

CIRCULO REAL PROPERTY HOLDING CORPORATION

to

UMB BANK, N.A., as Trustee

ASSIGNMENT OF LEASES AND RENTS

Dated as of August 1, 2019

\$2,470,000

Town of Hempstead Local Development Corporation
Tax-Exempt Revenue Refunding Bonds, Series 2019A-1
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)

and

\$11,170,000

Town of Hempstead Local Development Corporation
Tax-Exempt Revenue Refunding Bonds, Series 2019A-2
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)

and

\$900,000

Town of Hempstead Local Development Corporation
Taxable Revenue Refunding Bonds, Series 2019B
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)

134 Linden Avenue, Hempstead, NY 11550
Section: 34 Block: 380 Lots: 328 and 329

and

605 Peninsula Boulevard, Hempstead, NY 11550
Section: 34 Block: 380 Lots: 256, 454-455, 464, 467 and 470

After Recording Please Return to:

Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604
Attention: William F. Weir, Esq.

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this “Assignment”), dated as of August 1, 2019, (this “**Assignment**”), is given by CIRCULO REAL PROPERTY HOLDING CORPORATION a New York not-for-profit corporation that it is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), which is exempt from federal income taxation pursuant to Section 501(a) of the Code having an office at 20 West Park Avenue, Long Beach, New York 11561 (the “**Institution**” and the “**Assignor**”) to UMB BANK, N.A., a national banking association duly organized and existing under the laws of the United States of America, as trustee, being authorized to accept and execute trusts of the character hereinafter set forth, having a corporate trust office at 2 South Broadway, Suite 600, St. Louis, Missouri 63102 (the “**Trustee**” and the “**Assignee**”).

WITNESSETH:

WHEREAS, the Town of Hempstead Local Development Corporation (the “**Issuer**”) was created pursuant to and in accordance with the provisions of the New York Membership Corporation Law as in effect in 1966, as superseded by Section 1411 of the New York Not-for-Profit Corporation Law (collectively, the “**Act**”) and is empowered under the Act to undertake the providing of projects of a character such as the Series 2019 Project (as hereinafter defined) for the public purposes of the State; and

WHEREAS, the Issuer proposes to issue its \$2,470,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-1 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019A-1 Bonds**”), and its \$11,170,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-2 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019A-2 Bonds**”; and, together with the Series 2019A-1 Bonds, the “**Series 2019A Bonds**”) and its \$900,000 Taxable Revenue Refunding Bonds (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019B Bonds**”; and together with the Series 2019A Bonds, the “**Bonds**”), under Section 145 of the Internal Revenue Code of 1986, as amended (the “**Code**”), for the benefit of the Institution, for the purposes of, along with other available monies of the Institution: (A) paying all costs in connection with refunding the outstanding Civic Facility Revenue Bonds, Series 2007 (Circulo de la Hispanidad, Inc. Civic Facility) issued by the Town of Hempstead Industrial Development Agency (the “**IDA**”), in the amount of \$15,000,000 (the “**Series 2007 Bonds**”), for the benefit of Circulo de la Hispanidad, Inc., a not-for-profit corporation, organized and existing under the laws of the State, and an Exempt Organization (the “**Organization**”), the proceeds of which Series 2007 Bonds were used to finance the costs of (i) the issuance of the Series 2007 Bonds, and (ii) the acquisition of an approximately 0.895 acre parcel of land located at 605 Peninsula Boulevard and the construction and equipping of an approximately 35,000 square foot two-story commercial building located thereon, and an adjacent approximately 0.1147 acre parcel of land located at 134 Linden Avenue, consisting of parking facilities, all located in the Village of Hempstead, Town of Hempstead, Nassau County, New York (collectively, the “**Facility**”) (clauses (i) and (ii) are collectively, the “**Series 2007 Project**”), which Facility has been

conveyed by the Organization to the Institution and leased by the Institution to Evergreen Charter School, a not-for-profit education corporation, organized and existing under the laws of the State and an Exempt Organization (the “**School**”), to be used as a charter school serving students in kindergarten through grade 8; (B) fund a debt service reserve fund and a repair and replacement fund; and (C) pay certain costs of issuance of the Series 2019 Bonds (subsections (A), (B) and (C) are collectively, the “**Series 2019 Project**”); and

WHEREAS, contemporaneously with the execution of the Indenture, the Issuer has loaned the proceeds of the Bonds to the Institution for paying the Costs of the Series 2019 Project (as defined in the Indenture), pursuant to a certain Loan Agreement, dated as of August 1, 2019 (the “**Loan Agreement**”), by and between the Issuer and the Institution; and

WHEREAS, the Institution has leased the Facility to the School pursuant to a certain Lease Agreement, dated April 5, 2019 (the “**Lease Agreement** ”), by and between the Institution and the School and a Memorandum of Lease Agreement, dated August 8, 2019 (the “**Memo of Lease**”), is to be recorded in the Nassau County Clerk’s Office; and

WHEREAS, as security for the Bonds, all amounts required to be paid under the Loan Agreement and the Institution Documents (as defined in the Indenture) and the performance and observance by the Assignor of its obligations under the Loan Agreement and the other Institution Documents, the Assignor executes and delivers to the Assignee this Assignment, which Assignment among other things assigns to the Assignee the rents, issues and profits of the Facility.

NOW, THEREFORE, IN CONSIDERATION OF THE SUM OF TEN DOLLARS (\$10.00), AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND ADEQUACY OF WHICH ARE HEREBY ACKNOWLEDGED, THE ASSIGNOR AND ISSUER HEREBY AGREE:

I. DEFINITIONS

Section 1.1 Capitalized terms used herein that are defined in the recitals hereto shall have the meanings set forth therein. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in Schedule A of the Indenture. In addition, the following additional terms used herein shall be defined as follows:

“Indebtedness” means

- (i) All obligations and amounts payable at any time owing by Assignor under the Indenture, the Loan Agreement, the Mortgage, the Notes (as defined in the Indenture) and/or the Bonds;
- (ii) All obligations of Assignor under this Assignment;
- (iii) Any obligations of Assignor under any other Institution Document;

(iv) All future advances and other obligations that Assignor or any successor in ownership of all or part of the Facility may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Assignee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Assignment; and

(v) All modifications, amendments, extensions, and renewals, however evidenced, of any of the Indebtedness.

“Leases” means all agreements now existing or hereafter arising for the rental of space in or affecting the Facility, including the Lease Agreement, or the right to enter upon, occupy, possess or use the Facility, including subleases, and other agreements for the leasing or rental of the Facility or any part thereof, now existing or hereafter made, and all proceeds of any of the foregoing, including, without limitation, all revenues, receipts, income, fees, charges, accounts, accounts receivable and other payments and receivables; all rents and other amounts now or hereafter due thereon; all proceeds thereof; and all replacements and substitutions and all renewals, extensions and modifications thereof from time to time amended.

“Mortgage” means the Mortgage and Security Agreement given by Assignor to Issuer of even date herewith, and assigned to the Trustee, encumbering the real property described on Schedule A hereto, as such mortgage may be amended, supplemented, replaced or otherwise modified from time to time.

“Property” means the real property and additional interests so defined as the Mortgaged Property in the Mortgage.

II. ASSIGNMENT

Section 2.1 As continuing collateral security for the payment of the Indebtedness, Assignor hereby assigns to Assignee all Assignor's right, title and interest in and to the Leases, such assignment being present, absolute and unconditional, including Assignor's right to collect and receive the payment of any rents, issues, income and profits and retain and use the rents and other amounts now or hereafter due on the Leases. Assignee shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

Section 2.2. The above assignment shall not be deemed to impose upon Assignee any of the obligations or duties of the landlord or Assignor provided in any Lease other than the right to collect and receive all rents, issues, incomes and profits due and owing under the Lease (collectively, the “**Rents**”).

III. COVENANTS AND REPRESENTATIONS OF ASSIGNOR

Section 3.1 EXISTING LEASES: Any existing Leases, including the Lease Agreement, submitted to Assignee by or on behalf of Assignor are now valid and enforceable

according to their terms, and have not, since their execution, been altered or amended in any manner, and no rents thereunder have been, or will be, collected more than one (1) month in advance of the time when such rent is due.

Section 3.2 COMPLIANCE WITH LEASES: Assignor will duly perform all the duties of, and comply with all the material terms, covenants, conditions, provisions and agreements required of or made by Assignor in accordance with the Leases.

Section 3.3 NEW LEASES: Assignor shall not execute or permit to exist any new lease except for occupancy by the tenant thereunder and pursuant to a written lease in form and substance satisfactory to Issuer and with a tenant satisfactory to Issuer.

Section 3.4 CANCELLATION AND AMENDMENT: Assignor will not, without Assignee's prior written consent: (a) cancel, terminate, consent to a surrender of, abridge, or modify, amend or renew, any Lease, or commence an action of ejectment or any summary proceedings for dispossession of the tenant under any Lease or exercise any right to recapture provided under any Lease, or in any manner release or discharge any tenant under any Lease of and from any obligations, covenants and agreements by such tenant to be kept, observed and performed (including, without limitation, the obligation to pay rent thereunder, in the manner and at the place and time specified therein (reference is made to Section 291-f of the Real Property Law of the State of New York to establish for the Issuer the rights and benefits provided therein)); (b) transfer, mortgage or otherwise encumber the rents or other amounts due under Leases; (c) accept prepayments of installments of rent to become due in excess of one (1) month; or (d) permit the tenant under any Lease to assign the tenancy or sublease its demised premises thereunder (unless such tenant has such right of assignment or sublease (as applicable) under its Lease without the necessity of obtaining Assignor's consent thereto (reference is made to Section 291-f of the Real Property Law of the State of New York to establish for the Issuer the rights and benefits provided therein)).

Section 3.5 AUTHORITY: Assignor (a) has the right to the rents presently due or to become due under the existing Leases; (b) has not previously assigned such rents or any part thereof; (c) has the right and authority to make this Assignment; (d) has performed or will perform all necessary acts to authorize payment of the rents to Assignee following the occurrence and during the continuance of an Event of Default; and (e) will execute and deliver to Assignee and Issuer any and all other documents and perform all acts reasonably requested by Assignee and Issuer in connection with the Leases and this Assignment.

Section 3.6 ATTORNEY-IN-FACT: Assignee and Issuer are each hereby appointed attorney-in-fact of Assignor, coupled with an interest, with full power and authority to act in the name of Assignor after the occurrence of any Event of Default in the exercise of any remedy permitted Assignee hereunder, but nothing herein shall in any way obligate Assignee to act in any manner on behalf of Assignor or relieve Assignor from its duty to perform according to the provisions of the Leases and this Assignment. The rights and powers granted to Assignee hereby shall be irrevocable so long as the Indebtedness remains unpaid.

IV. EVENTS OF DEFAULT

Section 4.1 The occurrence of any of the events or existence of any of the conditions described in this Article IV shall constitute an event of default hereunder (“**Event of Default**”):

- (i) Failure by Assignor to pay the Indebtedness within ten (10) days of when due.
- (ii) An Event of Default shall occur (including the expiration of any applicable notice and cure period(s)) under the Indenture, the Mortgage, the Loan Agreement, the Bonds, or under any of the other Institution Documents.

V. REMEDIES

Section 5.1 Following the occurrence and during the continuance of an Event of Default, Assignee may, to the extent permitted by applicable law, at its option and sole discretion, exercise alternatively or cumulatively any or all of the following remedies, without in any way waiving such Event of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor or any guarantor of any Indebtedness from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by any other document evidencing or securing the Indebtedness:

- (i) COLLECT RENTS: Demand, recover and receive any and all rents and income from the Leases when due in accordance with their terms and apply the same to the Indebtedness.
- (ii) PERFORM LEASES: Perform such acts as may be required of Assignor by the Leases.
- (iii) LEASE AND SUBLEASE PROPERTY: Lease, sublease, license or otherwise permit the use of the Project or any part thereof which is now or may become vacant for such periods as Assignee may deem proper.
- (iv) MAINTAIN ACTIONS: Maintain any and all actions or proceedings to recover rents or other income from the Project or to remove tenants, subtenants or occupants therefrom, in accordance with the terms and conditions of the applicable Lease(s).
- (v) PAY EXPENSES: Pay all sums Assignee reasonably deems necessary toward taxes, assessments, utility charges, prior liens, insurance premiums, service contracts, or repairs affecting the Project and the obligations of Assignor under the Leases, and for exercising any remedies hereunder, and if the income of the Project is not sufficient to cover such payments, together with sums then due on the Indebtedness secured hereby, Assignor will promptly reimburse Assignee to the extent thereof and such sums shall be secured hereby.

(vi) RENEGOTIATE LEASES: Renegotiate (including the making of rent concessions and making of tenant improvements), cancel, accept surrender of, and enforce the terms of, the Leases.

(vii) RIGHT OF SETOFF: From time to time after the occurrence and during the continuance of any Event of Default, Assignee shall have the right to place an administrative hold on, and setoff against each obligation of Assignor pursuant to this Agreement, each obligation of Assignee in any capacity to, in any capacity and whether alone or otherwise, Assignor, whether now existing or hereafter arising or accruing, whether or not then due and whether pursuant to any deposit account or otherwise.

(viii) OTHER: Exercise any other right or remedy available to Assignee in law or equity.

Section 5.2 In the exercise of any of the foregoing rights and powers, Assignee shall not be liable to Assignor for any loss or damage thereby sustained.

VI. MISCELLANEOUS

Section 6.1 WAIVERS: Nothing contained in this Assignment shall operate as or be deemed to be an extension of the time for payment of the Indebtedness or to in any way affect any of Assignee's rights, powers or remedies to enforce payment of the Indebtedness or any part thereof. No delay or omission by Assignee in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Subject to the terms and conditions of Article V, Assignee may, upon five (5) Business Days' advance notice to Assignor, remedy any default by Assignor hereunder in the manner(s) set forth herein without waiving the default remedied and without waiving any other prior or subsequent default by Assignor.

Section 6.2 SUCCESSORS AND ASSIGNS: This Assignment shall be binding upon Assignor and its successors and assigns, and shall inure to the benefit of Assignee and its successors and assigns, including without limitation any future holder of the Mortgage or a participating interest in the Indebtedness.

Section 6.3 GOVERNING LAW: This Assignment and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the internal laws of the State of New York, without regard to the principles of conflict of laws.

Section 6.4 JURISDICTION: ASSIGNOR AND ASSIGNEE EACH KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY (a) CONSENT IN EACH ACTION AND OTHER LEGAL PROCEEDING ARISING OUT OF OR OTHERWISE RELATING TO THIS ASSIGNMENT, ANY OF THE OBLIGATIONS, ANY OF THE LEASES OR RENTS OR ANY OTHER COLLATERAL TO THE NONEXCLUSIVE PERSONAL JURISDICTION OF ANY COURT THAT IS EITHER A COURT OF RECORD OF THE STATE OF NEW YORK OR A COURT OF THE UNITED STATES LOCATED IN THE STATE OF

NEW YORK AND IN THE COUNTY WHERE THE PROJECT IS LOCATED AND (b) WAIVES EACH OBJECTION TO THE LAYING OF VENUE OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING IN SUCH LOCATION.

Section 6.5 WAIVER OF TRIAL BY JURY: ASSIGNOR AND ASSIGNEE EACH KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE EACH RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO, AND EACH RIGHT TO ASSERT ANY CLAIM FOR DAMAGES (INCLUDING, BUT NOT LIMITED TO, PUNITIVE DAMAGES) IN ANY ACTION OR OTHER LEGAL PROCEEDING OF ANY NATURE, RELATING TO (a) THIS ASSIGNMENT, ANY RELATED BOND DOCUMENT OR ANY COLLATERAL RELATED HERETO, (b) ANY TRANSACTION CONTEMPLATED BY ANY SUCH DOCUMENTS OR (c) ANY NEGOTIATION, PERFORMANCE OR ENFORCEMENT OF THIS ASSIGNMENT, OR ANY COLLATERAL RELATED HERETO. ASSIGNOR AND ASSIGNEE EACH CERTIFY THAT NEITHER PARTY NOR ANY REPRESENTATIVE THEREOF HAS REPRESENTED THAT SUCH PARTY WILL NOT SEEK TO ENFORCE THE WAIVER MADE IN THIS SECTION. ASSIGNOR AND ASSIGNEE EACH ACKNOWLEDGE THAT IT HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL AS NECESSARY AND APPROPRIATE.

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Schedule A

Real Property Description

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Incorporated Village of Hempstead, Town of Hempstead, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Sycamore Avenue with the easterly side of Peninsula Boulevard;

RUNNING THENCE northerly and along the easterly side of Peninsula Boulevard the following 2 courses and distances:

1. North 9 degrees 30 minutes 11 seconds west, 53.95 feet;
2. North 17 degrees 04 minutes 45 seconds east, 152.15 feet to the corner of the easterly side of Peninsula Boulevard with the southerly side of Linden Avenue;

THENCE south 72 degrees 01 minutes 41 seconds east and along the southerly side of Linden Avenue, 173.26 feet;

THENCE south 17 degrees 58 minutes 19 seconds west, 100.00 feet;

THENCE south 72 degrees 01 minute 41 seconds east, 104.00 feet;

THENCE south 17 degrees 58 minutes 13 seconds west, 100.00 feet to the northerly side of Sycamore Avenue;

THENCE north 72 degrees 01 minutes 41 seconds west and along the northerly side of Sycamore Avenue, 250.00 feet to the corner first mentioned and the point or place of **BEGINNING**.

TOGETHER with the right, title and interest, if any, of the party of the first part, in and to any streets and roads abutting the above described premises, to the center line thereof.

For Information Only:

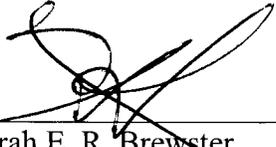
134 Linden Avenue, Hempstead, NY 11550
Section: 34 Block: 380 Lots: 328 and 329

and

605 Peninsula Boulevard, Hempstead, NY 11550
Section: 34 Block: 380 Lots: 256, 454-455, 464, 467 and 470

This Affidavit is made pursuant to Section 255 of the Tax Law of the State of New York for the purpose of claiming exemption from any additional tax on the recording of said Assignment of Leases and Rents.

CIRCULO REAL PROPERTY HOLDING CORPORATION

By: 
Name: Sarah E. R. Brewster
Title: Chief Director of Services and Operations

Subscribed and sworn to before me
this the 7th day of August, 2019


Notary Public

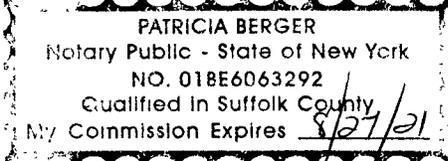


EXHIBIT A

REAL PROPERTY LEGAL DESCRIPTION

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THENCE south 72 degrees 01 minute 41 seconds east, 104.00 feet;

THENCE south 17 degrees 58 minutes 13 seconds west, 100.00 feet to the northerly side of Sycamore Avenue;

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TOGETHER with the right, title and interest, if any, of the party of the first part, in and to any streets and roads abutting the above described premises, to the center line thereof.

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