

OFFICIAL STATEMENT DATED MARCH 5, 2003

NEW ISSUE

Rating: Moody's Aa2 / VMIG1

*In the opinion of Bond Counsel, according to present State of Minnesota and federal laws, regulations and rulings, assuming compliance with certain covenants, the interest on the Series Five-P1 Bonds is not includable in gross income for federal income tax purposes or in taxable net income of individuals, estates and trusts for State of Minnesota income tax purposes, and is not an item of tax preference in determining federal or Minnesota alternative minimum tax applicable to individuals and corporations. Interest on the Series Five-P1 Bonds is subject to the State of Minnesota franchise tax applicable to corporations, including financial institutions, and is includable in the calculation of certain federal taxes imposed on corporations. The Series Five-P1 Bonds will not be designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code. (See "TAX EXEMPTION.")*

**\$4,250,000**

**\$7,230,000**

**Minnesota Higher Education Facilities Authority  
Variable Rate Demand Revenue Bonds,  
Series Five-P1  
(Concordia University, St. Paul)  
(DTC Book Entry Only)**

**Minnesota Higher Education Facilities Authority  
Variable Rate Demand Revenue Bonds,  
Taxable Series Five-P2  
(Concordia University, St. Paul)  
(DTC Book Entry Only)**

**Dated Date: Date of Issue**

**Maturity Date: April 1, 2027  
Price: 100%**

**This Official Statement contains information relating to the Bonds prior to the Conversion Date. Holders or purchasers of the Bonds are not to rely on the information herein with respect to the terms or conditions of the Bonds after the Conversion Date or with respect to other information herein after the initial offering.**

The Bonds are special obligations of the Minnesota Higher Education Facilities Authority (the "Authority"), an agency of the State of Minnesota, payable solely from Loan Payments made by or on behalf of Concordia University, St. Paul, a Minnesota nonprofit corporation (the "University") and, while the Bonds pay interest at a Daily, Weekly, or Commercial Paper Rate (collectively, a Variable Rate), drawings on the Letter of Credit.

The Bonds will be issued as fully registered bonds without coupons in minimum denominations of \$100,000 and any larger amount which is an integral multiple of \$5,000, and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). DTC will act as securities depository of the Bonds. Individual purchases may be made in book-entry form only and Purchasers will not receive certificates representing their interest in the Bonds purchased. (See "THE BONDS -- Book Entry System" herein.)

Unless extended or earlier terminated or replaced, while the Bonds pay interest at a Variable Rate, payment of principal of and 55 days of interest on the Bonds at the Maximum Rate will be secured by an irrevocable, direct-pay Letter of Credit issued by

**U.S. Bank National Association**

(the "Credit Bank") or by any provider of an Alternate Letter of Credit. Pursuant to a Reimbursement Agreement between the University and Bremer Bank, National Association (the "Reimbursement Bank"), the Reimbursement Bank will cause the Credit Bank to issue the Letter of Credit. The Letter of Credit will permit the Trustee to draw amounts sufficient to pay when due (i) principal of and up to 55 days' interest on the Bonds at the maximum rate of 12% per annum, and (ii) the purchase price of Bonds on an Optional Tender Date or a Mandatory Tender Date. The Letter of Credit will expire on March 1, 2006, if it is not extended. (See "THE LETTER OF CREDIT AND THE REIMBURSEMENT AGREEMENT.")

The Bonds are subject to redemption prior to maturity as more fully provided herein.

THE BONDS SHALL NOT BE LEGAL OR MORAL OBLIGATIONS OF THE STATE OF MINNESOTA, NOR SHALL THEY CONSTITUTE A DEBT FOR WHICH THE FAITH AND CREDIT OF THE AUTHORITY OR THE STATE OF MINNESOTA, OR THE TAXING POWERS OF THE STATE, ARE PLEDGED. THE AUTHORITY HAS NO TAXING POWERS.

Each series of Bonds will initially bear interest at a Daily Rate, and the interest rate on each series may be converted at the University's option to a Weekly Rate, a Commercial Paper Rate, a Long-Term Rate, or a Fixed Rate. Interest on the Bonds shall be payable on each Interest Payment Date as described herein. Interest on Bonds at a Daily Rate, Weekly Rate, or Commercial Paper Rate shall be computed on the basis of a 365- or 366-day year and actual days elapsed; interest on Bonds in a Long-Term Rate or the Fixed Rate shall be computed on the basis of a 360-day year of 12 30-day months. At the option of the University and upon the conditions set forth in the Indenture, the interest rate on the Bonds may be converted to the Fixed Rate. Prior to the Fixed Rate Conversion Date, Bondowners have the right to tender their Bonds for purchase by presentation to U.S. Bank National Association (the "Trustee") at certain times upon prior written notice as described herein at a purchase price equal to 100% of the principal amount thereof plus (unless the purchase date is an Interest Payment Date) accrued interest thereon, as more fully described herein. The initial Remarketing Agent is Stern Brothers & Co.

BONDHOLDERS ARE REQUIRED TO TENDER AND SELL THEIR BONDS ON A MANDATORY TENDER DATE AT A PRICE EQUAL TO THE PRINCIPAL AMOUNT THEREOF PLUS ACCRUED INTEREST THEREON, UPON THE OCCURRENCE OF CERTAIN EVENTS, ALL AS MORE FULLY DESCRIBED HEREIN. Any Bond to be purchased which is not timely delivered to the Trustee on the Mandatory Tender Date or the Optional Tender Date and as to which there has been irrevocably deposited with the Trustee an amount sufficient to pay the purchase price thereof shall be "deemed purchased" for purposes of the Indenture and shall be deemed no longer outstanding and shall cease to accrue interest on such Tender Date.

The Bonds are being offered when, as and if issued and received by the Underwriter, subject to prior sale, to withdrawal or modification of the offer without any notice, and to the opinion as to validity and tax exemption of the Bonds by Briggs and Morgan, Professional Association, Minneapolis and Saint Paul, Minnesota, Bond Counsel. Certain legal matters will be passed upon for the University by Pranschke & Holderle, L.C., St. Louis, Missouri; for the Credit Bank by its internal counsel; for the Reimbursement Bank by Winthrop & Weinstine, P.A., Minneapolis, Minnesota; and for the Underwriter by Gilmore & Bell, P.C., Kansas City, Missouri. It is expected that the Bonds in definitive form will be available for delivery to the Underwriter at DTC on or about March 13, 2003.

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Stern Brothers & Co.

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

No dealer, broker, sales representative or other person has been authorized by the Authority, the University, the Credit Bank, the Reimbursement Bank or the Underwriter to give any information or to make any representations other than those contained in this Official Statement and, if given or made, such other information or representations must not be relied upon as having been authorized by the Authority, the University, the Credit Bank, the Reimbursement Bank or the Underwriter. The information contained herein, except as it relates to the Authority, DTC, the Credit Bank, the Reimbursement Bank and the Trustee, has been obtained from the University and is not guaranteed as to accuracy or completeness. Information relating to DTC, the Credit Bank, the Reimbursement Bank and the Trustee has been obtained from such persons and is not guaranteed as to accuracy or completeness. Information regarding the tax-exempt status of the Bonds has been provided by Bond Counsel. Except for information concerning the Authority contained in this Official Statement, such information is not to be construed as a representation by the Authority. Information and expressions of opinion herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority, the Credit Bank, the Reimbursement Bank or the University since the date hereof.

References in this Official Statement to laws, rules, regulations, agreements, and any other documents do not purport to be comprehensive or definitive. All references to such documents are qualified in their entirety by reference to the particular document, the full text of which may contain qualifications of and exceptions to statements made herein. Where full texts of such documents have not been included as appendices hereto, they will be furnished on request.

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

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUE AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED.

The Bonds have not been registered with the Securities and Exchange Commission by reason of the provisions of Section 3(a)(2) of the Securities Act of 1933, as amended, nor has the Indenture been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon exemptions contained in such Acts. This Official Statement does not constitute an offer to sell or the solicitation of any offer to buy, and there shall not be any sale of the Bonds by any person in any state in which it is unlawful for such person to make such offer, solicitation or sale. The registration or qualification of these securities in accordance with applicable provisions of securities laws of the jurisdictions in which the Bonds may be registered or qualified and the exemption from registration or qualification in other jurisdictions shall not be regarded as a recommendation thereof. Neither these jurisdictions nor any of their agencies have passed upon the merits of the Bonds or the accuracy or completeness of this Official Statement. Any representation to the contrary may be a criminal offense.

Certain of the parties involved in this financing have agreed to indemnify certain other parties for any untrue statement of a material fact contained in this Official Statement or any omission to state a material fact necessary to be stated in this Official Statement in order to make the statements contained herein not misleading.

## MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

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Mollie N. Thibodeau	CFRE, Fund Raising Consultant, Duluth, Minnesota

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## OFFICIAL STATEMENT

**\$4,250,000**

**MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY  
VARIABLE RATE DEMAND REVENUE BONDS, SERIES FIVE-P1  
(CONCORDIA UNIVERSITY, ST. PAUL)  
(DTC BOOK ENTRY ONLY)**

**\$7,230,000**

**MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY  
VARIABLE RATE DEMAND REVENUE BONDS,  
TAXABLE SERIES FIVE-P2  
(CONCORDIA UNIVERSITY, ST. PAUL)  
(DTC BOOK ENTRY ONLY)**

## INTRODUCTORY STATEMENT

This Official Statement provides information concerning the Minnesota Higher Education Facilities Authority (the "Authority"), an agency of the State of Minnesota, and Concordia University, St. Paul, a Minnesota nonprofit corporation, a 501(c)(3) organization and the owner and operator of an institution of higher education with its campus located in Saint Paul, Minnesota (the "University"), in connection with the issuance of the Authority's \$4,250,000 Variable Rate Demand Revenue Bonds, Series Five-P1 (Concordia University, St. Paul) (the "Series Five-P1 Bonds) and \$7,230,000 Variable Rate Demand Revenue Bonds, Taxable Series Five-P2 (Concordia University, St. Paul) (the "Series Five-P2 Bonds). Collectively the Series Five-P1 Bonds and the Series Five-P2 Bonds are described as the "Bonds."

The Bonds are being issued pursuant to the provisions of Sections 136A.25 through and including 136A.42, Minnesota Statutes, by the provisions of which the Authority was created and authorized to issue its obligations to assist institutions of higher education within the State of Minnesota (the "State") to finance certain projects.

The Bonds are also being issued pursuant to the Trust Indenture (the "Indenture") dated as of March 1, 2003 between the Authority and U.S. Bank National Association, Saint Paul, Minnesota, as trustee (the "Trustee").

Pursuant to a Loan Agreement (the "Loan Agreement") dated as of March 1, 2003 between the University and the Authority relating to the Bonds, the Authority is loaning the proceeds of the Bonds to the University, and the University will covenant as a general obligation of the University to make payments and deposits in amounts sufficient to pay the principal of and interest on the Bonds as the same shall become due and to pay the Purchase Price of the Bonds on any Tender Date.

The Series Five-P1 Bond proceeds, along with available University funds, will be used to:

- (1) acquire, construct, expand, improve, renovate, furnish and equip certain educational facilities, including an approximately 45,000 square foot library and information technology center;
- (2) acquire approximately 4.73 acres of real property and the improvements thereon adjacent to the University's campus in Saint Paul, Minnesota and currently owned by St. Paul Regional Water Services;

- (3) make other improvements and additions to the educational and related facilities of the University including capital improvements, repairs and maintenance constituting capital expenditures, equipment and environmental remediation; and
- (4) pay certain issuance costs.

The Series Five-P2 Bond proceeds, along with available University funds, will be used to:

- (1) refinance eleven (11) prior loans (the "Prior Loans") used to construct, acquire, renovate, repair and equip other improvements to the University's campus in Saint Paul, Minnesota, and
- (2) pay certain issuance costs.

The improvements described herein are collectively referred to as the "Project" and are to be owned and operated by the University and located on the University campus in Saint Paul, Minnesota. See "USE OF PROCEEDS" herein.

The Bonds are secured by a pledge of the Loan Payments, the payment of which is a general obligation of the University and, prior to conversion to a Long-Term or Fixed Rate, draws under a Letter of Credit, as further described herein.

At the time of the issuance of the Bonds, an irrevocable, transferable, direct pay letter of credit (the "Letter of Credit," which term includes any extensions or renewals thereof, together with an alternate letter of credit delivered in accordance with the provisions of the Indenture and the Loan Agreement, the "Letter of Credit") will be delivered by U.S. Bank National Association, Minneapolis, Minnesota, a national banking association (the "Credit Bank"), to the Trustee. Pursuant to a Reimbursement Agreement dated as of March 1, 2003 (the "Reimbursement Agreement"), between the University and Bremer Bank, National Association (the "Reimbursement Bank"), the Reimbursement Bank will cause the Credit Bank to issue the Letter of Credit. The Trustee will be authorized to draw an amount equal to the aggregate principal amount of the Bonds plus 55 days of interest to accrue thereon (assuming a maximum interest rate (the "Maximum Rate") of 12% per annum on the Bonds while the Bonds pay interest at a Variable Rate). If the Letter of Credit is not renewed or replaced prior to its stated expiration date (March 1, 2006), unless terminated earlier pursuant to the terms thereof, the Bonds are required to be redeemed unless converted to bear interest at a Long-Term or Fixed Rate. The University has agreed in the Loan Agreement to maintain with the Trustee at all times while the Bonds pay interest at a Variable Rate a Letter of Credit in an amount at least equal to the aggregate principal amount of Bonds then outstanding, plus interest thereon, calculated at the Maximum Rate, for a period equal to 55 days (or such other period as the rating agency then rating the Bonds may require).

For information concerning the Credit Bank, including certain financial information, see Appendix VI hereto. In addition, copies of the Credit Bank's Annual Report for the year ended December 31, 2001 and any more recent Condensed Interim Statements of Condition may be obtained in the manner described in Appendix VI.

**The Bonds shall not be legal or moral obligations of the State of Minnesota, nor shall they constitute a debt for which the faith and credit of the Authority or the State of Minnesota, or the taxing powers of the State, are pledged. The Authority has no taxing powers.**

The descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each document for the complete details of all terms and conditions. All statements herein are qualified in their entirety by reference to such documents. See Appendices III and IV for definitions of certain words and terms used herein and for a description of certain provisions of the documents hereinafter referred to.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THIS OFFICIAL STATEMENT PROVIDES INFORMATION RELEVANT TO THE BONDS ONLY AS OF THE DATE OF THIS OFFICIAL STATEMENT AND, WITH RESPECT TO THE TERM OF THE LETTER OF CREDIT, INVESTORS ARE CAUTIONED THAT IT BEARS A STATED EXPIRATION DATE OF MARCH 1, 2006, THOUGH BY ITS TERMS IT MAY BE TERMINATED SOONER OR EXTENDED. SEE "THE LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT" HEREIN.

**This Official Statement contains information relating to the Bonds prior to the Conversion Date. Holders or purchasers of the Bonds are not to rely on the information herein with respect to the terms or conditions of the Bonds after a conversion of the Bonds to a Long-Term or Fixed Rate or with respect to other information herein after the initial offering. This Official Statement must not be used or relied upon by a Holder or purchaser of Bonds in connection with the remarketing of Bonds, the optional tender of Bonds by a Holder, the provision of an Alternate Letter of Credit or conversion of the Bonds to a Long-Term or Fixed Rate.**

## **RISK FACTORS**

**No person should purchase Bonds without carefully reviewing the following information which sets forth some, but not all, of the factors which may affect the Owners' receipt of payments of the principal of or interest on the Bonds.**

### **General**

The Bonds are special, limited obligations of the Authority, payable solely from amounts drawn under the Letter of Credit and from payments to be made by the University under the Loan Agreement and certain other funds held by the Trustee under the Indenture. No representation or assurance can be given that the University will realize revenues in amounts sufficient to make such payments under the Loan Agreement with respect to the Bonds and to pay other expenses and obligations of the University. The realization of future revenues is dependent upon, among other things, the capabilities of the management of the University and future changes in economic and other conditions that are unpredictable and cannot be determined at this time.

### **Letter of Credit**

The ability of the Credit Bank to honor drawings on the Letter of Credit will depend solely on the Credit Bank's general credit. There can be no assurance that the Credit Bank will be able to meet its obligations under the Letter of Credit. Certain information with respect to the Credit Bank is set forth in Appendix VI. Such information was provided by the Credit Bank and no representation is made as to the adequacy, accuracy or completeness thereof.

The Letter of Credit expires March 1, 2006 subject to extension, at the option of the Reimbursement Bank, as provided in the Reimbursement Agreement, but in no event beyond March 1, 2013. No assurances can be given that the University will be able to obtain an extension of the Letter of Credit or to obtain an Alternate Letter of Credit to secure the Bonds at their stated interest rates and original terms until and including the final stated maturity of the Bonds. In the event the Letter of Credit expires or terminates or an Alternate Letter of Credit is substituted, the Bonds will be subject to mandatory tender in whole. Interest owing on the Bonds as of such date will be paid as on any other Interest Payment Date.

## **Bankruptcy or Insolvency**

The obligations of the Credit Bank under the Letter of Credit are general obligations of the Credit Bank and rank equally in priority of payment and in all other respects with all other unsecured obligations of the Credit Bank. In the event of a bankruptcy or insolvency or if for any other reason the Credit Bank fails or is unable to honor a draw on the Letter of Credit, each Bondowner would have to depend entirely on the ability of the University to pay the principal of, purchase price and interest on the Bonds.

## **Redemption or Purchase Prior to Maturity**

In considering whether the Bonds might be redeemed prior to maturity, Bondholders should consider the information included in this Official Statement under the heading "THE BONDS – Redemption."

The Bonds may be tendered for purchase at the option of the owners thereof as described under the heading "THE BONDS – Optional Tender." The Bonds shall be mandatorily tendered as described under the heading "THE BONDS – Mandatory Tender."

## **Enrollment**

The University's revenues and financial strength will depend in part upon its maintaining certain enrollment levels. The University's enrollment may be adversely impacted by tuition increases which the University may need to implement to maintain its financial strength in the future. Due to the costs associated with the Project (including making the Loan Payments), the University may be required to increase tuition further to pay for these costs, in addition to allocating funds for further program development, with potential adverse consequences to the University. The enrollment may also be impacted by adverse events affecting the University, including adverse publicity respecting the University, its programs, or the existence of environmental hazards near the University, the administration, faculty or students, receptivity to specific programs, requirements or educational methodologies adopted by the University, receptivity to the philosophy and educational tenets of the University and its approach to higher education, general economic downturns, and similar adverse factors. In addition, the University competes for enrollment with other private colleges and universities in Minnesota, as well as with the public universities.

## **General Risks of Private Universities**

There are many diverse factors, not within the University's control, which have a substantial bearing on the risks generally incident to the operation of the University. These factors include generally imposed fiscal policies, adverse use of adjacent or neighboring real estate, the ability to maintain the Project, community acceptance of the University, changes in demand for private universities like the University, changes in the number of competing universities, changes in the costs of operation of the University, changes in the recognition or accreditation of the University, or withdrawal of accreditation, general economic conditions and the availability of working capital. There can be no assurance that the University will not experience one or more of the adverse factors that caused other universities to fail. Many other factors may adversely affect the operation of the University and cannot be determined at this time.



## **Financial Aid**

A significant percentage of the University's students receive financial support in the form of federally supported loans and scholarships and grants from the University. There can be no assurance that the amount of federally supported loans or other financial aid will remain stable or increase in the future. If the amount of such loans or other financial aid decreases in the future, there can be no assurance that the University will be able to increase the amount of financial aid provided by it. Any change in the availability of financial aid could adversely affect the University's enrollment.

## **Tuition**

A significant portion of the University's operating revenues is provided through tuition and related fees. Although the University in the past has been able to raise tuition and related fees without adversely affecting enrollment, there can be no assurance that it will continue to be able to do so in the future. Future tuition increases and any adverse change in enrollment could adversely affect the University's financial position and results of operations.

## **Gifts, Grants and Bequests**

The University annually solicits gifts, grants and bequests for both current operating purposes and other needs. There can be no assurance that the amount of gifts, grants and bequests received by the Institution will remain stable or increase in the future.

## **Limited Obligation**

No entity or person other than the University is, or shall be, in any way liable or responsible for any payments to be made under the Loan Agreement, the Indenture, the Reimbursement Agreement or the other obligations of the University. While the Bonds bear interest at a Variable Rate, the Bonds are payable solely from drawings under the Letter of Credit or any Alternate Letter of Credit and from payments made by the University pursuant to the Loan Agreement in amounts sufficient to pay, when due, the principal of and interest on and the purchase price of the Bonds.

## **Bankruptcy and Receivership**

In the event of the University's bankruptcy, the rights and remedies of the Bondowners are subject to various provisions of the federal Bankruptcy Code. If the University were to file a petition in bankruptcy, payments made by the University during the 90-day (or perhaps one-year) period immediately preceding the filing of such petition may be avoidable as preferential transfers to the extent such payments allow the recipients thereof to receive more than they would have received in the event of the University's liquidation. Such a bankruptcy filing would operate as an automatic stay of the commencement or continuation of any judicial or other proceeding against the University and its property, and as an automatic stay of any act or proceeding to enforce a lien upon or to otherwise exercise control over its property as well as various other actions to enforce, maintain or enhance the rights of the Trustee. If the bankruptcy court so ordered, the property of the University, including accounts receivable and proceeds thereof, could be used for the financial rehabilitation of the University.

The University could file a plan for the adjustment of its debts in any such proceeding which could include provisions modifying or altering the rights of creditors generally, or any class of them, secured or unsecured. The plan, when confirmed by a court, binds all creditors who had

notice or knowledge of the plan and, with certain exceptions, discharges all claims against the debtor to the extent provided for in the plan. No plan may be confirmed unless certain conditions are met, among which are conditions that the plan be feasible and that it shall have 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 class cast votes 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.

## **Other Factors Affecting the Financial Performance of the University**

One or more of the following factors or events, or the occurrence of other unanticipated factors or events, could adversely affect the University's operations and financial performance to an extent that cannot be determined at this time:

1. *Changes in Management.* Changes in key management personnel that could affect the capability of management of the University.

2. *Future Economic Conditions.* Increased unemployment or other adverse economic conditions or changes in demographics in the service area of the University that could increase the proportion of students who are unable to pay the cost of tuition to the University; cost and availability of energy; an inability to control expenses in periods of inflation and difficulties in increasing charges and other fees while maintaining the quality of educational services.

3. *Competition.* Increased competition from other educational institutions, which could adversely affect the enrollment at or revenues of the University, which could force the University to offer discounted rates, or which could adversely affect the ability of the University to attract faculty or other staff.

4. *Organized Labor Efforts.* Efforts to organize employees of the University into collective bargaining units could result in adverse labor actions or increased labor costs.

5. *Natural Disasters.* The occurrence of natural disasters, such as tornados, could damage the facilities of the University, interrupt services or otherwise impair operations and the ability of the University to produce revenues.

## **Tax-Exempt Status**

### Tax-exempt Status of Interest on the Series Five-P1 Bonds

The Code imposes a number of requirements that must be satisfied for interest on state and local obligations, such as the Series Five-P1 Bonds, to be excludable from gross income for federal income tax purposes. These requirements include limitations on the use of bond proceeds, limitations on the investment earnings of bond proceeds prior to expenditure, a requirement that certain investment earnings on bond proceeds be paid periodically to the United States, and a requirement that the issuers file an information report with the IRS. The Authority and the University have covenanted in certain of the documents referred to herein that they will comply with such requirements. Future failure by the University to comply with the requirements stated in the Code and related regulations, rulings and policies may result in the treatment of interest on the Series Five-P1 Bonds as taxable, possibly from the original date of issuance.

## Tax-exempt Status of the University

The tax-exempt status of the Series Five-P1 Bonds presently depends upon the University's maintenance of its status as an organization described in Section 501(c)(3) of the Code. The maintenance of such status is contingent on compliance with general rules promulgated in the Code and related regulations regarding the organization and operation of tax-exempt entities.

Currently, the primary penalty available to the IRS under the Code is the revocation of tax-exempt status. Loss of tax-exempt status by the University could potentially result in loss of tax exemption of the Series Five-P1 Bonds and of other tax-exempt debt of the University, if any, and defaults in covenants regarding the Series Five-P1 Bonds and other related tax-exempt debt, if any, would likely be triggered. Loss of tax-exempt status could also result in substantial tax liabilities on income of the University. For these reasons, loss of tax-exempt status of the University could have material adverse consequences on the financial condition of the University.

## State Income Tax Exemption and Local Property Tax Exemption

It is likely that the loss by the University of federal tax exemption would trigger a challenge to its state tax exemption. Depending on the circumstances, such event could be adverse and material.

In recent years, state, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt entities with respect to their real property tax exemptions. All of the real property of the University is exempt from real property taxation. Although the real property tax exemption of the University is not, to the knowledge of management of the University, under challenge by such authorities, an investigation or audit could lead to a challenge that could ultimately affect the real property tax exemption of the University.

## **Certain Matters Relating to Enforceability**

The remedies available upon a default under the Indenture, the Loan Agreement or the Letter of Credit will, in many respects, be dependent upon judicial actions, which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, including the United States Bankruptcy Code and state laws concerning the use of assets of charitable organizations, the remedies specified in the Indenture, the Loan Agreement and the Letter of Credit may not be readily available or may be limited. The various legal opinions to be delivered in connection with the issuance of the Bonds will be expressly subject to the qualification that the enforceability of the Indenture, the Loan Agreement, the Letter of Credit and other legal documents is limited by bankruptcy, reorganization, insolvency, moratorium and other similar laws affecting the rights of creditors and by the exercise of judicial discretion in appropriate cases.

## **Marketability**

The Underwriter may engage in secondary market transactions with respect to the Bonds but it is under no obligation to do so. There is no assurance that a secondary market for the Bonds will develop.

## CONTINUING DISCLOSURE

The Bonds are exempt from continuing disclosure requirements of Rule 15c2-12 (the “Rule”) of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Consequently, the University has not agreed and is not required to provide annual financial information, notices of certain material events or any other disclosure which might otherwise be required by the Rule. The University has not been subject to any previous undertaking and therefore has never failed to comply with any previous undertakings under the Rule to provide annual reports or notices of material events. The University will enter into an undertaking for continuing disclosure following a conversion of the Bonds to a Fixed Rate.

## THE BONDS

The following is a summary of certain terms and provisions of the Bonds. Reference is hereby made to the Bonds and the provisions with respect thereto in the Indenture and the Loan Agreement for the detailed terms and provisions thereof.

### General

The Bonds will be issued as fully registered Bonds without coupons in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof so long as the Bonds bear interest at a Daily Rate, a Weekly Rate, a Commercial Paper Rate or a Long-Term Rate, and in denominations of \$5,000 and integral multiples thereof so long as the Bonds bear interest at a Fixed Rate. The Bonds will mature, subject to prior redemption, on April 1, 2027. The Bonds will be dated as of the date of first authentication and delivery of the Bonds under the Indenture.

**The Bonds, when issued, will be registered in the name of Cede & Co., as nominee for DTC. Payment of the principal of, premium, if any, and interest on each Bond will be made, and notices and other communications to Bondowners will be given, directly to DTC or its nominee, Cede & Co., by the Trustee. In the event the Bonds are not in a book-entry only system, payment of principal of, premium, if any, and interest on the Bonds will be made and such notices and communications will be given as described in the Indenture. See “THE BONDS – Book Entry System” herein.**

The principal of and the redemption premium, if any, on the Bonds shall be payable by check or draft at the maturity or redemption date thereof upon the presentation and surrender of such Bonds at the principal corporate trust office or other designated office of the Trustee. The interest payable on each Bond on any Interest Payment Date shall be paid by the Trustee to the Bondowner as shown on the bond register at the close of business on the Regular Record Date for such interest, (1) by check or draft mailed to such Bondowner at the address as it appears on the bond register or at such other address as is furnished to the Trustee in writing by such Bondowner, or (2) with respect to Bonds accruing interest at Daily or Weekly Rates, and with respect to Bonds accruing interest at Fixed Rates or Long-Term Rates if such Bonds are held by a Securities Depository, or at the written request addressed to the Trustee by any Bondowner in the aggregate principal amount of at least \$100,000, by wire transfer in immediately available funds. Such request shall be signed by such Bondowner, contain the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the account number to which credit shall be made and be filed with the Trustee no later than 10 Business Days before the applicable Regular Record Date preceding such payment date. Interest accrued during any Commercial Paper Rate Period shall be paid only upon presentation and surrender of Bonds.

At any given time, the Bonds may operate in one of five Rate Periods: a Daily Rate Period, a Weekly Rate Period, a Commercial Paper Rate Period, a Long-Term Rate Period or a Fixed Rate Period. While in any of those Rate Periods, the Bonds will bear interest at a Daily Rate, a Weekly Rate, a Commercial Paper Rate, a Long-Term Rate or a Fixed Rate, respectively. The Bonds of each Series may operate at any time in any one rate period, which rate period may, but need not, be the same for both series of Bonds, provided that all Bonds of the same Series shall operate in the same Rate Period at any given time. The Rate Period for the Bonds may be changed from time to time as described herein. **Initially, the Bonds will be issued in a Daily Rate Period.**

The Bonds are subject to optional and mandatory tender for purchase under certain circumstances as summarized below under “Optional Tender” and “Mandatory Tender.” Payment of the purchase price for Bonds (other than Bank Bonds and University Bonds) tendered or required to be tendered for purchase initially will be supported by funds made available (i) from the remarketing of the Bonds, (ii) under the terms of the Letter of Credit to the extent described therein, and (iii) other moneys made available by the University.

## **Interest Rates and Rate Periods**

### General

The Bonds will bear interest at a Daily, Weekly, Commercial Paper, Long-Term or Fixed Rate. When the Bonds of a Series are in a Daily, Weekly or Long-Term Rate Period, the interest rate on such Bonds will be determined by the Remarketing Agent as the lowest rate of interest which in its judgment will cause such Bonds to have a market value, as of the date of determination, equal to the principal amount of such Bonds, taking into account prevailing market conditions. With respect to Commercial Paper Rates, the Remarketing Agent will determine the Commercial Paper Rate and the Commercial Paper Rate Period for each Bond of a Series at such rate and for such period as it deems advisable in order to minimize the net interest cost on such Bonds, which, in the judgment of the Remarketing Agent, would cause such Bonds to have a market value as of the date of determination equal to the principal amount thereof, taking into account prevailing market conditions. In no event will interest on the Bonds exceed the Maximum Rate. The interest rate on the Bonds of a Series in the Fixed Rate Period will be established as described below under “Interest Rates and Rate Periods – Fixed Rate.”

Interest on Bonds of a Series will be calculated on the basis of (i) a 365 or 366-day year, as appropriate, for the actual number of days elapsed while such Bonds bear interest at a Daily Rate, Weekly Rate or Commercial Paper Rate, and (ii) a 360-day year of twelve 30-day months while such Bonds bear interest at a Long-Term Rate or a Fixed Rate.

Interest on the Bonds will be paid to the registered owners thereof with respect to (i) the Bonds of a Series accruing interest at Daily or Weekly Rates, on the first Business Day of each calendar month following a month in which interest at such Rate has accrued and on any day which is a Conversion Date from a Daily Rate Period or a Weekly Rate Period, respectively, and any principal payment or redemption date; (ii) the Bonds of a Series accruing interest at a Commercial Paper Rate, on the first Business Day after the last day of each Commercial Paper Rate Period applicable thereto, and any principal payment or redemption date; (iii) the Bonds of a Series accruing interest at a Long-Term Rate, each April 1 and October 1, beginning with the first of such dates which is at least six months after the date of a conversion to a Long-Term Rate, except that the last Interest Payment Date for any Long-Term Rate Period which is followed by a Daily, Weekly or Commercial Paper Rate Period will be the Conversion Date for such Daily, Weekly or Commercial Paper Rate Period and will be the first Business Day of the sixth month following the month of the preceding Interest Payment Date; and (iv) the Bonds of a Series accruing interest at a Fixed Rate, each April 1 and October 1, beginning with the first of

such dates which is at least six months after the date of a conversion to a Fixed Rate through and including the Maturity Date of such Bonds accruing interest at a Fixed Rate. The first Interest Payment Date for the Bonds will be April 1, 2003.

#### Daily Rate Period; Daily Rate

The Bonds shall initially bear interest at the Daily Rate. Thereafter, a Daily Rate Period will commence on a Daily Rate Conversion Date, which will be a Business Day, and on each Business Day thereafter until the type of Rate Period for the Bonds of a Series is converted to another type of Rate Period and will extend to, but not include, the next succeeding Business Day, provided that the initial Daily Rate will begin on the Issue Date. Bonds of a Series in a Daily Rate Period will bear interest at a Daily Rate.

When interest on the Bonds of a Series is payable at a Daily Rate, the Remarketing Agent will set a Daily Rate on the first Business Day of the Daily Rate Period to which it relates and will provide the Daily Rate to the Trustee by Electronic Notice by **10:00 a.m.**, Central time, on that same day. The Daily Rate for each Daily Rate Period will be effective from and including the commencement date thereof to, but not including, the next succeeding Business Day.

#### Weekly Rate Period; Weekly Rate

A Weekly Rate Period will commence on a Thursday and end on Wednesday of the following week and each Weekly Rate Period will be followed by another Weekly Rate Period until the Rate Period of the Bonds of a Series is converted to another type of Rate Period; provided that (i) in the case of a conversion to a Weekly Rate Period from a different Rate Period, the Weekly Rate Period will commence on the Weekly Rate Conversion Date and will end on Wednesday of the following week; (ii) in the case of a conversion from a Weekly Rate Period to a different Rate Period, the last Weekly Rate Period prior to a conversion will end on the day immediately preceding the Conversion Date to the new rate period; and (iii) the day of the week on which Weekly Rate Periods will commence and end may be changed by the Remarketing Agent, with the consent of the University, if the scheduled rate determination day becomes inappropriate (taking into account general market practice), as determined in the reasonable exercise of the Remarketing Agent's judgment, upon notice to the Trustee not less than **14** days before the change, which notice will promptly be communicated by the Trustee, by first class mail, to the owners of such Bonds, provided, that such notice to the Trustee is, with respect to the Series Five-P1 Bonds, accompanied by an opinion of nationally recognized bond counsel and a reliance letter to the Reimbursement Bank to the effect that the change will not adversely affect the tax-exempt status of interest on any Series Five-P1 Bonds for federal income tax purposes.

When interest on the Bonds of a Series is payable at a Weekly Rate, the Remarketing Agent will set a Weekly Rate on the Business Day next preceding the commencement date of the Weekly Rate Period to which it relates and provide the Weekly Rate to the Trustee by Electronic Notice by **5:00 p.m.**, Central time, on such preceding Business Day. For the first week, or portion thereof, that the Bonds of a Series bear interest at a Weekly Rate, the Weekly Rate will be effective from the first day such Bonds bear interest at the Weekly Rate through the immediately succeeding Wednesday. Thereafter, subject to the provisions of clause (iii) of the preceding paragraph, the Weekly Rate will be effective from each Thursday through the immediately succeeding Wednesday or, if earlier, the day before the effective date of a new method of determining the interest rate on such Bonds.

### Commercial Paper Rate Period; Commercial Paper Rate

Each Bond of a Series will bear interest during the Commercial Paper Rate Period for such Bond at the Commercial Paper Rate for such Bond. Different Commercial Paper Rates and Commercial Paper Rate Periods may apply to different Bonds of a Series at any time and from time to time, provided that the Commercial Paper Rate Period for all Bonds of the same Series must end on the same day in order to convert from such Commercial Rate Period to another rate period. The Commercial Paper Rate Period and Commercial Paper Rate for each Bond of a Series will be determined by the Remarketing Agent on the first Business Day of that Commercial Paper Rate Period and the Remarketing Agent will provide the Commercial Paper Rate to the Trustee by Electronic Notice by **1:00 p.m.**, Central time, on that same day.

Each Commercial Paper Rate Period will be a period of not less than eight (**8**) days and not more than **270** days determined by the Remarketing Agent to be the period which will, in the judgment of the Remarketing Agent, produce the greatest likelihood of the lowest net interest cost during the term of the Bonds of a Series; provided that if the Remarketing Agent has given or received notice of any conversion to a different Rate Period, the Commercial Paper Rate Period for each Bond of a Series shall not be longer than the remaining number of days prior to the Conversion Date. Each Commercial Paper Rate Period will commence on a Business Day and end on either a day preceding a Business Day or on the day before the Maturity Date, and in any event shall end no later than the day preceding the Maturity Date. No Commercial Paper Rate Period will extend past the Business Day prior to the stated expiration date of the Letter of Credit.

The Remarketing Agent may, in the reasonable exercise of its judgment, (i) determine Commercial Paper Rate Periods that result in Commercial Paper Rates on the Bonds of a Series that are higher than would be borne by Bonds of a Series with shorter Commercial Paper Rate Periods in order to increase the likelihood of achieving the lowest net interest cost during the term of such Bonds by assuring the availability of such Commercial Paper Rates for the longer Commercial Paper Rate Periods, and (ii) in view of the uncertainties involved in anticipating Commercial Paper Rates, establish different Commercial Paper Rate Periods for Bonds of a Series on the same date in order to achieve an average of Commercial Paper Rate Periods that, in the reasonable exercise of its judgment, is most likely to achieve the lowest net interest cost during the term of such Bonds. In determining the number of days in each Commercial Paper Rate Period, the Remarketing Agent will take into account the relative market yields of the Bonds of a Series bearing interest at a Commercial Paper Rate and other securities that bear interest at a variable rate or at fixed rates that, in the reasonable exercise of the judgment of the Remarketing Agent, are otherwise comparable to such Bonds, or any fact or circumstance relating to such Bonds or affecting the market for such Bonds or affecting such other comparable securities in a manner that, in the reasonable exercise of the judgment of the Remarketing Agent, will affect the market for such Bonds. The Remarketing Agent, in its discretion, may consider such information and resources as it deems appropriate in making the determinations described in this paragraph, including consultations with the University, but the Remarketing Agent's determination of the Commercial Paper Rate Period for each Bond of a Series will be based solely upon the reasonable exercise of the Remarketing Agent's judgment.

### Long-Term Rate Period; Long-Term Rate

Each Long-Term Rate Period will commence on the Long-Term Rate Conversion Date and subsequently on an April 1 which is at least 12 calendar months after the conversion to the Long-Term Rate and end on the day preceding either the commencement date of the following Long-Term Rate Period or on the date of a conversion to a different rate period. The Remarketing Agent will determine a Long-Term Rate on the Business Day immediately preceding the commencement of any period during which interest on the Bonds of a Series will be payable at a Long-Term Rate and will provide the Long-Term Rate to the Trustee by

Electronic Notice by the close of business on such Business Day. Long-Term Rate Periods will not extend to a date beyond the stated expiration date of the Letter of Credit then in effect, if any.

#### Fixed Rate Period; Fixed Rate

A Fixed Rate Period will commence on a Fixed Rate Conversion Date and will extend to the earlier of the date of redemption or the maturity date for each Bond of a Series accruing interest at a Fixed Rate. The Fixed Rate for each Bond of a Series accruing interest at a Fixed Rate will be established in accordance with the terms of the Indenture and will be set forth in a firm underwriting or purchase contract described below under "Conversion Between Interest Rate Periods-Conversion to Fixed Rate Period."

#### Failure of Remarketing Agent to Determine Interest Rates

If the Remarketing Agent fails for any reason to determine the interest rate for any rate period,

(1) for any Bond of a Series that accrues interest at a Daily Rate, the interest rate then in effect will remain in effect from day to day until the Trustee is notified of a new Daily Rate determined by the Remarketing Agent,

(2) for any Bond of a Series that accrues interest at a Weekly Rate, the interest rate then in effect will remain in effect from week to week until the Trustee is notified of a new Weekly Rate determined by the Remarketing Agent,

(3) for any Bond of a Series that accrues interest at a Commercial Paper Rate and for which a Commercial Paper Rate and Commercial Paper Rate Period is not determined, the interest rate shall be for Commercial Paper Rate Periods of 30 days and shall be equal to 100% of the prime commercial paper rate (30 days) for the most recent date shown in the table captioned "Short-Term Tax-Exempt Yields" in the edition of *The Bond Buyer* (or if *The Bond Buyer* or such table is no longer published, any other published similar rate as is determined by the Trustee in its sole discretion to be appropriate) published on the day on which such rate is determined or, if such rate is not published on that day, the most recent publication of such rate, until the Trustee is notified of a new Commercial Paper Rate and Commercial Paper Rate Period determined for such Bond by the Remarketing Agent, and

(4) for any Bond of a Series that accrues interest at a Long-Term Rate, the interest rate in effect will (A) be converted to Commercial Paper Rate Periods of 30 days with Commercial Paper Rates equal to 100% of the prime commercial paper rate (30 days) for the most recent date shown in the table captioned "Short-Term Tax-Exempt Yields" in the edition of *The Bond Buyer* (or if *The Bond Buyer* or such table is no longer published, any other published similar rate as is determined by the Trustee in its sole discretion to be appropriate) published on the day on which such rate is determined or, if such rate is not published on that day, the most recent publication of such rate, until the Trustee is notified of a new Commercial Paper Rate and Commercial Paper Rate Period determined for such Bond by the Remarketing Agent, but only if, with respect to the Series Five-P1 Bonds, the University furnishes to the Trustee and the Authority an opinion of nationally recognized bond counsel to the effect that conversion of the interest rate to a Commercial Paper Rate will not adversely affect the Tax-Exempt status of interest on any Series Five-P1 Bonds for federal income tax purposes, or (B) if the opinion described in clause (A) is not furnished, the Series Five-P1 Bonds will be converted to a Long-Term Rate for a Long-Term Rate Period ending on the day prior to the next succeeding April 1 or October 1 which is at least 365 days later equal to 100%



of the Kenny Information Services one year tax-exempt index to be applicable for a period of 365 days as communicated to the Trustee by Kenny Information Services, and if such index is not provided to the Trustee, equal to 70% of the closing yield for one year Treasury Bills shown in the table captioned "U.S. Securities Prices" in the edition of *The Bond Buyer* (or if *The Bond Buyer* or if such table is no longer published, any other published similar rate as is determined by the Trustee in its sole discretion to be appropriate) published on the day on which such rate is determined, or if such rate is not published on that day, the most recent publication of such rate, until the Trustee is notified of a new Long-Term Rate and Long-Term Rate Period for such Bond.

### Rates Binding

The setting of the rates, the Rate Periods and the calculation of interest payable on the Bonds as described above will be conclusive and binding on the owners of the Bonds, the Authority, the University, the Credit Bank and the Trustee. The interest rate in effect for each Bond will be available to the owner of such Bond on the date such interest rate is determined, between **1:00 p.m.** and **5:00 p.m.**, Central time, from the Remarketing Agent or the Trustee at their respective principal offices.

### **Conversion Between Interest Rate Periods**

#### Conversion Dates

With the exception of any Bond of a Series bearing interest at a Long-Term Rate that extends to the Maturity Date or at a Fixed Rate, the Rate Period in which the Bonds of a Series operate may be changed from time to time as described in the Indenture and summarized under this subcaption. A Conversion Date for any Bond of a Series means the day on which a particular type of Interest Rate (Daily, Weekly, Commercial Paper, Long-Term or Fixed Rate) becomes effective for such Bonds which is not immediately preceded by a day on which such Bonds have accrued interest at the same type of interest rate and, when used with respect to any Commercial Paper Rate Period or Long-Term Rate Period, means the day after the end of such Commercial Paper Rate Period or Long-Term Rate Period. Each Conversion Date will be an Interest Payment Date for the rate period from which a Bond of a Series is being converted, which, with respect to conversion from a Commercial Paper Rate Period or Long-Term Rate Period, will be the last Interest Payment Date for the then current Commercial Paper Rate Period or Long-Term Rate Period, except that a Bond of a Series may be converted from a Daily or Weekly Rate Period on any Business Day.

#### Notice of Conversion by University

The University may elect to convert the rate period on the Bonds of a Series by notifying the Trustee, not fewer than seven (7) Business Days prior to the date the notice to affected owners must be given of the proposed conversion, and upon receipt of such notice from the University, the Trustee shall give notice of the proposed conversion to the Remarketing Agent and the Credit Bank not less than five Business Days prior to the date the notice to affected owners must be given of the proposed conversion. Bonds of a Series that are converted to the Fixed Rate Period can not be converted into another Rate Period but will remain in the Fixed Rate Period until maturity or redemption prior to maturity.

### Assignment to Remarketing Agent

Pursuant to the Remarketing Agreement, the University may delegate and assign to the Remarketing Agent, and may likewise rescind such delegation and assignment, the University's right to elect to convert the Bonds of one or both Series from one type of rate period to another (except to a Fixed Rate Period), in which case, the Remarketing Agent will agree to carry out any such conversion in the manner and at the times specified in the Indenture.

### Notice of Conversion to Bondowners

When a conversion between rate periods is to be made, the Trustee is required to give notice, by first class mail, of the proposed conversion to the affected owners of Bonds not less than **20** days before the proposed Conversion Date. Among other requirements set forth in the Indenture, such notice must state the proposed Conversion Date, the proposed rate period to be effective on such date, the aggregate principal amount and the Series designation of Bonds to be converted and that such Bonds will be subject to mandatory tender for purchase on the Conversion Date (except in the case of conversions between Daily and Weekly Rate Periods). When applicable, this notice may be combined with the notice of mandatory tender delivered by the Trustee as described below under "Mandatory Tender – Notice by Trustee."

### Limitations on Conversions Between Rate Periods

No conversion of rate periods will become effective unless:

- (1) If the conversion is from Commercial Paper Rate Periods, the Trustee has received, prior to the date on which notice of conversion is required to be given to the owners, written confirmation from the Remarketing Agent that it has not established and will not establish any Commercial Paper Rate Periods with respect to such Bonds extending beyond the day before the Conversion Date; and
- (2) The Trustee, the Reimbursement Bank, the Credit Bank and the Authority have been provided, no later than one day before the Conversion Date, with an opinion of nationally recognized bond counsel to the effect that the conversion is authorized or permitted by the Indenture, and that such conversion will not adversely affect the Tax-Exempt status of interest on any Series Five-P1 Bonds for federal income tax purposes; and
- (3) If the conversion is to a Commercial Paper Rate Period, Long-Term Rate Period or Fixed Rate Period (during which Long-Term Rate Period or Fixed Rate Period a Letter of Credit will be in effect), then either (i) the number of days of interest on such Bonds which may be drawn under the Letter of Credit shall be not less than the number of days in the longest interest period for such Bonds in such interest rate mode plus 24 days, or (ii) the Letter of Credit shall permit the Trustee to draw for accrued interest in each calendar month, and on the Interest Payment Date, and to deposit proceeds of each such draw in the applicable Letter of Credit Account of the Debt Service Fund pending payment to the Owners of such Bonds on the next succeeding Interest Payment Date, or (iii) the Trustee and the Authority have been provided, no later than one day before the Conversion Date, with written evidence from each Rating Agency then rating the Bonds that such conversion will not result in a reduction or withdrawal of the then current rating on such Bonds; and
- (4) If the conversion is to a Commercial Paper Rate Period, Long-Term Rate Period or Fixed Rate Period, the Trustee receives from the University the written consent of the Reimbursement Bank to such conversion; and

(5) If the conversion is to a Long-Term Rate Period, the Trustee receives from the University evidence that the University has undertaken all responsibilities for compliance with continuing disclosure requirements as set forth in the Loan Agreement. Upon conversion of Bonds to a Long-Term Rate Period for which a Letter of Credit will not be in effect, the Trustee will release the Letter of Credit in the same fashion for a conversion to a Fixed Rate Period set forth below.

#### Conversion To Fixed Rate Period

The interest rate on any Series of Bonds will be converted to a Fixed Rate if the University notifies in writing the Trustee of its irrevocable election to effect such a conversion, specifying in the notice the identification and Series designation of the Bonds to be converted and the Conversion Date on which the Fixed Rate Period is to commence, and delivering with such notice (i) an opinion of nationally recognized bond counsel (which opinion shall also be addressed and delivered to the Authority and the Trustee) which opinion must be confirmed on the Fixed Rate Conversion Date, stating that such conversion is authorized or permitted by the Indenture and the Act, and with respect to the Series Five-P1 Bonds, that conversion will not adversely affect the Tax-Exempt status of interest on such Series Five-P1 Bonds for federal income tax purposes, and (ii) evidence that the University has undertaken all responsibilities for compliance with continuing disclosure requirements as set forth in the Loan Agreement.

Upon conversion of the Bonds to a Fixed Rate Period, the Trustee will promptly release the Letter of Credit then in effect relating to the series of Bonds converted to a Fixed Rate in accordance with its terms and will surrender the same to the Credit Bank unless the University has elected to have the Letter of Credit remain in effect for the Fixed Rate Period. If less than all the Bonds are converted to a Fixed Rate Period, the Trustee will promptly release the Letter of Credit then in effect with respect to the Series of Bonds so converted in accordance with its terms and will surrender the same to the Credit Bank; provided, however, that if one Letter of Credit is in effect the Letter of Credit will not terminate with respect to the Series of Bonds not converted.

#### Failure of Conditions to Conversion

In the event any condition precedent to a conversion is not fulfilled, any affected Series of Bonds will continue to be subject to mandatory tender on the proposed Conversion Date (except in the case of proposed conversions between Daily and Weekly Rate Periods) without regard to the failure to fulfill such condition, and any affected Series of Bonds will accrue interest at Weekly Rates for Weekly Rate Periods on and after the proposed Conversion Date, but only if, with respect to the Series Five-P1 Bonds, the University furnishes the Trustee, the Reimbursement Bank, the Credit Bank and the Authority an opinion of nationally recognized bond counsel to the effect that such accrual of interest will not adversely affect the Tax-Exempt status of interest on any Series Five-P1 Bonds if the Rate Period in effect prior to the mandatory tender purchase date exceeded one year, and if any such required opinion is not delivered, at a Long-Term Rate for a Long-Term Rate Period ending on the day prior to the next succeeding April 1 which is at least 365 days later. If the Remarketing Agent fails for any reason to determine any such Weekly Rate or Long-Term Rate, the applicable Weekly Rate will be equal to 115% of the three month London-Interbank Offered Rate-British Bankers Association Fixing for United States Dollar (LIBOR-USD Fix – 3 Month) and effective for that date on which such rate is determined (or if such rate is not available, any other similar rate as is determined by the Trustee in its sole discretion to be appropriate), and the applicable Long-Term Rate will be equal to 125% of the 12 month London-Interbank Offered Rate-British Bankers Association Fixing for United States Dollar (LIBOR-USD Fix - 12 Month) for one year Treasury Bills shown in the table captioned “U.S. Securities Prices” in the edition of *The Bond*

*Buyer* (or if *The Bond Buyer* or such table is no longer published, any other published similar rate as is determined by the Trustee in its sole discretion to be appropriate) published on the day on which such rate is determined, or if such rate is not published on that day, the most recent publication of such rate.

## **Optional Tender**

Bonds bearing interest at Daily or Weekly Rates (except Bank Bonds or University Bonds) may be tendered for purchase at the option of the owners thereof at a purchase price equal to **100%** of the principal amount of such Bonds (or portions thereof in an authorized denomination) plus accrued interest, if any, to the purchase date ("Purchase Price") as described below:

### Daily Rate Tender

Bonds bearing interest at Daily Rates may be tendered for purchase at the Purchase Price on any Business Day upon Electronic Notice of tender given to the Trustee not later than **9:30 a.m.**, Central time, on the date of purchase.

### Weekly Rate Tender

Bonds bearing interest at Weekly Rates may be tendered for purchase at the Purchase Price on any Business Day upon Electronic Notice of tender given to the Trustee not later than **5:00 p.m.**, Central time, on a Business Day not fewer than seven days prior to the date of purchase.

### Notice of Tender

Each notice of tender (i) must be delivered to the Trustee at its notice address as provided in the Indenture and be in form satisfactory to the Trustee; (ii) must state (A) the principal amount, certificate number, and Series designation of Bonds to which the notice relates, (B) that the Bondowner irrevocably demands purchase of such Bonds or a specified portion thereof, (C) the date on which such Bonds or portion is to be purchased, and (D) payment instructions with respect to the Purchase Price; and (iii) will automatically constitute (A) an irrevocable offer to sell the Bonds (or portion thereof) to which the notice relates on the specified purchase date at the Purchase Price, (B) an irrevocable authorization and instruction to the Trustee to effect transfer of such Bond (or portion thereof) upon payment of the Purchase Price to the Trustee on the purchase date, (C) an irrevocable authorization and instruction to the Trustee to effect the exchange of such Bond to be purchased in whole or in part for other Bonds in an equal aggregate principal amount so as to facilitate the sale of such Bond (or portion thereof to be purchased), (D) an agreement of such owner to deliver such Bond, with all necessary endorsements for transfer and signature guarantees, to the Trustee at its principal office, not later than **3:00 p.m.**, Central time, on the purchase date, and (E) an acknowledgment that such Bondowner will have no further rights with respect to such Bond (or portion thereof) upon payment of the Purchase Price thereof to the Trustee on the purchase date, except for the right of such Bondowner to receive such Purchase Price upon delivery of such Bond to the Trustee, and that after the purchase date such Bondowner will hold any undelivered bond certificate as agent for the Trustee. The determination of the Trustee as to whether a notice of tender has been properly delivered pursuant to the foregoing shall be conclusive and binding upon the Bondowner.

Notwithstanding the foregoing, if the Bonds are held in a Book-Entry System, the right to optionally tender Bonds accruing interest at Daily Rates or Weekly Rates may be exercised by a Beneficial Owner. The Beneficial Owner shall exercise such right by delivering the required notice to the Remarketing Agent no later than the required times specified in the preceding

paragraph. Such notice shall state that such Beneficial Owner will cause its beneficial interest (or portion thereof in an authorized denomination) to be tendered, the amount of such interest to be tendered, the date on which such interest will be tendered and the identity of the Participant through which the Beneficial Owner maintains its interest. Upon delivery of such notice, the Beneficial Owner must make arrangements to have its beneficial ownership interest in the Bonds being tendered transferred to the Trustee at or prior to **3:00 p.m.**, Central time, on the purchase date.

## **Mandatory Tender**

The Bonds are subject to mandatory tender for purchase at the Purchase Price (100% of the principal amount plus accrued interest, if any) as follows:

### Mandatory Tender of Commercial Paper Rate Bonds

Each Bond bearing interest at a Commercial Paper Rate is subject to mandatory tender for purchase on each Interest Payment Date. The owner of any Bond accruing interest at a Commercial Paper Rate must provide the Trustee with written payment instructions for the Purchase Price on or before tender thereof to the Trustee.

### Mandatory Tender upon Conversion between Certain Rate Periods

Bonds to be converted from one rate period to a different rate period (except conversions from a Daily Rate to a Weekly Rate or from a Weekly Rate to a Daily Rate) are subject to mandatory tender for purchase on the Conversion Date.

### Mandatory Tender at Beginning of a New Long-Term Rate Period

When the Bonds bear interest at a Long-Term Rate and a new Long-Term Rate is to be determined, the Bonds are subject to mandatory tender for purchase on the effective date of the new Long-Term Rate.

### Mandatory Tender Upon Expiration or Termination of the Letter of Credit

Bonds secured by a Letter of Credit will be subject to mandatory tender for purchase on the 5th Business Day prior to the expiration or termination of the Letter of Credit (i) if the Trustee has not received a commitment as required by the Indenture by the 30<sup>th</sup> day preceding the scheduled Letter of Credit expiration or termination date for either an extension of the then existing Letter of Credit or an Alternate Letter of Credit or (ii) if the Trustee has not received an extension of the existing Letter of Credit or an Alternate Letter of Credit meeting the requirements therefor set forth in the Indenture before the 5<sup>th</sup> Business Day prior to expiration or termination of the Letter of Credit.

### Mandatory Tender Upon Substitution of Alternate Letter of Credit.

Bonds secured by a Letter of Credit will be subject to mandatory tender for purchase on the date of substitution of an Alternate Letter of Credit for the then existing Letter of Credit. The existing Letter of Credit will be used, if necessary, to provide funds for such purchase rather than the Alternate Letter of Credit.

## Mandatory Tender Upon Notice of Default Under Reimbursement Agreement or Nonreinstatement of Interest Portion of Letter of Credit

Bonds secured by a Letter of Credit will be subject to mandatory tender for purchase upon receipt by the Trustee of written notice from either the Credit Bank or the Reimbursement Bank (i) stating that an event of default has occurred and is continuing under the Reimbursement Agreement, directing the Trustee to cause a mandatory tender of the Bonds pursuant to the Indenture, and stating that the Letter of Credit shall expire 15 days from the date of such notice, or (ii) stating that the interest portion of the Letter of Credit will not be automatically reinstated following a drawing upon the Letter of Credit to pay interest on the Bonds as provided in the Letter of Credit. In no event shall the purchase date be later than seven days from the date of receipt of such notice of default or nonreinstatement by the Trustee.

### Notice by Trustee

The Trustee will give notice of mandatory tender for purchase (other than a mandatory tender on an Interest Payment Date during a Commercial Paper Rate Period) to the affected owners of Bonds, by first class mail, as soon as practicable and not less than seven days before the mandatory tender date. In the case of a mandatory tender subsequent to an event of default under the Reimbursement Agreement or notice of nonreinstatement of the interest portion of the Letter of Credit as provided above, the Trustee shall give notice as soon as practicable, and shall establish the purchase date in such notice to be a date not less than four nor more than seven days from the date notice is given. If the Bonds are in certificated form, such notice shall include information with respect to required delivery of Bond certificates and payment of the Purchase Price. When applicable, this notice may be combined with the notice of conversion of Rate Period delivered by the Trustee as described herein under "THE BONDS – Conversion Between Interest Rate Periods – Notice of Conversion to Bondowners." Any defect in any required notice of mandatory tender shall not affect the validity of such notice.

### **Delivery of Bonds**

An owner of a Bond tendered or required to be tendered for purchase must deliver such Bond to the principal office of the Trustee, at or before **3:00 p.m.**, Central time, on the purchase date (delivery of a beneficial owner's interest in a Bond while Cede & Co. is the sole registered owner of the Bonds will occur when the ownership rights in such Bond are transferred by a Direct Participant on DTC's records (as these terms are defined below) in accordance with DTC's customary procedures).

If a Bondowner has elected to tender any Bond for purchase, or if any Bond is subject to mandatory tender for purchase, and if, in either case, the Trustee is in receipt of an amount sufficient to pay the Purchase Price, then such Bond (or portion thereof) will be deemed purchased on the Purchase Date and ownership of such Bond (or portion thereof) will be transferred to the purchaser thereof. Any owner who fails to deliver such Bond for purchase will not be entitled to any payment other than the Purchase Price for such Bond upon surrender of such Bond to the Trustee, and such Bond will no longer be outstanding and entitled to the benefits of the Indenture, except for the payment of the Purchase Price of such Bond from moneys held by the Trustee for such payment upon presentation and surrender of the Bond. Moneys held by the Trustee for the benefit of an owner of untendered Bonds which remain unclaimed two years after the applicable Purchase Date will, at the request of the University, and if the University is not, at the time, to the knowledge of the Trustee, in default with respect to any covenant in the Loan Agreement or the Bonds, be paid to the University, and the owner of the Bonds for which the deposit was made will thereafter be limited to a claim against the University.

## **Payment of Purchase Price**

Payment of the Purchase Price of Bonds to be purchased upon optional or mandatory tender will be made by the Trustee at or before **3:00 p.m.**, Central time, on the date of purchase and upon receipt by the Trustee of 100% of the aggregate Purchase Price of the tendered Bonds, in immediately available funds. The Purchase Price of the Bonds tendered for purchase will be paid by the Trustee, first from the proceeds of the remarketing of such Bonds by the Remarketing Agent, second from proceeds made available through drawings under the Letter of Credit and third from other moneys made available by the University.

## **Remarketing**

Unless otherwise instructed by the University, the Remarketing Agent will offer for sale and use its best efforts to find purchasers for all Bonds or portions thereof for which notice of optional tender has been received or which are subject to mandatory tender. The terms of any sale by the Remarketing Agent will provide for the payment of the Purchase Price for tendered Bonds by the Remarketing Agent to the Trustee on the purchase date in immediately available funds at or before **10:30 a.m.**, Central time. The Remarketing Agent will not sell any Bond as to which a notice of conversion from one type of rate period to another has been given by the Trustee, or as to which the Trustee has given a notice of mandatory tender for purchase as described above under "Mandatory Tender – Notice by Trustee," unless the Remarketing Agent has advised the person to whom such sale is made of the conversion or notice. Any purchaser so advised must deliver a notice to the Trustee stating that such purchaser will tender such Bonds for purchase on the related mandatory tender date. The Remarketing Agent will not remarket any Bond to the Authority or the University or any affiliate of the Authority or the University.

## **Redemption**

The Bonds are subject to optional redemption by the Authority, at the direction of the University with the written consent of the Reimbursement Bank if required by the Reimbursement Agreement, as described below:

### Optional Redemption During Daily, Weekly or Commercial Paper Rate Period.

Bonds which bear interest at Daily, Weekly or Commercial Paper Rates are subject to optional redemption (with the written consent of the Reimbursement Bank) in whole or in part, and if in part in authorized denominations, on any Business Day with respect to Bonds bearing interest at Daily or Weekly Rates, and on any Interest Payment Date with respect to Bonds bearing interest at a Commercial Paper Rate, at a redemption price equal to 100% of the principal amount redeemed, plus interest accrued, if any, to the redemption date.

### Optional Redemption During Long-Term or Fixed Rate Period.

Bonds which bear interest at a Long-Term Rate are subject to optional redemption (with the written consent of the Reimbursement Bank) in whole or in part, and if in part in an amount evenly divisible by minimum authorized denominations, on the first Business Day after the end of each Long-Term Rate Period at a redemption price equal to 100% of the principal amount redeemed, plus interest accrued, if any, to the redemption date.

Bonds that bear interest at a Long-Term Rate or a Fixed Rate also are subject to optional redemption (subject to any applicable provisions of the Reimbursement Agreement) in whole or in part, and if in part in authorized denominations, on any Business Day after the No-Call Period shown below, at redemption prices equal to their principal amount plus a premium equal to the percentage of their principal amount shown in the Initial Premium column below, plus interest accrued, if any, to the redemption date; provided the premium shall decline every 12 months after the end of the No-Call Period as shown in the Reduction in Premium column below until the Bonds shall be redeemable without premium:

<u>Length of Long-Term Rate or Fixed Rate Period<sup>(1)</sup></u>	<u>No-Call Period<sup>(2)</sup></u>	<u>Initial Premium</u>	<u>Annual Reduction in Premium<sup>(3)</sup></u>
12 years or more	10 years	2.0%	1.0%
10 years up to 12 years	7 years	1.5%	0.5%
7 years up to 10 years	5 years	1.0%	0.5%
5 years up to 7 years	3 years	0.5%	0.5%
3 years up to 5 years	2 years	0.0%	N/A
2 years up to 3 years	1 year	0.0%	N/A
1 year up to 2 years	6 months	0.0%	N/A

- (1) Following the Fixed Rate Conversion Date for any Bond, measured to the latest Maturity Date of any Bond converted to a Fixed Rate on such Fixed Rate Conversion Date, and for any Bond in a Long-Term Rate Period the length of the Long-Term Rate Period then in effect, measured from the related Long-Term Rate Conversion Date.
- (2) The Bonds will not be redeemable during the No-Call Period shown above. The No-Call Period begins on the first day of the Long-Term Rate Period or the Fixed Rate Conversion Date, as the case may be.
- (3) After the end of the No-Call Period, the Bonds will be redeemable at their principal amount plus a premium equal to the percentage of their principal amount shown in the Initial Premium column plus interest accrued, if any, to the redemption date; provided, however, that the premium will decline every twelve months after the end of the No-Call Period as shown in the "Reduction in Premium" column until the Bonds are redeemable without premium.

Pursuant to the Indenture, under certain circumstances, the University may deliver an alternate optional redemption schedule for Bonds converted to a Long-Term Rate or a Fixed Rate.

Pursuant to the Reimbursement Agreement, the University covenants to take all steps required to effect annual optional redemptions of a portion of the Bonds pursuant to the terms of the Bonds according to the following schedule, with amounts described below being applied first to the Series Five-P2 Bonds until paid in full and then to the Series Five-P1 Bonds:

January 1		January 1		January 1	
<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2004	\$230,000	2012	\$395,000	2020	\$545,000
2005	\$295,000	2013	\$410,000	2021	\$570,000
2006	\$310,000	2014	\$430,000	2022	\$595,000
2007	\$320,000	2015	\$445,000	2023	\$615,000
2008	\$335,000	2016	\$465,000	2024	\$645,000
2009	\$350,000	2017	\$480,000	2025	\$670,000
2010	\$365,000	2018	\$500,000	2026	\$700,000
2011	\$380,000	2019	\$525,000	2027	\$725,000

with an amount on the final maturity date of April 1, 2027 of \$180,000

In addition to the amounts scheduled above, the University will take all steps and give all required notices to effect optional redemption of the Series Five-P1 Bonds as promptly as



possible after the end of each calendar quarter in an amount equal to the amount of money the University receives from donors to the University's Library Capital Campaign drive and designated for library construction, as soon as such amount exceeds the sum of \$100,000. The Reimbursement Bank may waive either or both of the schedule above and the commitment to apply such Library Capital Campaign money to redeem Bonds. The Reimbursement Bank and the University may also agree to modify either of these optional redemption requirements without notice to or the consent of the Trustee or the Bondowners.

#### Extraordinary Optional Redemption.

The Bonds of a Series are subject to optional redemption, in whole or in part on any Business Day, at a redemption price equal to 100% of the principal amount being redeemed, plus interest accrued, if any, to the redemption date, upon the occurrence of any of the following events:

- (1) all or a substantial portion of the Facilities is damaged or destroyed by fire or other casualty, or title to, or the temporary use of, all or a substantial portion of such Facilities are condemned or taken for any public or quasi-public use by any authority exercising the power of eminent domain or title thereto is found to be deficient, to such extent that in the determination of the University (A) the Facilities can not be reasonably restored or replaced to the condition thereof preceding such event, or (B) the University is thereby prevented from carrying on its normal operations of the Facilities, or (C) the cost of restoration or replacement thereof would exceed the net proceeds of any casualty insurance, title insurance or condemnation awards with respect thereto; provided, however, that any casualty insurance, title insurance or condemnation awards received applicable to the Series Five-P1 Project must be applied to the Series Five-P1 Bonds; or
- (2) as a result of any changes in the Constitution of the State of Minnesota or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final direction, judgment or order of any court or administrative body (whether state or federal) entered after the contest thereof by the University in good faith, the Indenture or the Loan Agreement becomes void or unenforceable or impossible of performance; or
- (3) the University is required or ordered, by legislative, judicial or administrative action of the United States or of the State of Minnesota, or any agency, department or subdivision thereof, to operate the Facilities in a manner inconsistent with the stated goals, purposes and policies of the University, including without limitation its goals, purposes and policies with respect to its primary operations, and such legislative, judicial or administrative action is applicable to the University because the University is a party to the Loan Agreement.

#### Mandatory Sinking Fund Redemption After Fixed Rate Conversion Date.

The Bonds of a Series that have been converted to a Fixed Rate, will be subject to mandatory redemption at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date, in accordance with any mandatory sinking fund requirements provided for upon the conversion of such Bonds to the Fixed Rate Period.

#### Notice of Redemption.

Unless waived by any owner of Bonds to be redeemed, the Trustee will mail, by first class mail, to the registered owners of all Bonds to be redeemed, at their addresses appearing on the bond

register, notice of redemption at least **15** days prior to the redemption date for Bonds accruing interest at Daily, Weekly and Commercial Paper Rates, and at least **30** days prior to the redemption date for Bonds bearing interest at Long-Term or Fixed Rates. Each notice of redemption will state, among other things, (a) the redemption date; (b) the date of issue, series designation and CUSIP numbers of Bonds to be redeemed; (c) the redemption price; (d) the principal amount of Bonds to be redeemed and, if less than all of a maturity of Bonds are to be redeemed, certificate numbers (and, in the case of partial redemption, the respective portions of the principal amounts) of Bonds to be redeemed; (e) that on the redemption date the redemption price shall become due and payable (but only from Eligible Moneys) on each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after such date (unless sufficient Eligible Moneys are not available to pay the redemption price); (f) the place where the Bonds to be redeemed are to be surrendered for payment, which shall be the principal corporate trust office of the Trustee; and (g) that such notice is conditional upon Eligible Moneys being on deposit with the Trustee in an amount sufficient to pay the redemption price. The failure of an owner of any Bond to receive notice by mailing, or any defect in that notice, will not affect the validity of the proceedings for the redemption of any Bonds.

In addition to the foregoing notice, further notice will be given by the Trustee to the Reimbursement Bank and the Credit Bank, if any, the Remarketing Agent and to certain registered securities depositories and information services as provided in the Indenture, but no defect in such further notice nor any failure to give all or any portion thereof will in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed in the Indenture and summarized above in the preceding paragraph.

So long as DTC is effecting book-entry transfers of the Bonds, the Trustee shall provide the notices specified above to DTC. It is expected that DTC will, in turn, notify the DTC Participants and that the DTC Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of DTC or a DTC Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Trustee, DTC, and a DTC Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

#### Selection of Bonds to be Redeemed: Partial Redemption.

If fewer than all Outstanding Bonds of a Series are to be redeemed and paid prior to maturity pursuant to optional redemption or extraordinary optional redemption provisions under the Indenture, such Bonds shall be redeemed from the maturity or maturities selected by the University, provided that Bank Bonds and University Bonds (in that order of priority) shall be redeemed before other Bonds of such Series are redeemed. If less than all Bonds of any maturity of a Series are to be redeemed, the particular Bonds to be redeemed shall be selected by the Trustee from the Bonds of such maturity which have not previously been called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions equal to minimum authorized denominations of the principal of Bonds of a denomination larger than such minimum authorized denominations. Any Bond which is to be redeemed only in part shall be surrendered at the place of payment therefor (with, if the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Trustee duly executed by the owner thereof or his attorney or legal representative duly authorized in writing) and the Authority shall execute and the Trustee shall authenticate and deliver to the owner of such Bond, without service charge, a new Bond or Bonds of the same maturity and Series of any authorized denomination or denominations as requested by such owner in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered. If the owner of any such Bond shall fail to present such Bond to the Trustee for payment and exchange as

aforesaid, said Bond shall, nevertheless, become due and payable on the redemption date to the extent of the unit or units of principal amount in minimum authorized denominations called for redemption (and to that extent only). In lieu of surrender, payment of the redemption price of a portion of any Bond may be made directly to the registered owner thereof without surrender thereof, if there shall have been filed with the Trustee a written agreement of such owner that payment shall be so made and that such owner will not sell, transfer or otherwise dispose of such Bond unless prior to delivery thereof such owner shall present such Bond to the Trustee for notation thereon of the portion of the principal thereof redeemed or shall surrender such Bond in exchange for a new Bond or Bonds for the unredeemed balance of the principal of the surrendered Bond.

## **Transfer and Exchange**

So long as the Bonds are available through the book-entry only system, transfers of the Bonds may be made as described below in "Book Entry System." At any other time, the Bonds may be transferred or exchanged for other Bonds of the same Series of any authorized denominations upon surrender of such Bonds at the principal corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or such owner's duly authorized attorney. A Bond may be transferred or exchanged without cost to the owner thereof, except for any tax or other governmental charge required to be paid with respect to the transfer or exchange. The Trustee will not be required to transfer or exchange any Bond previously selected for redemption during certain periods specified in the Indenture.

The person in whose name any Bond is registered will be deemed and regarded as the absolute owner thereof for all purposes (subject to the provisions of the Indenture relating to the Record Date), and payment of principal of and premium, if any, and interest thereon will be made only to or upon the order of the registered owner thereof or his or her legal representative. All such payments will be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

## **Book Entry System**

### General

Ownership interests in the Bonds will be available to purchasers only through a book-entry-only system (the "Book-Entry-Only System") maintained by The Depository Trust Company, ("DTC"), New York, New York, which will act as securities depository for the Bonds. Initially, the Bonds will be issued as one fully-registered Bond of each Series, registered in the name of Cede & Co. (DTC's partnership nominee), and will be deposited with DTC. The following discussion will not apply to any Bonds issued in certificate form due to the discontinuance of the DTC Book-Entry-Only System, as described below.

**So long as Cede & Co., as nominee of DTC, is the registered owner of the Bonds, the Beneficial Owners of the Bonds will not receive or have the right to receive physical delivery of the Bonds, and references herein to the Bondowners or registered owners of the Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners of the Bonds.**

### DTC and its Participants

DTC 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 securities that its participants (“Direct Participants”) deposit with DTC. DTC also facilitates the settlement among Direct Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Direct Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc.; the American Stock Exchange LLC; and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The Rules applicable to DTC and its Direct and Indirect Participants are on file with the Securities and Exchange Commission.

### Purchase of Ownership Interests

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each 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, but Beneficial Owners are 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 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

### Transfers

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 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.

### Notices

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

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

### Voting

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the Registrar as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

### Payments of Principal and Interest

Principal and interest payments on the 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 on the payable date in accordance with their respective holdings shown on DTC's records, unless DTC has reason to believe that it will not receive payment on the payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC (nor its nominee), the Registrar, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Registrar, disbursement of such payments to Direct Participants is the responsibility of DTC, and disbursement of such payments to the Beneficial Owners is the responsibility of Direct and Indirect Participants.

### Tender of Bonds for Purchase

A Beneficial Owner shall give notice to elect to have its Bonds purchased or redeemed, through its Participant, to the nominee holding the Bonds, and shall effect delivery of such Bonds by causing the Direct Participant to transfer the Participant's interest in the Bonds, on DTC's records, to the nominee holding the Bonds. The requirement for physical delivery of the Bonds in connection with a purchase or redemption will be deemed satisfied when the ownership rights in the Bonds are transferred by the Direct Participants on DTC's records and followed by a book-entry credit of purchased or redeemed Bonds to the nominee holding the Bonds.

### Discontinuation of Book Entry System

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

The Authority, at the University's direction, may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered.

The information in this section concerning DTC and DTC's book entry system has been obtained from DTC, which is solely responsible for such information. None of the Authority, the University, or the Underwriter takes any responsibility for the accuracy thereof.

**None of the Authority, the Underwriter, the Trustee, the Credit Bank or the University will have any responsibility or obligations to any Direct Participants or Indirect Participants**

or the persons for whom they act with respect to (i) the accuracy of any records maintained by DTC or any such Direct Participant or Indirect Participant, (ii) the payment by any Participant of any amount due to any Beneficial Owner in respect of the principal of, premium, if any, or interest on the Bonds; (iii) the delivery by any such Direct Participant or Indirect Participant of any notice to any Beneficial Owner that is required or permitted under the terms of the Indenture to be given to Bondowners; (iv) the selection of the Beneficial Owners to receive payment in the event of any partial redemption of the Bonds; or (v) any consent given or other action taken by DTC as Bondowner.

## **THE LETTER OF CREDIT AND THE REIMBURSEMENT AGREEMENT**

The following, in addition to the information provided elsewhere in this Official Statement, summarizes certain provisions of the Letter of Credit and the Reimbursement Agreement. Reference is hereby made to the Letter of Credit and the Reimbursement Agreement for the detailed terms and provisions thereof.

The Loan Agreement requires the University at all times to maintain with the Trustee a Letter of Credit for each series of Bonds (which may be the same Letter of Credit for both series) in an amount at least equal to the aggregate principal amount of Bonds of the series then outstanding, plus interest thereon, computed at the maximum rate of 12% per annum, for a period of 55 days. Provided, however, that upon conversion of a Series of Bonds to a Long-Term Rate Period or a Fixed Rate Period, the University shall not be required to maintain a Letter of Credit with respect to such Series of Bonds.

The University has contracted with the Reimbursement Bank, to have a Letter of Credit provided to secure payment on the Bonds. The Reimbursement Bank has in turn arranged with the Credit Bank to issue the Letter of Credit. The University and the Reimbursement Bank will enter into the Reimbursement Agreement, whereby the University will reimburse to the Reimbursement Bank when appropriate amounts paid under the Letter of Credit. The Reimbursement Bank will, in turn, reimburse the Credit Bank for amounts paid under the Letter of Credit.

### **The Credit Bank**

The Letter of Credit will be issued by U.S. Bank National Association (together with the issuer of any Alternate Letter of Credit, the "Credit Bank"). For information concerning the Credit Bank, see Appendix VI to this Official Statement. The information contained in Appendix VI was furnished by the Credit Bank which is solely responsible for such information.

THE ABILITY OF THE CREDIT BANK TO HONOR DRAWINGS ON THE LETTER OF CREDIT WILL BE BASED SOLELY ON THE CREDIT BANK'S GENERAL CREDIT. INFORMATION AS TO THE FINANCIAL CONDITION OF THE CREDIT BANK IS SET FORTH IN APPENDIX VI HERETO.

### **The Reimbursement Bank**

Bremer Bank, National Association will serve as the Reimbursement Bank ("Reimbursement Bank"). The Reimbursement Bank will cause the Credit Bank to issue its Letter of Credit to secure payment on the Bonds.

## **The Letter of Credit**

At the time of issuance of the Bonds, the Credit Bank will issue the Letter of Credit to the Trustee in an original stated amount of \$11,687,583.56 (the "Original Stated Amount"), comprised of the principal amount of the Bonds (the "Principal Amount") and 55 days of interest on the Principal Amount at 12% computed on the basis of a 365 day year (the "Interest Amount"). The Letter of Credit will expire on March 1, 2006, unless earlier terminated or extended and is subject to reduction as hereinafter described.

The Letter of Credit will provide funds for the payment of the principal and interest due on the Bonds at the scheduled interest payment dates, maturity dates, redemption dates or acceleration date thereof, and for the payment of the purchase price of Bonds tendered for purchase and for which sufficient proceeds of remarketing have not been received.

After payment by the Credit Bank of a drawing under the Letter of Credit (a) to pay principal of the bonds, the Principal Amount will be permanently reduced by the amount so paid and the Original Stated Amount will be permanently reduced by the amount so paid plus an amount equal to 55 days of interest (computed at the rate of 12% per annum) on the amount of such principal reduction, (b) to pay interest on the Bonds, the Original Stated Amount and the Interest Amount will be reduced by the amount so paid, provided that both amounts will be automatically increased in the full amount of such payment at the close of business on the 11<sup>th</sup> calendar day following such payment, unless on or before the close of business on the 10<sup>th</sup> calendar day after such payment the Trustee shall have received from the Credit Bank notice that the Credit Bank has not been reimbursed in full for the drawing or any other event of default under the Reimbursement Agreement has occurred and as a consequence thereof, the Interest Amount and the Original Stated Amount attributable to the interest drawing will not be reinstated, or (c) to pay the purchase price (in respect of principal and interest) on the Bonds being purchased, the Original Stated Amount will be reduced by the amount so paid and the Principal Amount and the Interest Amount will be reduced by the amount of such draw allocable to each, provided that such amounts so reduced will be increased upon receipt by the Trustee of notice from the Credit Bank.

The Letter of Credit will expire upon the earliest of (i) the Credit Bank's close of business on March 1, 2006, (ii) the date which is 15 days following the date upon which all Bonds are converted to a Long-Term Rate or a Fixed Rate, or (iii) the date which is 15 days following receipt by the Credit Bank from the Trustee stating that (a) no Bonds remain outstanding within the meaning of the Indenture and all drawings required to be made under the Indenture and available under the Letter of Credit have been made and honored, or (b) an effective Alternate Letter of Credit has been issued to replace the Letter of Credit in accordance with the Indenture and the Reimbursement Agreement, or (iv) the date which is 15 days after the Trustee's receipt of notice from the Credit Bank specifying the occurrence and continuation of an event of default and directing the Trustee to cause a mandatory tender of the Bonds, or (v) when the Trustee has drawn and the Credit Bank has paid to the Trustee the Stated Amount of the Letter of Credit, or (vi) March 1, 2013.

Prior to its expiration, the Letter of Credit may be extended as provided therein or replaced with an Alternate Letter of Credit securing both series of Bonds or with a separate Alternate Letter of Credit for each series of Bonds in accordance with the provisions of the Indenture. Expiration or termination of the Letter of Credit, substitution of an Alternate Letter of Credit for the then existing Letter of Credit, a default under the Reimbursement Agreement or the Credit Bank's refusal to automatically reinstate the interest portion of the Letter of Credit following a drawing upon the Letter of Credit to pay interest on the Bonds, will result in a mandatory tender of the Bonds pursuant to the Indenture. See "THE BONDS – Mandatory Tender" herein and "SUMMARY OF DOCUMENTS – The Indenture – Alternate Letter of Credit" in Appendix IV.

## **The Reimbursement Agreement**

The Reimbursement Agreement, among other things, requires the Reimbursement Bank to cause the Credit Bank to issue the Letter of Credit to the Trustee and requires the University to reimburse the Reimbursement Bank for draws paid by the Credit Bank under the Letter of Credit. Payments to the Trustee by the University under the Loan Agreement will be applied by the Trustee pursuant to the Indenture to reimburse the Reimbursement Bank for draws paid under the Letter of Credit.

The Reimbursement Agreement includes certain covenants of, and restrictions on, the University, including, without limitation, the University's agreement to provide financial statements and other information to the Reimbursement Bank, the University's agreement to maintain its corporate existence and comply with certain laws, and certain financial covenants and other covenants. Such covenants and restrictions are solely for the benefit of the Reimbursement Bank and may be waived by the Reimbursement Bank or amended by the Reimbursement Bank and the University, without the consent of the Trustee, the Issuer, the Credit Bank or the Bondowners. The Bondowners will have no rights or obligations as a result of any such covenants or any amendments or waivers thereof.

Upon delivery of the Bonds, the University will grant to the Reimbursement Bank a Mortgage (the "Mortgage") which includes a security agreement, fixture financing statement and assignment of leases and rents on certain University property to secure the reimbursement obligations of the University under the Reimbursement Agreement. The mortgage does not secure the Bonds.

The Reimbursement Agreement requires the University to make optional redemptions of Bonds according to a predetermined schedule and by applying capital campaign fund moneys. See: "THE BONDS - Redemption of the Bonds - Optional Redemption" herein for details regarding the process for such redemption. The Reimbursement Bank may waive either or both optional redemption schedules and the commitment to apply capital campaign fund money to redeem Bonds. The Reimbursement Bank and the University may also agree to modify either of these optional redemption requirements without notice to or the consent of the Trustee or the Bondowners.

Each of the following events constitutes an "Event of Default" under the Reimbursement Agreement:

- a) the University shall fail to pay, when due, any amounts required to be paid by the University under the Reimbursement Agreement and other agreements between the University and the Reimbursement Bank (the "Credit Documents") or any other indebtedness of the University to the Reimbursement Bank or any third party, whether any such indebtedness is now existing or hereafter arises and whether direct or indirect, due or to become due, absolute or contingent, primary or secondary or joint or joint and several;
- b) the University shall fail to observe or perform any of the covenants, conditions or agreements to be observed or performed by it under the Credit Documents, the Loan Agreement, the Indenture, or any credit or security agreement between the University and the Reimbursement Bank for a period of ten (10) days after written notice, specifying such default and requesting that it be remedied, given to such party by the Reimbursement Bank;
- c) the University shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to any present or future state or federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent, or shall make a general assignment for the benefit of its creditors, or shall be unable to pay its debts generally as they become due; or if a petition or answer proposing the



adjudication of the University as a bankrupt or its reorganization under any present or future state or federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within sixty (60) days after the filing thereof; or if a receiver, trustee or liquidator of the University or of all or substantially all of the assets of the University or of the campus or the water services property shall be appointed in any proceeding brought against the University and shall not be discharged within sixty (60) days of such appointment; or if the University shall consent to or acquiesce in such appointment; or if any property of the University (including, without limitation, the estate or interest of the University in the campus or the water services project or any part thereof) shall be levied upon or attached in any proceeding;

- d) final judgment(s) for the payment of money in excess of \$100,000, shall be rendered against the University and shall remain undischarged for a period of thirty (30) days during which execution shall not be effectively stayed;
- e) the University shall be or become insolvent (whether in the equity or bankruptcy sense);
- f) any representation or warranty made by the University in the Credit Documents, the Loan Agreement, the Indenture, or any document related thereto shall prove to be untrue or misleading in any material respect, or any statement, certificate or report furnished hereunder or under any of the foregoing documents by or on behalf of the University shall prove to be untrue or misleading in any material respect on the date when the facts set forth and recited therein are stated or certified;
- g) the campus is condemned, destroyed or damaged to any material extent and the same is not covered by insurance;
- h) at the time any disbursement of Bond proceeds for construction of the library (an "Advance") is requested by the University hereunder the title to the campus is not reasonably satisfactory to the Reimbursement Bank, regardless of whether the lien, encumbrance or other question existed at the time of any prior Advance, unless such lien, or encumbrance has been consented to in writing by the Reimbursement Bank;
- i) the construction and installation of the library is abandoned or shall be unreasonably delayed or be discontinued for a period of twenty (20) consecutive calendar days following written notice to the University by the Reimbursement Bank, in each instance for reasons other than acts of God, fire, storm, strikes, blackouts, labor difficulties, riots, inability to obtain materials, equipment or labor, governmental restrictions or any similar cause over which the University is unable to exercise control;
- j) the University at any time prior to the completion and installation of the library shall (i) abandon the same, or (ii) delay construction or suffer construction to be delayed for any period of time, so that the completion of the construction and installation of the library cannot be accomplished, in the reasonable judgment of the Reimbursement Bank, by January 1, 2004;
- k) the Reimbursement Bank shall, under the provisions of the Reimbursement Agreement, determine in good faith that additional sums need to be deposited with the Reimbursement Bank in order to complete the library and the University shall fail to deposit such sums as required by the Reimbursement Agreement;
- l) the conditions precedent to the first Advance as set forth in the Reimbursement Agreement shall not have been satisfied on or before thirty (30) days from the date of the Reimbursement Agreement; or
- m) the Reimbursement Bank has not received evidence within one year from the date hereof, that certain environmental remediation has been completed as set forth in the Reimbursement Agreement.

Upon the occurrence of any Event of Default or at any time thereafter, the Reimbursement Bank may exercise any one or more of the following rights and remedies in addition to any other rights and remedies available to it:

- a) without notice to the University, refrain from approving Advances until such Event of Default is cured (but the Reimbursement Bank may approve Advances after the occurrence of an Event of Default without thereby waiving its rights and remedies);
- b) instruct the Trustee to accelerate the Bonds and submit a draft under the Letter of Credit pursuant to the Indenture;
- c) by written notice to the University, declare all indebtedness of every type or description owed by the University to the Reimbursement Bank to be immediately due and payable and the same shall thereupon be immediately due and payable;
- d) enforce its rights and remedies under the documents related to the Reimbursement Agreement, including, without limitation, the Credit Documents;
- e) enter upon the campus and proceed either in its own name or in the name of the University (which authority is coupled with an interest and is irrevocable by the University) to complete or cause to be completed the Project, at the cost and expense of the University;
- f) make demand upon the University and forthwith upon such demand the University will pay to the Reimbursement Bank in immediately available funds for deposit in a special cash collateral account maintained with the Reimbursement Bank an amount equal to the maximum amount then available to be drawn under the Letter of Credit (assuming compliance with all conditions for drawing thereunder).

See “RISK FACTORS” and “THE BONDS – Mandatory Tender” herein and “SUMMARY OF DOCUMENTS – The Indenture” in Appendix IV.

## **USE OF PROCEEDS**

### **The Project**

The Series Five-P1 Bond proceeds, along with available University funds, will be used to:

- (1) acquire, construct, expand, improve, renovate, furnish and equip certain educational facilities, including an approximately 45,000 square foot library and information technology center;
- (2) acquire approximately 4.73 acres of real property and the improvements thereon adjacent to the University's campus in Saint Paul, Minnesota and currently owned by St. Paul Regional Water Services;
- (3) make other improvements and additions to the educational and related facilities of the University including capital improvements, repairs and maintenance constituting capital expenditures, equipment and environmental remediation; and
- (4) pay certain issuance costs.

The Series Five-P2 Bond proceeds, along with available University funds, will be used to:

- (1) refinance eleven (11) prior loans used to construct, acquire, renovate, repair and equip other improvements to the University's campus in Saint Paul, Minnesota, and
- (2) pay certain issuance costs.

**ESTIMATED SOURCES AND USES OF FUNDS**

The proceeds of Bonds will be used to finance the construction portions of the Project and to pay issuance costs. Estimated sources and uses of funds, allocated between the Bonds and the Series Five-N1 Bonds, are as follows:

<u>Sources of Funds</u>	<u>Series Five-P1</u>	<u>Series Five-P2</u>	<u>Total</u>
Bond Proceeds	\$ 4,250,000	\$ 7,230,000	\$ 11,480,000
University Funds	<u>15,000</u>	<u>                    </u>	<u>15,000</u>
Total Sources:	\$ 4,265,000	\$ 7,230,000	\$ 11,495,000
 <u>Uses of Funds</u>			
Deposit to Project Fund	\$ 4,130,500	\$ 7,000,000	\$ 11,130,500
Letter of Credit Fee Paid at Closing	3,000	5,500	8,500
Letter of Credit Related Fees and Expenses	31,500	53,500	85,000
Underwriter's Discount	22,500	38,000	60,500
Costs of Issuance*	<u>77,500</u>	<u>133,000</u>	<u>210,500</u>
Total Uses:	\$ 4,265,000	\$ 7,230,000	\$ 11,495,000

\* Includes costs of issuance and Letter of Credit legal fees

In the event Bond issuance costs, including Underwriter's discount, exceed 2% of the Series Five-P1 Bond proceeds, defined as par less original issue discount, such excess shall be paid by the University from other than Series Five-P1 Bond proceeds.

**SOURCE OF PAYMENT FOR THE BONDS**

**General**

The Bonds will be special obligations of the Authority payable solely from Loan Payments made by or on behalf of the University as required by the Loan Agreement or out of other amounts pledged therefor under the Indenture including, during the Variable Rate Period, drawings under the Letter of Credit.

The Bonds are secured by the pledge of the Loan Payments, which are a general obligation of the University. The University will agree pursuant to the terms of the Loan Agreement to make such payments absolutely and unconditionally, irrespective of any defense or any rights of setoff.

While the Bonds bear interest at a Variable Rate, the Bonds will be secured by draws under the Letter of Credit or Alternate Letter of Credit, as discussed under "THE LETTER OF CREDIT AND THE REIMBURSEMENT AGREEMENT."

**The Bonds shall not be legal or moral obligations of the State of Minnesota, nor shall they constitute a debt for which the faith and credit of the Authority or the State of Minnesota, or the taxing powers of the State, are pledged. The Authority has no taxing powers.**

The Bonds will not be secured by the General Bond Reserve of the Authority (see “ACCOUNTS – General Bond Reserve Account”).

## **ACCOUNTS**

The Indenture will provide for the creation of certain trust accounts into which the proceeds of the sale of the Bonds and revenues received as Loan Payments under the Loan Agreement and moneys from draws under the Letter of Credit are to be deposited. For a discussion of provisions relating to these accounts see Appendix IV, “SUMMARY OF DOCUMENTS – The Indenture – Creation of Funds and Accounts”.

### **General Bond Reserve Account**

Pursuant to its General Bond Resolution adopted October 31, 1972, the Authority has established and maintains a General Bond Reserve Account. In general, the General Bond Reserve Account secures certain bonds of the Authority for which a deposit is made into the General Bond Reserve Account in compliance with the General Bond Resolution. In connection with the Bonds, the Authority will not require that the University deposit funds into the General Bond Reserve Account. **The Bonds will not be secured by the General Bond Reserve Account, and Bondholders will have no right to require the Authority to apply moneys or investments in the General Bond Reserve Account to the payment of the Bonds or interest thereon.**

## **FUTURE FINANCING**

The University regularly improves and expands its physical plant and incurs long-term financing as needed for those purposes. The University does not anticipate financing any such projects with debt within the next twelve months.

## **THE AUTHORITY**

The Minnesota Higher Education Facilities Authority was created by Chapter 868, Laws of Minnesota, 1971 (Sections 136A.25 through 136A.42, Minnesota Statutes), for the purpose of assisting institutions of higher education within the State in the construction and financing of projects. The Authority consists of eight members appointed by the Governor with the advice and consent of the Senate. A representative of the Minnesota Higher Education Services Office and the President of the Minnesota Private College Council, who is a non-voting member, are also members of the Authority.

Marianne T. Remedios has been the Executive Director of the Authority since May 1, 2000. Ms. Remedios was the partner in charge of bond counsel services to the Authority at Faegre &

Benson LLP, Minneapolis, Minnesota from 1991 to 2000. She was an associate and partner at Faegre & Benson LLP for almost 20 years.

Elaine J. Yungerberg has been Assistant Executive Director of the Authority since 1993.

The Authority is authorized and empowered to issue revenue bonds whose aggregate outstanding principal amount at any time shall not exceed \$650 million. The Authority has had 133 issues (including refunded and retired issues) totaling \$943,278,307, of which \$538,299,593 is outstanding as of March 1, 2003. Bonds issued by the Authority are payable only from the loan repayments, rentals, and other revenues and moneys pledged for their payment. The bonds of the Authority do not represent or constitute a debt or pledge of the faith or credit or moral obligation of the State.

Educational institutions eligible for assistance by the Authority are generally private nonprofit educational institutions authorized to provide a program of education beyond the high school level. Under current statutory authority, public community and technical colleges in the State are also eligible for assistance, but only in financing of child-care and parking facilities. In addition, pursuant to special legislation, the Authority has twice issued bonds on behalf of a public community college for housing purposes. Sectarian institutions are not eligible for assistance; however, the fact that an institution is sponsored by a religious denomination does not of itself make the institution sectarian. Application to the Authority is voluntary.

The scope of projects for which the Authority may issue bonds is broad, including buildings or facilities for use as student housing, academic buildings, parking facilities, day-care centers, and other structures or facilities required or useful for the instruction of students, or conducting of research, in the operation of an institution of higher education.

While the Authority retains broad powers to oversee planning and construction, it is current policy to permit the institution almost complete discretion with respect to these matters.

The Authority is also authorized to issue revenue bonds for the purpose of refunding bonds of the Authority then outstanding, including payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption.

The operations of the Authority are financed solely from fees paid by the participating institutions; it has no taxing power.

Bond issuance costs, including fees of bond counsel, the financial advisor and trustee, are paid by the participating institution.

## **FINANCIAL ADVISOR**

The Authority has retained Springsted Incorporated, Advisors to the Public Sector, of Saint Paul, Minnesota, as financial advisor (the "Financial Advisor") in connection with the issuance of the Bonds. In preparing the Official Statement, the Financial Advisor has relied upon University officials and other sources who have access to relevant data to provide accurate information for the Official Statement, and the Financial Advisor has not been engaged, nor has it undertaken, to independently verify the accuracy of such information. The Financial Advisor is not a public accounting firm and has not been engaged by the Authority to compile, review, examine or audit any information in the Official Statement in accordance with accounting standards. The Financial Advisor is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities and therefore will not participate in the underwriting of the Bonds.

## **UNDERWRITING**

The Bonds are being purchased by Stern Brothers & Co. as Underwriter. The Underwriter has agreed to purchase the Bonds at a purchase price of \$11,419,730 (which takes into account an Underwriter's discount of \$60,270).

The Underwriter intends to offer the Bonds to the public initially at the offering price set forth on the front cover of this Official Statement, which may subsequently change without any requirement of prior notice. The Underwriter reserves the right to join with dealers and other underwriters in offering the Bonds to the public. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) at prices lower than the public offering prices.

The University has agreed in the Bond Purchase Agreement to indemnify the Underwriter and the Authority against certain civil liabilities, including certain potential liabilities under federal securities laws.

## **RATING**

Moody's Investors Service ("Moody's") has assigned its municipal bond ratings to the Bonds as shown on the cover hereof. Such ratings reflect only the views of such organization at the time such ratings are given, and the Authority, the Underwriter, the Credit Bank and the University make no representation as to the appropriateness of such ratings. An explanation of the significance of such ratings may be obtained only from such rating agency. The University and the Credit Bank have furnished such rating agency with certain materials relating to the Bonds, the University and the Credit Bank that have not been included in this Official Statement. Generally, rating agencies base their ratings on the information and materials so furnished and on investigations, studies and assumptions by the rating agencies. The ratings are not a recommendation to buy, sell or hold the Bonds and there is no assurance that the ratings will be maintained for any given period of time or that they will not be lowered or withdrawn entirely if, in the judgment of the agency originally establishing such rating, circumstances so warrant. None of the Authority, the Underwriter, the University, or the Credit Bank have undertaken any responsibility to bring to the attention of the holders of the Bonds any proposed revision or withdrawal of the ratings of the Bonds or to oppose any such proposed revision or withdrawal. Any such revision or withdrawal of such ratings could have an adverse effect on the market price and marketability of the Bonds.

## **LITIGATION**

The Authority and the University are unaware of any pending or overtly threatened in writing litigation which would affect the validity of or the tax-exempt nature of the interest on the Bonds, the authority of either party to enter into the Bond-related documents or the ability of either party to perform as described therein, or the ability of the University to pay the principal of or interest on the Bonds as the same become due.

## **LEGALITY**

The delivery of the Series Five-P1 Bonds will be subject to the receipt of an opinion as to validity and tax exemption and the delivery of the Series Five-P2 will be subject to the receipt of an opinion as to validity, in both cases by Briggs and Morgan, Professional Association, Minneapolis and Saint Paul, Minnesota, as Bond Counsel. Legal opinions in substantially the form set out in Appendix II herein will be delivered at closing for the Bonds.

Certain legal matters will be passed upon for the University by Pranschke & Holderle, L.C., St. Louis, Missouri; for the Credit Bank by its internal counsel; for the Reimbursement Bank by Winthrop & Weinstine, P.A., Minneapolis, Minnesota; and for the Underwriter by Gilmore & Bell, P.C., Kansas City, Missouri.

## **TAX EXEMPTION**

The Internal Revenue Code of 1986, as amended (the "Code"), establishes certain requirements that must be met upon or subsequent to the issuance and delivery of the Series Five-P1 Bonds in order that interest on the Series Five-P1 Bonds be and remain excludable from gross income under Section 103 of the Code. Subsequent requirements include, but are not limited to, (1) provisions relating to the expenditure of Series Five-P1 Bond proceeds, (2) provisions which prescribe yield and other limits relative to the investment of the proceeds of the Series Five-P1 Bonds and other amounts, (3) provisions which require that certain investment earnings be rebated periodically to the Federal government and (4) provisions relating to the ownership and operation of the facilities financed by the Series Five-P1 Bonds. Noncompliance with such requirements may cause interest on the Series Five-P1 Bonds to become includable in gross income for purposes of Federal and State income taxation retroactive to their date of original issue, irrespective in some cases of the date on which such noncompliance is ascertained.

The Loan Agreement, the Indenture and the Tax Compliance Certificate contain representations and covenants (the "Tax Covenants") including covenants of the Authority and the University, satisfaction of such requirements upon which Bond Counsel will rely in rendering its opinion.

On the date of issuance of the Series Five-P1 Bonds, Briggs and Morgan, Professional Association, Bond Counsel, will render an opinion, that under existing statutes, regulations, rulings and court decisions, interest on the Five-P1 Bonds will be excluded from gross income for federal income tax purposes and is excluded to the same extent from both gross income and taxable net income for purposes of Minnesota income tax purposes, but is subject to Minnesota franchise taxes measured by income and imposed on corporations and financial institutions. Interest on the Series Five-P1 Bonds will not be a preference item for purposes of computing the federal alternative minimum tax imposed on individuals and corporations or State of Minnesota alternative minimum tax imposed on individuals, estates or trusts. However, interest on the Series Five-P1 Bonds is taken into account in determining adjusted current earnings for the purposes of computing the federal alternative minimum tax on corporations.

Ownership of the Series Five-P1 Bonds may result in collateral federal income tax consequences to certain taxpayers, including without limitation, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers, including banks, thrift institutions and other financial institutions subject to Section 265 of the Code, who may be deemed to have incurred or continued indebtedness to purchase or to carry the Series Five-P1 Bonds. In addition, interest on the Series Five-P1 Bonds is included in effectively connected earnings and profits for purposes of computing the branch

profits tax on certain foreign corporations doing business in the United States. Further, interest on the Series Five-P1 Bonds may be subject to federal income taxation under Section 1375 of the Code, for S corporations which have Subchapter C earnings and profits at the close of the taxable year if more than twenty-five percent (25%) of the gross receipts of such S corporations is passive investment income. Bond Counsel expresses no opinion as to any of such consequences, and prospective purchasers of the Series Five-P1 Bonds who may be subject to such collateral consequences should consult their tax advisors.

In rendering its opinion with respect to the Series Five-P1 Bonds, Bond Counsel has assumed compliance by the Authority and the University with their covenants and representations that are intended to comply with the provisions of the Code relating to actions to be taken in respect of the Series Five-P1 Bonds after the issuance thereof to the extent necessary to effect or maintain the exclusion of interest on the Series Five-P1 Bonds from federal gross income. Such covenants, representations and requirements relate to, inter alia, the use of and investment of proceeds of the Series Five-P1 Bonds and the rebate to the United States Treasury of specified arbitrage earnings, if any. Failure to comply with such covenants, representations or requirements could result in the interest on the Series Five-P1 Bonds becoming includable in gross income for federal income tax purposes from the date of issuance of the Series Five-P1 Bonds.

It is important to note that interest on the Series Five-P2 Bonds will be included in gross income for federal income tax purposes and in both gross income and taxable net income for State of Minnesota income tax purposes.

See Appendix II to this Official Statement for the proposed forms of legal opinions of Bond Counsel.

### **NOT QUALIFIED TAX-EXEMPT OBLIGATIONS**

The Bonds will not be “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

### **FINANCIAL INFORMATION**

The audited financial statements of the University as of and for the fiscal years ended June 30, 2002 and 2001 are included as Appendix V to this Official Statement.

### **MISCELLANEOUS**

The references herein to the Bonds, the Act, the Indenture, the Loan Agreement, the Letter of Credit and the Reimbursement Agreement are brief outlines of certain provisions thereof and do not purport to be complete. Reference is made to the Act and such documents for full and complete statements of the provisions thereof. Copies of such documents are on file at the office of the Underwriter and following delivery of the Bonds will be on file at the office of the Trustee.

The agreements of the Authority with the owners of the Bonds are fully set forth in the Indenture, and neither any advertisement of the Bonds nor this Official Statement is to be construed as constituting an agreement with the purchasers of the Bonds. Statements made in



this Official Statement involving estimates, projections or matters of opinion, whether or not expressly so stated, are intended merely as such and not as representations of fact.

The Cover Page hereof and the Appendices hereto are integral parts of this Official Statement and must be read together with all of the foregoing statements.

The University has supplied and reviewed the information contained herein which relates to the property and operations of the University and has approved all such information for use within this Official Statement.

The execution, delivery and distribution of this Official Statement has been duly authorized and approved by the University. The Authority has authorized the distribution of this Official Statement. The Authority has not, however, prepared or made any independent investigation of the information herein, other than as to the accuracy of the information contained under the heading "THE AUTHORITY," "FINANCIAL ADVISOR," and "LITIGATION," but only to the extent it relates to the Authority.

CONCORDIA UNIVERSITY

By: /s/ Thomas Ries  
Vice President Finance and Operations

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## THE UNIVERSITY

### General

Concordia University, St. Paul (the “University”) is a non-profit corporation incorporated in 1893 under the laws of the State of Minnesota (the “State”), and is a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, exempt from federal income taxation under Section 501(a) of the Code. The University is located on an approximately 37-acre campus in Saint Paul, Minnesota and has a current enrollment of approximately 935 traditional undergraduate, 742 adult degree completion and 244 graduate students for a total enrollment of 1,921 students.

In spring 1893, a group of Minnesota delegates to the Lutheran Church -- Missouri Synod synodical convention in St. Louis, Missouri, recommended that a college be founded in Minnesota to provide professional preparation for both church and lay leaders in the region. On September 13, 1893, Concordia College opened at its present location in Saint Paul with an enrollment of 30 young men in its two-year program. In 1905, the synodical Convention agreed to permit Concordia to offer six-years of study: four in secondary education and two in post-secondary education. To accommodate the need for teachers in parish schools in the Synod, the institution became coeducational in 1953. Other milestones in the school’s history include becoming a four-year senior college in 1962, launching the state’s first-degree completion program for adults in 1985 and changing its name to Concordia University in 1997.

The University is one of ten Concordia colleges and universities located throughout the United States that comprise the Concordia University System. The University has no shareholders and no capital stock.

### The Lutheran Church – Missouri Synod

Founded in 1847, The Lutheran Church — Missouri Synod (the “Synod”), a national religious denomination, presently consists of approximately 6,200 member congregations, which have joined together to carry out their commonly adopted objectives. The Synod functions through a number of separately incorporated synodical corporations to support the member congregations in their local ministries. On behalf of the member congregations, the Synod also administers those ministries that can be accomplished more effectively through cooperation with other member congregations. As part of this cooperative system, the Synod is authorized by its constitution and bylaws to support synodical colleges, universities and seminaries, including the ten Concordia Colleges. The members of the University’s Board of Regents are elected by the Synod, the Minnesota South District of The Lutheran Church -- Missouri Synod (“Minnesota South District”) and by its own members.

### Concordia University System

The Concordia University System (“CUS”) is one of five corporations through which the Synod functions. CUS establishes broad operating and financial policies for all of the Synod’s colleges and universities. CUS also makes an operating line of credit available to the University to support current operations.

### Board of Regents

The University is managed by a 13-member Board of Regents (the “Board”), which meets a minimum of three times each year. Five of the 13 members are elected by the Synod in convention and must include one ordained minister, one commissioned minister and three

laypersons. Three of the 13 members are elected by the Minnesota South District, and must include one ordained minister, one commissioned minister and one layperson. The Board itself elects four laypersons. The final position on the Board is reserved for the Minnesota South District president. Each member of the Board of Regents must hold membership in a member congregation of the Synod. No more than two of the elected members of the Board may be from the same congregation.

The five Board members that are elected by the Synod and the three Board members that are elected by the District, are elected for three-year terms, and may serve a maximum of two consecutive, three-year terms. The four members that are elected by the Board itself, are elected for staggered three-year terms, and may serve a maximum of three consecutive, three-year terms.

The Board elects the officers of the Board of Regents for a one-year term. The members of the Board serve in a voluntary capacity and receive no remuneration for service rendered in such capacity. As of the date hereof, the members of the University's Board of Regents are as follows:

<u>Regent</u>	<u>Occupation</u>
Dr. Loma Meyer, Chair	Retired professor, Concordia University
Mr. Gary Reinke, Vice-Chair	Retired plant manager, University of North Dakota
Rev. Dr. Byron Northwick, Secretary	Pastor, Immanuel Lutheran Church, St. Ansgar, IA
Mr. Dennis Bauer	Vice President for Operations, St. Paul Postal Employees Credit Union
Dr. Monica Eden-Frahm	Professor, University of Minnesota
Mr. Harold Frerich	Director of Christian Education, St. Paul Lutheran Church, Napoleon, OH
Mrs. Darlene Johnson	Volunteer
Mrs. Lyla Hirsch	Retired teacher/college professor
Rev. Roger Klemz	Retired pastor
Mr. Darold Krenz	Farmer
Mr. Roger Roberts	Retired businessman
Rev. Dr. Lane Seitz	President, Minnesota South District, The Lutheran Church-Missouri Synod
Mrs. Alicia Winget	Business owner/Philanthropist

### **Administration**

The University's Board of Regents has delegated authority for the management and daily operations of the University to the president and the administrative staff. The president and the principal members of the executive management staff with selected biographical information are as follows:

*President.* Rev. Dr. Robert Holst joined the University in 1991 as its eighth president. Prior to his call to the University, he held faculty positions at Christ College-Irvine, Calif.; Concordia Senior College, Fort Wayne, Indiana; Purdue University, Fort Wayne campus; the University of

California Irvine; and the seminaries of the Lutheran Church -- Missouri Synod at Fort Wayne and St. Louis. He also served 10 years as assistant pastor at Trinity Lutheran Church, Santa Ana, Calif. Dr. Holst received his bachelor's degree from the University and his master's of divinity and master's of sacred theology degrees from Concordia Seminary, St. Louis, Mo. He received his Ph.D. from Princeton Theological Seminary.

*Executive Vice President and Dean of Diversity.* Dr. Cheryl Chatman joined the University in 2000 as the Dean of Diversity and was promoted to Executive Vice President and Dean of Diversity in 2001. Prior to joining the University, Dr. Chatman worked for the Evangelical Lutheran Church in America as assistant director for Colleges and Universities. Prior to that, she was associate director of the Martin Luther King Program at the University of Minnesota. She has also held academic posts at the University of North Carolina at Greensboro and Winston-Salem State University. Chatman received her B.S. in Psychology from Bethune-Cookman College in Fla. and her M.S. in Child Development from Iowa State University. Dr. Chatman also holds a Doctor of Education degree in Educational Administration from the University of North Carolina at Greensboro.

*Vice President of Academic Affairs.* Dr. Carl Schoenbeck joined the University faculty in 1981 and was promoted to Vice President of Academic Affairs in 1995. Prior to joining the University, Dr. Schoenbeck was a principal and teacher at King of Kings Lutheran School in Roseville, Minn. Dr. Schoenbeck earned his B.A. in Elementary Education and M.A. in Curriculum and Instruction from Concordia Teachers College, River Forest, Ill. He holds a Ph.D. in Educational Administration from the University of Minnesota.

*Vice President of Finance and Operations.* Mr. Thomas Ries joined the University in 1999 as the Vice President of Finance and Operations. Prior to joining the University, he was a senior associate at Howard Schultz & Associates. Previously, he was senior pastor at Messiah Lutheran Church in Lakeville, Minn. and Vice President for College Services at the University. Ries received his bachelor's degree from Concordia Senior College in Fort Wayne, Ind., and a M.B.A. from the Carlson School of Management at the University of Minnesota. He also holds a MDiv from Concordia Seminary in St. Louis, Mo.

*Vice President of Student Affairs.* Dr. Edith Jones joined the University in 2001 as the Vice President of Student Affairs. Prior to joining the University, Dr. Jones was Dean of Ellsworth Community College in Iowa Falls, Iowa. Previously, she was Dean of Instruction at Dodge City Community College, Dodge City, Kansas, and held a faculty position at Garden City Community College, Garden City, Kansas. Dr. Jones earned her B.S. degree, two master's degrees and an Ed.D. from Kansas State University. In addition, she received administrative certification in 1996 by the Iowa State Department of Education.

*Vice President of Special Gifts.* Mr. Michael Flynn has served as Vice President of Special Gifts since 2000. Prior to that, he was Vice President for University Advancement at the University. Mr. Flynn has held numerous other positions at the university, including Vice President for College Development, Director of Financial Aid and Admissions Counselor. Mr. Flynn holds a B.A. in Education from Concordia College, Saint Paul.

*Vice President of University Advancement.* Dr. Douglas Hartford joined the University in 2000 as Vice President of University Advancement. Dr. Hartford is the former Vice President for Public Affairs at Metropolitan State University in Saint Paul, Minnesota. Previously, he was the

Vice Chancellor for External Affairs at Indiana University in South Bend, and Director of Planned Giving at the University of California, Davis. Earlier, he served in various university/alumni relations positions at the University of Southern Colorado. Dr. Hartford received his B.S. in Chemistry from St. Lawrence University and his M.S. degree from Syracuse University. He earned his Ph.D. in Educational Administration from the University of Northern Colorado.

*Vice President of Information Technology.* Dr. Eric E. LaMott joined the University in 1997 and has been Vice President of Information Technology since 2000. His experience includes 10 years in teaching, consulting, and information management. Dr. LaMott holds a B.S. degree in Psychology and M.S. degree in Exercise and Sport Studies from Boise State University in Boise, ID, and a doctorate degree in Education with a minor in Educational Psychology from the University of Minnesota.

## **Facilities**

The University's campus is located on approximately 37 acres in the Midway district of Saint Paul, Minnesota. The campus includes residence halls, classrooms, science and music building, theatre arts center, library, chapel, cafeteria, gymnasium and health and fitness center, student union, administrative and faculty offices.

The University's library contains a collection of approximately 70,000 volumes, 2,500 audiotapes and 1,100 videotapes, as well as audio-visual equipment. The University also has one interactive video teleconferencing classroom. World Wide Web resources available to students both on and off campus include InfoTrac Web, an index of 2,000 journals, with access to full text in over 1,000 titles, JSTOR, providing over 150 full-run, full-text journals and Lexis-Nexis, which provides full-text articles in business, medicine and law. All campus residence hall rooms and classrooms have high-speed Internet connections for access to the University's library catalog on the World Wide Web and the full range of Internet learning resources. A consortium of six nearby libraries augments the University's collection: the University of St. Thomas, College of St. Catherine, Hamline University, Macalester University, Northwestern College, and Bethel College. This consortium provides access to an additional 1.5 million volumes.

## **The Project**

Library and Information Technology Center (approximately 45,000 square feet).

This project will provide a new library and Information Technology Center located between the existing library and theater buildings. This facility will provide for expanded library and learning resources. Additionally, this project will provide interior connection between the main campus building complex and the theater building. The lower two levels will accommodate the above activities and a third floor (approximately 9,000 square feet) will remain unfinished for future campus use.

Proceeds of the Bonds, together with other funds of the University, will be used to finance and reimburse the costs of the project, which is a \$7,500,000 construction program.

## Saint Paul Regional Water Services Property Acquisition

This project will add to the University's campus a 4.73-acre property, located adjacent to the campus and currently owned by the Saint Paul Regional Water Services. The property includes an office building, warehouse, garages and paved parking area, as well as a cellular telephone tower that provides income under lease to the owner of the property. The University has contracted to purchase the property. Under the terms of the purchase, the university will acquire the property on the day following the closing on the Bonds and will lease it back to the Saint Paul Regional Water Services until 2005, at which time the University would physically take possession. Total cost of the acquisition including transaction costs, projected at \$1.5 million, is to be funded with proceeds from the bond issue. The Water Services Board has approved the transaction.

*Series Five-P1 Project.* The proceeds of the Series Five-P1 Bonds will be used to for the costs of completing the construction of the library and technology center and purchasing the Water Services property, along with other capital improvements.

*Series Five-P2 Project.* The proceeds of the Series Five-P2 Bonds will be used to refinance various loans, itemized in the following chart, made to the University primarily by the Lutheran Church Extension Fund (LCEF). These loans, described in the following chart, were used to complete the following capital improvement and construction projects completed during the years 1991 through 2000:

<u>Lender</u>	<u>Year</u>	<u>Purpose</u>	<u>Amount Borrowed</u>	<u>Balance as of 1/31/03</u>
LCEF	1991	Construct Hyatt Residence Hall	\$1,185,270	\$ 428,685.28
LCEF	1996	Construct Athletic Field/Parking	175,000	58,559.53
LCEF	1997	Renovate Wollaeger Residence Hall	250,000	172,312.62
LCEF	1999	Acquire Office Building/Property	375,000	356,067.05
St. Paul STAR	2000	Repair Apartment B	150,000	142,956.00
LCEF	2000	Construct Field House	3,391,340	3,139,333.50
LCEF	2000	Acquire industrial building/property	1,326,221	1,227,670.42
LCEF	2000	Acquire industrial building	149,743	138,615.79
LCEF	2000	Construct Fine Arts Center	1,354,058	1,253,427.07
LCEF	2000	Repair Centennial Residence Hall	106,445	98,535.27
LECF	2000	Remodel Science Building	552,166	<u>511,134.94</u>
Total:				<u>\$7,527,297.47</u>

## **Academic Programs**

The University presently is organized into four colleges: the College of Arts and Sciences, the College of Education, the College of Vocation and Ministry, and the College of Graduate and Continuing Studies. The University has three Master of Arts Majors with six emphases, a total of 45 undergraduate majors and 28 minors and seven certificate programs.

The College of Arts and Sciences offers undergraduate programs for students in business, psychology, science, communication, as well as in Pre-Law, and the Pre-Medical Professions.

The College of Education offers undergraduate programs in Early Childhood Education, Elementary Education, Middle Education and Secondary Education, Director of Christian Education Certifications for students interested in professional church work in their chosen field and graduate programs leading to Master of Education (M.Ed.) degree (Early Childhood). The School of Education also offers State of Minnesota credentials in teaching as well as Lutheran Teaching Certification.

The College of Vocation and Ministry offers undergraduate programs in outreach, parish education and administration, church music and theology, and a Pre-Seminary course of study. This is the department of the University that directs the University's professional church career programs and guides students interested in careers in The Lutheran Church -- Missouri Synod.

### History of Student Enrollment

The following table gives the University's fall semester enrollment by full or part-time classification for each of the last five years:

#### Enrollment by Type - Fall Semester Census Headcounts

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Undergraduate	1,482	1,545	1,635	1,511	1,677
Full-time	1,298	1,341	1,352	1,370	1,444
Part-time	184	204	283	141	233
Graduate	67	268	295	262	244
Full-time	64	240	285	262	244
Part-time	<u>3</u>	<u>28</u>	<u>10</u>	<u>0</u>	<u>0</u>
Total	1,549	1,813	1,930	1,773	1,921

### Enrollment Profile

The following table gives enrollment information about new undergraduate transfer and first-time freshmen "traditional" students. (Applications to the College of Graduate and Continuing Studies are not included.)

<u>Year</u>	<u>Number of New Applications for Admission</u>	<u>Number of Acceptances</u>	<u>Percent of Accepted Students Who Enrolled</u>	<u>Number of First-Time Freshmen</u>
1998	801	540	63%	210
1999	1,000	673	54%	257
2000	1,080	650	47%	209
2001	1,217	646	45%	200
2002	753	399	44%	175

### Academic Entrance Information on First-Time Freshmen

The following table gives ACT test score information for first-time freshmen at the Concordia University, for the state of Minnesota, and for the nation. It also includes the average GPA for first-time freshmen at the University.

<u>Fall</u>	<u>First-Time Freshman ACT Composite Means</u>			<u>Avg. GPA</u>
	<u>University Mean</u>	<u>Minnesota Mean</u>	<u>National Mean</u>	<u>Concordia</u>
1998	21.4	21.9	21.0	3.0
1999	21.6	21.6	21.0	3.2
2000	21.4	21.6	21.0	3.2
2001	21.2	22.1	21.0	3.1
2002	22.1	22.1	20.8	3.3



## Demographics of Student Population

The following summarizes the origin of students:

### Fall 2002 Geographic Origin

	<u>Head Count</u>	<u>Percent</u>
Minnesota	1,504	78.3%
Wisconsin	92	4.8%
California	35	1.9%
Illinois	25	1.2%
Michigan	23	1.2%
Iowa	20	1.0%
Other Out-of-State	<u>222</u>	<u>11.6%</u>
Total	1,921	100.0%

(Students in fall 2002 came from 39 states and 7 foreign countries.)

## Tuition, Room and Board

The following table gives the tuition and fees and room and board charges for full-time "traditional" students of Concordia University for the past five academic years and Board-approved figures for academic year 2003-2004.

<u>Academic Year</u>	<u>Tuition and Fees</u>	<u>Room and Board</u>
1998-99	\$13,458	\$4,726
1999-00	\$13,840	\$4,962
2000-01	\$14,752	\$5,160
2001-02	\$15,786	\$5,266
2002-03	\$17,326	\$5,530
2003-04	\$18,624	\$5,862

## Faculty

The following table sets forth the University's faculty and faculty with advanced degrees for the last six years.

### Full-Time Tenure Track Faculty Profile - 1998-1999 through 2002-2003

<u>Academic Year</u>	<u># FT Faculty</u>	<u># FT Faculty/terminal degrees</u>	<u>% of FT/terminal degrees</u>
2002-2003	75	61	81.3%
2001-2002	77	61	79.2%
2000-2001	66	55	83.3%
1999-2000	65	54	83.1%
1998-1999	67	56	83.6%

## **Employees**

The management of the University considers its relationship with its employees to be excellent. Management has worked to strengthen that relationship by instituting various programs addressing the interaction of employees and management. Management has established mechanisms for addressing employee grievances and involving employees in the management process.

Pay increases for employees of the University have averaged 2.5% per year over the last five years. The University provides a variety of benefits to its employees, including health insurance, dental insurance, long-term disability insurance, life insurance, pension plan, tuition reimbursement, and customary vacation, holidays and sick days.

The university's maintenance and custodial staff is represented under a collective bargaining agreement. A three-year contract renewal was achieved effective January 1, 2002.

## **Accreditations**

The University is accredited by the Higher Learning Commission and has been a member of the North Central Association since 1967, with reaccreditation given in 1998.

**2002/2003 Undergraduate Rate Comparison of Minnesota Private Colleges  
(Ranked by Comprehensive Fees)**

**COMPREHENSIVE CHARGES FOR 2002-2003  
AT MINNESOTA'S PRIVATE COLLEGES**

<u>COLLEGE/UNIVERSITY</u>	<u>Tuition and Required Fees</u>	<u>Room and Board</u>	<u>Comprehensive Charges*</u>
Carleton College	\$26,910	\$5,535	\$32,445
Macalester College	\$23,772	\$6,516	\$30,288
St. Olaf College	\$22,200	\$4,750	\$26,950
Minneapolis College of Art & Design	\$21,624	\$5,200	\$26,824
Gustavus Adolphus College	\$20,450	\$5,170	\$25,620
University of St. Thomas	\$19,468	\$5,858	\$25,326
Hamline University	\$19,213	\$5,846	\$25,059
College of Saint Benedict	\$19,226	\$5,789	\$25,015
Saint John's University	\$19,226	\$5,554	\$24,780
Bethel College	\$17,800	\$6,200	\$24,000
Augsburg College	\$18,193	\$5,690	\$23,883
College of St. Scholastica	\$18,216	\$5,406	\$23,622
College of St. Catherine	\$18,362	\$5,170	\$23,532
<b>Concordia University, St. Paul</b>	<b>\$17,326</b>	<b>\$5,530</b>	<b>\$22,856</b>
Saint Mary's University of Minnesota	\$15,675	\$4,940	\$20,615
Concordia College, Moorhead	\$15,635	\$4,310	\$19,945
Bethany Lutheran College	\$12,520	\$4,688	\$17,208
Average:	\$19,166	\$5,421	\$24,587

\* These are "standard," fulltime, academic year charges for new entering students. Several colleges have differential tuition for upper-level students or other policies that result in some variation across class levels and students.

NOTE: Comprehensive charges are reduced for many students through financial assistance. Approximately three out of four private college students apply for and receive financial assistance, with the amounts and types of aid determined in relation to family resources, calculated need, government formulas and financial aid funding, and other factors. Typical assistance provided to students includes federal and state grants (if applicant qualifies), institutional grants, loans and work-study determined in relation to the student's needs and other factors.

Source: The Minnesota Private College Council

**Risk Management and Insurance**

Under the Loan Agreement, the University is required to maintain insurance with respect to its property, the operation thereof and its business, against such casualties, contingencies and risks (including but not limited to property and casualty, business interruption, workers' compensation and general and professional liability and employee dishonesty) and in such amounts not less than is customary and adequate in the case of organizations engaged in the same or similar activities and similarly situated and as is adequate to protect the University's property and operations.

The University participates in a broad risk management program provided by the Synod through Concordia University Systems office.

## RESULTS OF OPERATIONS

### Financial Records

The University maintains its financial records on the basis of a fiscal year ending June 30 and follows the accrual basis of accounting. Included with this Official Statement as Appendix V are the audited financial statements of the University for the fiscal years ended 2002 and 2001.

### Summary Statement of Revenues and Expenses

The table below presents a summary of historical statements of revenues and expenses of the University for the last three fiscal years. The information has been derived from the audited financial statements of the University, and with respect to the fiscal years ended June 30, 2000 2001 and 2002, should be read in conjunction with the audited financial statements of the University, including the notes thereto.

#### SUMMARY OF REVENUES AND EXPENSES

	Fiscal Year Ended June 30,		
	<u>2000</u>	<u>2001</u>	<u>2002</u>
<b>Support, Revenues and Gains:</b>			
Support	\$4,841,635	\$ 8,487,242	\$ 5,484,342
Revenues:			
Net Tuition and Fees	12,755,300	15,226,033	15,658,622
Interest Income on Loans	12,300	5,093	0
Income on Cash and Cash Equivalents	83,017	151,758	158,012
Income on Long-Term Investments	343,608	500,560	336,254
Auxiliary Enterprises	5,197,698	4,465,133	4,440,189
Other	198,132	105,436	65,337
Change in Value of Split-Interest Agreements	96,954	94,137	(37,871)
Change in Value of Funds Held by			
Third-Party Trustee	105,772	(154,839)	(171,928)
Net Gains (Losses) on Investments	<u>168,566</u>	<u>(288,425)</u>	<u>(700,120)</u>
<b>Total Support, Revenues and Gains</b>	<u>\$23,802,982</u>	<u>\$28,592,128</u>	<u>\$25,232,837</u>
<b>Expenses:</b>			
Educational and General:			
Academic Programs	8,263,262	9,346,279	10,324,242
Support Programs	7,139,639	8,914,700	9,626,777
Auxiliary Enterprises	<u>5,862,654</u>	<u>4,930,206</u>	<u>5,142,260</u>
<b>Total Expenses</b>	<u>21,265,555</u>	<u>\$23,191,185</u>	<u>\$25,093,279</u>
<b>Change in Net Assets</b>	2,537,427	5,400,943	139,558
<b>Net Assets – Beginning of Year</b>	26,274,612	28,812,039	34,212,982
<b>Net Assets – End of Year</b>	\$28,812,039	\$34,212,982	\$34,352,540

## Capital Campaign

Concordia University's current capital campaign, *Enlightening Individuals Enriching Generations*, began July 1, 1998, and will be completed on June 30, 2003. The \$32 million comprehensive campaign has six components, shown below with their status as of January 31, 2003:

<b>Program Component</b>	<b>Goal</b>	<b>Pledges</b>	<b>Cash Gifts</b>	<b>Total Cash and Pledges</b>	<b>Cash Paid on Pledges</b>
General Operating:	\$ 4,500,000	\$ 653,810	\$ 4,001,828	\$ 4,655,638	\$ 480,679
Library Construction:	7,500,000	6,520,438	855,837	7,376,275	4,736,764
Library Endowment:	1,000,000	986,247	39,159	1,025,406	780,762
Other Endowment:	6,000,000	2,946,930	3,133,344	6,080,274	1,566,168
Designated Funds:	3,500,000	1,509,985	3,783,036	5,293,021	1,531,243
Deferred Gifts:	9,500,000	10,099,018	-	10,099,018	-
<b>Total</b>	<b>\$32,000,000</b>	<b>\$22,716,428</b>	<b>\$11,813,204</b>	<b>\$34,529,632</b>	<b>\$9,095,616</b>

The campaign to date has exceeded its total goal for cash and pledges by \$2,529,632. Total cash collected through payments on pledges and outright cash gifts is \$20,018,821.

## Outstanding Debt

After the issuance of the Bonds, the University's long-term indebtedness will consist solely of the Bonds. The University has not guaranteed any outstanding indebtedness of any other corporation or entity.

## Pension Liabilities

The University participates in the worker benefit plans of the Synod. These retirement and survivor programs cover almost all full-time employees. The University contributes a fixed percentage of each participant's salary to the plans. Retirement and Survivor program expenses for the years ended June 30, 2000, 2001 and 2002 totaled \$362,013, \$327,925 and \$374,495 respectively.

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## PROPOSED FORMS OF LEGAL OPINIONS

\$\_\_\_\_\_ Minnesota Higher Education Facilities Authority  
Variable Rate Demand Revenue Bonds, Series Five-P1  
(Concordia University, St. Paul)

We have acted as Bond Counsel in connection with the issuance by the Minnesota Higher Education Facilities Authority (the "Authority"), of its \$\_\_\_\_\_ Variable Rate Demand Revenue Bonds, Series Five-P1 (Concordia University, St. Paul) (the "Bonds"). We have examined such laws, certified proceedings and other documents, materials and papers, as we have deemed necessary to render this opinion.

As to questions of fact material to our opinion we have relied upon representations of the Authority and Concordia University, St. Paul, a Minnesota nonprofit corporation (the "University"), contained in the Loan Agreement dated as of March 1, 2003 (the "Loan Agreement") between the University and the Authority, the Trust Indenture dated as of March 1, 2003 (the "Indenture") between the Authority and U.S. Bank National Association, in St. Paul, Minnesota (the "Trustee"), the Bond Purchase Agreement among the Authority, the University and Stern Brothers & Co., the opinion of Pranschke & Holderle, L.C., St. Louis, Missouri, of even date herewith, as counsel to the University, the certified proceedings and other certifications of public officials and certifications by officials of the University furnished to us, without undertaking to verify the same by independent investigation. We have assumed the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such documents, and the accuracy of the statements of fact contained in such documents.

We have not been engaged, nor have we undertaken, to review the accuracy, completeness, or sufficiency of any offering material related to the Bonds, and we express no opinion relating thereto or as to any other matter not set forth herein.

Based on the foregoing, we are of the opinion that, as of the date hereof, under existing law as presently enacted and construed:

(a) The Authority is an agency of the State of Minnesota duly organized and existing under the laws of the State of Minnesota, with authority under Minnesota Statutes, Sections 136A.25 to 136A.42, as amended (the "Act"), to issue the Bonds, to loan the proceeds thereof to the University pursuant to the Loan Agreement and to execute and deliver the Indenture to secure the Bonds.

(b) The Loan Agreement and the Indenture have been duly authorized, executed and delivered by the Authority and constitute valid and binding special obligations of the Authority, enforceable upon the Authority in accordance with their terms.

(c) The proceedings show lawful authority for the issuance of the Bonds under the Indenture and under the provisions of the Constitution and laws of the State of Minnesota now in force, including the Act.

(d) The Bonds have been duly and validly authorized, executed and delivered by the Authority and are valid and binding special obligations of the Authority, enforceable in accordance with their terms, secured by and entitled to the benefits provided by the Indenture; the Bonds are payable solely from the revenues and other sums irrevocably pledged to the payment of the Bonds and interest thereon under the Indenture.

(e) The Bonds are not a general obligation or indebtedness of the Authority within the meaning of any constitutional or statutory limitation, and do not constitute or give rise to a pecuniary liability of the Authority or charge against its general credit or taxing powers, if any, but are payable solely from the revenues in accordance with the provisions of the Indenture. The Authority has no taxing powers.

(f) Under existing statutes, regulations, rulings and court decisions, interest on the Bonds is excluded from gross income for federal income tax purposes and is excluded to the same extent from both gross income and taxable net income for State of Minnesota income tax purposes, but is subject to Minnesota franchise taxes measured by income and imposed on corporations and financial institutions.

(g) Interest on the Bonds is not a preference item for purposes of computing the federal alternative minimum tax imposed on individuals and corporations or State of Minnesota alternative minimum tax applicable on individuals, estates or trusts. However, interest on the Bonds is taken into account in determining adjusted current earnings for the purpose of computing the federal alternative minimum tax imposed on corporations.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers, including banks, thrift institutions and other financial institutions subject to Section 265 of the Internal Revenue Code of 1986, as amended (the "Code"), who may be deemed to have incurred or continued indebtedness to purchase or to carry the Bonds. Interest on the Bonds is included in effectively connected earnings and profits for purposes of computing the branch profits tax on certain foreign corporations doing business in the United States. Further, interest on the Bonds may be subject to federal income tax under Section 1375 of the Code for S corporations which have Subchapter C earnings and profit at the close of the taxable year if more than twenty-five percent (25%) of the gross receipts of such S corporation is passive investment income. We express no opinion as to any of such consequences.

This opinion is subject to the continuing compliance by the Authority and the University with the covenants and representations that are intended to comply with the provisions of the Code relating to actions to be taken by the Authority and the University in respect of the Bonds



after the issuance thereof to the extent necessary to effect or maintain exclusion of interest on the Bonds from federal gross income. These covenants, representations and requirements relate to, inter alia, the use and investment of proceeds of the Bonds and the rebate to the United States Treasury of specified arbitrage earnings, if required. Failure to comply with certain of such covenants, representations, or requirements may cause the inclusion of interest on the Bonds in gross income for federal or state income purposes from the date of issue.

In rendering this opinion, we have relied on the opinion of Pranschke & Holderle, L.C., counsel to the University, as to matters set forth therein, including, without limitation, the status of the University as an organization described in Section 501(c)(3) of the Code.

It is to be understood that the rights of the holders of the Bonds and the enforceability thereof and the Bonds, the Indenture and the Loan Agreement may be subject to the exercise of judicial discretion, to general principles of equity, to the valid exercise of the constitutional powers of the United States of America and of the sovereign powers of state or other governmental units having jurisdiction, and to bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights heretofore or hereafter enacted.

Very truly yours,

Professional Association

\$\_\_\_\_\_ Minnesota Higher Education Facilities Authority  
Variable Rate Demand Revenue Bonds, Taxable Series Five-P2  
(Concordia University, St. Paul)

We have acted as Bond Counsel in connection with the issuance by the Minnesota Higher Education Facilities Authority (the "Authority"), of its \$\_\_\_\_\_ Variable Rate Demand Revenue Bonds, Taxable Series Five-P2 (Concordia University, St. Paul) (the "Bonds"). We have examined such laws, certified proceedings and other documents, materials and papers, as we have deemed necessary to render this opinion.

As to questions of fact material to our opinion we have relied upon representations of the Authority and Concordia University, St. Paul, a Minnesota nonprofit corporation (the "University"), contained in the Loan Agreement dated as of March 1, 2003 (the "Loan Agreement") between the University and the Authority, the Trust Indenture dated as of March 1, 2003 (the "Indenture") between the Authority and U.S. Bank National Association, in St. Paul, Minnesota (the "Trustee"), the Bond Purchase Agreement among the Authority, the University and Stern Brothers & Co., the opinion of Pranschke & Holderle, L.C., St. Louis, Missouri, of even date herewith, as counsel to the University, the certified proceedings and other certifications of public officials and certifications by officials of the University furnished to us, without undertaking to verify the same by independent investigation. We have assumed the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such documents, and the accuracy of the statements of fact contained in such documents.

We have not been engaged, nor have we undertaken, to review the accuracy, completeness, or sufficiency of any offering material related to the Bonds, and we express no opinion relating thereto or as to any other matter not set forth herein.

Based on the foregoing, we are of the opinion that, as of the date hereof, under existing law as presently enacted and construed:

(a) The Authority is an agency of the State of Minnesota duly organized and existing under the laws of the State of Minnesota, with authority under Minnesota Statutes, Sections 136A.25 to 136A.42, as amended (the "Act"), to issue the Bonds, to loan the proceeds thereof to the University pursuant to the Loan Agreement and to execute and deliver the Indenture to secure the Bonds.

(b) The Loan Agreement and the Indenture have been duly authorized, executed and delivered by the Authority and constitute valid and binding special obligations of the Authority, enforceable upon the Authority in accordance with their terms.

(c) The proceedings show lawful authority for the issuance of the Bonds under the Indenture and under the provisions of the Constitution and laws of the State of Minnesota now in force, including the Act.

(d) The Bonds have been duly and validly authorized, executed and delivered by the Authority and are valid and binding special obligations of the Authority, enforceable in accordance with their terms, secured by and entitled to the benefits provided by the Indenture; the Bonds are payable solely from the revenues and other sums irrevocably pledged to the payment of the Bonds and interest thereon under the Indenture.

1. The Bonds are not a general obligation or indebtedness of the Authority within the meaning of any constitutional or statutory limitation, and do not constitute or give rise to a pecuniary liability of the Authority or charge against its general credit or taxing powers, if any, but are payable solely from the revenues in accordance with the provisions of the Indenture. The Authority has no taxing powers.

It is important to note that interest on the Bonds will be included in gross income for federal income tax purposes and in both gross income and taxable net income for State of Minnesota income tax purposes.

In rendering this opinion, we have relied on the opinion of Pranschke & Holderle, L.C., counsel to the University, as to matters set forth therein, including, without limitation, the status of the University as an organization described in Section 501(c)(3) of the Code.

It is to be understood that the rights of the holders of the Bonds and the enforceability thereof and the Bonds, the Indenture and the Loan Agreement may be subject to the exercise of judicial discretion, to general principles of equity, to the valid exercise of the constitutional powers of the United States of America and of the sovereign powers of state or other governmental units having jurisdiction, and to bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights heretofore or hereafter enacted.

Very truly yours,

Professional Association

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## DEFINITION OF CERTAIN TERMS

The following are definitions of certain of the terms used in the Indenture and the Loan Agreement, and not otherwise defined in this Official Statement. Reference is hereby made to the entire documents for the definitions of all terms used in such documents. The following definitions are equally applicable to both singular and plural forms of any of the terms defined herein:

**“Act”** means Sections 136A.25 to 136A.42, Minnesota Statutes, as amended.

**“Additional Payments”** means the payments to be made by the University to the Authority or the Bond Trustee pursuant to certain provisions of the Loan Agreement.

**“Alternate Letter of Credit”** means any substitute or replacement letter of credit or other credit facility, including but not limited to any guarantee, insurance policy or other credit support arrangement or any combination thereof securing the payment of principal of and interest on a Series of Bonds, and the purchase price of Bonds of a Series tendered for purchase, delivered in accordance with the Indenture in substitution and replacement for a Letter of Credit.

**“Authority”** means the Minnesota Higher Education Facilities Authority, together with any successors and assigns.

**“Authorized Denomination”** means (a) with respect to Bonds bearing interest at a Daily Rate, a Weekly Rate, a Commercial Paper Rate or Long-Term Rate, \$100,000 or any integral multiple of \$5,000 in excess thereof; provided, however, one Bond of each Series may be in the denomination of an integral multiple of \$5,000 as a result of any partial redemption of Bonds; and (b) with respect to Bonds bearing interest at a Fixed Rate, \$5,000 or any integral multiple in excess thereof.

**“Authorized Authority Representative”** means the person at the time designated to act on behalf of the Authority by written certificate furnished to the Corporation, the Credit Bank, the Reimbursement Bank and the Bond Trustee, containing the specimen signature of such person and signed on behalf of the Authority by its Chair, Secretary or Executive Director or any officer authorized to act on behalf of the foregoing officers. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform the duties of the Authorized Authority Representative.

**“Authorized University Representative”** means the President, Executive Vice-President or the Vice President for Finance and Operations of the University and such other person or persons at the time designated to act on behalf of the University in matters relating to the Indenture and the Loan Agreement as evidenced by a written certificate furnished to the Authority, the Credit Bank, the Reimbursement Bank and the Bond Trustee containing the specimen signature of such person or persons and signed on behalf of the University by its President, Executive Vice-President or the Vice President for Finance and Operations of the University. Such certificate may designate an alternate or alternates each of whom will be entitled to perform all duties of the Authorized University Representative.

**“Bank Bonds”** means Bonds purchased with moneys provided to the Bond Trustee pursuant to a draw on the Letter of Credit until remarketed pursuant to the Remarketing Agreement.

**“Beneficial Owner”** means, with respect to any Book-Entry Bond, the beneficial owner of such Bond as determined in accordance with the applicable rules of the Securities Depository for the Bonds.

**“Bond”** or **“Bonds”** means collectively, the Series Five-P1 Bonds and the Series Five-P2 Bonds, authenticated and delivered under and pursuant to the Indenture.

**“Bondowner,” “Owner”** or **“Registered Owner”** means the Person in whose name a Bond is registered on the bond register and does not mean any beneficial owner of Bonds whether through the book-entry only system or otherwise.

**“Bond Purchase Fund”** means the fund by that name created by the Indenture and held by the Bond Trustee.

**“Bond Trustee”** means U.S. Bank National Association, as trustee, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to and at the time serving as trustee under the Indenture.

**“Business Day”** means a day other than (a) a Saturday, Sunday or legal holiday, (b) a day on which banking institutions in any city in which the principal office of the Bond Trustee, is located (and, if different, in the city in which the office of the Credit Bank at which draws under the Letter of Credit are to be honored is located) are required or authorized by law to remain closed, or (c) a day on which The Depository Trust Company is closed for business.

**“Code”** means the Internal Revenue Code of 1986, as amended, and, when appropriate, any statutory predecessor or successor thereto, and all applicable regulations (whether proposed, temporary or final) thereunder and any applicable official rulings, announcements, notices, procedures and judicial determinations relating to the foregoing.

**“Commercial Paper Rate”** means the per annum interest rate on each Bond of a Series during a Commercial Paper Rate Period determined as provided in the Indenture.

**“Commercial Paper Rate Conversion Date”** means the day on which Bonds of a Series begin to accrue interest at a Commercial Paper Rate pursuant to the Indenture which is immediately preceded by a day on which such Bonds did not accrue interest at a Commercial Paper Rate.

**“Commercial Paper Rate Period”** means with respect to any Bond of a Series each period determined as provided in the Indenture during which such Bond accrues interest at a Commercial Paper Rate.

**“Completion Date”** means the date of completion of the last portion of the Series Five-P1 Project as that date will be certified as provided in the Loan Agreement.

**“Conversion Date”** means the day on which a particular type of interest rate (i.e., a Daily Rate, Weekly Rate, Commercial Paper Rate, Long-Term Rate or Fixed Rate) becomes effective for Bonds which is not immediately preceded by a day on which such Bonds have accrued interest at the same type of interest rate and, when used with respect to any Commercial Paper Rate Period or Long-Term Rate Period, the day after the end of such Commercial Paper Rate Period or Long-Term Rate Period. Each Conversion Date will be an Interest Payment Date for the rate period from which the Bonds are converted, which will be the last Interest Payment Date for the then current Commercial Paper Rate Period or Long-Term Rate Period if the conversion is from a Commercial Paper Rate Period or Long-Term Rate Period, except that any Business Day may be a Conversion Date from a Daily or Weekly Rate Period.

**“Costs of Issuance”** means issuance costs with respect to the Bonds described in Section 147(g) of the Code and any regulations thereunder, including but not limited to the following:

- (a) Underwriter's compensation (whether realized directly or derived through purchase of Bonds at a discount below the price at which they are expected to be sold to the public);

- (b) counsel fees (including Bond Counsel, underwriter's counsel, Authority's counsel, Corporation's counsel, as well as any other specialized counsel fees incurred in connection with the borrowing);
- (c) rating agency fees;
- (d) trustee and paying agent fees;
- (e) accountant fees and other expenses related to issuance of the Bonds;
- (f) printing costs (for the Bonds and of the Official Statement relating to the Bonds);
- (g) the initial fees for the Letter of Credit and fees of the Credit Bank's counsel and of the Reimbursement Bank's counsel; and
- (h) fees and expenses of the Authority incurred in connection with the issuance of the Bonds.

**“Costs of the Project”** means costs permitted under the Act to be paid out of proceeds of Bonds with respect to the Project, including the total of all reasonable or necessary expenses incidental to the acquisition, construction, reconstruction, repair, alteration, improvement and extension of the Project, including without limitation: the expenses of studies and surveys, land title and mortgage title policies, architectural and engineering services and the cost of legal, organization or marketing services; including the fees and expenses for the Letter of Credit; the cost of acquiring or demolishing existing structures, developing the site of and constructing and equipping a new building constituting a part of the Project; rehabilitating, reconstructing, repairing or remodeling existing buildings constituting a part of the Project; and all other necessary and incidental expenses, including interest during construction on bonds issued to finance the Project to a date subsequent to the estimated date of completion thereof, and any other costs permitted by the Act but will exclude any Costs of Issuance.

**“Credit Agreement”** means the Reimbursement Agreement of even date with the Indenture, between the University and the Reimbursement Bank, as originally executed and as from time to time amended and supplemented, and any similar agreement pursuant to which an Alternate Letter of Credit is issued, as originally executed and as such agreement may from time to time be amended and supplemented.

**“Credit Bank”** means initially U.S. Bank National Association, a national banking association organized under the laws of the United States of America, in its capacity as issuer of the initial Letter of Credit, and its successors and assigns, and if an Alternate Letter of Credit is issued in accordance with the Indenture, “Credit Bank” will mean the issuer or provider of such Alternate Letter of Credit, and its successors and assigns.

**“Daily Rate”** means the per annum interest rate on the Bonds of a Series during a Daily Rate Period determined on a daily basis as provided in the Indenture.

**“Daily Rate Conversion Date”** means the day on which the Bonds of a Series begin to accrue interest at a Daily Rate which is immediately preceded by a day on which such Bonds did not accrue interest at a Daily Rate.

**“Daily Rate Period”** means each period during which Bonds of a Series accrue interest at a Daily Rate.

**“Debt Service Fund”** means the fund by that name created by the Indenture.

**“Defeasance Obligations”** means:

(a) Government Obligations which are not subject to redemption prior to maturity; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations (A) are not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or noncallable Government Obligations that may be applied only to payment of principal of, premium, if any, and interest payments on such obligations;

(3) the sufficiency of such cash and noncallable Government Obligations to pay in full all principal of, interest, and premium, if any, on such obligations has been verified by the report of an independent certified public accountant (a “Verification”) and no substitution of Government Obligations will be permitted except with cash or other Government Obligations and upon delivery of a new Verification;

(4) such cash and Government Obligations serving as security for the obligations are held in an irrevocable escrow by an escrow agent or a trustee in trust for the owners of such obligations, at least one year has passed since the establishment of such escrow and the issuer of such obligations is not, and has not been since the establishment of such escrow, a debtor in a proceeding commenced under the United States Bankruptcy Code;

(5) the Bond Trustee has received an Opinion of Counsel that such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent;

(6) the Bond Trustee has received an Opinion of Bond Counsel delivered in connection with the original issuance of such obligations to the effect that the interest on such obligations was exempt for purposes of federal income taxation, and the Bond Trustee has received an Opinion of Bond Counsel delivered in connection with the establishment of the irrevocable escrow to the effect that the establishment of the escrow will not result in the loss of any exemption for purposes of federal income taxation to which interest on such obligations would otherwise be entitled; and

(7) the obligations are rated in the highest rating category by a nationally recognized securities rating service.

**“Effective Date”** means the date of the initial delivery and sale of the Bonds at which time the Indenture and the Loan Agreement will be effective.



**“Electronic Notice”** means notice through telecopy, telegraph, telex, facsimile transmission, internet, e-mail or other electronic means of communication, or if not operative, in writing or by telephone (promptly confirmed in writing).

**“Eligible Moneys”** means

(a) during any period in which Outstanding Bonds are secured by a Letter of Credit:

(1) proceeds of the Bonds which are held in a separate and segregated subaccount in the Debt Service Fund;

(2) proceeds from the remarketing of any Bonds tendered for purchase pursuant to the Indenture received from any person other than the Authority, the University or any “insider” (as defined in the United States Bankruptcy Code) of the Authority or the University received by the Trustee directly and contemporaneously with the remarketing of such Bonds;

(3) moneys drawn under the Letter of Credit that are either applied directly to the payment of principal or purchase price of, or premium, if any, or interest on the Bonds or which, if not so applied, are held in a separate and segregated subaccount under the Indenture until so applied;

(4) moneys deposited in any separate and segregated subaccount of the Debt Service Fund in which no other moneys which are not Eligible Moneys are held and that have been continuously on deposit with the Bond Trustee for a period of at least 123 consecutive days during which no petition in bankruptcy (or other bankruptcy or similar proceedings) is pending or has been filed by or against the University or the Authority under the United States Bankruptcy Code, as now or hereafter in effect, or other applicable state or federal bankruptcy, insolvency, reorganization or similar law for the relief of debtors, as now or hereafter in effect;

(5) any other moneys or securities, if there is delivered at the time such moneys are deposited with the Bond Trustee an Opinion of Counsel from legal counsel having expertise in bankruptcy matters (who, for purposes of such opinion, may assume that no Owner is an “insider,” as defined in the United States Bankruptcy Code) to the effect that the use of such moneys or securities to pay the principal or purchase price of, or premium, if any, or interest on the Bonds would not constitute a voidable preferential payment in the event of the occurrence of the filing of a petition in bankruptcy (or other commencement of bankruptcy or similar proceedings) by or against the University or the Authority, as debtor, under the United States Bankruptcy Code, as now or hereafter in effect, or other applicable state or federal bankruptcy, insolvency, reorganization or similar law for the relief of debtors, as now or hereafter in effect, and provided that in the event the Bonds are rated by a Rating Agency, such Rating Agency will have confirmed that the use of such funds will not adversely affect any rating then in effect on the Bonds; or

(6) earnings derived from the investment of funds qualifying as Eligible Moneys under any of the foregoing clauses;

(b) during any period a Letter of Credit is not in effect, any moneys held by the Bond Trustee in any fund or account under the Indenture and available, pursuant to the provisions of the Indenture, to be used to pay principal or purchase price of, or premium, if any, or interest on, the Bonds.

**“Eligible Moneys Account”** means the account by that name established in the Debt Service Fund as provided in the Indenture.

**“Event of Default”** means (a) with respect to the Indenture, any event or occurrence as defined in the Indenture, and (b) with respect to the Loan Agreement, any event or occurrence as defined in the Loan Agreement.

**“Facilities”** means all of the real and personal property owned by the University located on its campus and, upon acquisition, land acquired from Bond proceeds, as the same may be improved and expanded from time to time.

**“Fitch”** means Fitch, Inc., its successors and their assigns, and, if such entity will be dissolved or liquidated or will no longer perform the functions of a securities rating agency, “Fitch” will be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Moody's) designated by the Authority, with the approval of the University, by notice to the Credit Bank, the Bond Trustee and the Remarketing Agent.

**“Fixed Rate”** means the per annum interest rate on a Series of Bonds during a Fixed Rate Period determined as provided in the Indenture.

**“Fixed Rate Conversion Date”** means the day on which the Bonds begin to accrue interest at a Fixed Rate pursuant to the Indenture which is immediately preceded by a day on which such Bonds did not accrue interest at a Fixed Rate.

**“Fixed Rate Period”** means with respect to any Bond the period from the Fixed Rate Conversion Date for such Bond to the maturity date of the Bond, unless earlier redeemed.

**“General Bond Reserve Account”** means the General Bond Reserve Account created pursuant to the General Bond Resolution.

**“General Bond Resolution”** means the General Bond Resolution adopted by the Authority on October 31, 1972, and any amendments thereto.

**“Government Obligations”** means the following:

(a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America; and

(b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian in form and substance satisfactory to the Bond Trustee.

**“Indemnified Persons”** means the Authority and its members, officers, agents and employees.

**“Indenture”** means the Trust Indenture as originally executed by the Authority and the Bond Trustee, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of the Indenture.

**“Interest Payment Date”** means any principal payment or redemption date, and:

(a) with respect to Bonds accruing interest at Daily Rates, the first Business Day of each calendar month following the beginning of the Daily Rate Period for which interest is payable, and any additional day which is a Conversion Date from a Daily Rate Period;

(b) with respect to Bonds accruing interest at Weekly Rates, the first Business Day of each calendar month following the beginning of the Weekly Rate Period for which interest is payable, and any day which is a Conversion Date from a Weekly Rate Period;

(c) with respect to any Bond accruing interest at a Commercial Paper Rate, the first Business Day after the last day of each Commercial Paper Rate Period applicable thereto;

(d) with respect to Bonds accruing interest at a Long-Term Rate, each April 1 and October 1 commencing with the first of such dates which is at least 6 months after the Long-Term Rate Conversion Date, except that the last Interest Payment Date for any Long-Term Rate Period which is followed by a Daily, Weekly or Commercial Paper Rate Period will be the Conversion Date for such Daily, Weekly or Commercial paper Rate Period and will be the first Business Day of the 6th month following the month of the preceding Interest Payment Date;

(e) with respect to Bonds accruing interest at a Fixed Rate, each April 1 and October 1 commencing with the first of such dates which is at least 6 months after the Fixed Rate Conversion Date through and including the Maturity Date of the Bonds accruing interest at a Fixed Rate;

(f) any mandatory tender date; and

(g) as to Bank Bonds, the date remarketed pursuant to the Remarketing Agreement.

**“Issue Date”** means, with respect to the Bonds, the date on which the Bonds are first delivered to the Original Purchasers thereof.

**“Letter of Credit”** means initially the irrevocable direct-pay letter of credit issued by the initial Credit Bank to the Bond Trustee pursuant to the Credit Agreement concurrently with the original issuance of the Bonds, and any extensions thereof, and upon the issuance and delivery of an Alternate Letter of Credit in accordance with the Indenture for either Series of Bonds, “Letter of Credit” will mean such Alternate Letters of Credit, and any subsequent extensions or replacements thereof.

**“Letter of Credit Account”** means the account of that name established in the Debt Service Fund as provided in the Indenture.

**“Loan”** means the loan of the proceeds of the Bonds made by the Authority to the University pursuant to the Loan Agreement.

**“Loan Agreement”** means the Loan Agreement of even date with the Indenture, between the Authority and the University as from time to time amended by Supplemental Loan Agreements in accordance with the provisions of the Loan Agreement.

**“Loan Payments”** means the payments of principal and interest on the Loan referred to in the Loan Agreement.

**“Long-Term Rate”** means the per annum interest rate to be determined on the Bonds for a term of at least 12 months pursuant to the Indenture.

**“Long-Term Rate Conversion Date”** means each day on which Bonds begin to accrue interest at a Long-Term Rate pursuant to the Indenture which is immediately preceded by a day on which such Bonds did not accrue interest at a Long-Term Rate or accrued interest at a Long-Term Rate during a different Long-Term Rate Period.

**“Long-Term Rate Period”** means each period during which Bonds accrue interest at a Long-Term Rate.

**“Maturity Date”** means April 1, 2027 with respect to the Series Five-P1 Bonds and April 1, 2027 with respect to the Series Five-P2 Bonds.

**“Maximum Rate”** means 12% per annum.

**“Moody's”** means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such entity will be dissolved or liquidated or will no longer perform the functions of a securities rating agency, “Moody's” will be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Fitch) designated by the Authority, with the approval of the University, by notice to the Credit Bank, the Bond Trustee and the Remarketing Agent.

**“Non-Eligible Moneys Account”** means the account of that name established in the Debt Service Fund as provided in the Indenture.

**“Officer's Certificate”** means a written certificate of the University signed by an Authorized University Representative, which certificate will be deemed to constitute a representation of, and will be binding upon, the University with respect to matters set forth therein, and which certificate in each instance, including the scope, form, substance and other aspects thereof, is acceptable to the Bond Trustee.

**“Opinion of Bond Counsel”** means a written opinion of Briggs and Morgan, Professional Association, or such other firm as may be selected to serve as bond counsel to the Authority and whose opinions as to the validity and tax-exempt status of state and municipal bonds is nationally recognized.

**“Opinion of Counsel”** means a written opinion of counsel (who may be counsel for the University) acceptable to the Authority, the Reimbursement Bank, the Credit Bank and the University. If and to the extent required by the provisions of the Indenture, each Opinion of Counsel will include the statements provided for under the heading “Form and Contents of Documents Delivered to Bond Trustee” in the Indenture.

**“Original Purchaser”** means Stern Brothers & Co.

**“Outstanding”** means with respect to Bonds, as of the date of determination, all Bonds theretofore authenticated and delivered under the Indenture, except:

(a) Bonds theretofore canceled by the Bond Trustee or delivered to the Bond Trustee for cancellation as provided in the Indenture;

(b) Bonds for whose payment or redemption money or Defeasance Obligations in the necessary amount has been deposited with the Bond Trustee in trust for the Owners of such Bonds as provided in the Indenture, provided that, if such Bonds are to be redeemed, notice of such redemption has been duly given pursuant to the Indenture or provision therefor satisfactory to the Bond Trustee has been made;

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under the Indenture;

(d) Bonds alleged to have been destroyed, lost or stolen which have been paid as provided in the Indenture; and

(e) Bonds deemed purchased pursuant to the Indenture.

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**“Permitted Encumbrances”** will have the meaning set forth in the Credit Agreement.

**“Permitted Investments”** means, if and to the extent the same are at the time legal for investment of funds held under the Indenture:

(a) Obligations of the State;

(b) Government Obligations;

(c) Obligations, the prompt payment of the principal and interest of which are guaranteed by the State;

(d) Certificates of deposit of any bank whose deposits are insured by the Federal Deposit Insurance University; and

(e) Agreements or contracts for guaranteed investment contracts if they are issued or guaranteed by United States commercial banks, domestic branches of foreign banks, United States insurance companies, or their Canadian subsidiaries, provided, that, the credit quality of the issuer's or guarantor's short- and long-term unsecured debt must be rated in one of the two highest categories by a nationally recognized rating agency, and, provided, further, however, that should the issuer's or guarantor's credit quality be downgraded below “A”, the holder must have withdrawal rights.

**“Person”** means any natural person, firm, association, corporation, partnership, joint stock company, a joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

**“Project”** means, collectively, the Series Five-P1 Project and the Series Five-P2 Project.

**“Project Fund”** means the fund by that name created by the Indenture.

**“Rating Agency”** means Moody's, to the extent it is then providing or maintaining a rating on the Bonds at the request of the University, or in the event that Moody's no longer maintains

such a rating on the Bonds, Fitch, S&P or, if approved by the Authority, any other nationally recognized rating agency, in each case then providing or maintaining a rating on the Bonds at the request of the University.

**“Reimbursement Bank”** means initially Bremer Bank, National Association, a national banking association formed and existing under the laws of the United States of America, in its capacity as a party to the Credit Agreement, and its successors and assigns, and if an Alternate Letter of Credit is issued in accordance with the Indenture, “Reimbursement Bank” shall mean the Credit Bank with respect to such Alternate Letter of Credit unless the Credit Bank is not a party to the Credit Agreement relating to such Alternate Letter of Credit, in which case the Reimbursement Bank shall mean the party to the Credit Agreement causing the Alternate Letter of Credit to be issued.

**“Remarketing Agent”** means (a) initially, Stern Brothers & Co. and (b) subsequent to the Issue Date, any Person meeting the qualifications of and designated from time to time to act as Remarketing Agent for the Bonds under the Indenture.

**“Remarketing Agreement”** means the respective Remarketing Agreement between the University and each Remarketing Agent.

**“S&P”** means Standard & Poor's Ratings Services, its successors and their assigns, and, if such entity will be dissolved or liquidated or will no longer perform the functions of a securities rating agency, “S&P” will be deemed to refer to any other nationally recognized securities rating agency (other than Fitch or Moody's) designated by the Authority, with the approval of the University, by notice to the Credit Bank, the Bond Trustee and the Remarketing Agent.

**“Securities Depository”** means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

**“Series”** means, individually, or collectively, as the context requires, the Series Five-P1 Bonds and/or the Series Five P-2 Bonds.

**“Series Five-P1 Bonds”** means the Authority's Variable Rate Demand Revenue Bonds (Concordia University, St. Paul) Series Five-P1.

**“Series Five-P2 Bonds”** means the Authority's Variable Rate Demand Revenue Bonds (Concordia University, St. Paul) Taxable Series Five-P2.

**“Series Five-P1 Project”** will have the meaning set forth in the Loan Agreement.

**“Series Five-P2 Project”** will have the meaning set forth in the Loan Agreement.

**“State”** means the State of Minnesota.

**“Supplemental Indenture”** means any indenture supplemental or amendatory to the Indenture entered into by the Authority and the Bond Trustee pursuant to the Indenture.

**“Supplemental Loan Agreement”** means any agreement supplemental or amendatory to the Loan Agreement entered into by the Authority and the University pursuant to the Loan Agreement.

**“Tax Agreement”** means the Tax Certificate and Agreement relating to the Bonds, dated the Issue Date for the Bonds by and between the Authority and the University as the same may be amended from time to time.

**“Tax-Exempt”** means, with respect to interest on any obligations of a state or local government, including the Series Five-P1 Bonds, that such interest is excluded from the gross income of the holders thereof for federal income tax purposes, whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax under the Code.

**“Transaction Documents”** means the Indenture, the Bonds, the Loan Agreement, the Purchase Contract, the Official Statement relating to the Bonds, the Tax Agreement, the Letter of Credit, the Remarketing Agreement, and the Credit Documents (as defined in the Credit Agreement) and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing; provided, however, that when the words “Transaction Documents” are used in the context of the authorization, execution, delivery, approval or performance of Transaction Documents by a particular party, the same will mean only those Transaction Documents that provide for or contemplate authorization, execution, delivery, approval or performance by such party.

**“University”** means Concordia University, St. Paul, a Minnesota nonprofit corporation, and its permitted successors and assigns.

**“University Bonds”** means Bonds that are not Bank Bonds which have been (a) purchased with moneys provided to the Bond Trustee for the account of the University or (b) registered in the name of the University designated as being held for the account of the University.

**“Weekly Rate”** means the per annum interest rate on the Bonds of a Series during a Weekly Rate period determined on a weekly basis as provided in the Indenture.

**“Weekly Rate Conversion Date”** means each day on which Bonds of a Series begin to accrue interest at a Weekly Rate which is immediately preceded by a day on which such Bonds did not accrue interest at a Weekly Rate.

**“Weekly Rate Period”** means each period during which Bonds of a Series accrue interest at a Weekly Rate.

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## SUMMARY OF DOCUMENTS

## THE LOAN AGREEMENT

The Loan Agreement provides the terms of the loan of Bond proceeds to the University and the repayment of and security for such loan provided by the University. Although certain provisions of the Loan Agreement are summarized below, this summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Loan Agreement.

**Agreement to Acquire and Construct the Project.** The University agrees that it will acquire, construct, install, furnish and equip, or complete the acquisition, construction, installation, furnishing and equipping of, the Series Five-P1 Project, and will acquire, construct, install, furnish and equip all other facilities and real and personal property deemed necessary for the operation of the Series Five-P1 Project as a part of the Facilities, substantially in accordance with the description of the Series Five-P1 Project in the Loan Agreement, including any and all supplements, amendments and additions or deletions thereto or therefrom, it being understood that the approval of the Authority is not be required for changes in such descriptions which do not substantially alter the purpose and description of the Series Five-P1 Project referred to above.

In the event that the University desires to alter or change the Series Five-P1 Project, and such alteration or change substantially alters either the purpose or the description of the Series Five-P1 Project, the Authority will enter into, and will instruct the Bond Trustee to consent to, such amendment or supplement to the Loan Agreement as will be required to reflect such alteration or change to the Series Five-P1 Project upon receipt of:

- (a) a certificate of the Authorized University Representative describing in detail the proposed changes and stating that they will not have the effect of disqualifying the Project as facilities that may be financed pursuant to the Act;
- (b) a copy of the proposed form of such amendment or supplement; and
- (c) with respect to changes to the Series Five-P1 Project an Opinion of Bond Counsel that such proposed changes, in and of themselves, will not adversely affect the Tax-Exempt status of interest on the Series Five-P1 Bonds.

**Establishment of Completion Date; Obligation of University to Complete.** As soon as the acquisition, construction, installation, furnishing and equipping of the Series Five-P1 Project is completed, the Authorized University Representative, on behalf of the University, will evidence the Completion Date by delivering to the Bond Trustee an Officer's Certificate pursuant to the Indenture. At the time such Officer's Certificate is delivered to the Bond Trustee, moneys remaining in the Project Fund (other than moneys relating to provisional payments permitted by the Loan Agreement) including any earnings resulting from the investment of such moneys, will be used as provided in the Indenture.

In the event the moneys in the applicable Project Account of the Project Fund available for payment of the Costs of the Project should be insufficient to pay the costs thereof in full, the University agrees to pay directly, or to deposit in the applicable Project Account of the Project Fund moneys sufficient to pay, any costs of completing the Project in excess of the moneys available for such purpose in the applicable Project Account of the Project Fund. The Authority makes no express or implied warranty that the moneys deposited in the applicable Project Account of the Project Fund and available for payment of the Costs of the Project under the

provisions of the Loan Agreement, will be sufficient to pay all the amounts which may be incurred for such costs of the Project. The University agrees that if, after exhaustion of the moneys in the applicable Project Account of the Project Fund, the University should pay, or deposit moneys in the applicable Project Account of the Project Fund for the payment of, any portion of the costs of the Project pursuant to the provisions of this paragraph, the University will not be entitled to any reimbursement therefor from the Authority, from the Bond Trustee or from the Owners of any of the Bonds, nor will it be entitled to any diminution of the amounts payable under the Loan Agreement.

**Investment of Moneys in Fund.** Any moneys in any fund or account held by the Bond Trustee will, at the written request of the Authorized University Representative be invested or reinvested by the Bond Trustee as provided in the Indenture. Such investments will be held by the Bond Trustee and will be deemed at all times to be a part of the fund or account from which such investments were made, and the interest accruing thereon, and any profit or loss realized therefrom, will be credited or charged to such fund or account.

**Loan Payments.** The University will make the following payments (“Loan Payments”) in repayment of the loan of proceeds of Bonds to the University and to provide for payment of the interest on and principal of, and redemption premium, if any, on the Bonds or for the reimbursement of the Reimbursement Bank for payment of such amounts, directly to the Bond Trustee, for the account of the Authority, for deposit of immediately available monies in the applicable account of the Debt Service Fund, on the following dates, and otherwise as set out below:

(a) Debt Service Fund--Interest: On each Interest Payment Date on the Bonds, an amount which is not less than the interest to become due on such Interest Payment Date; provided, however that the University may be entitled to certain credits on such payments as permitted under the Loan Agreement.

(b) Debt Service Fund--Principal: On each principal payment date on the Bonds, an amount which is not less than the next installment of principal due on the Bonds on the next principal payment date by maturity or mandatory sinking fund redemption; provided, however, that the University may be entitled to certain credits on such payments as permitted under the Loan Agreement.

(c) Debt Service Fund--Redemption: On or before the date required by the Indenture, the amount required to redeem Bonds then Outstanding if the University exercises its right to redeem Bonds under any provision of the Indenture or if any Bonds are required to be redeemed (other than pursuant to mandatory sinking fund redemption provisions) under any provision of the Indenture.

Notwithstanding any schedule of payments upon the Loan set forth in the Loan Agreement, the University will make payments upon the Loan and will be liable therefor at the times and in the amounts (including interest, principal, and redemption premium, if any) equal to the amounts to be paid as interest, principal and redemption premium, if any, whether at maturity or by optional or mandatory redemption upon all Bonds from time to time Outstanding under the Indenture.

Unpaid Loan Payments will bear interest at the applicable rate of interest on the applicable Series of Bonds. Any interest charged and collected on an unpaid Loan Payment will be deposited to the credit of the Debt Service Fund and applied to pay interest on overdue amounts in accordance with the Indenture.

**Credits on Loan Payments.** Notwithstanding any provision contained in the Loan Agreement or in the Indenture to the contrary, in addition to any credits on the Loan resulting from the payment or prepayment of Loan Payments from other sources:

(a) any moneys deposited by the Bond Trustee (including the proceeds of draws under the Letter of Credit) or the University in the Debt Service Fund as interest (including moneys received as accrued interest from the sale of the Bonds and any initial deposit made from the proceeds of the sale of the Bonds) will be credited against the obligation of the University to pay interest on the Loan as the same becomes due;

(b) any moneys deposited by the Bond Trustee (including the proceeds of draws under the Letter of Credit) or the University in the Debt Service Fund as principal will be credited against the obligation of the University to pay the principal of the Loan as the same becomes due in the order of maturity thereof, except that prepayments for purposes of making an optional deposit into the Debt Service Fund for the redemption of Bonds will be applied to the portion and maturities of principal of the Loan corresponding to the Series designation and maturities of the Bonds to be redeemed or purchased, delivered and canceled from the proceeds of such optional deposit;

(c) the principal amount of Bonds purchased by the University and delivered to the Bond Trustee, or purchased by the Bond Trustee and canceled, will be credited against the obligation of the University to pay principal on the Loan related to such Bonds so purchased; and

(d) the investment income accruing to the Debt Service Fund and the amount of any moneys transferred by the Bond Trustee from any other fund held under the Indenture and deposited in the Debt Service Fund as interest or principal will be credited against the obligation of the University to pay interest or principal, as the case may be, as the same become due;

provided, however, that the crediting of the proceeds of draws under the Letter of Credit against the obligation to pay amounts due under the Loan Agreement will not relieve the University from its obligation to reimburse the Reimbursement Bank for amounts drawn under the Letter of Credit pursuant to the Credit Agreement.

**Additional Payments.** The University will make the following Additional Payments to the following Persons:

(a) *Authority Fees.* The annual fee of the Authority and the reasonable fees and expenses of the Authority or any agent selected by the Authority to act on its behalf in connection with the Loan Agreement, the Transaction Documents or the Bonds, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of any such Bonds or in connection with any litigation which may at any time be instituted involving the Loan Agreement, the Transaction Documents or the Bonds or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the University, its properties, assets or operations or otherwise in connection with the administration of the Loan Agreement or the Transaction Documents.

(b) *Bond Trustee Fees and Professional Fees.* The University will pay to the Bond Trustee, the Authority and any Remarketing Agent, registrars, counsel, accountants, engineers and other Persons when due, all reasonable fees, charges and expenses of such Persons for services rendered under the Indenture and under any of the Transaction Documents and expenses incurred in the performance of such services under the Indenture and any of the Transaction Documents for which such Persons are

entitled to payment or reimbursement, including expenses of compliance with the Tax Agreement.

(c) *Advances By Bond Trustee.* The University will pay to the Bond Trustee, the amount of all advances of funds made by the Bond Trustee under the provisions of the Loan Agreement or the Indenture, with interest thereon at the prime rate announced from time to time by the Bond Trustee plus 2%, but in any event such rate will not be in excess of the maximum rate permitted by law.

(d) *Arbitrage Rebate Payments.* The University will pay to the United States Government all rebate payments required under Section 148(f) of the Code and the Tax Agreement.

(e) *Payments Under the Credit Agreement.* The University will pay to the Reimbursement Bank the amounts paid by the Credit Bank under the Letter of Credit and other amounts owing to the Reimbursement Bank under the Credit Agreement and the other Credit Documents.

(f) *Purchase Price of Tendered Bonds.* The University will pay to the Bond Trustee, at the times and in the amounts and manner therein specified, an amount equal to the amount required in order to purchase any Bonds tendered for purchase pursuant to the Indenture; provided, however, that the amount required to be paid under this paragraph will be reduced by an amount equal to the sum of the amounts made available for such purpose from the proceeds of the remarketing of such Bonds by the Remarketing Agent or through payments by the Credit Bank under the Letter of Credit, all as contemplated by the Indenture; provided further however, that such reduction will not relieve the University of its obligation to reimburse the Reimbursement Bank for payments under the Letter of Credit.

(g) *Costs of Enforcement.* In the event the University defaults under any of the provisions of the Loan Agreement and the Bond Trustee or the Authority employs attorneys or incurs other fees, charges and expenses for the collection of required payments or the enforcement of performance or observance of any obligation or agreement on the part of the University contained in the Loan Agreement, the University on demand therefor will pay to the Bond Trustee the reasonable fees of such attorneys and such other fees, charges and expenses so incurred by the Bond Trustee. The University also will pay, and will indemnify the Authority and the Bond Trustee from and against, all costs, claims, liabilities, losses, expenses and charges, including reasonable counsel fees, incurred for the collection of payments due or for the enforcement or performance or observance of any covenant or agreement of the University under the Loan Agreement, the Indenture or any other Transaction Document.

(h) *Taxes and Assessments.* All taxes and assessments of any type or character charged to the Authority or to the Bond Trustee affecting the amount available to the Authority or the Bond Trustee from payments to be received under the Loan Agreement or in any way arising due to the transactions contemplated thereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Bond Trustee and taxes based upon or measured by the net income of the Bond Trustee; provided, however, that the University will have the right to protest any such taxes or assessments and to require the Authority or the Bond Trustee, at the University's expense, to protest and contest any such taxes or assessments levied upon them and that the University

will have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Authority or the Bond Trustee.

(i) *Other Amounts Payable.* The University will pay to the Person or Persons entitled thereto, any other amounts which the University has agreed to pay under the Loan Agreement.

**Prepayment of the Loan.** The University will have and is granted the option to prepay from time to time the amounts payable under the Loan Agreement in sums sufficient to redeem or to pay or cause to be paid all or part of the Bonds in accordance with the provisions of the Indenture. Upon written notice and direction by the University to the Authority to redeem Bonds subject to optional redemption under the Indenture, the Authority will forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the then Outstanding Bonds, as may be specified by the University, on the date established for such redemption. Whenever any Bonds will have been called for optional redemption under any provision of the Indenture, the University will deposit with the Bond Trustee moneys in such amounts required and at such times as may be required to redeem such Bonds, including the principal, redemption premium, if any, and accrued interest thereon to the redemption date. The University further agrees that in the event the payment of principal of and interest on the Loan is accelerated upon the occurrence of an Event of Default under the Loan Agreement, all Loan Payments payable for the remainder of the term of the Loan Agreement will be accelerated and prepayment will be made on the Loan in such amounts, unless such acceleration has been rescinded under the Indenture. Any such prepayments will be deposited in the applicable account of the Debt Service Fund, and applied by the Bond Trustee in accordance with the provisions of the Indenture. The University may also prepay all or any portion of its indebtedness on the Loan by providing for the payment of all or any portion of the Bonds in accordance with the Indenture.

**Obligations Absolute and Unconditional.** The obligations of the University to make the Loan Payments and other payments under the Loan Agreement and to perform and observe the other agreements on its part contained in the Loan Agreement will be absolute and unconditional, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Authority or the Bond Trustee, and during the term of the Loan Agreement, the University will pay absolutely the payments to be made on account of the Loan and all other payments required under the Loan Agreement, free of any deductions and without abatement, diminution or setoff. Until such time as the principal of, premium, if any, and interest on the Bonds will have been fully paid, or provision for the payment thereof will have been made as required by the Indenture, the University (i) will not suspend or discontinue any payments provided for in the Loan Agreement with respect to the Bonds; (ii) will perform and observe all of its other covenants contained in the Loan Agreement with respect to the Bonds, the Facilities and the Project; and (iii) except as provided in the immediately preceding paragraph, will not terminate the Loan Agreement for any cause, including, without limitation, the occurrence of any act or circumstances that may constitute failure of consideration, destruction of or damage to, or taking or condemnation of, all or any part of the Project or the Facilities, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either of these, or any failure of the Authority or the Bond Trustee to perform and observe any covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with the Loan Agreement or the Indenture.

Nothing contained under this heading will be construed to release the Authority from the performance of any of the agreements on its part contained in the Loan Agreement, and in the event the Authority should fail to perform any such agreement on its part, the University may

institute such action against the Authority as the University may deem necessary to compel performance.

**Maintenance of Corporate Existence of the University; Consolidation, Merger, Sale or Transfer Under Certain Conditions.** The University covenants and agrees that it will maintain its existence as a Minnesota nonprofit corporation and a tax-exempt organization and will not dissolve, sell or otherwise dispose of all or substantially all of its assets (except in compliance with the provision of the Loan Agreement under the caption "Maintenance and Use of Property; Right of Access") nor consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it; provided, that the University may consolidate with or merge into another Person, or permit one or more other Persons to consolidate with or merge into it, or sell or otherwise transfer to another Person such assets, if:

(a) The surviving, resulting or transferee Person, as the case may be: (a) assumes in writing, if such Person is not the University, all of the obligations of the University under the Loan Agreement; (b) is not, after such transaction, otherwise in default under any provisions of the Loan Agreement; and (c) is an organization described in Section 501(c)(3) of the Code or a Governmental Unit;

(b) The Bond Trustee and the Authority will have received an Opinion of Bond Counsel to the effect that such merger, consolidation, sale or other transfer will not, in and of itself, affect the Tax-Exempt status of interest on the Series Five-P1 Bonds; and

(c) The surviving, resulting or transferee person, as the case may be, will deliver to the Bond Trustee a statement of an authorized representative to the effect that it intends to continue to operate the Facilities in a manner which will allow it to continue to meet all of the University's obligations under the Loan Agreement.

If a merger, consolidation, sale or other transfer is effected, as provided under this heading, the provisions under this heading will continue in full force and effect and no further merger, consolidation, sale or transfer will be effected except in accordance with the provisions listed under this heading. Notwithstanding any other provision under this heading, the University need not comply with any of the above provisions if, at the time of such transaction, all of the Series Five-P1 Bonds will be defeased as provided in the Indenture; provided that the Corporation shall have delivered to the Bond Trustee and the Authority (i) with respect to the Series Five-P1 Bonds, an Opinion of Bond Counsel to the effect that such merger, consolidation, sale or other transfer will not, in and of itself take into account the defeasance of the Series Five-P1 Bonds, affect the Tax-Exempt status of interest on the Series Five-P1 Bonds, and (ii) with respect to the Bonds, an Opinion of Counsel that such merger, consolidation, sale or other transfer will not, in and of itself take into account the defeasance of the Bonds, cause the Bonds to become subject to the registration requirements of the Securities Act of 1933, as amended.

**Maintenance and Use of Property; Right of Access.** The University will cause all of its property used or useful in the conduct of its business and operations to be maintained, preserved and kept in good repair and working order and condition and in as safe condition as its operations will permit and will make all repairs, renewals, replacements and improvements thereof necessary for the efficient and advantageous conduct of its business and operations. The University is not obligated to preserve, repair, renew or replace any property no longer used or no longer useful in the conduct of its business, and is not prevented from discontinuing the operation of any of its property or from removing or demolishing any building or buildings, if in its judgment (evidenced, in the case of such a cessation other than in the ordinary course of business, by a determination by its governing board) such discontinuance is desirable in the conduct of its business and not disadvantageous in any material respect to the owners of the

Bonds. The University may make additions, alterations and changes to its property so long as such additions, alterations and changes are made in compliance with the provisions of the Loan Agreement and will not result in a violation of the provisions of the Loan Agreement, and the University may dispose of any property as permitted by the Loan Agreement.

Subject to the provisions of the Loan Agreement, the Credit Agreement and the Act, the University will have the right to use its property for any purpose allowed by law and contemplated by the Act. Except as provided in the Loan Agreement, the Authority reserves no power or authority with respect to the operation of the property by the University and activities incident thereto, it being the intention of the parties to the Loan Agreement that so long as the University will duly and faithfully observe and perform all of the terms, covenants, provisions and agreements of the Loan Agreement, the University will manage, administer and govern the property of the University in its activities and affairs on a continuing day-to-day basis. The University agrees that it will not use or permit the use of any of the properties financed or refinanced, or for which it is reimbursed, in whole or in part, out of the proceeds of the Series Five-P1 Bonds: (1) in an unrelated trade or business as defined in Section 513(a) of the Code, or by any person who is not an organization described in Section 501(c)(3) of the Code (including the University), or who is not a governmental unit within the meaning set forth in Section 141 of the Code, in either case in such manner or to such extent as would result in any of the Bonds being treated as an obligation not described in Section 103(a) of the Code; (2) for sectarian instruction or as a place for religious worship or in connection with any part of the programs of any school or department of divinity for the useful life of the Series Five-P1 Project; or (3) in a manner which is prohibited by the Establishment of Religion Clause of the First Amendment to the Constitution of the United States of America and the decisions of the United States Supreme Court interpreting the same or by any comparable provisions of the Constitution of the State of Minnesota and the decisions of the Minnesota Supreme Court interpreting the same for the useful life of the Series Five-P1 Project.

The duly authorized agents of the Reimbursement Bank, the Credit Bank, Bond Trustee, the Authority, and the Bond Trustee's, Authority's and Credit Bank's attorneys and agents, will have the right at all reasonable times and with prior notice to the University to enter the Facilities of the University, or any parts thereof, for the purpose of inspecting the property of the University to insure such compliance.

**Compliance With Laws and Regulations.** The University will conduct its affairs and carry on its business and operations in such manner as to comply with any and all applicable laws of the United States of America and the several states thereof and to observe and conform to all valid orders, regulations or requirements of any governmental authority applicable to the conduct of its business and operations and the ownership of its property; provided, however, that nothing contained in the Loan Agreement will require the University to comply with, observe and conform to any such law, order, regulation or requirement of any governmental authority so long as the validity thereof will be contested by the University in good faith by appropriate proceedings, provided that the University will have set aside on its books adequate reserves with respect to such contest and such contest will not materially impair the ability of the University to meet its obligations under the Loan Agreement.

**Payment of Taxes and Other Charges.** The University will pay or cause to be paid as they become due and payable all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the University or its property or any part thereof or upon any income therefrom; provided, however, that the University will not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof will currently be contested in good faith by appropriate proceedings and the University will have established and will maintain adequate reserves on its books for the payment of the same.

**Licenses, Permits and Accreditation.** The University will procure and maintain all licenses, permits and governmental approvals necessary in the operation of its business and affairs and will maintain accreditation of its Facilities by the appropriate accrediting body and will use its best efforts to maintain the status of its educational facilities (other than those not currently having such status); provided, however, that the University will not be required to procure or maintain in effect any right, license, governmental approval or accreditation that the governing board of the University will have determined in good faith, is not in the best interests of the University and is no longer desirable in the conduct of its business and that lack of such compliance will not materially impair the ability of the University to pay or perform its obligations under the Loan Agreement.

**Insurance.** The University will maintain, or cause to be maintained at its sole cost and expense, insurance with respect to its Facilities, the operation thereof and its business against such casualties, contingencies and risks (including but not limited to property and casualty, business interruption, worker's compensation, general and professional liability and employee dishonesty) and in amounts not less than is customary and adequate in the case of organizations engaged in the same or similar activities and similarly situated and as is adequate to protect its property and operations. The University will annually review the insurance it maintains pursuant to the Loan Agreement as to whether such insurance is customary and adequate. The Bond Trustee will have no responsibility to monitor the existence or adequacy of such insurance.

**Indemnity of the Authority and Bond Trustee.**

(a) To the fullest extent permitted by law, the University agrees to indemnify, hold harmless and defend the Authority, the Program Participant, the Bond Trustee and each of their respective officers, governing members, directors, officials, employees, attorneys and agents (collectively, the "Indemnified Parties"), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject, or under any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(1) the Bonds, the Indenture, the Loan Agreement or the Tax Agreement or the execution or amendment thereof or in connection with transactions contemplated thereby, including the issuance, sale or resale of the Bonds;

(2) any act or omission of the University or any of its agents, contractors, servants, employees or licensees in connection with the Project or the Facilities, the operation of the Project or the Facilities, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or the Facilities or any part thereof;

(3) the attempted or successful enforcement of any lien or charge upon payments by the University to the Authority and the Bond Trustee under the Loan Agreement, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Authority or the Bond Trustee in respect of any portion of the Project or the Facilities;



(4) any violation of any Environmental Regulation with respect to, or the release of any Hazardous Substance from, the Project or the Facilities or any part thereof;

(5) the defeasance and/or redemption, in whole or in part, of the Bonds;

(6) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds to which the University is a party, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(7) any declaration of taxability of interest on the Series Five-P1 Bonds, or allegations (or regulatory inquiry) that interest on the Series Five-P1 Bonds is taxable, for federal tax purposes; and

(8) the Bond Trustee's acceptance or administration of the trust of the Indenture, or the exercise or performance of any of its powers or duties under the Loan Agreement or under any of the documents relating to the Bonds to which it is a party;

except (A) in the case of the foregoing indemnification of the Bond Trustee or any of its respective officers, members, directors, officials, employees, representatives, attorneys and agents, to the extent such damages are caused by the negligence or willful misconduct of such Indemnified Party; or (B) in the case of the foregoing indemnification of the Authority or the Program Participant or any of their officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under the Loan Agreement, the University, upon written notice from the Indemnified Party, will assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and will assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party will have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party will have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the University will pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the University if in the reasonable judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(b) The rights of any persons to indemnity under the Loan Agreement and rights to payment of fees and reimbursement of expenses pursuant to certain provisions the Loan Agreement under the captions "Indemnity of the Authority and Bond Trustee," "Expenses" and "Notice of Interest Rate Periods" will survive the final payment or defeasance of the Bonds and in the case of the Bond Trustee any resignation or

removal. The provisions delineated under this heading will survive the termination of the Loan Agreement or the Indenture.

**Continuing Disclosure.** The University covenants and agrees that, if the Bonds of a Series are converted to a Long-Term Rate or a Fixed Rate as provided in the Indenture, it will take all such actions as are necessary and appropriate to comply with and carry out the continuing disclosure requirements of Rule 15c2-12. Failure to comply with any of the continuing disclosure requirements will not constitute an Event of Default under the Loan Agreement.

**Tax Covenants.** The University covenants and agrees that it will not take any action or permit any action to be taken that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Series Five-P1 Bonds and will take whatever action, or refrain from whatever action, necessary to comply with the requirements of the Code to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series Five-P1 Bonds, and without limiting the generality of the foregoing, the University will comply with the Tax Agreement and will pay or provide for payment to the United States Government, of all rebate payments required under Section 148(f) of the Code and the Tax Agreement. This covenant will survive payment in full or defeasance of the Series Five-P1 Bonds.

**Assignment by the University.** The University will not assign the Loan Agreement and the other Transaction Documents, as a whole or in part, without the prior written consent of the Authority and the Reimbursement Bank, unless the Letter of Credit is no longer outstanding and the following conditions are met:

(a) No assignment will relieve the University from primary liability for any of its obligations under the Loan Agreement, and in the event of any such assignment, the University will continue to remain primarily liable for payment of the amounts specified in the Loan Agreement and the performance and observance of the other agreements to be performed and observed by the University under the Loan Agreement to the same extent as though no assignment had been made.

(b) The assignee will assume the obligations of the University under the Loan Agreement and the other Transaction Documents, to the extent of the interest assigned.

(c) If there remains unpaid any Series Five-P1 Bond which bears interest that is not includable in gross income under the Code, the Bond Trustee and the Authority will have received an Opinion of Bond Counsel, in form and substance satisfactory to the Bond Trustee and the Authority, to the effect that under then existing law the consummation of such assignment, whether or not contemplated on any date of the delivery of such Series Five-P1 Bond, would not cause the interest payable on such Bond to become includable in gross income under the Code.

(d) The University will, prior to the effective date of such assignment furnish or cause to be furnished to the Authority and the Bond Trustee a true and complete copy of each assignment and assumption of obligations.

**Special Services Covenant.** The University will operate and maintain the Facilities as an educational institution.

**Records and Financial Statements of University.** The University will maintain adequate books, accounts and records in connection with the operation of the Facilities in accordance with generally accepted accounting principles and in compliance with the regulations of any governmental regulatory body having jurisdiction thereof. The University will, within 150 days

after the close of each fiscal year, submit to the Authority, the Reimbursement Bank, the Credit Bank and to the Bond Trustee audited financial statements with respect to the University for such fiscal year. The Bond Trustee will have no duty to review such financial statements. The Bond Trustee will be permitted (but will have no duty) at all reasonable times upon reasonable notice during the term of the Loan Agreement to examine the books and records of the University with respect to the Project, subject to reasonable advance notice.

**Events of Default.** The term “Event of Default,” wherever used in the Loan Agreement, means any one of the following events (whatever the reason for such event and whether it will be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any interest on the Loan when such interest becomes due and payable; or

(b) default in the payment of the principal of (or premium, if any, on) the Loan when the same becomes due and payable (whether at maturity, upon proceedings for redemption, by acceleration or otherwise); or

(c) default in the payment of the purchase price of tendered Bonds required by the Loan Agreement; or

(d) default in the performance, or breach, of any covenant or agreement of the University in the Loan Agreement (other than a covenant or agreement a default in the performance or breach of which is specifically dealt with elsewhere under this heading), and continuance of such default or breach for a period of 60 days after there has been given to the University and the Credit Bank by the Authority or the Bond Trustee or to the University, the Credit Bank and the Bond Trustee by the owners of at least 25% in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 60-day period, but can reasonably be expected to be fully remedied, such default will not constitute an Event of Default if the University will immediately upon receipt of such notice commence the curing of such default and will thereafter prosecute and complete the same with due diligence and dispatch; or

(e) any representation or warranty made by the University in the Loan Agreement or in any other Transaction Documents or in any written statement or certificate furnished to the Authority or the Bond Trustee or the purchaser of any Bond in connection with the sale of any Bond or furnished by the University pursuant to the Loan Agreement proves untrue in any material respect as of the date of the issuance or making thereof and will not be corrected or brought into compliance within 60 days after there has been given to the University, the Reimbursement Bank and the Credit Bank by the Authority or the Bond Trustee or to the University, the Credit Bank and the Bond Trustee by the owners of at least 25% in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 60-day period, but can reasonably be expected to be fully remedied, such default will not constitute an Event of Default if the University will immediately upon receipt of such notice commence the curing of such default and will thereafter prosecute and complete the same with due diligence and dispatch; or

(f) the entry of a decree or order by a court having jurisdiction in the premises for relief in respect of the University, or adjudging the University a bankrupt or

insolvent, or approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of the University under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of or for the University or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order remains unstayed and in effect for a period of 60 consecutive days; or

(g) the commencement by the University of a voluntary case, or the institution by it of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the University or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by the University in furtherance of any such action; or

(h) the occurrence and continuance of any "Event of Default" specified in the Indenture that has not been waived.

**Acceleration of Maturity; Rescission and Annulment.** Subject to the provisions of the Loan Agreement, if an Event of Default under the Loan Agreement occurs and is continuing, the Bond Trustee, as assignee of the Authority, may, and if requested by the owners of not less than 25% in principal amount of the Bonds Outstanding will, by written notice to the University, the Reimbursement Bank, the Credit Bank and the Authority, declare the principal of the Loan and the interest accrued thereon to be due and payable, and upon any such declaration such principal and interest will become immediately due and payable.

At any time after such a declaration of acceleration has been made, but before any judgment or decree for payment of money due on the Loan has been obtained by the Bond Trustee as provided in the Loan Agreement, the Bond Trustee may, by written notice to the University, the Reimbursement Bank, the Credit Bank and the Authority, rescind and annul such declaration and its consequences if

(a) the University has deposited with the Bond Trustee a sum sufficient to pay

(1) all overdue installments of interest on the Loan,

(2) the principal of (and premium, if any, on) the Loan which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Loan Agreement,

(3) interest upon overdue installments of interest at the rate or rates prescribed therefor in the Loan, and

(4) all sums paid or advanced by the Bond Trustee under the Loan Agreement and the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel; and

(b) all events of default, other than the non-payment of the principal of the Loan which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in the Loan Agreement.

No such rescission and annulment will affect any subsequent default or impair any right consequent thereon.

**Exercise of Remedies by the Bond Trustee.** Subject to the provisions of the Loan Agreement, upon the occurrence and continuance of any Event of Default under the Loan Agreement, unless the same is waived as provided in the Loan Agreement, the Bond Trustee, as assignee of the Authority, will have the following rights and remedies, in addition to any other rights and remedies provided under the Loan Agreement or by law:

(a) **Right to Bring Suit, Etc.** The Bond Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, and interest on the Loan, including interest on overdue principal (and premium, if any) and on overdue installments of interest, and any other sums due under the Loan Agreement, to realize on or to foreclose any of its interests or liens under the Loan Agreement, to enforce and compel the performance of the duties and obligations of the University as set forth in the Loan Agreement and to enforce or preserve any other rights or interests of the Bond Trustee under the Loan Agreement existing at law or in equity.

(b) **Exercise of Remedies at Direction of Bondowners.** If requested in writing to do so by the owners of not less than 25% in principal amount of Bonds Outstanding and if indemnified as provided in the Indenture, the Bond Trustee will be obligated to exercise such one or more of the rights and remedies conferred by the Loan Agreement as the Bond Trustee will deem most expedient in the interests of the bondowners.

(c) **Appointment of Receiver.** Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee under the Loan Agreement, the Bond Trustee will be entitled, as a matter of right, to the appointment of a receiver or receivers, pending such proceedings, with such powers as the court making such appointment will confer.

(d) **Restoration of Positions.** If the Bond Trustee has instituted any proceeding to enforce any right or remedy under the Loan Agreement by suit, foreclosure, the appointment of a receiver, or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Bond Trustee, then and in every case the University and the Bond Trustee will, subject to any determination in such proceeding, be restored to their former positions and rights under the Loan Agreement, and thereafter all rights and remedies of the Bond Trustee will continue as though no such proceeding had been instituted.

**Rights and Remedies Cumulative.** No right or remedy conferred in the Indenture upon or reserved to the Bond Trustee is intended to be exclusive of any other right or remedy, and every right and remedy will, to the extent permitted by law, be cumulative and in addition to every other right and remedy given under the Loan Agreement or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy under the Loan Agreement, or otherwise, will not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Delay or Omission Not Waiver.** No delay or omission of the Bond Trustee to exercise any right or remedy accruing upon an event of default will impair any such right or remedy or

constitute a waiver of any such event of default or an acquiescence therein. Every right and remedy given by the Loan Agreement under the Article "Default and Remedies" or by law to the Bond Trustee or to the Bondholders may be exercised from time to time and as often as may be deemed expedient by the Bond Trustee.

**Waiver of Past Defaults.** Subject to the provisions of the Loan Agreement, before any judgment or decree for payment of money due has been obtained by the Bond Trustee as provided in the Loan Agreement under the Article "Default and Remedies", the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice delivered to the Bond Trustee, the Authority and the University, on behalf of the Owners of all the Bonds waive any past default under the Loan Agreement and its consequences, except a default:

(a) in the payment of the principal of (or premium, if any) or interest on any Bond, or

(b) in respect of a covenant or provision of the Loan Agreement which under the Article "Supplemental Loan Agreements" in the Loan Agreement cannot be modified or amended without the consent of the owner of each Outstanding Bond affected.

Upon any such waiver, such default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, for every purpose of the Loan Agreement; but no such waiver will extend to or affect any subsequent or other default or impair any right or remedy consequent thereon.

**Supplemental Loan Agreements without Consent of Bondowners.** Without the consent of the Owners of any Bonds, but with the prior written consent of the Reimbursement Bank, the Authority and the University may from time to time enter into one or more Supplemental Loan Agreements, in form satisfactory to the Bond Trustee, for any of the following purposes:

(a) to correct or amplify the description of any property of the University at any time subject to the Loan Agreement, or to subject to the Loan Agreement additional property or to more precisely identify any project financed or refinanced out of the proceeds of any Bonds, or to substitute or add additional property thereto; or

(b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of the Loan, as set forth in the Loan Agreement, additional conditions, limitations and restrictions thereafter to be observed; or

(c) to evidence the succession of another University to the University and the assumption by any such successor of the covenants of the University contained in the Loan Agreement; or

(d) to add to the covenants of the University or to the rights, powers and remedies of the Bond Trustee for the benefit of the Owners of all of the Bonds or to surrender any right or power conferred upon the University in the Loan Agreement provided that such surrender will not materially adversely affect the interests of the Owners of the Bonds; or

(e) to cure any ambiguity, to correct or supplement any provision in the Loan Agreement which may be inconsistent with any other provision therein, to modify the financial covenants in the Loan Agreement to reflect subsequent changes to accounting standards, if any, or to make any other provisions, with respect to matters or questions arising under the Loan Agreement, which will not be inconsistent with the provisions of

the Loan Agreement, provided such action will not adversely affect the interests of the Owners of the Bonds; or

(f) to the extent applicable, for any other purpose as set forth in the Indenture.

The Bond Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Loan Agreement and any such determination will be conclusive upon the Owners of all Bonds, whether theretofore or thereafter authenticated and delivered under the Loan Agreement. The Bond Trustee will not be liable for any such determination made in good faith.

**Supplemental Loan Agreements with Consent of Bondowners.** Subject to certain provisions of the Loan Agreement and the Indenture, with the prior written consent of the Reimbursement Bank and the Owners of not less than a majority in principal amount of the Bonds then Outstanding affected by such Supplemental Loan Agreement, the Authority and the University may enter into Supplemental Loan Agreements, acceptable to the Bond Trustee, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Loan Agreement or of modifying in any manner the rights of the Bond Trustee and the Owners of the Bonds under the Loan Agreement; provided, however, that no such Supplemental Loan Agreement will, without the consent of the owner of each Outstanding Bond affected thereby,

(a) extend the fixed maturity of any Bond or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Holder of each Bond so affected; or

(b) reduce the percentage in principal amount of the Outstanding Bonds, the consent of whose Owners is required for any such Supplemental Indenture or Supplemental Loan Agreement, or the consent of whose Owners is required for any waiver provided for in the Loan Agreement of compliance with certain provisions of the Indenture or Loan Agreement or certain Event of Defaults under the Loan Agreement and their consequences; or

(c) modify the obligation of the Authority to make payment on or provide funds for the payment of any Bond; or

(d) modify or alter the provisions of the proviso to the definition of the term "Outstanding," contained in the Indenture; or

(e) modify any of the provisions of under this heading or under the heading "Events of Default" in the Indenture, except to increase any percentage provided thereby or to provide that certain other provisions of the Loan Agreement cannot be modified or waived without the consent of the Owner of each Bond affected thereby; or

(f) permit the creation of any lien ranking prior to or on a parity with the lien of the Indenture with respect to any of the Trust Estate or terminate the lien of the Indenture on any property at any time subject to the Loan Agreement or deprive the Owner of any Bond of the security afforded by the lien of the Indenture.

The Bond Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Loan Agreement and any such determination will be conclusive upon the Owners of all Bonds, whether theretofore or thereafter authenticated and delivered under the

Loan Agreement. The Bond Trustee will not be liable for any such determination made in good faith.

It will not be necessary for the required percentage of Owners of Bonds under this heading to approve the particular form of any proposed Supplemental Loan Agreement, but it will be sufficient if such act will approve the substance thereof.

**Effect of Supplemental Loan Agreements.** Upon the execution of any Supplemental Loan Agreement under the Loan Agreement, the Loan Agreement will be modified in accordance therewith and such Supplemental Loan Agreement will form a part of the Loan Agreement for all purposes; and the University, the Authority, the Bond Trustee and every owner of Bonds theretofore or thereafter authenticated and delivered under the Indenture will be bound thereby.

**Term of Loan Agreement.** The Loan Agreement will be effective concurrently with the initial issuance and delivery of the Bonds and will continue in force and effect until the principal of, redemption premium, if any, and interest on all of the Bonds have been fully paid (or provision for their payment will have been made in accordance with the Indenture) together with all sums to which the Authority and the Bond Trustee are entitled from the University under the Loan Agreement; provided, however, the provisions of the Loan Agreement related to payments to the United States Government, the indemnification of the Authority and the Bond Trustee and compliance with tax covenants will survive any such termination and will remain in full force and effect.

**Obligation to Continue Payments.** Notwithstanding anything to the contrary in the Loan Agreement, if prior to full payment of the Bonds (or provision for payment thereof in accordance with the provisions of the Indenture) (i) the Facilities or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty, or (ii) the temporary use of the Facilities or any portion thereof will be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or University acting under governmental authority, the University will nevertheless be obligated to continue to pay the amounts specified in under the headings "Loan Payments," "Credits on Loan Payments" and "Additional Payments" in the Loan Agreement, to the extent not prepaid in accordance with the Loan Agreement.

**Further Assurances.** The University will do, execute, acknowledge and deliver such further acts, instruments, financing statements and assurances as the Bond Trustee may reasonably require for accomplishing the purposes of the Indenture the Loan Agreement and all other Transaction Documents.

**Immunity of Officers, Employees and Members of the Authority and the Corporation.** No recourse shall be had for the payment of the principal of or premium or interest on the Loan or for any claim based thereon or upon any representation, obligation, covenant or agreement in this Loan Agreement contained against any past, present or future officer, member, trustee, director, employee or agent of the Authority, or the Corporation, or, respectively, of any successor public or private corporation thereto, as such, either directly or through the Authority, the Corporation, or respectively, any successor public or private corporation thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, directors, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent or employee from the performance of any official duty provided by law or by the Loan Agreement.



## THE INDENTURE

The Indenture sets forth the terms of the Bonds, the nature and extent of the security, various rights of the Owners, rights, duties and immunities of the Bond Trustee and rights and obligations of the Authority. Although certain of the provisions of the Indenture are summarized below, this summary does not purport to be complete or definitive and is qualified in its entirety by reference to the full terms of the Indenture.

**Creation of Funds and Accounts.** The Indenture creates the following funds and accounts:

(a) “Minnesota Higher Education Facilities Authority Variable Rate Demand Revenue Bonds (Concordia University, St. Paul) Series Five-P Project Fund” (the “Project Fund”). Within the Project Fund there is created by the Authority and ordered established with the Bond Trustee the “Series Five-P1 Project Account”, the “Series Five-P2 Project Account,” the “Series Five-P1 Costs of Issuance Account,” and the “Series Five-P2 Costs of Issuance Account.”

(b) “Minnesota Higher Education Facilities Authority Variable Rate Demand Revenue Bonds (Concordia University, St. Paul) Series Five-P Debt Service Fund” (the “Debt Service Fund”). Within the Debt Service Fund there are created by the Authority and ordered established with the Bond Trustee (i) the “Eligible Moneys Account,” with separate sub-accounts to be designated for the Series Five-P1 Bonds and the Series Five-P2 Bond, (ii) the “Non-Eligible Moneys Account,” with separate sub-accounts to be designated for the Series Five-P1 Bonds and the Series Five-P2 Bonds, and (iii) the “Letter of Credit Account” with separate sub-accounts to be designated for the Series Five-P1 Bonds and the Series Five-P2 Bonds.

The Bond Trustee is authorized to establish separate accounts within such funds or otherwise segregate moneys within such funds and accounts, on a book-entry basis or in such other manner as the Bond Trustee may deem necessary or convenient, or as the Bond Trustee will be instructed by the University.

**Deposit of Bond Proceeds and Other Moneys.** The Authority, for and on behalf of the University, will deposit with the Bond Trustee all of the net proceeds of the Bonds, and the Bond Trustee will deposit such proceeds into the applicable account, corresponding to the Series of Bonds from which the net proceeds are derived within the Project Fund, which deposit will be disbursed by the Bond Trustee for the purposes and in the manner set forth in the Indenture.

**Project Fund and Costs of Issuance Account.** Moneys in the respective accounts of the Project Fund will be used solely for the purpose of (a) paying the Costs of Issuance of the applicable Series, and (b) for paying the Costs of the Project of the applicable Series, including reimbursing the University for costs incurred with respect to the Project, in accordance with the plans and specifications therefor, including any alterations in or amendments to said plans and specifications deemed advisable by the University and approved in accordance with the Loan Agreement; provided, however, that in no event will moneys in the Series Five-P1 Project Account be used to refinance any portion of the Series Five-P2 Project.

The Bond Trustee will pay out of the Costs of Issuance Accounts within the Project Fund upon written disbursement requests of the University, signed by the Authorized University Representative, amounts equal to the amount of Costs of Issuance for the applicable Series certified in such written requests to be paid or reimbursed; provided, however, that Costs of Issuance paid from the Series Five-P1 Bond proceeds deposited in the Series Five-P1 Costs of Issuance Account will not exceed 2% of the principal amount of the Series Five-P1 Bonds.

The Bond Trustee will disburse moneys on deposit in the respective accounts of the Project Fund from time to time to pay or as reimbursement for payment made for the Costs of the Project of the applicable Series (other than Costs of Issuance; provided, however, that moneys remaining in the Costs of Issuance Accounts six months after the Issue Date of the Bonds will be used for Project Costs of the applicable Series or as otherwise provided in the Indenture), in each case as soon as practicable after receipt by the Bond Trustee of written disbursement requests of the University signed by the Authorized University Representative and, if the disbursement is for construction costs related to the library, approved by the Reimbursement Bank.

In making the payments described above, the Bond Trustee may rely upon such written requests of the University and will not be required to make any independent investigation in connection therewith. If for any reason the University should decide prior to the mailing or release of payment by the Bond Trustee of any item not to pay such item, it will give written notice of such decision to the Bond Trustee and upon receipt thereof, if the Bond Trustee has not released such payment, the Bond Trustee will cancel the request and not make such payment. If the Authority so requests, a copy of each written disbursement request submitted to the Bond Trustee for payment will be promptly provided by the Bond Trustee to the Authority. The Bond Trustee will keep and maintain adequate records pertaining to the Project Fund and the accounts therein and all disbursements therefrom, and will file periodic statements of activity regarding the Project Fund with the University.

The Bond Trustee will require the University, upon completion of the Series Five-P1 Project, to deliver to the Bond Trustee within 90 days thereafter an Officer's Certificate:

(a) stating that the Series Five-P1 Project has been fully completed substantially in accordance with the plans and specifications for the Series Five-P1 Project, as then amended, and the date of completion of the Series Five-P1 Project; and

(b) stating that he has made such investigation of such sources of information as are deemed by him to be necessary, including pertinent records of the University, and is of the opinion that the Costs of the Series Five-P1 Project have been fully paid for and no claim or claims exist against the Authority or the University or against the Series Five-P1 Project out of which a lien based on furnishing labor or material exists or might ripen; provided, however, there may be excepted from the foregoing statement any claim or claims out of which a lien exists or might ripen in the event that the University intends to contest such claim or claims in accordance with the Loan Agreement and the Credit Agreement, in which event such claim or claims will be described; provided, further, that it will be stated that moneys are on deposit in the Series Five-P1 Project Account of the Project Fund or are available through enumerated bank loans (including letters of credit) or other sources sufficient to make payment of the full amount which might in any event be payable in order to satisfy such claim or claims; and

(c) stating if any item was added to, deleted from or substituted for the Series Five-P1 Project as described in the Indenture and in the Loan Agreement and providing any documentation, certificates or opinions required by the Loan Agreement.

If after payment by the Bond Trustee of all disbursement requests theretofore tendered to the Bond Trustee and after receipt by the Bond Trustee of the Officer's Certificate, there will remain any moneys in the Project Fund, such moneys will be deposited in the respective Series sub-account of the Debt Service Fund and used to redeem Bonds of the corresponding Series at the earliest permissible date under the Indenture, or, in the discretion of the University, will be applied for any other purpose; provided that with respect to the Series Five-P1 Bonds, there will

be delivered an Opinion of Bond Counsel addressed and delivered to the Bond Trustee and the Authority and a reliance letter to the Reimbursement Bank to the effect that the application of such proceeds of the Series Five-P1 Bonds to such other purpose will not cause the interest on the Series Five-P1 Bonds to be includible in gross income for federal income tax purposes.

If an Event of Default specified in the Indenture will have occurred and the Bonds will have been declared due and payable pursuant to the Indenture, any balance remaining in the Project Fund, will at the written direction of the Reimbursement Bank and without further authorization be deposited in the respective Series sub-account of the Debt Service Fund by the Bond Trustee with notice to the University and to the Authority of such action.

**Debt Service Fund.** The Bond Trustee will deposit and credit to the applicable account and sub-account in the Debt Service Fund, as and when received, the following:

- (a) All Loan Payments made by the University pursuant to the Loan Agreement.
- (b) Any amount required to be transferred from the Series Five-P1 Project Account in the Project Fund to the corresponding Series sub-account in the Debt Service Fund upon completion of the Series Five-P1 Project.
- (c) Interest earnings and other income on Permitted Investments required to be deposited in the corresponding Series sub-account in the Debt Service Fund pursuant to the Indenture.
- (d) All moneys drawn by the Bond Trustee under the Letter of Credit to pay interest, principal or the redemption price of any Bonds secured by such Letter of Credit.
- (e) All other moneys received by the Bond Trustee under and pursuant to any of the provisions of the Indenture or the Loan Agreement including, but not limited to prepayment pursuant to the Loan Agreement, when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the corresponding Series sub-account in the Debt Service Fund.

**Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of principal of, redemption premium, if any, or interest on the Bonds or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then payment of principal, redemption premium, if any, or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

**Nonpresentment of Bonds.** In the event any Bond will not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond will have been made available to the Bond Trustee, all liability of the Authority to the Owner thereof for the payment of such Bond, will forthwith cease, terminate and be completely discharged, and thereupon it will be the duty of the Bond Trustee to hold such funds in trust in a separate trust account, without liability for interest thereon, for the benefit of the Owner of such Bond, who will thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under the Indenture or on or with respect to said Bond. If any Bond will not be presented for payment within 2 years following the date when such Bond becomes due, whether by maturity or otherwise, the Bond Trustee will repay to the University without liability for interest thereon the funds theretofore held by it for payment of such Bond, and such Bond, will, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the University, and the Owner

thereof will be entitled to look only to the University for payment, and then only to the extent of the amount so repaid, and the University will not be liable for any interest thereon and will not be regarded as a trustee of such money.

**Moneys to be Held in Trust.** Subject to the provisions of the Indenture under the heading “Rights Retained After Discharge,” all moneys deposited with or paid to the Bond Trustee for the funds and accounts held under the Indenture will be held by the Bond Trustee in trust and will be applied only in accordance with the provisions of the Indenture and the Loan Agreement, and, until used or applied as provided in the Indenture, will (except for moneys in the Rebate Fund and the Bond Purchase Fund) constitute part of the Trust Estate and be subject to the lien, terms and provisions of the Indenture and will not be commingled with any other funds of the Authority or the University except as provided in the following paragraph for investment purposes. The Bond Trustee will not be liable for interest on any moneys received under the Indenture except such as may be the result of the earnings on Permitted Investments purchased at the direction of the University pursuant to the following paragraph.

**Investment of Moneys.** Subject to the provisions of the Indenture relating to remarketing and purchase of tendered Bonds and tax covenants, moneys held in each of the funds and accounts under the Indenture will, pursuant to written directions of the Authorized University Representative, or in the absence of such direction at the discretion of the Bond Trustee, be invested and reinvested by the Bond Trustee in accordance with the provisions of the Indenture and, with respect to the Series Five-P1 Bonds, the Tax Agreement in Permitted Investments which mature or are subject to redemption by the owner thereof prior to the date such funds are expected to be needed. The Bond Trustee may make any investments permitted by the provisions of this paragraph through its own bond department or short-term investment department or any affiliate thereof and may pool moneys for investment purposes, except moneys held in any fund or account that is required to be yield restricted in accordance with the Tax Agreement, which will be invested separately. Any such Permitted Investments will be held by or under the control of the Bond Trustee and will be deemed at all times a part of the fund or account in which such moneys are originally held. The interest accruing on each fund or account and any profit realized from such Permitted Investments will be credited to such fund or account, and any loss resulting from such Permitted Investments will be charged to such fund or account. The Bond Trustee will sell or present for redemption and reduce to cash a sufficient amount of such Permitted Investments whenever it will be necessary to provide moneys in any fund or account for the purposes of such fund or account and the Bond Trustee will not be liable for any loss resulting from such investments. All moneys held by the Bond Trustee in the applicable sub-account of the Letter of Credit Account and the applicable sub-account of the Eligible Moneys Account that are to be used to pay principal of or interest on or redemption price of the corresponding Series of Bonds will be invested only in Government Obligations described in clause (a) of the definition of “Government Obligations” maturing in 30 days or less and not later than the date when such moneys are needed for such payment.

**Alternate Letter of Credit.** The University may at any time, subject to any applicable provisions of the Credit Agreement, arrange for the substitution of an Alternate Letter of Credit for an existing Letter of Credit, or for a separate Alternate Letter of Credit for each Series for a single existing Letter of Credit then securing both Series, and the Bond Trustee will accept any Alternate Letter of Credit, subject to the following limitations:

- (a) Each Alternate Letter of Credit will be an irrevocable direct-pay letter of credit, bank bond purchase agreement, bond insurance policy, revolving credit agreement, surety bond or other agreement or instrument, or any combination thereof, issued and delivered in substitution for an existing Letter of Credit, under which any person or entity (other than the Authority or the University) undertakes to make or provide funds to make payments of the principal of, and interest on the Series of Bonds secured thereby, as and when due, and payments of the purchase price of Bonds of

such Series (if applicable) that have been tendered for purchase and for which proceeds of remarketing have not been received, and which meets the requirements and conditions under this heading.

(b) Each Alternate Letter of Credit, or a commitment to issue and deliver the Alternate Letter of Credit, must be delivered to the Bond Trustee not less than 30 days prior to the date of expiration of the then existing Letter of Credit, must be effective as of a date on or prior to the date of expiration of the then existing Letter of Credit, will expire no earlier than the Letter of Credit which it replaces, but may be expressed to expire prior to the final maturity of the Series of Bonds secured thereby.

(c) Each Alternate Letter of Credit will be satisfactory in form and substance to the Bond Trustee, and will be in a stated amount at least equal to the sum of (1) the aggregate principal amount of the Series of Bonds at the time outstanding, plus (2) required coverage for interest and premium, if any.

(d) Subject to the Indenture, the University will give written notice to the Authority, the Bond Trustee, the then current Reimbursement Bank and Credit Bank and the Rating Agency not less than 30 days prior to the expiration or termination date of the Letter of Credit then in effect, specifying that the University intends to replace the existing Letter of Credit with one or more Alternate Letters of Credit on or before the expiration of the Letter of Credit then in effect, the issuer of the Alternate Letter(s) of Credit, and the anticipated date on which the Alternate Letter(s) of Credit will become effective. Upon receipt of such notice, the Bond Trustee will mail a notice within 10 Business Days of the anticipated delivery of the Alternate Letter(s) of Credit by first-class mail to the Remarketing Agent and each Owner stating that it is expected that an Alternate Letter of Credit will be delivered and the Bonds of the Series secured thereby will be subject to mandatory tender on such date, which date will be no less than 5 Business Days prior to the expiration or termination of the existing Letter of Credit.

(e) Notwithstanding the foregoing, during a Long-Term Rate Period or a Commercial Paper Rate Period, an existing Letter of Credit may not be replaced prior to the expiration date of the then applicable Long-Term Rate Period or all the then applicable Commercial Paper Rate Periods, as the case may be, with an Alternate Letter of Credit.

(f) When the Bonds of a Series are in a Daily, Weekly, Long-Term Rate Period or Commercial Paper Rate Period, the University will exercise its best efforts to arrange for the delivery to the Bond Trustee of an Alternate Letter of Credit to replace any Letter of Credit then in effect with respect to such Series upon the expiration thereof prior to the end of any such rate period or upon the occurrence of any of the following events or circumstances:

(1) If the Credit Bank has rescinded, terminated or repudiated the Letter of Credit, or the Credit Bank or any governmental authority with jurisdiction over the Letter of Credit is challenging the validity of the Letter of Credit or if the Credit Bank is in default under the Letter of Credit.

(2) If the Credit Bank will refuse to extend the stated termination date with respect to the current Letter of Credit then in effect, but the term of such Alternate Letter of Credit need not (but may) begin prior to the stated termination date of the current Letter of Credit then in effect. The University will not

terminate the current Letter of Credit and Credit Agreement until the term of the Alternate Letter of Credit has begun.

(3) Receipt by the Bond Trustee of written notice from the Credit Bank that an "Event of Default" as such term is defined in the Credit Agreement has occurred and is continuing under the Credit Agreement and a direction to purchase or redeem the Bonds of the Series secured thereby.

(4) Failure of the Credit Bank to honor any drawing which strictly complies with the terms of the Letter of Credit.

(5) Receipt by the Bond Trustee, within 10 days following a drawing under the Letter of Credit to pay principal, premium, if any, and interest on the Bonds on the due date, or purchase price of Bonds tendered for purchase, of written notice from the Reimbursement Bank that the Reimbursement Bank has not been reimbursed for such drawing on the Letter of Credit and the amount for such drawing has not been reinstated.

(g) On or prior to the effective date of any Alternate Letter of Credit, the University will furnish to the Authority and the Bond Trustee (1) an Opinion of Counsel stating that delivery of such Alternate Letter of Credit to the Bond Trustee is authorized under the Indenture, and complies with the terms hereof, (2) an Opinion of Counsel from counsel to the Credit Bank issuing such Alternate Letter of Credit to the effect that the Alternate Letter of Credit is a valid and binding obligation of such issuer or provider, enforceable in accordance with its terms, subject to customary exceptions relating to bankruptcy and insolvency, (3) with respect to the Series Five-P1 Bonds, an Opinion of Bond Counsel, which will also be addressed and delivered to the Authority, stating that the delivery of such Alternate Letter of Credit to the Bond Trustee is authorized under the Indenture and complies with the terms thereof and does not adversely affect the tax-exempt status of the interest on the Bonds, and (4) written evidence from the Rating Agency, to the effect that the Rating Agency has reviewed the proposed Alternate Letter of Credit and whether the substitution of the proposed Alternate Letter of Credit for the Letter of Credit will result in a reduction or withdrawal of its rating of the Bonds secured thereby that prevailed prior to the substitution of the Alternate Letter of Credit, and if so, the rating to be in place following delivery of such Alternate Letter of Credit.

**Rights of Reimbursement Bank.** As long as the Letter of Credit is in effect, and no Event of Default described in the Indenture has occurred and is continuing and the Credit Bank and the Reimbursement Bank (unless the Credit Bank becomes the Reimbursement Bank as permitted under the Indenture) has not filed a petition or no petition is pending against the Credit Bank and the Reimbursement Bank (unless the Credit Bank becomes the Reimbursement Bank as permitted under the Indenture) under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect and which has not been dismissed within 30 days of such filing, the Reimbursement Bank will be deemed to be the Owner of all Bonds that are secured by the Letter of Credit, all Bank Bonds and all University Bonds for all purposes following the occurrence of an Event of Default under the Indenture.

If (i) an Event of Default occurs and is continuing under the Indenture, or (ii) the Bond Trustee will draw under the Letter of Credit in connection with the redemption or mandatory tender in whole of the Series of Bonds secured thereby, and in either such case the Credit Bank will have provided the Bond Trustee with funds pursuant to the Letter of Credit for the payment in full of principal or redemption price, if any, of and the interest on such Bonds, then, and in such event, the Reimbursement Bank will be subrogated to all rights theretofore possessed under the

Indenture by the Bond Trustee and the Owners in respect of which such principal or redemption price, if any, and interest will have been paid with funds provided by the Credit Bank and not fully reimbursed to the Reimbursement Bank. After the payment in full of all Bonds secured by a Letter of Credit and owned by the Owners, any reference in the Indenture to the holders of such Bonds or to such Owners will mean the Reimbursement Bank to the extent of those subrogation rights resulting from the payments made pursuant to the Letter of Credit.

As long as the Letter of Credit is in effect and no Event of Default described in the Indenture has occurred and is continuing, if the Reimbursement Bank has filed a petition, or a petition is pending against the Reimbursement Bank under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction whether now or hereafter in effect which has not been dismissed within 30 days of such filing, the Credit Bank may assume all of the rights of the Reimbursement Bank hereunder by written notice to the Trustee, the Reimbursement Bank, the Authority and the Corporation and all references in the Indenture to the Reimbursement Bank shall mean the Credit Bank.

**Limited Obligations.** The Bonds are special, limited obligations of the Authority and the principal thereof, and premium, if any, and interest thereon, are payable solely from, and secured in accordance with their terms and the provisions of this Indenture solely by, the Loan Payments and the other amounts pledged therefor herein and the purchase price thereof is payable solely from, and secured in accordance with their terms and the provisions of this Indenture solely by, the proceeds of the remarketing of the Bonds, amounts made available under any applicable Letter of Credit and to the extent remarketing proceeds and amounts under the Letter of Credit are insufficient for the payment thereof, from moneys delivered to the Bond Trustee from the Corporation pursuant to the Indenture. The Bonds do not constitute a charge against the general credit of the Authority and are not secured by a legal or equitable pledge of, or charge or lien upon, any property of the Authority or any of its income or receipts except the Loan Payments and the other amounts pledged therefor herein.

**Bonds Not Secured by General Bond Reserve Account.** As permitted by the General Bond Resolution, the Bonds have been issued as special series obligations not secured by the General Bond Reserve Account of the Authority created thereby, and the Authority shall have no obligation to the Holders of the Bonds, the Bond Trustee, or the Corporation to advance funds from the General Bond Reserve Account to pay principal of or interest on the Bonds.

**Payment of Bonds.** The Authority will duly and punctually pay or cause to be paid, but solely from the sources specified in the Indenture, including the proceeds of any demand under a Letter of Credit, the principal and purchase price of, redemption premium, if any, and interest on the Bonds in accordance with the terms of the Bonds and the Indenture.

**Performance of Covenants.** The Authority will (to the extent within its control) faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions which are to be performed by the Authority contained in the Indenture, in the Bonds and in all proceedings pertaining thereto.

**Enforcement of Rights.** The Authority agrees that the Bond Trustee, as assignee, transferee, pledgee, and owner of a security interest under the Indenture in its name or in the name of the Authority may enforce all rights of the Authority and the Bond Trustee and all obligations of the Authority under and pursuant to the Loan Agreement and any other Transaction Documents for and on behalf of the Owners, whether or not the Authority is in default under the Indenture. The Loan Agreement and all other documents, instruments or policies of insurance required by the Bond Trustee will be delivered to and held by the Bond Trustee.

## **Tax Covenants; Rebate Fund.**

(a) The Authority and the Bond Trustee hereby acknowledge and confirm that the maintenance of the tax-exempt status of interest on the Bonds is dependent, among other things, on compliance with the arbitrage requirements set forth in Section 148(f) of the Internal Revenue Code and the Arbitrage Regulations.

(b) The Bond Trustee will establish and maintain a fund separate from any other fund designated the "Minnesota Higher Education Facilities Authority Variable Rate Demand Revenue Bonds, (Concordia University, St. Paul), Series Five-P1 Rebate Fund" (the "Rebate Fund"). Within the Rebate Fund, the Bond Trustee will maintain such accounts as will be directed by the University as necessary in order for the Authority and the University to comply with the terms and requirements of the Tax Agreement. Subject to the transfer provisions provided in paragraph (c) below, all money at any time deposited in the Rebate Fund will be held by the Bond Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Agreement), for payment to the United States Government, and neither the University, the Authority, the Reimbursement Bank, the Credit Bank nor the Bondholders will have any rights in or claim to such moneys. All amounts deposited into or on deposit in the Rebate Fund will be governed by the provisions under this heading, the Loan Agreement and by the Tax Agreement. The Bond Trustee will conclusively be deemed to have complied with such provisions if it follows the directions of the University, including supplying all necessary information requested by the University and the Authority in the manner set forth in the Tax Agreement, and will not be required to take any actions thereunder in the absence of written directions from the University.

(c) Upon receipt of the University's written instructions, the Bond Trustee will remit part or all of the balances in the Rebate Fund to the United States Government, as so directed. In addition, if the University so directs, the Bond Trustee will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or funds as directed by the University's written directions. Any funds remaining in the Rebate Fund after redemption and payment of all of the Series Five-P1 Bonds and payment and satisfaction of any Rebate Requirement will be withdrawn and remitted to the University upon its written request.

(d) Notwithstanding any provision of the Indenture, including in particular the provisions relating to satisfaction and discharge, the obligation of the University to pay the Rebate Requirement to the United States Government and to comply with all other requirements under this heading, of the Loan Agreement and the Tax Agreement will survive the defeasance or payment in full of the Bonds.

(e) Notwithstanding any provisions of this heading and of the Loan Agreement, if the University will provide to the Authority and the Bond Trustee an Opinion of Bond Counsel that any specified action required under this heading or of the Loan Agreement is no longer required or that some further or different action is required to maintain the Tax-Exempt status of interest on the Series Five-P1 Bonds, the University, the Bond Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this heading and the covenants under the Indenture will be deemed to be modified to that extent.

**Further Assurances.** Whenever and so often as requested so to do by the Bond Trustee or the Reimbursement Bank, the Authority will promptly execute and deliver or cause to be executed and delivered all such other and further instruments, documents or assurances, and



promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully vest in the Bond Trustee, the Reimbursement Bank and the Owners of the Bonds all of the rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them by the Indenture and to perfect and maintain as perfected such rights, interests, powers, benefits, privileges and advantages.

**Events of Default.** The term “Event of Default,” wherever used in the Indenture, means any one of the following events (whatever the reason for such event and whether it will be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any interest on any Bond when such interest becomes due and payable; or

(b) default in the payment of the principal of (or premium, if any, on) any Bond when the same becomes due and payable (whether at maturity, upon proceedings for redemption, by acceleration or otherwise); or

(c) default in the payment of any amounts due to the Owner of any Bond upon tender of such Bond to the Bond Trustee for purchase pursuant to the Indenture when such payment has become due and payable; or

(d) default in the performance, or breach, of any covenant or agreement of the Authority in the Indenture (other than a covenant or agreement a default in the performance or breach of which is specifically dealt with elsewhere under this heading), and continuance of such default or breach for a period of 60 days after there has been given to the Authority, the Reimbursement Bank, the Credit Bank and the University by the Bond Trustee or to the Authority, the Reimbursement Bank, the Credit Bank, the University and the Bond Trustee by the Owners of at least 25% in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 60-day period, but can reasonably be expected to be fully remedied, such default will not constitute an Event of Default if the Authority will immediately upon receipt of such notice commence the curing of such default and will thereafter prosecute and complete the same with due diligence and dispatch; or

(e) any Event of Default under the Loan Agreement will occur and is continuing and has not been waived; or

(f) the Credit Bank has wrongfully failed to honor a properly presented draw made under and in compliance with the terms of the Letter of Credit which failure has not been cured; or

(g) the Bond Trustee has received written notice from the Credit Bank that an event of default has occurred and is continuing under the Credit Agreement.

With regard to any alleged Event of Default concerning which notice is given to the University, the Authority grants the University full authority for the account of the Authority to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute an Event of Default, in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and perform any such things and acts in order to remedy such Event of Default.

**Acceleration of Maturity; Rescission and Annulment.** If an Event of Default described in subparagraph (f) above will have occurred and be continuing, the Bond Trustee will, by notice in writing delivered to the Authority, the University, the Reimbursement Bank and the Credit Bank, declare the principal of all Bonds secured by such Letter of Credit and then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest will thereupon become and be immediately due and payable, and the Bond Trustee will provide for payment of the principal of and interest on such Bonds as provided in the Indenture.

Subject to the rights of the Credit Bank in the Indenture, if an Event of Default described above (other than in subparagraph (f)) will have occurred and be continuing, the Bond Trustee may (with the consent of the Reimbursement Bank), and upon the written request of the Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding (with the consent of the Reimbursement Bank) or the Reimbursement Bank will, by notice in writing delivered to the Authority, the University, the Reimbursement Bank and the Credit Bank declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest will thereupon become and be immediately due and payable.

On the date of acceleration of payment, interest will cease to accrue on the Bonds Outstanding.

At any time after such a declaration of acceleration has been made, but before any judgment or decree for payment of money due on any Bonds has been obtained by the Bond Trustee, the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice to the Authority, the University, the Reimbursement Bank, the Credit Bank and the Bond Trustee, rescind and annul such declaration and its consequences if:

- (a) there is deposited with the Bond Trustee a sum sufficient to pay:
  - (1) all overdue installments of interest on all Bonds, including interest on Bonds accruing during any period during which the principal of the Bond has been accelerated in accordance with the Indenture,
  - (2) the principal of (and premium, if any, on) any Bonds which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Bonds,
  - (3) interest upon overdue installments of interest at the rate or rates prescribed therefor in the Bonds, and
  - (4) all sums paid or advanced by the Bond Trustee under the Indenture and the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel; and
- (b) all Events of Default, other than the non-payment of the principal of Bonds which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in the Indenture.

No such rescission and annulment will affect any subsequent Event of Default or impair any right consequent thereon.

Notwithstanding any provision of the Indenture to the contrary, except for Events of Default described in subsection (f) under the heading "Events of Default," the Bonds of a Series secured by a Letter of Credit will not be declared immediately due and payable, nor will they be subject to acceleration, nor will any declaration of acceleration be annulled, without (1) the prior written consent to such action by the Reimbursement Bank (provided the rights of the

Reimbursement Bank have not been limited pursuant to the Indenture), and (2) in the case of any annulment or rescission of a declaration of acceleration, the Letter of Credit will have been reinstated to the full amount in effect just prior to any acceleration drawing.

**Exercise of Remedies by the Bond Trustee.** Subject to the provisions of the Indenture relating to the direction of Remedies by the Reimbursement Bank, upon the occurrence and continuance of any Event of Default under the Indenture, unless the same is waived as provided in the Indenture, the Bond Trustee will have the following rights and remedies, in addition to any other rights and remedies provided under the Indenture or by law:

(a) Right to Bring Suit, Etc. The Bond Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, and interest on the Bonds Outstanding, including interest on overdue principal (and premium, if any) and on overdue installments of interest, and any other sums due under the Indenture, to realize on or to foreclose any of its interests or liens under the Indenture or any other Transaction Document, to enforce and compel the performance of the duties and obligations of the Authority as set forth in the Indenture and to enforce or preserve any other rights or interests of the Bond Trustee under the Indenture with respect to any of the Trust Estate or otherwise existing at law or in equity.

(b) Exercise of Remedies at Direction of Bondowners. If requested in writing to do so by the Owners of not less than 25% in principal amount of Bonds Outstanding and if indemnified as provided in the Indenture, the Bond Trustee will be obligated to exercise such one or more of the rights and remedies conferred by the Indenture as the Bond Trustee will deem most expedient in the interests of the Owners.

(c) Appointment of Receiver. Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee and of the Owners under the Indenture, the Bond Trustee will be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate, pending such proceedings, with such powers as the court making such appointment will confer.

(d) Suits to Protect the Trust Estate. The Bond Trustee will have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of the Indenture and to protect its interests and the interests of the Owners in the Trust Estate, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security under the Indenture or be prejudicial to the interests of the Owners or the Bond Trustee, or to intervene (subject to the approval of a court of competent jurisdiction) on behalf of the Owners in any judicial proceeding to which the Authority or the University is a party and which in the judgment of the Bond Trustee has a substantial bearing on the interests of the Owners.

(e) Enforcement Without Possession of Bonds. All rights of action under the Indenture or any of the Bonds may be enforced and prosecuted by the Bond Trustee without the possession of any of the Bonds or the production thereof in any suit or other proceeding relating thereto, and any such suit or proceeding instituted by the Bond Trustee will be brought in its own name as trustee of an express trust. Any recovery of judgment will be, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel,

and subject to the provisions of the Indenture, for the equal and ratable benefit of the Owners of the Bonds in respect of which such judgment has been recovered.

(f) **Restoration of Positions.** If the Bond Trustee or any Owner has instituted any proceeding to enforce any right or remedy under the Indenture by suit, foreclosure, the appointment of a receiver, or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Bond Trustee or to such Owner, then and in every case the Authority, the Bond Trustee, the University and the Owners will, subject to any determination in such proceeding, be restored to their former positions and rights under the Indenture, and thereafter all rights and remedies of the Bond Trustee and the Owners will continue as though no such proceeding had been instituted.

**Limitation on Suits by Bondowners.** No Owner of any Bond will have any right to institute any proceeding, judicial or otherwise, under or with respect to the Indenture, or for the appointment of a receiver or trustee or for any other remedy under the Indenture, unless:

(a) such Owner has previously given written notice to the Bond Trustee of a continuing Event of Default;

(b) the Owners of not less than 25% in principal amount of the Bonds Outstanding will have made written request to the Bond Trustee to institute proceedings in respect of such Event of Default in its own name as Bond Trustee under the Indenture;

(c) such Owner or Owners have offered to the Bond Trustee indemnity as provided in the Indenture against the fees, costs, expenses and liabilities to be incurred in compliance with such request;

(d) the Bond Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(e) no direction inconsistent with such written request has been given to the Bond Trustee during such 60-day period by the Owners of a majority in principal amount of the Outstanding Bonds;

it being understood and intended that no one or more Owners of Bonds will have any right in any manner whatever by virtue of, or by availing of, any provision of the Indenture to affect, disturb or prejudice the lien of the Indenture or the rights of any other Owners of Bonds, or to obtain or to seek to obtain priority or preference over any other Owners or to enforce any right under the Indenture, except in the manner provided in the Indenture and for the equal and ratable benefit of all Outstanding Bonds.

Notwithstanding the foregoing or any other provision in the Indenture, however, the Owner of any Bond will have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the respective stated maturities expressed in such Bond (or, in the case of redemption, on the redemption date) and nothing contained in the Indenture will affect or impair the right of any Owner to institute suit for the enforcement of any such payment.

**Control of Proceedings by Bondowners.** The Owners of a majority in principal amount of the Bonds Outstanding will have the right, during the continuance of an Event of Default,

(a) to require the Bond Trustee to proceed to enforce the Indenture, either by judicial proceedings for the enforcement of the payment of the Bonds and the foreclosure of the Indenture, or otherwise; and

(b) to direct the time, method and place of conducting any proceeding for any remedy available to the Bond Trustee, or exercising any trust or power conferred upon the Bond Trustee under the Indenture, provided that:

(1) such direction will not be in conflict with any rule of law or the Indenture or direction of the Reimbursement Bank, with respect to any Bonds secured by the Letter of Credit,

(2) the Bond Trustee may take any other action deemed proper by the Bond Trustee which is not inconsistent with such direction, and

(3) the Bond Trustee will not determine that the action so directed would be unjustly prejudicial to the Owners not taking part in such direction.

**Application of Moneys Collected.** Any moneys collected by the Bond Trustee pursuant to the provisions of the Indenture relating to default and remedies (after the deductions for payment of costs and expenses of proceedings resulting in the collection of such moneys) together with any other sums then held by the Bond Trustee as part of the Trust Estate, will be applied in the following order, at the date or dates fixed by the Bond Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Bonds and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid (provided that any moneys received upon an Event of Default will be applied solely to the payment of principal of and interest on the Series of Bonds for which an Event of Default has occurred and is continuing):

(a) First: To the payment of all undeducted amounts due the Bond Trustee under the Indenture; provided, however, that no moneys drawn under the Letter of Credit will be used to pay the Bond Trustee under this clause (a);

(b) Second: To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected by the Bond Trustee or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Bonds) on overdue principal (and premium, if any) and on overdue installments of interest; and in case such proceeds will be insufficient to pay in full the whole amount so due and unpaid upon such Bonds, then to the payment of such principal (premium, if any) and interest, without any preference or priority, ratably according to the aggregate amount so due; and

(c) Third: To the payment to the Reimbursement Bank of any amounts due and owing under the Credit Agreement and the payment of the remainder, if any, to the University or to whosoever may be lawfully entitled to receive the same as designated in writing by the University or as a court of competent jurisdiction may direct.

Whenever moneys are to be applied by the Bond Trustee pursuant to the provisions under this heading, such moneys will be applied by it at such times, and from time to time, as the Bond Trustee will determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Bond Trustee will apply such moneys, it will fix the date (which will be

an Interest Payment Date unless it will deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date will cease to accrue. The Bond Trustee will give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and will not be required to make payment to the Owner of any unpaid Bond until such Bond will be presented to the Bond Trustee for appropriate endorsement or for cancellation if fully paid.

**Rights and Remedies Cumulative.** No right or remedy conferred upon or reserved to the Bond Trustee or to the Owners in the Indenture is intended to be exclusive of any other right or remedy, and every right and remedy will, to the extent permitted by law, be cumulative and in addition to every other right and remedy given under the Indenture or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy under the Indenture, or otherwise, will not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Delay or Omission Not Waiver.** No delay or omission of the Bond Trustee or of any Owner of any Bond to exercise any right or remedy accruing upon an Event of Default will impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by the Indenture or by law to the Bond Trustee or to the Owners may be exercised from time to time, and as often as may be deemed expedient, by the Bond Trustee or by the Owners, as the case may be.

**Waiver of Past Defaults.** Subject to the provisions of the Indenture relating to the direction of remedies by the Reimbursement Bank, before any judgment or decree for payment of money due has been obtained by the Bond Trustee as provided in the Indenture, the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice delivered to the Bond Trustee and the Authority, on behalf of the Owners of all the Bonds waive any past Event of Default under the Indenture and its consequences, except for the following types of Events of Default:

- (a) in the payment of the principal of (or premium, if any) or interest on any Bond or the purchase price of any Bond tendered for purchase, or
- (b) in respect of a covenant or provision of the Indenture which Supplemental Bond Indentures cannot be modified or amended without the consent of the Owner of each Outstanding Bond affected.

Upon any such waiver, such Event of Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, for every purpose of the Indenture; but no such waiver will extend to or affect any subsequent or other Event of Default or impair any right or remedy consequent thereon.

**Advances by Bond Trustee.** If the University will fail to make any payment or perform any of its covenants in the Loan Agreement, the Bond Trustee may, at any time and from time to time, use and apply any moneys held by it under the Indenture, or make advances, to effect payment or performance of any such covenant on behalf of the University. All moneys so used or advanced by the Bond Trustee, together with interest at the Bond Trustee's announced prime rate, plus 2% per annum, but in any event such rate will not exceed the maximum rate permitted by law, will be repaid by the University upon demand and such advances will be secured under the Indenture prior to the Bonds. For the repayment of all such advances the Bond Trustee will have the right to use and apply any moneys at any time held by it under the Indenture but no such use of moneys or advance will relieve the University from any Event of Default under the Indenture.

**Direction of Remedies by Reimbursement Bank.** Any provision in the Indenture to the contrary notwithstanding, but subject to the provisions of the Indenture relating to the limitation

of rights on the Reimbursement Bank and Credit Bank, unless an Event of Default described in subsection (f) under the heading “Events of Default” will have occurred and be continuing, with respect to any Series of Bonds secured by a Letter of Credit, the Bond Trustee will exercise the remedies provided for under the Indenture with respect to such Series only if and as directed in writing by the Reimbursement Bank and will not waive any Event of Default without the prior written consent of the Reimbursement Bank; provided that such direction will not be otherwise than in accordance with the provisions of law and of the Indenture.

**Acceptance of Trusts; Certain Duties and Responsibilities.** The Bond Trustee accepts and agrees to execute the trusts imposed upon it by the Indenture, but only upon the following terms and conditions:

(a) Except during the continuance of an Event of Default,

(1) the Bond Trustee undertakes to perform such duties and only such duties as are specifically set forth in the Indenture, and no implied covenants or obligations will be read into the Indenture against the Bond Trustee; and

(2) in the absence of bad faith on its part, the Bond Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Bond Trustee and conforming to the requirements of the Indenture; but in the case of any such certificates or opinions which by any provision of the Indenture are specifically required to be furnished to the Bond Trustee, the Bond Trustee will be under a duty to examine the same to determine whether or not they conform to the requirements of the Indenture.

(b) If an Event of Default has occurred and is continuing, the Bond Trustee will exercise such of the rights and powers vested in it by the Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances.

(c) No provision of the Indenture will be construed to relieve the Bond Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) subsection (c) will not be construed to limit the effect of subsection (a);

(2) the Bond Trustee will not be liable for any error of judgment made in good faith by an authorized officer of the Bond Trustee, unless it will be proved that the Bond Trustee was negligent in ascertaining the pertinent facts;

(3) the Bond Trustee will not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Bond Trustee, or exercising any trust or power conferred upon the Bond Trustee, under the Indenture; and

(4) no provision of the Indenture will require the Bond Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under the Indenture, or in the exercise of any of

its rights or powers, if it will have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of the Indenture relating to the conduct or affecting the liability of or affording protection to the Bond Trustee will be subject to the provisions above.

**Certain Rights of Bond Trustee.** Except as otherwise provided under the heading above:

(a) The Bond Trustee may rely and will be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) The Bond Trustee will be entitled to rely upon an Officer's Certificate as to the sufficiency of any request or direction of the University, the existence or non-existence of any fact or the sufficiency or validity of any instrument, paper or proceeding, or that a resolution in the form therein set forth has been duly adopted by the governing board of the University, and is in full force and effect.

(c) Whenever in the administration of the Indenture the Bond Trustee will deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action under the Indenture, the Bond Trustee (unless other evidence be therein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate.

(d) The Bond Trustee may consult with counsel, and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Bond Trustee under the Indenture in good faith and in reliance thereon.

(e) Notwithstanding any provision of the Indenture to the contrary, the Bond Trustee will be under no obligation to exercise any of the rights or powers vested in it by the Indenture whether at the request or direction of any of the Owners pursuant to the Indenture or otherwise, unless such Owners will have offered to the Bond Trustee reasonable security or indemnity against the fees, advances, costs, expenses and liabilities, including those arising in connection with any environmental claim (except as may result from the Bond Trustee's own negligence or willful misconduct) which might be incurred by it in compliance with such request or direction.

(f) The Bond Trustee will not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Bond Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Bond Trustee will determine to make such further inquiry or investigation, it will be entitled to examine the books, records and premises of the Authority, personally or by agent or attorney.

(g) The Bond Trustee assumes no responsibility for the correctness of the recitals contained in the Indenture and in the Bonds, except the certificate of authentication on the Bonds. The Bond Trustee makes no representations to the value



or condition of the Trust Estate or any part thereof, or as to the title thereto or as to the security afforded thereby, or as to the validity or sufficiency of the Indenture or of the Bonds. The Bond Trustee will not be accountable for the use or application by the Authority or the University of any of the Bonds or the proceeds thereof or of any money paid to or upon the order of the Authority or the University under any provision of the Indenture.

(h) The Bond Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds and may otherwise deal with the Authority or the University with the same rights it would have if it were not Bond Trustee.

(i) All money received by the Bond Trustee will, until used or applied or invested as provided in the Indenture, be held in trust for the purposes for which they were received. Money held by the Bond Trustee in trust under the Indenture need not be segregated from other funds except to the extent required by law or by the Indenture. The Bond Trustee will be under no liability for interest on any money received by it except for earnings on Permitted Investments purchased at the written direction of the University.

(j) The Bond Trustee may execute any of the trusts or powers under the Indenture or perform any duties thereunder either directly or by or through agents or attorneys and the Bond Trustee will not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it under the Indenture.

(k) The permissive right of the Bond Trustee to do things enumerated in the Indenture will not be construed as a duty and the Bond Trustee will not be answerable for other than its negligence or willful misconduct.

(l) The Bond Trustee will not be required to give any bond or security in respect of the execution or administration of the Indenture.

(m) Notwithstanding any other provision of the Indenture to the contrary, any provision intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Bond Trustee will be interpreted to include any action of the Bond Trustee whether it is deemed to be in its capacity as Bond Trustee or bond registrar.

**Compensation and Reimbursement.** The Bond Trustee will be entitled to payment or reimbursement:

(a) from time to time for reasonable compensation for all services rendered by it under the Indenture (which compensation will not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided in the Indenture, upon its request, for all reasonable expenses, disbursements and advances incurred or made by the Bond Trustee in accordance with any provision of the Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Bond Trustee's negligence or bad faith; and

(c) to indemnify the Bond Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out

of or in connection with the acceptance or administration of the trust, including the costs and expenses of defending itself against any claim or liability or the carrying out of any instructions of the Authority, the University, the Credit Bank or any Bondowner, in connection with the exercise or performance of any of its powers or duties under the Indenture, except that the Bond Trustee may not require that indemnity be furnished as a condition to completing and presenting a draw on the Letter of Credit required under the Indenture or as a condition to effecting a mandatory tender, redemption or acceleration.

All such payments and reimbursements will be made by the University or the Person providing instructions to the Bond Trustee with interest at the rate of interest per annum equal to the prime rate announced from time to time by the Bond Trustee, plus 2%, but in any event not in excess of the maximum rate permitted by law.

The Bond Trustee will promptly notify the University in writing of any claim or action brought against the Bond Trustee in respect of which indemnity may be sought against the University, setting forth the particulars of such claim or action, and the University will assume the defense thereof, including the employment of counsel satisfactory to the Bond Trustee and the payment of all expenses. The Bond Trustee may employ separate counsel in any such action and participate in the defense thereof, and the reasonable fees and expenses of such counsel will not be payable by the University unless such employment has been specifically authorized by the University or in the opinion of the Bond Trustee the University has failed to actively pursue the defense of such claim or action.

As security for the payment of such compensation, expenses, reimbursements and indemnity, the Bond Trustee will be secured under the Indenture by a first lien prior to the Bonds, and will have the right to use and apply any trust moneys held by it under certain provisions of the Indenture; provided, however, no money drawn under the Letter of Credit may be used for any such payment to the Bond Trustee.

**Corporate Trustee Required; Eligibility.** There will at all times be a Bond Trustee which will be a bank or trust company organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, subject to supervision or examination by federal or state authority, having a principal corporate trust office located in the State of Minnesota, and having a combined capital and surplus of at least \$50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this paragraph, the combined capital and surplus of such corporation will be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Bond Trustee will cease to be eligible in accordance with the provisions of this paragraph, it will resign immediately in the manner and with the effect specified in the Indenture.

**Tax Agreement.** The Bond Trustee covenants and agrees that it will comply with all written instructions of the University given in accordance with the Tax Agreement and will take any and all action as may be necessary in accordance with such written instructions. With respect to the Tax Agreement, the Bond Trustee is not required to act without direction from the University. The Bond Trustee acknowledges receipt of the Tax Agreement and acknowledges that the provisions of the Tax Agreement are incorporated in the Indenture by reference. The Bond Trustee will not be accountable for the use by the University of the proceeds of the Bonds.

## **Resignation and Removal of Bond Trustee.**

(a) The Bond Trustee may resign at any time by giving written notice thereof to the Authority, the University, the Reimbursement Bank, the Credit Bank and each Owner of Bonds Outstanding as shown by the list of Owners required by the Indenture to be kept at the office of the Bond Trustee. If an instrument of acceptance by a successor Bond Trustee will not have been delivered to the Bond Trustee within 30 days after the giving of such notice of resignation, the resigning Bond Trustee may petition any court of competent jurisdiction for the appointment of a successor Bond Trustee.

(b) If the Bond Trustee has or will acquire any impermissible conflicting interest, it will, within 90 days after ascertaining that it has a conflicting interest, or within 30 days after receiving written notice from the Authority, the Reimbursement Bank, the Credit Bank or the University (so long as the University is not in default under the Loan Agreement) that it has a conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in subsection (a).

(c) The Bond Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Authority and the Bond Trustee signed by the Owners of a majority in principal amount of the Outstanding Bonds or, so long as the University is not in default under the Loan Agreement, by the University. The Authority, the University or any Owner may at any time petition any court of competent jurisdiction for the removal for cause of the Bond Trustee.

(d) The Bond Trustee may be removed at any time (so long as no default has occurred and is continuing under the Indenture) by an instrument in writing signed by the Authority and the University and delivered to the Bond Trustee. The first sentence of this paragraph notwithstanding, the Bond Trustee may not be removed by the Authority unless written notice of the delivery of such instrument signed by the Authorized Authority Representative and the Authorized University Representative is mailed to the Reimbursement Bank and to the Owners of all Bonds Outstanding under the Indenture, which notice indicates the Bond Trustee will be removed and replaced by the successor trustee named in such notice. Such removal and replacement to become effective not less than 60 days from the date of such notice, unless the Owners of not less than 25% in the aggregate principal amount of such Bonds Outstanding will object in writing to such removal and replacement.

(e) If at any time:

(1) the Bond Trustee will fail to comply with subsection (b) after receipt by the Bond Trustee of a written request from the Authority, the Reimbursement Bank or any Owner, or

(2) the Bond Trustee will cease to be eligible under the Indenture and will fail to resign after receipt by the Bond Trustee of a request from the Authority or any Owner, or

(3) the Bond Trustee will become incapable of acting or will be adjudged a bankrupt or insolvent or a receiver of the Bond Trustee or of its property will be appointed or any public officer will take charge or control of the Bond Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (A) the Authority may remove the Bond Trustee, or (B) the University or any Owner may petition any court of competent jurisdiction for the removal of the Bond Trustee and the appointment of a successor Bond Trustee.

(f) The Bond Trustee will give notice of each resignation and each removal of the Bond Trustee and each appointment of a successor Bond Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Owners of Bonds as their names and addresses appear in the bond register maintained by the Bond Trustee. Each notice will include the name of the successor Bond Trustee and the address of its principal corporate trust office.

(g) No resignation or removal of the Bond Trustee and no appointment of a successor Bond Trustee will become effective until the acceptance of appointment by the successor Bond Trustee.

**Appointment of Successor Bond Trustee.** If the Bond Trustee will resign, be removed or become incapable of acting, or if a vacancy will occur in the office of Bond Trustee for any cause, the Authority, with the written consent of the University and the Reimbursement Bank (which consents will not be unreasonably withheld) (so long as no Event of Default under the Indenture or under the Loan Agreement has occurred and is continuing), or the Owners of a majority in principal amount of Bonds Outstanding (if a default under the Indenture or under the Loan Agreement has occurred and is continuing), by an instrument or concurrent instruments in writing received by the Authority and the retiring Bond Trustee, will promptly appoint a successor Bond Trustee. In case all or substantially all of the Trust Estate will be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a temporary successor to fill such vacancy until a new Bond Trustee will be so appointed by the Authority or the Owners. A successor Bond Trustee will be appointed in the manner provided in the Indenture, the successor Bond Trustee so appointed will, forthwith upon its acceptance of such appointment, become the successor Bond Trustee and supersede the retiring Bond Trustee and any temporary successor Bond Trustee appointed by such receiver or trustee. If after 30 days following such resignation, no successor Bond Trustee will have been so appointed and accepted appointment in the manner provided, any Owner or the retiring Bond Trustee may petition any court of competent jurisdiction for the appointment of a successor Bond Trustee, until a successor will have been appointed as above provided. The successor so appointed by such court will immediately and without further act be superseded by any successor appointed as above provided. Every such successor Bond Trustee appointed pursuant to such provisions will be a bank with trust powers or trust company in good standing under the law of the jurisdiction in which it was created and by which it exists, meeting the eligibility requirements stated above.

**Acceptance of Appointment by Successor.** Every successor Bond Trustee appointed under the Indenture will execute, acknowledge and deliver to the Authority and to the retiring Bond Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Bond Trustee will become effective and such successor Bond Trustee, without any further act, deed or conveyance, will become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Bond Trustee; but, on request of the Authority or the successor Bond Trustee, such retiring Bond Trustee will, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Bond Trustee upon the trusts expressed in the Indenture all the estates, properties, rights, powers and trusts of the retiring Bond Trustee, and will duly assign, transfer and deliver to such successor Bond Trustee all property and money held by such retiring Bond Trustee, subject nevertheless to its lien, if any, provided for in the Indenture and thereupon, all duties and obligations of the retiring Bond Trustee will cease and terminate. Upon request of any such successor Bond Trustee, the Authority will execute any and all instruments for more fully and certainly vesting in and

confirming to such successor Bond Trustee all such estates, properties, rights, powers and trusts. No successor Bond Trustee will accept its appointment unless at the time of such acceptance such successor Bond Trustee will be qualified and eligible.

**Co-Bond Trustees and Separate Bond Trustees.** At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any of the Trust Estate may at the time be located, or in the enforcement or the exercise of any of the powers, rights or remedies in the Indenture granted to the Bond Trustee, or any other action which may be desirable or necessary in connection therewith, the Bond Trustee will have power to appoint, and, the Authority will (upon the written request of the Bond Trustee or of the Owners of at least 25% in principal amount of the Bonds Outstanding) join with the Bond Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Bond Trustee either to act as co-trustee, jointly with the Bond Trustee, of all or any part of the Trust Estate, or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such person or persons in the capacity aforesaid, any property, title, right or power in addition to those provided under the Indenture to the Bond Trustee deemed necessary or desirable, subject to the other provisions under this heading, below. If the Authority does not join in such appointment within 15 days after the receipt by it of a request so to do, or in case an Event of Default has occurred and is continuing, the Bond Trustee alone will have power to make such appointment.

Should any written instrument from the Authority be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right or power, any and all such instruments will, on request, be executed, acknowledged and delivered by the Authority.

Every co-trustee or separate trustee will, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) The Bonds will be authenticated and delivered, and all rights, powers, duties and obligations under the Indenture in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Bond Trustee under the Indenture, will be exercised solely, by the Bond Trustee.

(b) The rights, powers, duties and obligations conferred or imposed upon the Bond Trustee in respect of any property covered by such appointment will be conferred or imposed upon and exercised or performed by the Bond Trustee or by the Bond Trustee and such co-trustee or separate trustee jointly, as will be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Bond Trustee will be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations will be exercised and performed by such co-trustee or separate trustee.

(c) The Bond Trustee at any time, by an instrument in writing executed by it, with the written concurrence of the Authority, may accept the resignation of or remove any co-trustee or separate trustee, and, in case an Event of Default has occurred and is continuing, the Bond Trustee will have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Authority. Upon the written request of the Bond Trustee, the Authority will join with the Bond Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided above.

(d) No co-trustee or separate trustee will be personally liable by reason of any act or omission of the Bond Trustee, or any other such trustee under the Indenture.

(e) Any request, demand, authorization, direction, notice, consent, waiver or other act of Owners delivered to the Bond Trustee will be deemed to have been delivered to each such co-trustee and separate trustee.

**Remarketing Agent.** There will at all times, prior to the Fixed Rate Conversion Date, be a Remarketing Agent appointed for the Bonds. The Remarketing Agent will be a corporation or other legal entity organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to perform all duties imposed upon the Remarketing Agent by the Indenture, and will be either (a) a member of the National Association of Securities Dealers, Inc. and registered as a Municipal Securities Dealer under the Securities Exchange Act of 1934, as amended, or (b) a national banking association, commercial bank or trust company. So long as the Bonds are held in book-entry form at the Securities Depository, the Remarketing Agent must be a Participant in the Securities Depository with respect to the Bonds.

The Remarketing Agent will perform all of the duties imposed upon it by the Indenture and the Remarketing Agreement, but only upon the terms and conditions set forth in the Indenture and the Remarketing Agreement, including the following:

(a) set the interest rates on the Bonds and perform the other duties provided for in the Indenture and remarket Bonds as provided in the Indenture, subject to the provisions of the Remarketing Agreement between the University and the Remarketing Agent, which will control in the case of any conflict with the Indenture;

(b) hold all moneys delivered to it under the Indenture for the purchase of Bonds in trust solely for the benefit of the person or entity which will have so delivered such moneys until the Bonds purchased with such moneys will have been delivered to or for the account of such person or entity;

(c) keep such books and records as will be consistent with customary industry practice that will accurately reflect the transactions under the Indenture and to make such books and records available for inspection by the Authority, the University, the Bond Trustee and the Credit Bank at all reasonable times;

(d) deliver any notices required by the Indenture to be delivered by the Remarketing Agent; and

(e) perform all other duties of the Remarketing Agent under the Indenture and the Remarketing Agreement.

The Remarketing Agent at any time may resign and be discharged of the duties and obligations imposed upon the Remarketing Agent by the Indenture, by giving written notice thereof to the University, the Authority, the Bond Trustee, the Reimbursement Bank and the Credit Bank at least 30 days prior to the effective date of such resignation. The Remarketing Agent will resign immediately at any time that it will cease to be eligible.

The Remarketing Agent will not be entitled to any compensation from the Authority, the Reimbursement Bank, the Credit Bank or the Bond Trustee, but rather will only be entitled to compensation from the University.

The Remarketing Agent may be removed at any time by the University by an instrument in writing delivered at least 30 days prior to the effective date of such removal to the Remarketing Agent, the Authority, the Bond Trustee, the Reimbursement Bank and the Credit Bank.

If the Remarketing Agent will resign, be removed or become incapable of acting for any cause, the University, with the consent of the Authority and the Credit Bank (which consents will not be unreasonably withheld), will promptly appoint a successor Remarketing Agent for the Bonds, subject to the conditions set forth in the Indenture, by an instrument in writing delivered to the Authority, the Bond Trustee, the Reimbursement Bank, the Credit Bank, and the retiring Remarketing Agent. Every such successor Remarketing Agent appointed pursuant to these provisions will meet the eligibility requirements of the Indenture.

Every successor Remarketing Agent appointed under the Indenture will execute and deliver to the University, the Authority, the Bond Trustee, the Reimbursement Bank, the Credit Bank and the retiring Remarketing Agent an instrument accepting such appointment, designating its principal office and signifying its acceptance of the duties and obligations imposed upon it under the Indenture and under the Remarketing Agreement. No resignation or removal of the Remarketing Agent and no appointment of a successor Remarketing Agent will become effective until the acceptance of appointment by the successor Remarketing Agent under the Indenture.

The Bond Trustee will give notice of each resignation and each removal of the Remarketing Agent and each appointment of a successor Remarketing Agent by mailing written notice by first-class mail of such event within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, to the Authority, the Credit Bank, the Rating Agency and the Owners of the Bonds as their names and addresses appear in the bond register maintained by the Bond Trustee. Each notice will include the name of the successor Remarketing Agent and the address of its principal office.

In the event of the resignation or removal of the Remarketing Agent, and the appointment of a successor Remarketing Agent, the retiring Remarketing Agent will pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor.

In the event that the Remarketing Agent will resign or be removed, or be dissolved, or if the property or affairs of the Remarketing Agent will be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the University with the approval of the Authority and the Reimbursement Bank will not have appointed a successor as Remarketing Agent, the Bond Trustee, notwithstanding the provisions of the first paragraph under this heading, will *ipso facto* be deemed to be the Remarketing Agent for all purposes of the Indenture until such appointment of the successor Remarketing Agent; provided, that the Bond Trustee, in its capacity as Remarketing Agent, will not be required to remarket Bonds or determine interest rates.

**Supplemental Indentures without Consent of Bondowners.** Without the consent of the Owners of any Bonds, but with the prior written consent of the Reimbursement Bank (and the University if required pursuant to the Indenture), the Authority and the Bond Trustee may from time to time enter into one or more Supplemental Indentures for any of the following purposes:

(a) to correct or amplify the description of any property at any time subject to the lien of the Indenture, or better to assure, convey and confirm unto the Bond Trustee any property subject or required to be subjected to the lien of the Indenture, or to subject to the lien of the Indenture additional property; or

(b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of the Bonds, as set

forth in the Indenture, additional conditions, limitations and restrictions thereafter to be observed; or

(c) to evidence the appointment of a separate trustee or the succession of a new trustee under the Indenture; or

(d) to add to the covenants of the Authority or to the rights, powers and remedies of the Bond Trustee for the benefit of the Owners of the Bonds or to surrender any right or power conferred in the Indenture upon the Authority provided that such surrender will not materially adversely affect the interests of the Owners of the Bonds; or

(e) to cure any ambiguity, to correct or supplement any provision in the Indenture or any Supplemental Indenture which may be inconsistent with any other provision or to make any other change, with respect to matters or questions arising under the Indenture, which will not be inconsistent with the provisions of the Indenture, provided such action will not materially adversely affect the interests of the Owners of the Bonds; or

(f) to evidence the appointment of a new Remarketing Agent or Bond Trustee, and in connection therewith to change any times of day specified in the Indenture by which any action must be taken; or

(g) to alter the manner in which the Remarketing Agent may, in the reasonable exercise of its judgment, act to increase the likelihood of achieving the lowest net interest cost during the term of the Bonds, but only if the University provides to the Bond Trustee and the Authority an Opinion of Bond Counsel to the effect that the amendment will not adversely affect the Tax-Exempt status of interest on any Series Five-P1 Bonds for federal income tax purposes; or

(h) to alter, prior to the applicable Fixed Rate Conversion Date, the manner in which a schedule of principal payments and interest rates may be set, or the redemption provisions to be applicable to Bonds accruing interest at a Fixed Rate Period, but only if the University provides to the Bond Trustee and the Authority an Opinion of Bond Counsel to the effect that the amendment will not adversely affect the Tax-Exempt status of interest on the Series Five-P1 Bonds; or

(i) to modify, eliminate or add to the provisions of the Indenture or any Supplemental Indenture to such extent as will be necessary to effect the qualification of the Indenture or any Supplemental Indenture under the Trust Indenture Act of 1939, as amended, or under any similar federal statute hereafter enacted, or to permit the qualification of the Bonds for sale under the securities laws of the United States or any state of the United States and which will not materially adversely affect the interests of the Owners of the Bonds;

(j) to provide for an extension of a Letter of Credit or the provision of an Alternate Letter of Credit;

(k) to comply with requirements of the Rating Agency in order to obtain or maintain a rating on any Bonds;

(l) in connection with any other change which will not adversely affect the security for the Bonds or the Tax-Exempt status of interest on the Series Five-P1 Bonds



or otherwise materially adversely affect the interests of the Holders of the Bonds (such determination may be based upon an Opinion of Counsel); or

(m) to modify, alter, amend or supplement the Indenture or the Loan Agreement in any other respect, if the effective date of such Supplemental Indenture is a date on which all Bonds affected thereby are subject to mandatory tender for purchase or if notice by mail of the proposed Supplemental Indenture is given to Owners of the affected Bonds at least thirty (30) days before the effective date thereof and, on or before such effective date, such Owners have the right to demand purchase of their Bonds.

**Supplemental Indentures with Consent of Bondowners.** With the prior written consent of the Reimbursement Bank, the University if required pursuant to the Indenture, and the Owners of not less than a majority in principal amount of the Bonds then Outstanding affected by such Supplemental Indenture, the Authority and the Bond Trustee may enter into one or more Supplemental Indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Owners of the Bonds under the Indenture; provided, however, that no such Supplemental Indenture will, without the consent of the Owner of each Outstanding Bond affected thereby,

(a) extend the fixed maturity of any Bond or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Holder of each Bond so affected; or

(b) reduce the percentage in principal amount of the Outstanding Bonds, the consent of whose Owners is required for any such Supplemental Indenture, or the consent of whose Owners is required for any waiver provided for in the Indenture of compliance with certain provisions of the Indenture or certain Event of Defaults under the Indenture and their consequences; or

(c) modify the obligation of the Authority to make payment on or provide funds for the payment of any Bond; or

(d) modify or alter the provisions of the proviso to the definition of the term "Outstanding," or

(e) modify any of the provisions under this heading or regarding waiver of past defaults, except to increase any percentage provided thereby or to provide that certain other provisions of the Indenture cannot be modified or waived without the consent of the Owner of each Bond affected thereby; or

(f) permit the creation of any lien ranking prior to or on a parity with the lien of the Indenture with respect to any of the Trust Estate or terminate the lien of the Indenture on any property at any time subject to the Indenture or deprive the Owner of any Bond of the security afforded by the lien of the Indenture.

The Bond Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Indenture and any such determination will be conclusive upon the Owners of all Bonds, whether theretofore or thereafter authenticated and delivered under the Indenture. The Bond Trustee will not be liable for any such determination made in good faith. It will not be necessary for the required percentage of Owners of Bonds to approve the particular form of

any proposed Supplemental Indenture, but it will be sufficient if such act will approve the substance thereof.

**Effect of Supplemental Indentures.** Upon the execution of any Supplemental Indenture, the Indenture will be modified in accordance therewith and such Supplemental Indenture will form a part of the Indenture for all purposes; and every Owner of Bonds theretofore or thereafter authenticated and delivered under the Indenture will be bound thereby.

**University's Consent to Supplemental Indentures.** So long as the University is not in default under the Loan Agreement, a Supplemental Indenture which affects any rights of the University will not become effective unless and until the University consents in writing to the execution and delivery of such Supplemental Indenture.

**Payment, Discharge and Defeasance of Bonds.** Bonds will be deemed to be paid and discharged and no longer Outstanding under the Indenture and will cease to be entitled to any lien, benefit or security of the Indenture if the Authority will pay or provide for the payment of such Bonds in any one or more of the following ways:

(a) by paying or causing to be paid the principal of (including redemption premium, if any) and interest on such Bonds, as and when the same become due and payable;

(b) by delivering such Bonds to the Bond Trustee for cancellation; or

(c) by depositing in trust with the Bond Trustee or other commercial bank or trust company with full trust powers Eligible Moneys and Defeasance Obligations acquired with Eligible Moneys in an amount, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such Bonds at or before their respective maturity or redemption dates (including the payment of the principal of, premium, if any, and interest payable on such Bonds to the maturity or redemption date thereof); provided that, if any such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption is given in accordance with the requirements of the Indenture or provision satisfactory to the Bond Trustee is made for the giving of such notice; and further provided that no Bonds, or any part thereof will be deemed to have been paid and discharged if the Bonds bear interest at other than a Fixed Rate unless such Bonds are to be redeemed on or prior to the next date, if any, on which the interest rate payable on such Bonds may change to a different rate.

In any case, if the Bonds are rated by a Rating Agency, the Bonds will not be deemed to have been paid or discharged by reason of any deposit pursuant to paragraphs (a) and/or (c) above unless such Rating Agency will have confirmed in writing to the Bond Trustee that its rating will not be withdrawn or lowered as the result of any such deposit.

The foregoing notwithstanding, the liability of the Authority in respect of such Bonds will continue, but the Owners thereof will thereafter be entitled to payment only out of the moneys and Defeasance Obligations deposited with the Bond Trustee as aforesaid.

Moneys and Defeasance Obligations so deposited with the Bond Trustee will not be a part of the Trust Estate but will constitute a separate trust fund for the benefit of the Persons entitled thereto. Such moneys and Defeasance Obligations will be applied by the Bond Trustee to the payment to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such moneys and Defeasance Obligations have been deposited with the Bond Trustee.

**Satisfaction and Discharge of Indenture.** The Indenture and the lien, rights and interests created by the Indenture will cease, terminate and become null and void (except as to any surviving rights of transfer or exchange of Bonds provided for in the Indenture) if the following conditions are met:

- (a) the principal of, premium, if any, and interest on all Bonds has been paid or is deemed to be paid and discharged by meeting the conditions under the heading above;
- (b) all other sums payable under the Indenture with respect to the Bonds are paid or provision satisfactory to the Bond Trustee is made for such payment;
- (c) with respect to the Series Five-P1 Bonds only, the Bond Trustee receives an Opinion of Bond Counsel (which may be based upon a ruling or rulings of the Internal Revenue Service) addressed and delivered to the Bond Trustee and the Authority to the effect that so providing for the payment of any Series Five-P1 Bonds will not cause the interest on the Series Five-P1 Bonds to be included in gross income for federal income tax purposes, notwithstanding the satisfaction and discharge of the Indenture; and
- (d) the Bond Trustee receives an Opinion of Counsel to the effect that all conditions precedent to the satisfaction and discharge of the Indenture have been complied with.

A Series of Bonds cannot be deemed to be paid unless (a) the interest rate mode then in effect results in the interest rate for such Series of Bonds being fixed to the earlier of an optional redemption date or final stated maturity of such Series of Bonds, or (b) interest is provided for at the interest rate for such Series of Bonds to the date to which the interest rate is fixed and at the Maximum Rate thereafter to the earlier of an optional redemption date or final maturity of such Series of Bonds.

Thereupon, the Bond Trustee will execute and deliver to the Authority a termination statement and such instruments of satisfaction and discharge of the Indenture as may be necessary and will pay, assign, transfer and deliver to the Authority, or other Persons entitled thereto, all moneys, securities and other property then held by it under the Indenture as a part of the Trust Estate, other than moneys or Defeasance Obligations held in trust by the Bond Trustee for the payment of the principal of, premium, if any, and interest on the Bonds.

**Rights Retained After Discharge.** Notwithstanding the satisfaction and discharge of the Indenture, the rights of the Bond Trustee relating to compensation and reimbursement will survive, and the Bond Trustee will retain such rights, powers and duties under the Indenture as may be necessary and convenient for the payment of amounts due or to become due on the Bonds and the registration, transfer and exchange of Bonds. Nevertheless, any moneys held by the Bond Trustee for the payment of the principal of, redemption premium, if any, purchase price, or interest on any Bond remaining unclaimed for 2 years after the principal of all Bonds has become due and payable, whether at maturity or upon proceedings for redemption or by declaration as provided in the Indenture, will then be paid without liability for interest thereon, first to the Reimbursement Bank, to the extent the Reimbursement Bank has notified the Bond Trustee in writing of any moneys then owed to the Reimbursement Bank under the Credit Agreement and then to the University, and the Owners of any Bonds not theretofore presented for payment will thereafter be entitled to look only to the University for payment thereof and all liability of the Bond Trustee or the Authority with respect to such moneys will thereupon cease.

**Immunity of Officers, Employees and Members of Authority.** No recourse will be had for the payment of the principal and purchase price of or redemption premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Indenture against any past, present or future officer, director, member,

employee or agent of the Authority, or of any successor public corporation, either directly or through the Authority or any successor public corporation, or the State or any department, board or agency of the State under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability (including individual or personal liability) of any such officers, directors, members, employees or agents as such is expressly waived and released as a condition of and consideration for the execution of the Indenture and the issuance of Bonds; provided, however, that nothing contained in the Indenture will relieve any such member, officer, agent or employee from the performance of any official duty provided by law or the Indenture.

**Limitation on Authority Obligations.** Any other term or provision in the Indenture or in any other Transaction Documents or elsewhere to the contrary notwithstanding:

(a) Any and all obligations (including without limitation, fees, claims, demands, payments, damages, liabilities, penalties, assessments and the like) of or imposed upon the Authority or its members, officers, agents, employees, representatives, advisors or assigns, whether under the Indenture or any of the other Transaction Documents or elsewhere and whether arising out of or based upon a claim or claims of tort, contract, misrepresentation, or any other or additional legal theory or theories whatsoever (collectively the "Obligations"), will in all events be absolutely limited obligations and liabilities, payable solely out of the following, if any, available at the time the Obligation in question is asserted:

(1) Bond proceeds and investment earnings therefrom; and

(2) Payments derived from the Bonds, the Letter of Credit, the Indenture (including the Trust Estate to the extent provided in the Indenture) and the Loan Agreement (except for the fees and expenses of the Authority and the Authority's right to indemnification under the Loan Agreement under certain circumstances and as otherwise expressly set forth therein);

(the above provisions (i) and (ii) being collectively referred to as the "exclusive sources of the Obligations").

(b) The Obligations will not be deemed to constitute a debt or liability of the State or of any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and will not constitute a pledge of the full faith and credit of the State or of any political subdivision thereof, but will be payable solely from and out of the exclusive sources of the Obligations and will otherwise impose no liability whatsoever, primary or otherwise, upon the State or any political subdivision thereof or any charge upon their general credit or taxing power.

(c) In no event will any member, officer, agent, employee, representative or advisor of the Authority, or any successor or assign of any such person or entity, be liable, personally or otherwise, for any Obligation.

(d) In no event will the Indenture be construed as:

(1) depriving the Authority of any right or privilege; or

(2) requiring the Authority or any member, officer, agent, employee, representative or advisor of the Authority to take or omit to take, or to permit or suffer the taking of, any action by itself or by anyone else; which deprivation or requirement would violate or result in the Authority's being in violation of the Act or any other applicable state or federal law.

**AUDITED FINANCIAL STATEMENTS, CONCORDIA UNIVERSITY, ST PAUL –  
ST. PAUL, MINNESOTA  
FOR THE FISCAL YEARS ENDED JUNE 30, 2002 AND 2001**

## REPORT OF INDEPENDENT AUDITORS

Board of Regents  
Concordia University, St. Paul  
St. Paul, Minnesota

We have audited the accompanying statements of financial position of Concordia University, St. Paul, an educational institution of The Lutheran Church–Missouri Synod, as of June 30, 2002 and 2001, and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the University’s management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Concordia University, St. Paul as of June 30, 2002 and 2001, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States.

August 23, 2002

*Ernst & Young LLP*

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH-MISSOURI SYNOD  
STATEMENTS OF FINANCIAL POSITION  
JUNE 30, 2002 AND 2001

	2002	2001
<b>Assets:</b>		
Cash and Cash Equivalents (Note 1g)	\$ 1,472,100	\$ 963,711
Funds on Deposit with Concordia University System (Note 2)	2,302,477	2,376,497
Accounts Receivable - Net of Allowance for Doubtful Accounts of \$806,261 in 2002 and \$373,130 in 2001	1,788,681	1,755,788
Interest Receivable	60,229	69,074
Federal Grants Receivable	450,785	315,855
State Grants Receivable	628,211	-
Inventories	155,566	153,343
Prepaid Expenses	227,630	223,347
Contributions Receivable (Note 3)	5,391,140	6,746,965
Loans Receivable - Federal Perkins Loan Program (Note 4)	2,267,632	2,147,849
Land, Buildings, and Equipment - Non-Depreciable Assets:		
Land	3,288,280	3,288,280
Construction in Progress (Note 5)	294,117	-
Depreciable Assets:		
Buildings	27,003,740	26,615,880
Improvements Other Than Buildings	876,616	876,616
Equipment	4,383,185	4,271,574
Less: Accumulated Depreciation (Note 6)	(15,470,188)	(14,631,518)
Long-Term Investments (Note 7)	10,840,952	9,700,228
Funds Held by Third-Party Trustees (Note 8)	2,464,208	2,588,375
Other Assets	197,148	216,941
<b>Total Assets</b>	<b>\$ 48,622,509</b>	<b>\$ 47,678,805</b>
<b>Liabilities:</b>		
Accounts Payable and Accrued Expenses	\$ 1,368,341	\$ 1,301,724
Deposits Payable	700,808	377,309
Agency Funds Held in Custody for Others	136,755	148,889
Deferred Revenue	1,783,319	1,221,447
Loans Payable - Lutheran Church Extension Fund (Note 9)	7,620,176	7,985,141
Other	162,900	166,866
Obligation Under Capital Lease	96,998	-
Refundable Advances - Federal Perkins Loan Program	2,400,672	2,264,447
<b>Total Liabilities</b>	<b>14,269,969</b>	<b>13,465,823</b>
<b>Net Assets:</b>		
Undesignated	(4,157,499)	(2,034,642)
Net Investment in Land, Buildings, and Equipment	12,513,175	12,286,326
Board-Designated (Note 10)	2,941,086	2,899,693
Total Unrestricted	11,296,762	13,151,377
Temporarily Restricted (Note 11)	10,963,816	9,776,060
Permanently Restricted (Note 12)	12,091,962	11,285,545
<b>Total Net Assets</b>	<b>34,352,540</b>	<b>34,212,982</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 48,622,509</b>	<b>\$ 47,678,805</b>

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

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH—MISSOURI SYNOD  
STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED JUNE 30, 2002

	<u>UNRESTRICTED</u>	<u>TEMPORARILY RESTRICTED</u>	<u>PERMANENTLY RESTRICTED</u>	<u>TOTAL</u>
<u>SUPPORT, REVENUES, GAINS, &amp; OTHER ADDITIONS:</u>				
Support -				
Concordia University System (Note 1)	\$ 77,216	\$ 3,000	\$	\$ 80,216
Federal		454,033		454,033
State		1,551,731		1,551,731
Other	603,304	1,744,534	1,050,524	3,398,362
Revenues -				
Tuition and Fees	20,997,106			20,997,106
Less: Scholarship Allowances	<u>(5,338,484)</u>			<u>(5,338,484)</u>
Net Tuition and Fees	15,658,622			15,658,622
Income on Cash and Cash Equivalents (Note 1g)	158,012			158,012
Income on Long-Term Investments	129,897	200,706	5,651	336,254
Auxiliary Enterprises	4,440,189			4,440,189
Other	65,337			65,337
Change in Value of Split-Interest Agreements		40,651	(78,522)	(37,871)
Change in Value of Funds Held by Third-Party Trustees (Note 8)			(171,928)	(171,928)
Realized Gains on Investments	12,250	27,075	692	40,017
Unrealized Losses on Investments	(740,137)			(740,137)
Net Assets Released from Restrictions (Note 13)	<u>2,833,974</u>	<u>(2,833,974)</u>		<u>-</u>
Total Support, Revenues, Gains, & Other Additions	<u>23,238,664</u>	<u>1,187,756</u>	<u>806,417</u>	<u>25,232,837</u>
<u>EXPENSES:</u>				
Educational and General -				
Academic Programs:				
Instruction-Divisional	9,582,604			9,582,604
Other Instructional Programs	741,638			741,638
Support Programs:				
Academic Support	2,241,917			2,241,917
Student Services	2,080,377			2,080,377
Institutional Support	4,467,974			4,467,974
Fund-Raising	836,509			836,509
	<u>19,951,019</u>	<u>-</u>	<u>-</u>	<u>19,951,019</u>
Auxiliary Enterprises	<u>5,142,260</u>			<u>5,142,260</u>
Total Expenses	<u>25,093,279</u>	<u>-</u>	<u>-</u>	<u>25,093,279</u>
CHANGE IN NET ASSETS	(1,854,615)	1,187,756	806,417	139,558
NET ASSETS - Beginning of Year	<u>13,151,377</u>	<u>9,776,060</u>	<u>11,285,545</u>	<u>34,212,982</u>
NET ASSETS - End of Year	<u>\$ 11,296,762</u>	<u>\$ 10,963,816</u>	<u>\$ 12,091,962</u>	<u>\$ 34,352,540</u>



CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH—MISSOURI SYNOD  
STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED JUNE 30, 2001

	UNRESTRICTED	TEMPORARILY RESTRICTED	PERMANENTLY RESTRICTED	TOTAL
<b>SUPPORT, REVENUES, GAINS, &amp; OTHER ADDITIONS:</b>				
Support -				
Concordia University System (Note 1)	\$	\$ 45,000	\$	\$ 45,000
Federal		325,964		325,964
State		522,115		522,115
Other	835,540	4,990,820	1,767,803	7,594,163
Revenues -				
Tuition and Fees	20,311,016			20,311,016
Less: Scholarship Allowances	<u>(4,840,546)</u>			<u>(4,840,546)</u>
Net Tuition and Fees	15,470,470			15,470,470
Interest Income on Loans	5,093			5,093
Income on Cash and Cash Equivalents (Note 1g)	151,758			151,758
Income on Long-Term Investments	212,374	282,369	5,817	500,560
Auxiliary Enterprises	4,244,488			4,244,488
Other	81,644			81,644
Change in Value of Split-Interest Agreements		59,249	34,888	94,137
Change in Value of Funds Held by Third-Party Trustees (Note 8)			(154,839)	(154,839)
Realized Gains on Investments	354,693	237,385	327	592,405
Unrealized Losses on Investments	(880,830)			(880,830)
Net Assets Released from Restrictions (Note 13)	<u>2,260,345</u>	<u>(2,260,345)</u>		<u>-</u>
Total Support, Revenues, Gains, & Other Additions	<u>22,735,575</u>	<u>4,202,557</u>	<u>1,653,996</u>	<u>28,592,128</u>
<b>EXPENSES:</b>				
Educational and General -				
Academic Programs:				
Instruction-Divisional	8,795,352			8,795,352
Other Instructional Programs	550,927			550,927
Support Programs:				
Academic Support	1,713,637			1,713,637
Student Services	2,048,921			2,048,921
Institutional Support	4,382,919			4,382,919
Fund-Raising	<u>769,223</u>			<u>769,223</u>
	18,260,979	-	-	18,260,979
Auxiliary Enterprises	<u>4,930,206</u>			<u>4,930,206</u>
Total Expenses	<u>23,191,185</u>	<u>-</u>	<u>-</u>	<u>23,191,185</u>
CHANGE IN NET ASSETS	(455,610)	4,202,557	1,653,996	5,400,943
NET ASSETS - Beginning of Year	<u>13,606,987</u>	<u>5,573,503</u>	<u>9,631,549</u>	<u>28,812,039</u>
NET ASSETS - End of Year	<u>\$ 13,151,377</u>	<u>\$ 9,776,060</u>	<u>\$ 11,285,545</u>	<u>\$ 34,212,982</u>

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

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH-MISSOURI SYNOD  
STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED JUNE 30, 2002 AND 2001

	2002	2001
<b>Cash Flows from Operating Activities:</b>		
Change in Net Assets	\$ 139,558	\$ 5,400,943
Adjustments to Reconcile Change in Net Assets to Net Cash Provided (Used) by Operating Activities:		
Depreciation Expense	838,669	888,622
Change in Value of Split-Interest Agreements	37,871	(94,137)
Change in Value of Funds Held by Third-Party Trustees	171,928	154,839
Bad Debt Expense	433,131	-
Net Realized and Unrealized Losses on Investments	700,120	288,425
Contributions Restricted for Long-Term Investment	(1,958,155)	(2,754,118)
Interest, Dividends, and Gains Restricted for Long-Term Investment	(6,343)	(6,144)
(Increase) Decrease in Assets:		
Accounts Receivable	(466,024)	(13,048)
Interest Receivable	8,845	(7,588)
Federal Grants Receivable	(134,930)	(32,267)
State Grants Receivable	(628,211)	-
Inventories	(2,223)	(26,460)
Prepaid Expenses	(4,283)	392,519
Contributions Receivable	1,317,954	(3,554,105)
Funds Held by Third-Party Trustees	(47,761)	(2,381)
Other Assets	19,793	(11,311)
Increase (Decrease) in Liabilities:		
Accounts Payable and Accrued Expenses	66,617	513,482
Deposits Payable	323,499	120,398
Agency Funds Held in Custody for Others	(12,134)	7,639
Deferred Revenue	561,872	5,125
Refundable Advances - Federal Perkins Loan Program	136,225	113,827
Net Cash Provided by Operating Activities	1,496,018	1,384,260

(Continued)

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH-MISSOURI SYNOD  
STATEMENTS OF CASH FLOWS - Continued  
FOR THE YEARS ENDED JUNE 30, 2002 AND 2001

	2002	2001
<b>Cash Flows from Investing Activities:</b>		
Decrease (Increase) in Funds on Deposit with CUS	74,020	(1,645,498)
Purchase of Fixed Assets	(687,587)	(579,149)
Proceeds from Sale of Investments	60,424	906,386
Purchase of Investments	(1,901,268)	(1,995,853)
Loan Receivable - Principal Repayments	-	159,000
Federal Perkins Loans Receivable - Principal Repayments	255,286	216,656
- Advances	(375,069)	(401,235)
	(2,574,194)	(3,339,693)
 <b>Cash Flows from Financing Activities:</b>		
Contributions Restricted for:		
Investment in Permanent Endowments	1,050,524	1,852,334
Investment in Land, Buildings, and Equipment	907,631	901,784
	1,958,155	2,754,118
Interest, Dividends, and Gains Restricted for Reinvestment	6,343	6,144
Loans Payable - Principal Repayments	(368,931)	(516,055)
- Advances	-	17,500
Obligation Under Capital Leases - Principal Repayments	(9,002)	(68,004)
	1,586,565	2,193,703
Net Increase in Cash and Cash Equivalents	508,389	238,270
Cash and Cash Equivalents - Beginning of Year	963,711	725,441
Cash and Cash Equivalents - End of Year	\$ 1,472,100	\$ 963,711
 <b>Supplemental Data:</b>		
Noncash Investing and Financing Activities:		
Fixed Assets Acquired with Debt	\$ -	\$ 150,000
Fixed Assets Acquired Under Capital Lease	106,000	-
Interest Paid	477,886	482,108

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

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH—MISSOURI SYNOD  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2002 AND 2001

1. NATURE OF ORGANIZATION/SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Concordia University, St. Paul, a Minnesota not-for-profit corporation, is a private, Lutheran liberal arts educational institution owned and operated under the auspices of The Lutheran Church—Missouri Synod (Synod), which establishes broad operating and financial policies through its Board for Higher Education (BHE)/Concordia University System (CUS). The University's Board of Regents, elected by the Synod, is responsible for the management of the University.

Revenues are derived principally from the University's educational programs in the form of tuition and fees and also from contributions. CUS contributes to the University's support (\$80,216 in 2002 and \$45,000 in 2001) in the form of operating subsidies and specific grants. During 2001-2002, CUS also provided a \$1,900,000 line of credit to the University which was available to support current operations. As disclosed in Note 2, the University's line of credit increased to \$2,000,000 for the 2002-2003 fiscal year.

The significant accounting policies followed by the University are described below:

- a. The financial statements of the University have been prepared on the accrual basis in conformity with accounting principles generally accepted in the United States (GAAP). The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts recorded in the financial statements and disclosed in the accompanying notes. Actual results could differ from those estimates.
- b. The University follows the reporting requirements of the Financial Accounting Standards Board in its Statement of Financial Accounting Standards (SFAS) No. 117, *Financial Statements of Not-for-Profit Organizations*. Accordingly, the University reports information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.
- c. All contributions are considered to be available for unrestricted use unless specifically restricted by the donor. Amounts received that are designated for future periods or restricted by the donor for specific purposes are reported as temporarily restricted or permanently restricted support that increases those net asset classes.
- d. The University reports gifts of cash and other assets as restricted support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions.

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH–MISSOURI SYNOD  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2002 AND 2001

1. NATURE OF ORGANIZATION/SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES –  
Continued

- e. The University reports gifts of land, buildings, and equipment as unrestricted support unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, the University reports expirations of donor restrictions when the donated or acquired long-lived assets are placed in service.
- f. In accordance with SFAS No. 116, *Accounting for Contributions Received and Contributions Made*, unconditional promises to give that are expected to be collected within one year are recognized as support and recorded as a receivable at net realizable value. Unconditional promises to give that are expected to be collected in future years are recorded at the present value of their estimated future cash flows, discounted at an appropriate interest rate. Conditional promises to give are not included as support until the conditions are substantially met.

Contributed services are reported in the financial statements at fair value for voluntary donations of services when those services (1) create or enhance nonfinancial assets or (2) require specialized skills, are provided by individuals possessing those skills, and would typically need to be purchased if not provided by donation.

- g. Cash and cash equivalents include currency, demand deposits, and liquid investments with a maturity, at time of purchase, of three months or less. Cash and cash equivalents do not include investments the University has both the ability and intent to hold long-term. Income earned on cash and cash equivalents, as reported on the statements of activities, includes income earned on the University’s CUS deposit account described in Note 2.
- h. Inventories are stated at cost (first-in, first-out method).
- i. Land, buildings, improvements, and equipment are recorded at cost, except for property received by gift, which is recorded at fair value on the date of receipt. Title to land and buildings is principally in the name of the University with reversionary clauses to the Synod.
- j. Certain prior year amounts have been reclassified to conform to the June 30, 2002 financial statement presentation. These reclassifications, however, had no effect on total net assets.
- k. Buildings, improvements, and equipment are depreciated using the straight-line method over the following estimated useful lives:

Buildings	40 years
Improvements Other Than Buildings	10 to 20 years
Equipment	3 to 5 years

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH-MISSOURI SYNOD  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2002 AND 2001

1. NATURE OF ORGANIZATION/SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES –  
Continued

- l. Investments are carried at fair value based on quoted market prices. Realized and unrealized gains and losses, reflected in the statements of activities, are determined by comparison of the investment cost to proceeds at the time of disposal or to market values at the financial statement date, respectively.
- m. The Board of Regents has interpreted state law as requiring the original value of an endowment gift to be maintained as the permanent endowment corpus. Realized gains as well as the net appreciation of permanent endowment funds may be expended for the same purpose as the endowment was established, unless explicit donor restrictions specify other treatment.
- n. Substantially all of the assets shown in the financial statements approximate fair value. Financial liabilities are recorded at cost which approximates fair value.
- o. During 2002 and 2001, the University disbursed \$985,794 and \$789,402, respectively, to students under the Federal Pell Grant Program. This activity is not included in the accompanying financial statements.

2. FUNDS ON DEPOSIT WITH CONCORDIA UNIVERSITY SYSTEM

Funds on deposit with CUS totaling \$2,302,477 and \$2,376,497 at June 30, 2002 and 2001, respectively, include funds set aside for future capital purchases netted against the University's short-term line of credit borrowings from CUS.

Funds set aside for future capital expenditures totaled \$3,115,316 and \$2,442,704 at June 30, 2002 and 2001, respectively. These are demand deposits which earn interest on the daily balance in the account at rates ranging from 3.25% to 5.875%. During the years ended June 30, 2002 and 2001, interest earned on these deposits totaled \$139,781 and \$126,017, respectively, which was included on the statements of activities with income earned on cash and cash equivalents.

During the years ended June 30, 2002 and 2001, when the University was a net borrower from its line of credit with CUS, interest was charged at rates ranging from 3.375% to 6.625%. At June 30, 2002 and 2001, these short-term line of credit borrowings totaled \$812,839 and \$66,207, respectively. Interest paid in fiscal year 2002 and 2001 on these borrowings totaled \$33,034 and \$10,561, respectively, which was reported as an institutional support expense on the statements of activities.

In April 2002, CUS approved a \$2,000,000 line of credit, which is available to the University during the 2002-2003 fiscal year for short-term cash flow purposes.

CONCORDIA UNIVERSITY, ST. PAUL - ST. PAUL, MINNESOTA, an  
EDUCATIONAL INSTITUTION of  
THE LUTHERAN CHURCH—MISSOURI SYNOD  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2002 AND 2001

3. CONTRIBUTIONS RECEIVABLE

At June 30, 2002 and 2001, contributors have unconditionally promised to give the University \$6,651,689 and \$10,585,051, respectively. Of these amounts, \$2,278,710 and \$4,514,967, respectively, are held by the Lutheran Church—Missouri Synod Foundation (LCMS Foundation) as irrevocable deferred gifts of which the University is the beneficiary and will receive the principal at some future date.

Management believes total contributions will be received as follows:

	June 30	
	2002	2001
Amounts Due:		
Within One Year	\$ 2,246,589	\$ 1,694,592
One to Five Years	2,145,793	3,984,215
After Five Years	2,259,307	4,906,244
	6,651,689	10,585,051
Less: Present Value Component	(1,260,549)	(3,838,086)
	\$ 5,391,140	\$ 6,746,965

In addition, at June 30, 2002, an unrelated foundation has promised to give the University \$710,000 for construction of a new library and for its ongoing maintenance contingent upon the University raising \$710,000 through a fund-raising campaign. Matching-eligible gifts must be pledged or received after November 8, 2001 and before June 30, 2003 and are limited to a maximum of \$250,000 per donor. The matching ratio will be one foundation dollar for every matching-eligible gift dollar. At June 30, 2002, matching-eligible cash payments and written pledges totaling \$416,747 have been received from donors. As a result, this amount has been recorded as a contribution receivable from the foundation at June 30, 2002.

4. LOANS RECEIVABLE – FEDERAL PERKINS LOAN PROGRAM

The Federal Perkins Loan Program consists primarily of funds advanced to students by the U.S. government. Under the terms of the program, these loans are subject to forgiveness or assignment back to the federal government under certain circumstances. The amount to be forgiven or assigned is based on the occurrence of certain future events which cannot be anticipated, and therefore, no allowance for uncollectible loans has been provided.

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5. CONSTRUCTION IN PROGRESS

At June 30, 2002, \$294,117 had been expended for construction of the Library/Information Technology Center. The construction, which is being funded by gifts, is expected to be completed in August 2003 at an estimated total cost of \$7,500,000.

6. ACCUMULATED DEPRECIATION

Accumulated depreciation consisted of the following:

	June 30	
	2002	2001
Buildings	\$ 10,994,686	\$ 10,337,919
Improvements Other Than Buildings	540,522	501,295
Equipment	3,934,980	3,792,304
	\$ 15,470,188	\$ 14,631,518

7. LONG-TERM INVESTMENTS

Investments with maturities of one year or longer at time of purchase are classified as long-term. In addition, investments with maturities of less than one year at time of purchase, which the University has both the ability and intent to hold long-term, are also classified as long-term investments. Details of long-term investments held by the University at June 30, 2002 and 2001, follow:

	Interest Rates	Maturity Dates	June 30	
			2002	2001
LCMS Foundation	Varies	Demand	\$ 7,572,097	\$ 7,655,000
Mutual Fund	Varies	Demand	3,246,550	808,681
Corporate Debt	—	—	—	570,894
Common Stock	—	—	—	643,959
LCEF Notes	Varies to 8.75%	Demand to 11/50	22,305	21,694
			\$ 10,840,952	\$ 9,700,228

The LCMS Foundation invests primarily in fixed income securities, high-yield domestic corporate bonds, and domestic and international equity securities.



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8. FUNDS HELD BY THIRD-PARTY TRUSTEES

Funds held by third-party trustees consist of irrevocable trusts from which the University is to receive the income in perpetuity. The principal is held in trust by the LCMS Foundation and an unrelated trust company and will never revert to the University. The perpetual stream of income is viewed by the University as promises to give by the individuals who established the trusts and has been recorded at the fair value of the trusts at June 30, 2002 and 2001, which closely approximates the net present value of the perpetual income stream.

Given the nature of the promises, the University recorded these contributions as permanently restricted net assets. Income received is recorded as either unrestricted or temporarily restricted activity based on the presence or absence of donor restrictions. Increases or decreases in the fair value of the trust assets are recorded on the statements of activities as changes in permanently restricted net assets.

9. LOANS PAYABLE TO THE LUTHERAN CHURCH EXTENSION FUND

Details of loans payable to the Lutheran Church Extension Fund (LCEF) at June 30, 2002 and 2001, are as follows:

	Interest Rates	Maturity Dates	June 30	
			2002	2001
Capital Projects	5.75%	6/20	\$ 6,490,869	\$ 6,691,005
Dormitory Renovations	6%	7/03 to 4/11	675,213	768,284
Finance & Operations Bldg.	6%	8/26	362,063	367,189
Roof Renovation	6%	12/02	21,188	68,384
Topography Project	6%	8/05	70,843	90,279
			<u>\$ 7,620,176</u>	<u>\$ 7,985,141</u>

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9. LOANS PAYABLE TO THE LUTHERAN CHURCH EXTENSION FUND – Continued

Interest rates on these loans are periodically adjusted based on LCEF's cost of funds. Future minimum principal payments, based on present interest rates and refinancing periods, are as follows:

Year Ending June 30	
2003	\$ 362,793
2004	348,658
2005	369,396
2006	370,412
2007	388,391
Thereafter	<u>5,780,526</u>
Total Principal Payments	<u>\$ 7,620,176</u>

For the years ended June 30, 2002 and 2001, interest expense included in the statements of activities totaled \$456,097 and \$482,108, respectively.

10. BOARD-DESIGNATED NET ASSETS

The Board of Regents designated unrestricted net assets for the following specific purposes:

	June 30	
	<u>2002</u>	<u>2001</u>
Academic Programs:		
Instruction-Divisional	\$ 1,196,025	\$ 1,174,916
Scholarship Allowances (Student Aid)	1,337,930	1,317,646
Capital Acquisitions	<u>407,131</u>	<u>407,131</u>
	<u>\$ 2,941,086</u>	<u>\$ 2,899,693</u>

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11. TEMPORARILY RESTRICTED NET ASSETS

Temporarily restricted net assets contain donor-imposed restrictions that expire upon the passage of time or once specific actions are undertaken by the University. At June 30, 2002 and 2001, temporarily restricted net assets are available for the following specific purposes or time restrictions have been placed on the use of the funds as noted in the following schedule:

	June 30	
	2002	2001
Program Restrictions:		
Academic Programs:		
Instruction-Divisional	\$ 1,267,149	\$ 817,667
Other Instructional Programs	169,413	53,100
Support Programs:		
Academic Support	540,040	409,512
Student Services	38,745	73,297
Scholarship Allowances (Student Aid)	1,046,733	1,052,775
	3,062,080	2,406,351
Fixed Asset Acquisitions	6,215,919	5,749,841
Time Restrictions	1,483,042	1,385,580
Debt Retirement	202,775	234,288
	\$ 10,963,816	\$ 9,776,060

12. PERMANENTLY RESTRICTED NET ASSETS

Permanently restricted net assets are subject to donor-imposed restrictions that the principal be invested in perpetuity. The income from these investments will be used to support:

	June 30	
	2002	2001
Academic Programs:		
Instruction-Divisional	\$ 459,940	\$ 459,084
Support Programs:		
Academic Support	564,155	88,349
Scholarship Allowances (Student Aid)	7,471,918	7,269,388
Unrestricted Operations	3,595,949	3,468,724
	\$ 12,091,962	\$ 11,285,545

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13. NET ASSETS RELEASED FROM RESTRICTIONS

Net assets were released from donor restrictions when expenses were incurred to satisfy the restricted purposes or by the occurrence of other events specified by donors. For the years ended June 30, 2002 and 2001, temporarily restricted net assets were released as follows:

	June 30	
	2002	2001
Program Restrictions Accomplished:		
Academic Programs:		
Instruction-Divisional	\$ 91,836	\$ 388,192
Other Instructional Programs	520,697	163,453
Support Programs:		
Academic Support	211,641	91,540
Student Services	104,518	36,783
Institutional Support	91,925	25,089
Fund-Raising	-	20,695
Auxiliary Enterprises	56,949	36,731
Scholarship Allowances (Student Aid)	1,408,531	1,171,500
	2,486,097	1,933,983
Debt Principal Retired	54,000	56,000
Expiration of Time Restrictions	-	270,362
Capital Expenditures	293,877	-
	\$ 2,833,974	\$ 2,260,345

14. OBLIGATION UNDER OPERATING LEASES

Certain energy management equipment was installed during the fiscal year 1999 by the University with a cost of approximately \$1,400,000. The University is required to make lease payments of \$141,379 annually until April 2014 which includes interest at approximately 5%.

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15. DEFINED BENEFIT PLANS

The University participates in the Worker Benefit Plans of the Synod. Substantially all full-time employees are covered by these retirement and survivor programs. The University contributes a fixed percentage of each participant's salary to the plans. Retirement and survivor program expenses for the years ended June 30, 2002 and 2001, totaled \$327,925 and \$374,495, respectively.

16. TAX- EXEMPT STATUS

The University is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and has received a determination letter from the Internal Revenue Service stating that it is exempt from federal income tax on its related exempt activities under Code Section 501(a).

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## U.S. BANK NATIONAL ASSOCIATION

U.S. Bank National Association (“USBNA”) is a national banking association organized under the laws of the United States and is the largest subsidiary of U.S. Bancorp. At December 31, 2002, USBNA had total assets of \$176 billion, total deposits of \$122 billion, and total shareholders’ equity of \$19 billion.

USBNA is engaged in the general banking business, principally in domestic markets. USBNA provides a wide range of products and services to individuals, businesses, institutional organizations, governmental entities and other financial institutions. Commercial and consumer lending services are principally offered to customers within USBNA’s domestic markets, to domestic customers with foreign operations and within certain niche national venues. Lending services include traditional credit products as well as credit card services, financing and import/export trade, asset-backed lending, agricultural finance and other products. Depository services include checking accounts, savings accounts and time certificate contracts. Ancillary services such as foreign exchange, treasury management and receivable lock-box collection are provided to corporate customers. USBNA provides a full range of fiduciary services for individuals, estates, foundations, business corporations and charitable organizations.

Banking and investment services are provided through a network of 2,142 banking offices principally operating in 24 states in the Midwest and West. USBNA operates a network of 4,604 branded ATMs and provides 24-hour, seven days-a-week telephone customer service. Mortgage banking services are provided through banking offices and loan production offices.

U.S. Bancorp (“USB” or “the Company”) is a multi-state financial services holding company with \$180 billion in assets, headquartered in Minneapolis, Minnesota, and was created by the acquisition by Firststar Corporation of the former U.S. Bancorp of Minneapolis, Minnesota. The merger was completed on February 27, 2001, and the combined company retained the U.S. Bancorp name. U.S. Bancorp was incorporated in Delaware in 1929 and operates as a financial holding company and a bank holding company under the Bank Holding Company Act of 1956. USB provides a full range of financial services, including lending and depository services, cash management, foreign exchange and trust and investment management services. It also engages in credit card services, merchant and automated teller machine (“ATM”) processing, mortgage banking, insurance, brokerage, leasing and investment banking. On a full-time equivalent basis, employment during 2002 averaged a total of 51,673 employees. USB’s common stock is traded on the New York Stock Exchange under the ticker symbol USB.

The main office of USBNA is located at 425 Walnut Street, Cincinnati, Ohio 45202.

### Available Information

The foregoing financial information regarding USBNA has been derived from and is qualified in its entirety by the unaudited financial information contained in the Federal Financial Institutions Examination Council report Form 031, Consolidated Report of Condition and Income for a Bank with Domestic and Foreign Offices (“Call Report”), for the quarter ended December 31, 2002. The publicly available portions of the quarterly Call Reports with respect to USBNA are on file with, and available upon request from, the FDIC, 550 17<sup>th</sup> Street, N.W., Washington, D.C. 20429 or by calling the FDIC at (800) 945-2186. The FDIC also maintains an Internet website (<http://www.fdic.gov>) that contains reports and certain other information regarding depository institutions such as USBNA. Reports and other information about USBNA are available at the offices of the Comptroller of the Currency at One Financial Place, Suite 2700, 440 South LaSalle Street, Chicago, IL 60605.

U.S. Bancorp is subject to the informational requirements of the Securities Exchange Act of 1934, as amended, and, in accordance therewith, files reports and other information with the SEC. Detailed information concerning U.S. Bancorp is included in its proxy statements, annual reports on Form 10-K and quarterly reports on Form 10-Q, and in the historical proxy statements, annual reports on Form 10-K and quarterly reports on Form 10-Q of Firststar Corporation, which are on file with the SEC and may be inspected at the Public Reference Room, 450 Fifth Street, N.W. Room 1024, Washington D.C. 20549, or at the Chicago Regional Office located at the Citicorp Center 500 West Madison Street, Suite 1400, Chicago, Illinois 60661-2511. You may also obtain information from the SEC by calling 1-800-SEC-0330 or by accessing the SEC's Internet website at <http://www.sec.gov>. U.S. Bancorp also maintains an Internet website at <http://www.usbank.com>. Information on U.S. Bancorp's website is not part of this document.

Except for the contents of this section, USBNA assumes no responsibility for the nature, contents, accuracy or completeness of the information set forth in this Official Statement.