Person, the Trustee and DAC.

Issuer's and Obligated Person's Names:

\_\_\_\_\_

Issuer's Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

\_\_\_\_\_ Description of Voluntary Financial Disclosure (Check One):

1. \_\_\_\_\_ "quarterly/monthly financial information;"
2. \_\_\_\_\_ "change in fiscal year/timing of annual disclosure;"
3. \_\_\_\_\_ "change in accounting standard;"
4. \_\_\_\_\_ "interim/additional financial information/operating data;"
5. \_\_\_\_\_ "budget;"
6. \_\_\_\_\_ "investment/debt/financial policy;"
7. \_\_\_\_\_ "information provided to rating agency, credit/liquidity provider or other third party;"
8. \_\_\_\_\_ "consultant reports;" and
9. \_\_\_\_\_ "other financial/operating data."

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

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**FORM OF APPROVING OPINION OF BOND COUNSEL**

*Upon the issuance of the Series 2018 Bonds, Harris Beach PLLC, New York, New York, as Bond Counsel will deliver its Bond Counsel Opinion in substantially the same form as this Appendix.*

July [ ], 2018

Dutchess County Local Development Corporation  
Poughkeepsie, New York

The Bank of New York Mellon, as Trustee  
New York, New York

J.P. Morgan Securities LLC, as Underwriter  
New York, New York

**Re: \$23,120,000 Dutchess County Local Development Corporation Tax-Exempt  
Revenue Bonds, Series 2018 (The Culinary Institute of America Project)**

Ladies and Gentlemen:

We have examined the record of proceedings in connection with the issuance by the Dutchess County Local Development Corporation (the "Issuer") of its \$23,120,000 Dutchess County Local Development Corporation Tax-Exempt Revenue Bonds, Series 2018 (The Culinary Institute of America Project) (the "Series 2018 Bonds"). The Series 2018 Bonds are authorized to be issued pursuant to (i) 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"), (ii) Resolution No. 2010094, adopted by the Legislature of Dutchess County on April 16, 2010 (the "County Resolution"), (iii) a bond resolution adopted by the board of directors of the Issuer on June 19, 2018 (the "Bond Resolution") and (iv) an Indenture of Trust, dated as of July 1, 2018 (the "Indenture"), by and between the Issuer and The Bank of New York Mellon, as trustee (the "Trustee") for the purpose of financing a Project (as defined herein).

The Project being financed by the Series 2018 Bonds (the "Project") for the benefit of The Culinary Institute of America (the "Institution") consists of: (A) the refunding of the outstanding principal amount of the following series of bonds issued by the Dormitory Authority of the State of New York for the benefit of the Institution: (1) The Culinary Institute of America Insured Revenue Bonds, Series 2004D, issued in the original principal amount of Nineteen Million and 00/100 Dollars (\$19,000,000) (the "Series 2004D Bonds"), the proceeds of which were used to finance all or a portion of the cost of acquiring, constructing, renovating, furnishing and/or equipping or otherwise providing for (i) the construction of a multi-level parking structure to provide approximately 150 spaces for guest parking and a rooftop landscaped terrace, (ii) the construction of an approximately 23,000 square foot two-story addition to The J. Willard Marriott Continuing Education Center to house an expansion of the Admissions Office and (iii) the renovation, equipping and repair of, and infrastructure improvements to, various facilities located throughout the Institution's property located at 1946 Campus Drive, Hyde Park, New York 12583 (the "Campus") and owned and operated by the Institution (subsections (i), (ii) and (iii) shall be referred to herein as, the "Series 2004D Facility"); and (2) The Culinary Institute of America Insured

Revenue Bonds, Series 2006, issued in the original principal amount of Fifteen Million One Hundred Twenty-Five Thousand and 00/100 Dollars (\$15,125,000) (the "Series 2006 Bonds"), the proceeds of which were used to finance all or a portion of the cost of acquiring, constructing, renovating, furnishing and/or equipping or otherwise providing for the construction of two 3-story student townhouses, each with approximately 25,000 square feet and approximately 73 beds, and the reconfiguration of roadways, sidewalks, landscaping and lighting on the Campus and owned and operated by the Institution (the "Series 2006 Facility"; and together with the Series 2004D Facility, the "Facility"); (B) funding any debt service reserve fund to be pledged to secure the Series 2018 Bonds; (CD) paying certain costs of issuance and other incidental expenses incurred in connection therewith; and (D) paying redemption premiums, if any, in connection with the Series 2004D Bonds and Series 2006 Bonds and the termination liability incurred by Institution in connection with the termination of certain interest rate swap agreements entered into in connection with the Series 2004D Bonds and the Series 2006 Bonds (collectively, (A), (B), (C) and (D) shall be referred to here as the "Project").

The Series 2018 Bonds will be initially purchased by J.P. Morgan Securities, LLC (the "Underwriter"), pursuant to a certain Bond Purchase Agreement, dated June 27, 2018 (the "Bond Purchase Agreement"), from the Underwriter and accepted by the Issuer and the Institution.

Under the terms of a certain Loan Agreement, dated as of July 1, 2018 (the "Loan Agreement"), between the Issuer and the Institution, the Issuer has made a loan to the Institution in an amount equal to the net proceeds of the Series 2018 Bonds and the Institution has agreed to make loan payments in such amounts and at such times as will be sufficient to pay the principal of, premium, if any, and interest on the Series 2018 Bonds as the same become due and payable and to make certain other payments with respect to the Series 2018 Bonds as described therein.

As security for the Institution's obligations under the Loan Agreement, the Institution has issued its Promissory Note (the "Note"), pursuant to and in accordance with the Indenture.

As further security for the Series 2018 Bonds and to secure the Institution's obligations under the Note, the Institution will grant to the Issuer a parity mortgage lien on and security interest in and to the Mortgaged Property (as defined in the hereinafter defined Mortgage), pursuant to a certain Mortgage and Security Agreement, dated as of July 1, 2018 (the "Mortgage"), from the Institution to the Issuer (the "Mortgage"). The Issuer has assigned its rights under the Mortgage to the Trustee, pursuant to the Assignment of Mortgage, dated as of July 1, 2018 (the "Assignment of Mortgage"), from the Issuer to the Trustee.

The Issuer and the Institution have executed and delivered a certain Tax Compliance Agreement, dated the date of issuance of the Series 2018 Bonds (the "Tax Compliance Agreement"), in which the Issuer and the Institution have made certain representations and covenants, established certain conditions and limitations and created certain expectations, relating to compliance with the requirements imposed by the Internal Revenue Code of 1986, as amended, and regulations of the United States Treasury Department promulgated thereunder (collectively, the "Code").

The Series 2018 Bonds are dated as of their date of issuance and bear interest from that date on the unpaid principal amount thereof, at the rates set forth in, and pursuant to the terms of, the Indenture and the Series 2018 Bonds. The Series 2018 Bonds are subject to prepayment or redemption prior to maturity, in whole or in part, at such time or times, or under such circumstances and in such manner as are set forth in the Series 2018 Bonds and the Indenture, respectively.

As Bond Counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents 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, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents, without having conducted any independent investigation.

In rendering the opinions set forth below, we have relied upon the opinions of Cappillino & Rothschild LLP, counsel to the Issuer, Corbally, Gartland & Rappleyea LLP, counsel to the Institution, and Paparone Law PLLC, counsel to the Trustee, each of even date herewith, as to the matters set forth in each of such opinions without making any independent investigation of the factual basis therefor or the legal conclusions set forth therein.

All capitalized terms, not otherwise defined herein, shall have the meaning ascribed to such terms in Schedule A attached to the Indenture.

Based upon and in reliance upon the foregoing, and subject to the limitations hereafter set forth, it is our opinion that:

(a) The Issuer is a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State and is duly organized and existing under the laws of the State.

(b) The Issuer is duly authorized and entitled by law and the County Resolution to issue, execute, sell and deliver the Series 2018 Bonds for the purpose of financing the Project.

(c) The Bond Resolution has been duly and lawfully adopted by the Issuer, is in full force and effect, and is valid and legally binding upon the Issuer in accordance with its terms.

(d) The Series 2018 Bonds have been duly authorized, executed and delivered, have been duly issued for value by the Issuer and are valid and legally binding special obligations of the Issuer payable in accordance with their terms and are entitled to the benefit and security of the Indenture in accordance with its terms.

(e) The Series 2018 Bonds do not constitute a debt of the State or Dutchess County, New York, and neither the State nor Dutchess County, New York, shall be liable thereon.

(f) Subject to the limitations hereinafter set forth, under statutes, regulations, administrative rulings and court decisions existing on and as of the date hereof, interest on the Series 2018 Bonds is excluded from gross income of the holders thereof for federal income tax purposes pursuant to Section 103 of the Code and is not an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals and, for tax years beginning prior to January 1, 2018, the Federal alternative minimum tax imposed on corporations. Interest on the Series 2018 Bonds held by certain corporations is, however, included in the computation of "adjusted current earnings," a portion of which is taken into account in determining the federal alternative minimum tax imposed on such corporations with respect to tax years beginning prior to January 1, 2018.

(g) Under existing law, for so long as interest on the Series 2018 Bonds is and remains excluded from gross income for federal income tax purposes, such interest is and will remain exempt from personal income taxes imposed by the State and any political subdivision thereof.

In rendering the opinions set forth in paragraphs (f) and (g) above, we have relied upon, among other things, certain representations and covenants of (1) the Issuer in the Indenture, the Loan Agreement,

the Tax Compliance Agreement and the General Certificate of the Issuer, dated the date hereof and (2) the Institution in the Loan Agreement, the Tax Compliance Agreement and the General Certificate of the Institution, dated the date hereof. We call your attention to the fact that there are certain requirements contained in the Code with which the Issuer and the Institution must comply from and after the date of issuance of the Series 2018 Bonds in order for the interest thereon to be and remain excluded from gross income for federal income tax purposes, and consequently to remain exempt from personal income taxes imposed by the State or any political subdivision thereof. The Issuer, the Institution or any other Person, by failing to comply with such requirements, may cause interest on the Series 2018 Bonds to become includable in gross income for federal income tax purposes and therefore subject to personal income taxes imposed by the State and any political subdivision thereof, in each case possibly retroactive to the date of issuance of the Series 2018 Bonds. We render no opinion as to any federal, state or local tax consequences with respect to the Series 2018 Bonds, or the interest thereon, if any change occurs or action is taken or omitted under the Indenture, the Loan Agreement, the Tax Compliance Agreement, or under any other relevant documents by the Issuer or the Institution without the advice or approval of, or upon the advice or approval of any Bond Counsel other than, Harris Beach PLLC.

Except as set forth in paragraphs (f) and (g) above, we express no opinion regarding any other federal, state or local income tax consequences arising with respect to the Series 2018 Bonds.

The foregoing opinions are qualified to the extent that the enforceability of the Bond Resolution, the Series 2018 Bonds, any of the Issuer Documents and any other document executed in connection therewith may be limited by any applicable bankruptcy, insolvency or other similar law or equitable principle now or hereafter enacted by the State or the federal government or pronounced by a court having proper jurisdiction, affecting the enforcement of creditors' rights generally.

We express no opinion as to (i) the title to the Mortgaged Property, (ii) the sufficiency of the description of the Project in the Indenture, the Loan Agreement, the Assignment or any other document and (iii) the priority of any Liens, charges or encumbrances on the Mortgaged Property. Further, we have not been requested to examine and have not examined any documents or information relating to the Issuer or the Institution other than the record of proceedings hereinabove referred to, and no opinion is expressed as to any financial information, or the adequacy thereof, which has been or may be supplied to the Underwriter or any other person.

This opinion is given as of the date hereof, and we disclaim any obligation to update this opinion letter for events occurring after the date hereof. We express no opinion herein except as to the laws of the State of New York and the federal laws of the United States of America.

Very truly yours,

**HARRIS BEACH PLLC**

By: \_\_\_\_\_  
Russell E. Gaenzle, Member

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