

CLOSING CERTIFICATE OF  
EVERGREEN CHARTER SCHOOL

The Town of Hempstead Local Development Corporation (the “**Issuer**”) 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 “**Series 2019 Bonds**”), under Section 145 of the Internal Revenue Code of 1986, as amended (the “**Code**”), for the benefit of Circulo Real Property Holding Corporation, a not-for-profit corporation organized and existing under the laws of the State of New York and 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 (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**”), with a balance remaining of approximately \$14,000,000 (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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (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; (C) pay certain costs of issuance of the Series 2019 Bonds (subsections (A), (B) and (C) are collectively, the “**Series 2019 Project**”). The Facility will be owned by the Institution, and will initially be operated and/or managed by the School, and the Organization is the sole member of the Institution.

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.

The Issuer has agreed to loan the proceeds of the Series 2019 Bonds to the Institution pursuant to and in accordance with the terms of a certain Loan Agreement, dated as of August 1, 2019 (the “**Loan Agreement**”), by and between the Issuer and the Institution.

The Issuer and UMB Bank, N.A., as trustee for the benefit of the Bondholders (the “**Trustee**”), have entered into an Indenture of Trust, dated as of August 1, 2019 (the “**Indenture**”).

Roosevelt & Cross, Inc. (the “**Underwriter**”) has agreed to purchase the Series 2019 Bonds and to sell the Series 2019 Bonds to one or more purchasers pursuant to the Bond Purchase Agreement (as defined below).

1. I have been, since at least January 24, 2019, and presently are, on and as of the date of this Certificate the duly designated President of the School.

2. The School hereby restates as of the date hereof and incorporates by reference all representations and warranties contained in, and represents and warrants that it has full power and authority to execute, deliver and perform, each of the following (hereinafter collectively referred to as the “**School Documents**”):

(a) the Tax Regulatory Agreement, dated August 8, 2019 (the “**Tax Regulatory Agreement**”), among the Issuer, the Institution and the School and acknowledged by the Trustee;

(b) the Lease Agreement;

(c) the Continuing Disclosure Agreement, dated August 8, 2019 (the “**Continuing Disclosure Agreement**”), among the Institution, the School and the Trustee; and

(d) the Limited Offering Memorandum, dated August 8, 2019 (the “**Limited Offering Memorandum**”).

3. The School Documents, when executed and delivered on behalf of the School, shall contain substantially the same terms as were approved and authorized to be executed by the Board of Directors of the School (with such changes therein as the officer executing the same has approved, with the advice of counsel).

4. The execution, delivery and performance of all agreements, certificates and documents required to be executed, delivered and performed by the School in order to carry out, give effect to and consummate the transactions contemplated by the School Documents have been duly authorized by all necessary action of the School as evidenced by the approval resolutions of the School attached hereto as Exhibit D (the “**Resolutions**”).

5. The School Documents are all in full force and effect on and as of the date hereof, and no authority for the execution, delivery or performance of any School Document has been repealed, revoked or rescinded.

6. Attached hereto as Exhibits A, B and C, respectively, are true and correct copies of the Charter of the School, as amended to date and as certified by The University of the State of New York, the By-Laws of the School and a Good Standing Letter from the Charter Schools Institute of The State University of New York, together with all amendments thereto, and the same are in full force and effect as of the date hereof and have not been otherwise amended, repealed or modified.

7. No Event of Default specified in the Lease Agreement or in any of the other School Documents, and no event which, with notice or lapse of time or both, would become such an Event of Default, has occurred or is continuing.

8. There is neither any action, litigation, suit, proceeding, inquiry nor investigation, at law or in equity, or before or by any court, public board or body, pending, or, to the best of our knowledge, threatened against or affecting the School, nor is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the validity or the enforceability of any of the School Documents or the transactions contemplated therein, the Series 2019 Bonds, when issued, or the Resolution adopted by the Issuer, or which would materially adversely affect the business, prospects or condition of the School, except as may be set forth in the opinion of our counsel, Harris Beach PLLC, Rochester, New York, dated and delivered on the date on this Certificate.

9. I have read the provisions of the Lease Agreement and the other School Documents and have discussed such documents with counsel to the School.

10. The School presently carries insurance on the Facility, as defined in the Loan Agreement, to the full extent required by Lease Agreement. Attached hereto as Exhibit F are copies of the Certificate(s) of Insurance evidencing that as of the date hereof the insurance coverage required by the Lease Agreement is in full force and effect.

11. I am duly designated to act, independent of one another, as “Authorized Representatives” pursuant to and in accordance with the provisions of the Loan Agreement, and the specimen of my signature is set forth on the final page of this certificate.

<u>Name</u>	<u>Title</u>
Gil Bernardino	President

12. Attached hereto as Exhibit E is a copy of the 501(c)(3) Determination Letter of the School issued by the Internal Revenue Service.

13. Reserved.

14. (a) As of the Closing Date no Event of Default has occurred under the Lease Agreement or the Continuing Disclosure Agreement;

(b) No event has occurred with respect to the School or the Series 2019 Project as a result of which the Limited Offering Memorandum would include an untrue

statement of material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(d) Except as may be set forth in the Limited Offering Memorandum, there is no litigation or proceedings pending or, to the best knowledge of such officer or authorized representative, threatened against the School in which the probable ultimate recoveries and the estimated costs and expenses of defense, based on the review of such officer and authorized representative (i) will not be entirely within applicable insurance policy limits or not in excess of the total available reserves held under applicable self-insurance programs, or (ii) could have a material adverse effect on the operations or financial condition of the School or the Series 2019 Project.

15. As of the date of the Limited Offering Memorandum, and as of the date hereof, the information and statements in the Limited Offering Memorandum with respect to the School all under the headings "INTRODUCTORY STATEMENT" as it relates to the School and "LITIGATION" as it relates to the School, Appendix A-2, and Appendix B-1, fairly and accurately present the information purported to be summarized therein, and no facts have come to our attention that would lead us to believe that such information is not true and correct in all material respects or includes any untrue statement or misleading statement of a material fact or omits to state a material fact necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading.

[Remainder of Page Intentionally Left Blank – Signature to Follow]

WITNESS the official signatures of the undersigned as of the 8th day of August, 2019.

**EVERGREEN CHARTER SCHOOL**

By:   
Name: Gil Bernardino  
Title: President

Divider

EXHIBIT A

Evergreen Charter School's  
Charter of the School, as amended to date and as certified by  
The State University of the State of New York

The University of the State of New York  
Education Department



EVERGREEN CHARTER SCHOOL

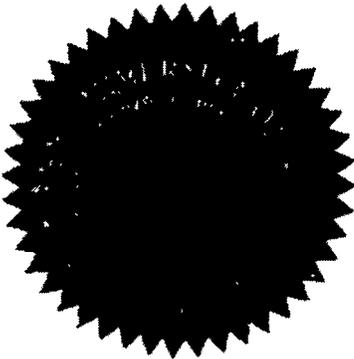
EXTENSION TO PROVISIONAL CHARTER

This Instrument Witnesseth that, the Board of Regents, for and on behalf of the Education Department of the State of New York at their meeting on December 17, 2013.

Voted, that,

The Board of Regents extend the provisional charter, and any amendment thereto, up through and including June 30, 2014, of the Evergreen Charter School, which was granted on January 13, 2009.

Granted, December 17, 2013, by the Board of Regents of The University of the State of New York, for and on behalf of the State Education Department, and executed under the seal of said University and recorded as Number 797.



*Meryl A. Liche*  
Chancellor

*John B. G. G.*  
President of the University and  
Commissioner of Education

EVERGREEN CHARTER SCHOOL

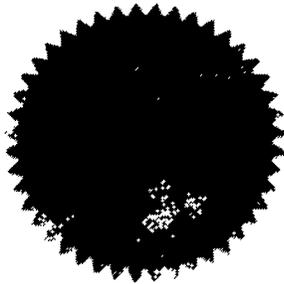
Extension to Provisional Charter

This Instrument Witnesseth that, the Board of Regents, for and on behalf of the Education Department of the State of New York at their meeting on March 13, 2017

Voted, that,

The Board of Regents extend the provisional charter, and any amendment thereto, up through and including June 30, 2022 of the Evergreen Charter School, which was granted on January 13, 2009.

Granted, March 13, 2017, by the Board of Regents of The University of the State of New York, for and on behalf of the State Education Department, and executed under the seal of said University and recorded as Number 1006.



Handwritten signature of the Chancellor.

Chancellor

Handwritten signature of the President of the University and Commissioner of Education.

President of the University and  
Commissioner of Education

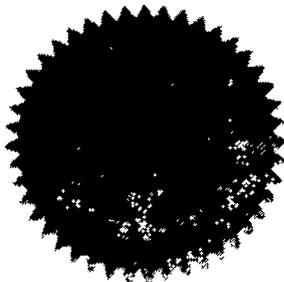
EVERGREEN CHARTER SCHOOL

This Instrument Witnesseth that, the Board of Regents, for and on behalf of the Education Department of the State of New York at their meeting on March 13, 2017

Voted, that

The Board of Regents grant a Third renewal to Evergreen Charter School for a term up through and including June 30, 2022 in accordance with the attached charter agreement between the Evergreen Charter School and the Board of Regents of the University of the State of New York.

Granted, March 13, 2017, by the Board of Regents of The University of the State of New York, for and on behalf of the State Education Department, and executed under the seal of said University and recorded as Number 1006.



Handwritten signature of the Chancellor.

Chancellor

Handwritten signature of the President of the University and Commissioner of Education.

President of the University and  
Commissioner of Education

## **FIRST RENEWAL CHARTER**

This agreement is executed by and between the Board of Regents of the State of New York ("the **Regents**") and the Board of Trustees of the Evergreen Charter School to renew the charter of the **Evergreen Charter School** (the "**Charter School**"), an independent public school established under the New York Charter Schools Act of 1998.

### **WITNESSETH:**

**WHEREAS**, the State of New York enacted the New York Charter Schools Act of 1998, codified as Article 56 of the Education Law, as amended from time to time (the "**Act**");

**WHEREAS**, pursuant to §2851 and §2852 of the Act, the Board of Regents is a charter entity with the authority to (i) approve applications to establish charter schools in the State of New York and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate, and (ii) to renew charters for a period of up to five years;

**WHEREAS**, an application was submitted to the Regents for the establishment of the Charter School pursuant to §2852 of the Education Law and pursuant to its authority under §2852 of the Act, the Regents approved a charter for the Charter School;

**WHEREAS**, subsequent thereto the Regents issued a charter with a term of five years (the "**Initial Charter**") and incorporated an education corporation to establish and operate the Charter School, which Initial Charter may have been renewed or extended one or more times by the Regents; and

**WHEREAS**, the Charter School recently submitted an application for renewal to the Regents pursuant to Education Law subdivision 2851(4), which may have been modified or supplemented, and at its meeting on December 16-17, 2013, the Regents thereafter (i) determined that the application for renewal satisfies each and every requirement set forth in subdivisions 2851(4) and 2852(2) of the Education Law, (ii) approved the application for renewal, and (iii) authorized the renewal of the School's current charter, all of the foregoing subject to the limitations, restrictions and conditions in this agreement; and

**WHEREAS**, pursuant to the Education Law, the Regents are authorized to approve the proposed renewal charter and extend the School's current charter for the term set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants, representations, warranties and agreements contained here, the parties hereby agree as follows:

## SECTION 1. CHARTER, EFFECTIVE DATE & LOCATION

1.1. Charter. This agreement (the “**Charter Agreement**”) and the exhibits hereto, specifically, certain terms of operation, set forth collectively and attached hereto as Exhibit A (the “**Renewal Application**”); the Oversight Plan as described in §6.2 of this agreement, Exhibit B; and, where applicable, the Comprehensive Management Contract Requirements, attached hereto as Exhibit C (the “**Management Contract Requirements**”), shall constitute the charter (the “**Charter**”) and shall be binding on the Charter School. The Charter, together with the amended certificate of incorporation issued by the Regents, shall set the terms and expectations for the operation of the School and shall be binding on the Charter School. Upon its effective date, the Charter supersedes and replaces any previous charter agreement or understandings between the parties hereto.

1.2 Effective Date; Term. The Charter shall take effect immediately upon its (i) approval by the Regents *and* (ii) expiration of the school’s current charter (the “**Effective Date**”). The Charter shall expire on June 30, 2014 unless earlier terminated or renewed pursuant to the terms of this Charter or of the Act.

1.3 Location. The Charter School shall be located at a site (the “**School Building**”) within the school district of location as identified in the Renewal Application or, if the Charter School is located within the City School District of the City of New York, the community school district identified in the Renewal Application. The Charter School shall ensure that all necessary leases, contracts, certificates of occupancy, and health and safety approvals for the school building are valid and in force at all times as set forth in the Opening Procedures section of the Oversight Plan. The Charter School may change its physical location or obtain additional facilities within the same school district, or if the Charter School is located within the City School District of the City of New York, the community school district, provided that the Charter School obtains the same permits and certificates as are required by this paragraph, as well as satisfies the provisions of the Act, including but not limited to §2853(1)(b-1), and provided further that (i) the Charter School notifies SED of the proposed change in location or addition of facilities not less than sixty (60) days prior to taking any final action in connection therewith; and (ii) SED does not issue a rejection to the Charter School within thirty (30) days of its receipt of such notification. SED shall issue a rejection only for good cause. SED may shorten or otherwise waive the 60-day notice requirement for good cause shown.

## SECTION 2. OPERATION OF SCHOOL

2.1 Mission Statement. The Charter School shall operate under the mission statement set forth in the Renewal Application.

2.2 Age; Grade Range; Number of Students. The Charter School shall provide instruction to pupils in such grades and numbers in each year of operation under the Charter as described in the Renewal Application, provided that the Charter School, upon making all reasonable efforts to recruit students, may enroll a lesser or greater number of students in each grade, or lesser or greater number students from one year to the next, within reason, without

being deemed in material breach of the Charter, as long as such enrollment variation does not substantially alter the school's educational design as described in the Renewal Application. Notwithstanding the foregoing sentence, the Charter School must obtain prior written approval from SED prior to (i) enrolling any student, who, if enrolled, would cause the school's enrollment to exceed the total maximum enrollment of the school as set forth in the Renewal Application or (ii) commencing or continuing instruction where the total number of students enrolled is less than eighty-five percent (85%) of the Projected Enrollment for a given academic year as set forth in the Renewal Application or the total enrollment is less than fifty (50) students. The Charter School shall demonstrate good-faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students eligible for free and reduced-price lunch when compared to the enrollment figures for such students in the school district (or if the charter school is located within the City School District of the City of New York, the community school district) in which the charter school is located.

2.3 Admission; Enrollment; Attendance. The Charter School shall have in place and implement policies for admission, enrollment, attendance and student withdrawal that are consistent with §2854(2)(a),(b) and (d), and any other applicable law and regulations and policies set forth in the Renewal Application. The Charter School shall ensure the taking of attendance pursuant to 8 NYCRR § 104.1.

2.4 Student Transfers and Exits. Any student transfer out of the Charter School shall be documented by a transfer form signed by the student's parent/guardian, which affirmatively states that the student's transfer is voluntary. The Charter School shall annually collect and report to SED, in a format required or approved by SED, exit data on all students transferring from or otherwise exiting the school for any reason (other than graduation), voluntary or involuntary. Such exit data shall identify each departing student by name and shall document the date of and reason(s) for each student departure.

2.5 Student Learning and Achievement. The Charter School shall implement the educational programs described in the Renewal Application so that its students may meet or exceed the performance standards adopted by the Regents and in the Performance Framework (section III of the Oversight Plan described in section 6.2 of this agreement). The Charter School understands that its success in meeting the goals, measures, and standards set forth in the Performance Framework shall be the predominant criterion by which the success of its education program will be evaluated by the Board of Regents upon the School's application for future renewal of the Charter.

2.6 Evaluation of Pupils. The Charter School shall implement student assessment requirements applicable to other public schools to the same extent such examinations are required of other public school students in New York State. In addition, the Charter School shall supplement the above assessment tools with other assessment tools, consistent with those set forth in the Renewal Application.

2.7 Curriculum. The curriculum established by the Charter School shall be consistent with the curriculum described in the Renewal Application. The Charter School shall have the

right to make reasonable modifications to such curriculum to permit the school to meet its educational goals and student achievement standards. However, any modifications, either individually or cumulatively, that are of such a nature or degree as to cause the education program as described in the Renewal Application to no longer be in operation will require a material charter revision in accordance with 8 NYCRR §3.16(c).

2.8 School Calendar; Days and Hours of Operation. The days and hours of the operation of the Charter School shall be as set forth in the Renewal Application and in no event shall the school provide less instructional time during a school year than is required of other public schools.

2.9 Disciplinary Code. The Charter School shall implement written rules and procedures for discipline, including guidelines for suspension and expulsion, consistent with the policies, if any, set forth in the Renewal Application, and disseminate those rules and procedures to students and parents. The rules and procedures shall be consistent with the requirements of due process, the provision of alternative instruction and with federal laws and regulations governing the placement of students with disabilities. The Charter School shall adopt and implement the provisions of 34 CFR Part 300 relating to the discipline of students with disabilities. To the extent that any provision of the Renewal Application conflicts with the provisions of this paragraph or 34 CFR Part 300, the provisions of this paragraph and 34 CFR Part 300 shall govern.

2.10 Nonsectarian Status. The Charter School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The Charter School shall ensure that the school is not wholly or in part under the control or direction of any religious denomination and that no denominational tenet or doctrine shall be taught.

2.11 Code of Ethics. The Charter School, its trustees, officers and employees shall abide by the Code of Ethics of the school, which must be consistent with the provisions of Sections 800 through 806 of the General Municipal Law as made applicable by the Act, and must also include standards with respect to disclosure of conflicts of interest regarding any matter brought before the Charter School Board of Trustees (the “**Board**”). The Code of Ethics shall be consistent with the policies, if any, set forth in the Renewal Application.

2.12 Non-discrimination. The Charter School shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by any other public school.

2.13 Governance; School Trustees; By-laws. (a) The Charter School shall be governed by a Board of Trustees. All individuals elected or appointed to the Board shall possess the qualifications for such position as are set forth in the Renewal Application. In no event shall a person with an interest in a for-profit contract with the Charter School serve on the Board of Trustees except to the extent permitted by the General Municipal Law. Prior to the appointment or election of any individual to the Board, the Board must submit to SED (pursuant to and together with a duly approved resolution of the Board) the name of the proposed member of the Board and such individual must timely provide to SED, in writing and/or in person, such

background information as SED shall require (the “**School Trustee Background Information**”). Within forty-five (45) days of receiving the name of, and all required background information about, the proposed member of the Board, SED may in writing approve, disapprove, or request additional information about, such individual. In the event that SED does not provide in writing an approval, disapproval, or a request for additional information within the 45-day time period, the proposed member may be seated by the Board. If SED requests additional information about the proposed member, such proposed member may not be seated unless and until SED indicates in writing that the member may be seated. A failure by the Board or the proposed member to timely provide the School Trustee Background Information to SED shall be grounds for disapproval. If the School Trustee Background Information contains material misstatements or material omissions of fact, this shall constitute misconduct and the Regents may remove the School Trustee. The Board shall operate pursuant to the bylaws and other rules and procedures set forth in the Renewal Application, including but not limited to the term of office permitted and the provisions for the election and appointment of new members. The Board shall have final authority and responsibility for policy and operational decisions of the school, though nothing shall prevent the Board from delegating day-to-day decision-making authority to officers and employees of the Charter School.

(b) Except as provided by subparagraph (d) of this paragraph, the Board shall operate pursuant to the bylaws of the Charter School set forth in the Renewal Application or as amended pursuant to subparagraph (c) of this paragraph 2.13 and the relevant governance provisions of the Not-for-Profit Corporation Law and Education Law.

(c) The By-laws shall not conflict with any term of the Charter or with applicable law, including provisions of the Education Law, General Municipal Law and Not-for-Profit Corporation Law applicable to charter schools.

(d) Notwithstanding any provision to the contrary in the Charter Agreement, Terms of Operation or By-laws, in no event shall the Board of Trustees, at any time, be comprised of voting members of whom more than forty (40) percent are directors, officers, employees, agents or otherwise affiliated with any single entity (with the exception of the Charter School or of another charter school), regardless of whether said entity is affiliated or otherwise partnered with the Charter School. For the purposes of this paragraph, “single entity” shall mean any individual entity, as well as any and all related entities to such entity as parents, subsidiaries, affiliates and partners. SED may, at its sole discretion, waive this restriction upon a written request from the Charter School.

(e) Where the Charter School has engaged an educational service provider or other entity that provides comprehensive management services to the school pursuant to a contract between such entity and the Charter School:

(i) if such entity is a for-profit entity, no employee, director, officer, agent or individual otherwise affiliated with such entity and/or any related entity, nor any immediate family members of such persons, shall be eligible to serve on the Board of Trustees;

(ii) if such entity is a not-for-profit entity, no more than two (2) trustees may be affiliated with such not-for-profit entity, or have immediate family members so affiliated, and one (1) such trustees' affiliation is limited to serving as director of such entity; provided however, that in such case the following restrictions shall apply and be contained in the By-laws:

(A) termination of the contract with the not-for-profit educational service provider or other entity shall constitute cause for removal of such person(s) from the Board of Trustees, and upon such termination such person(s) may be removed from the Board of Trustees by vote of the Board of Trustees provided there is a quorum of at least a majority of the entire Board of Trustees present at the meeting; and

(B) such person(s) shall not hold the offices of chair or treasurer of the Board of Trustees; and

(C) when the Board of Trustees has proper grounds to go into executive session pursuant to the Open Meetings Law, and the Board of Trustees is to discuss or vote upon an issue related to the not-for-profit management company or entity, the personnel of such company or entity, or such person(s), the Board of Trustees may, after such person(s) has had an opportunity to fully address the Board of Trustees, continue such executive session outside of the presence of such person(s); and

(D) the number of trustees on the Board of Trustees shall not be less than seven (7) where two (2) trustees are affiliated with the not-for-profit entity and not less than six (6) where one (1) trustee is affiliated with the not-for-profit entity.

(f) The Board shall require that each Trustee who has served on the Board during a school year shall file annually a Disclosure of Financial Interest by a Charter School Trustee with the Regents, the form and requirements of which shall be provided by the Regents. The report shall set forth and attest to transactions between the Charter School on the one hand and a Trustee and any entity with which such Trustee is affiliated, on the other, as such transactions may be defined by the Regents. As set forth in paragraph 6.1 of this Charter Agreement, the report for each Trustee shall be submitted yearly as part of the School's annual report ("**Annual Report**"). In the event that any Trustee fails to file a report within thirty (30) days of its due date of August 1, or such report is in material respects incomplete, misleading or untruthful, and the Regents and/or their agents inform the Board of its determination in this regard, the Charter School, notwithstanding any provision of its By-laws, shall in a timely fashion remove such Trustee pursuant to a vote of the Board and the failure of the Board to so act shall be a material violation of the Charter and be subject to further action in accordance with law. Should a Trustee resign from or otherwise leave the Board without having submitted a report for any year in which such Trustee served, the Charter School shall provide the Regents with a record of the transactions required by the report for that Trustee for each relevant school year, such reports to be signed by the Charter School and due on August 1 as part of the Annual Report.

2.14 Partnership with a Management Provider. To the extent that the Renewal Application provides for entering into (or renewing) a contract with any third-party entity under which such entity will provide comprehensive (all or a substantial portion of the) services

necessary to manage and operate the Charter School, then the Charter School shall, no later than the “**Effective Date**” as set forth in paragraph 1.2 of this Charter Agreement, execute a legally binding and enforceable agreement with such entity named in the Renewal Application (the “**Management Provider**”) in a form substantially similar to that contained in the Renewal Application (the “**Management Contract**”), subject to the approval of SED and the requirements set forth in Exhibit C. The Management Contract shall set forth with particularity inter alia, (i) the contingent obligations and responsibilities of each party in the event that the contract must be modified in order to obtain or maintain the Charter School's status under federal law as a 501(c)(3) entity; and (ii) in the case of a Charter School that intends to renew a Management Contract with a for-profit business or corporate entity and is not prohibited from doing so pursuant to §2851(1) of the Act, the extent of the Management Provider's participation in the organization, operation and governance of the Charter School. No later than thirty (30) days prior to entering into (or renewing) the Management Contract, the Charter School shall provide a copy of the Management Contract in proposed final form to the Regents. Such Management Contract shall be accompanied by a letter from legal counsel retained by the Charter School stating that the Management Contract meets such counsel's approval. Such counsel may not represent the Management Provider. The Management Contract shall not be executed until the Charter School is notified by SED that the Management Contract meets its approval. The Charter School shall not enter into any contract for comprehensive school management services to be performed in substantial part by any other entity not identified as such in the Renewal Application without receiving prior written approval from the Regents in accordance with §2852(7) of the Act. In addition, to the extent that, pursuant to §2851(1) of the Act, the Charter School was prohibited from entering into a Management Contract with a for-profit business or corporate entity, such prohibition is applicable to this charter renewal as well.

2.15 Parental and Staff Involvement. The Charter School shall take such steps and implement such processes consistent with those described in the Renewal Application to promote parental and staff involvement in school governance.

2.16 Student Transportation. The Charter School shall meet the transportation needs of students not otherwise eligible for transportation pursuant to Education Law §3635, to the extent provided for in the Renewal Application. The Charter School may contract with a school district for the provision of supplemental transportation services to the school. All transportation provided by the Charter School shall comply with all safety laws and regulations applicable to other public schools. The Charter School shall not require parents to transport their child to and/or from school or school-sponsored events related to the curriculum. Notwithstanding the above, the Charter School's failure to provide such supplemental transportation as is contemplated in the Renewal Application, where such transportation was to be provided by contract with the school district, shall not be deemed a material or substantial violation of the Charter, where the Charter School has attempted to negotiate such contract in good faith with the applicable school district. In such event, the Regents may require the Charter School to provide the contemplated supplemental transportation services by alternative means if such means would be reasonable under the circumstances.

2.17 Health Services. The Charter School shall provide health services directly or through the school district in which the charter school is located pursuant to Education Law §912, and in accordance with §2854(1)(b) of the Act.

2.18 Food Services. The Charter School shall provide food services to students as required by applicable law and regulation.

2.19 F.O.I.L. and Open Meetings Law. The Charter School shall implement policies to ensure that it is in full compliance with Articles Six and Seven of the Public Officers Law.

### **SECTION 3. STUDENTS WITH DISABILITIES**

3.1 Provision of Services. The Charter School shall provide special education, related services and accommodations to students with disabilities consistent with those described in the Renewal Application and in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1401 *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), including such special education and related services set forth in a student's Individualized Education Program recommended by the committee or subcommittee on special education of the student's school district of residence.

3.2 Funding of Services. The Charter School is authorized to receive from a local school district direct payment of any federal or state aid attributable to a student with a disability attending the Charter School in proportion to the level of services for such student with a disability that the Charter School provides directly or indirectly. The amounts payable directly by a school district to a charter school may be increased by mutual agreement of such school district and the Charter School in order to provide the appropriate levels of services required by the individualized education program of a student with a disability.

### **SECTION 4. PERSONNEL**

4.1 Status. The Board shall employ and contract with necessary teachers, administrators and other school personnel. The staffing structure of the School shall be consistent with that set forth in the Renewal Application, provided, however, that the contract of employment of the principal, headmaster or other chief school officer of the Charter School shall include a provision requiring said individual to cooperate fully with any distinguished educator appointed pursuant to Education Law §211-c.

4.2 Personnel Policies: staff responsibilities. The Board shall make available in written form its hiring and personnel policies and procedures, including the qualifications required by the Board in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities. Such policies and procedures shall be consistent with those, if any, set forth in the Renewal Application.

4.3 Instructional Providers. (a) The Charter School shall employ or otherwise utilize in instructional positions only those individuals who are certified in accordance with the requirements applicable to other public schools, or who are otherwise qualified to teach under clauses (i)-(iv) of § 2854(3)(a-1) of the Act and applicable federal law. For purposes of this section, "instructional positions" means all those positions involving duties and responsibilities that, if otherwise undertaken in the public schools of New York, would require teacher certification, including positions as teaching assistants. Teachers exempted from certification under clauses (i)-(iv) of §2854(3)(a-1) of the Act shall not in total comprise more than thirty percent (30%) of the instructional employees of the Charter School, or five (5) teachers, whichever is less. A teacher certified or otherwise approved by the Commissioner of Education of the State of New York (the "**Commissioner**") shall not be counted against these numerical limits.

(b) Paraprofessionals. Paraprofessionals (teachers' aides) employed by the Charter School must meet all credentialing requirements imposed by applicable federal law.

4.4 Criminal History Checks. The Charter School shall maintain and implement established procedures for conducting criminal history record checks of all employees and prospective employees of the Charter School as well as all other individuals who have regular access to the students enrolled in the school (including but not limited to volunteers and employees and agents of any company and organization which is party to a contract to provide services to the School) as is required or permitted by law and regulation.

4.5 Pension Payments. The employees of the Charter School may be deemed employees of the local school district for the purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial contributions for such benefits shall be the responsibility of the Charter School and its employees. Notwithstanding any contrary provision of the Charter, the parties shall comply with §119.2 of the Commissioner's regulations and with any additional regulations promulgated by the Commissioner, in consultation with the New York State Comptroller, to implement the provisions of this paragraph.

## SECTION 5. FINANCE AND MANAGEMENT

5.1 Management and Financial Controls. The Charter School shall at all times maintain appropriate governance and management procedures and financial controls.

5.2 Financial Statements; Interim Reports. The Charter School shall maintain financial statements that are prepared in accordance with generally accepted accounting principles. All statements required by the Financial Accounting Standards Board (FASB) Statement No. 117, *Financial Statements of Not-for-Profit Organizations*, should be presented including a Statement of Financial Position, Statement of Activities, and Statement of Cash Flows. In addition, the statements shall include the required note disclosures and a supplemental schedule of functional expenses. Upon request by SED, the Charter School shall prepare and

submit to SED within **forty-five (45) days** of the end of each quarter unaudited financial statements for that preceding quarter in accordance with guidelines issued by the SED.

5.3 Audits. The Charter School shall retain an independent certified public accountant (CPA), licensed in New York State, to perform an audit of the Charter School's annual financial statements, in accordance with any audit guidelines issued by SED ("Audit Guide"). Section 2851(2)(f) of the Act requires that the audit be comparable in scope to those required of other public schools. The independent audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States as well as any additional requirements and guidelines provided by the Regents. The audit must include a management letter, if applicable, and other reports required by GAGAS. The audited financial statements must be submitted to SED by **November 1** of each fiscal year. The Charter School must submit this report along with a corrective action plan addressing any weaknesses or problems identified in the report. SED may waive this requirement. If the Charter School spends \$500,000 or more in federal awards during the fiscal year, an independent audit as prescribed in the federal Office of Budget and Management Circular A-133 must also be completed and filed with the federal government and SED. The Charter School must conduct programmatic audits as set forth in the Renewal Application and provide copies of such audits to SED upon request.

5.4 Fiscal Year. The fiscal year of the Charter School shall commence on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

5.5 Annual Budget and Cash Flow Projections. Upon request, the Charter School shall prepare and provide to SED a copy of its annual budget and monthly cash flow projection for each fiscal year.

5.6 Funding Procedure. The Charter School shall maintain accurate enrollment data and daily records of student attendance and shall report enrollment to SED and the school districts of residence of its students in a timely manner. Pursuant to §2856(1) of the Act, payments by the school district of residence shall be made in six substantially equal installments each year, the first on the first business day of July and every two months thereafter, such amounts to be calculated as set forth at 8 NYCRR 119.1.

5.7. Exemption from Taxation. The Charter School shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special *ad valorem* levies on its earnings and its property, including property leased by the Charter School. Instruments of conveyance to or from the Charter School and any bonds or notes issued by the Charter School, together with income therefrom, shall at all times be exempt from taxation.

5.8. Collateral for Debt. The Charter School may pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit. However, the Charter School shall not pledge or assign monies provided pursuant to §2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility.

5.9. Tuition and Fees. The Charter School shall not charge tuition to any student, provided that the Charter School may require the payment of fees on the same basis and to the same extent as other public schools.

5.10. Outside Funding. The Board may accept gifts, donations or grants of any kind made to the Charter School and expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor. However, no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the Charter.

5.11. Maintenance of Corporate Status: Tax Exemptions. The Charter School shall maintain its status as an education corporation and its federal tax-exempt status. The Charter School shall provide the Regents with copies of all applications and filings relating to maintaining its federal tax-exempt status and shall immediately notify the Regents of any action by the Internal Revenue Service to withdraw the school's status as a §501(c)(3) entity.

5.12. Insurance. The Charter School shall, at its own expense, purchase and maintain at all times the insurance coverage for liability, property loss, and the personal injury of students as required by the Act and described in the Renewal Application, together with any other additional insurance that the Charter School deems necessary. Upon request by SED, the Charter School shall provide SED with certificates of insurance or other satisfactory proof evidencing coverage. All such insurance policies shall contain a provision requiring notice to SED, at least thirty days (30) in advance, of any material change, nonrenewal or termination. Notwithstanding any provision to the contrary, the Charter School shall take all steps necessary to comply with any regulations promulgated by the Commissioner and Superintendent of Insurance to implement §2851(2)(o) of the Act.

## SECTION 6. REPORTS AND OVERSIGHT

6.1. Annual Reports. No later than August 1 succeeding a school year in which the Charter School has provided instruction, the Charter School, pursuant to §2857(2) of the Act, shall submit to the Regents an annual report (the "**Annual Report**") setting forth the academic program and performance of the Charter School for the preceding school year in accordance with the Performance Framework as applicable. As required by the Act, the Annual Report shall be posted on the Charter School's website, transmitted to local newspapers, and available for distribution at Board of Trustee meetings. The format for the Annual Reports shall be prescribed by the Commissioner (the "**Annual Report Guide**").

The Regents may require the Charter School to provide other reasonable supplements to the Annual Report.

6.2. Oversight Plan. The Charter School and the Board acknowledge that the Regents are authorized to oversee the Charter School's operations in all respects, including the right to visit, examine and inspect the school and its records. To permit the Regents to fulfill this oversight function under the Act and ensure that the Charter School is in compliance with all applicable laws and regulations, and the terms and conditions of the Charter, the Charter School

agrees to abide by implement the Oversight Plan, which is posted on the Department's website. It is understood that amendments and revisions may be made to such plan by SED, in consultation with the Charter School.

The Oversight Plan consists of the following sections:

(a) Section I: Opening Procedures. (Relevant only to charter schools prior to beginning their first year of instruction)

(b) Section II: Monitoring Plan. The oversight and monitoring activities to be conducted by SED in its oversight and charter authorization role.

(c) Section III: Performance Framework. The performance benchmarks and measures in the areas of educational success, organizational soundness, and faithfulness to the Charter and law, that the Charter School agrees to meet in order to earn renewal of its charter, including the requirement in Education Law §2851(4)(e) concerning enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program.

(d) Section IV: Closing Procedures. Those procedures, as published at the time on the Department's web site, required to be completed by the Charter School if the school's charter is: revoked, not renewed, or is otherwise terminated.

6.3. Corrective Action. If SED determines that the Charter School is not progressing toward one or more of the performance or education goals set forth in the Charter, that the quality of the Charter School's educational program or governance is not satisfactory, or that the Charter School is not in compliance with the terms and conditions of the Charter and/or applicable law or regulation, then SED may require the Charter School to develop and implement a corrective action plan. Nothing contained herein shall be in derogation of the Regents' ability to revoke the Charter, place the Charter School on probationary status, or initiate mandatory remedial action in accordance with the Act and § 8.3 of this Charter Agreement.

## **SECTION 7. OTHER COVENANTS AND WARRANTIES**

7.1. Compliance with Laws and Regulations. The Charter School shall operate at all times in accordance with the Act and shall meet the same health and safety, civil rights, and student assessment requirements as applicable to other schools. The Charter School acknowledges that the laws that it must comply with include Education Law §409-h and the regulations promulgated thereunder which set forth requirements for notification of pesticide applications.

7.2. Transactions with Affiliates. The Charter School shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the Charter School, any member of the Board or any employee of the Charter School, unless the terms of such transaction (considering all the facts and circumstances) are no less favorable to the Charter

School than those that could be obtained at the time from a person or entity that is not such an affiliate, member or employee.

## SECTION 8. RENEWAL AND REVOCATION

8.1. Renewal Applications. No later than the first of July in the year prior to expiration of the Charter, the Charter School may provide to the Regents an application to renew the Charter in accordance with §2851(4) of the Act, in a format prescribed by SED and in accordance with guidelines issued by SED (“**Renewal Application**”).

Nothing herein shall require the Regents to approve a future renewal application. In the event that an application for renewal is not approved, the parties to the Charter shall fulfill their respective obligations hereunder until expiration of the term of the Charter, and the Charter School shall follow the procedures for dissolution as set forth in §2851(2)(t) of the Act and section 8.4 of this Charter.

8.2. Grounds for Revocation. This Charter may be terminated and revoked:

- (a) by the Regents in accordance with §2855 of the Act; or
- (b) by mutual agreement of the parties hereto.

8.3. Notice and Procedures. Should the Regents determine that one or more of the grounds set forth in §2855(1) of the Act exists for revocation of the Charter, the Regents may, at their discretion, elect:

(a) to revoke the Charter in accordance with the procedures set forth in §2855(2) of the Act; or

(b) to place the Charter School on probationary status, pursuant to §2855(3) of the Act, and cause the Charter School to implement a remedial action plan, the terms and conditions of which the Charter School must agree to abide by in all respects. The failure of a Charter School to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's Charter.

8.4. Dissolution. In the event of non-renewal, termination or revocation of the Charter, the Charter School shall follow the procedures set forth in Section IV of the Oversight Plan (“Closing Procedures”) and §2851(2)(t) of the Act, including the transfer of students and student records to the school district in which the Charter School is located and for the disposition of the Charter School's assets to the school district in which the Charter School is located or to another charter school located within the school district. In addition, in case of such an event, the Charter School will follow any additional procedures required by SED to ensure an orderly dissolution process, including compliance with the applicable requirements of Education Law §§ 219 and 220.

8.5. Escrow Account for Dissolution. The Charter School agrees to maintain an escrow account of no less than \$75,000 to pay for legal and audit expenses that would be associated with a dissolution should it occur.

## SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The parties acknowledge that the Charter School is not operating as the agent, or under the direction and control, of SED, or the Regents, except as required by law, and that SED or the Regents do not assume any liability for any loss or injury resulting from: (i) the acts and omissions of the Charter School, its directors, trustees, agents or employees; (ii) the use and occupancy of the building or buildings, occupied by the Charter School, or any matter in connection with the conditions of such building or buildings; or (iii) any debt or contractual obligation incurred by the Charter School. The Charter School acknowledges that it is without authority to extend the faith and credit of SED, the Regents or the public schools, to any third party.

9.2 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of New York without regard to its conflicts of laws provisions.

9.3. Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach of this Charter.

9.4 Counterparts: Signature by Facsimile. This Charter may be signed in counterparts, which shall together constitute the original Charter. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.5 Terms and Conditions of Operation. The parties hereto expressly agree that the Renewal Application set forth the overall goals, standards and general operational terms, policies and procedures of the Charter School, and that the Renewal Application are not a complete statement of each detail of the Charter School's operation. To the extent that the Charter School desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise differ from those set forth in the Renewal Application, the Charter School shall be permitted to implement such policies, procedures, and specific terms of operation without seeking permission from the Regents or a revision to the Charter, provided that such policies, procedures and terms of operation are (i) not otherwise prohibited or restricted by the Act, other applicable law or the Charter, and (ii) are not materially different from those set forth in the Renewal Application. To the extent that any conflict or incompatibility exists between the Renewal Application and other terms of this Charter, such other terms of this Charter shall govern.

9.6 Revision. This Charter may be revised only by written consent of the parties hereto and, in the case of material revisions, only in accordance with both §2852(7) of the Act and 8 NYCRR §3.16(c).

9.7 Assignment. This Charter may not be assigned or delegated by the Charter School under any circumstances, it being expressly understood that the Charter granted hereby runs solely and exclusively to the benefit of the Charter School incorporated herein.

9.8 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if, as of the required date, it is delivered by hand, overnight courier or facsimile (with confirmation and followed by the original). If delivered by registered or certified mail, postage prepaid, such notice, demand, request or submission shall be mailed 5 days prior to the date required. All notices, demands, requests or submissions will be provided to the Charter School at the address provided by the Charter School to SED for the purposes of receiving such notices. Such notices will be provided to the Regents at the following address: Charter School Office, NYSED, 89 Washington Avenue, Albany, NY, 12234.

9.9 Severability. In the event that any provision of this Charter or its application thereof to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter shall continue to be valid and may be enforced to the fullest extent permitted by law.

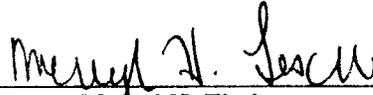
9.10 Entire Charter. This Charter supersedes and replaces any and all prior charters, agreements and understandings between the Regents and the Charter School.

9.11 Construction. This Charter shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter.

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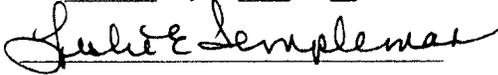
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Signature Page

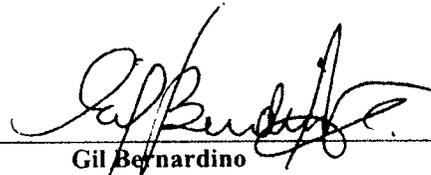


Megyl H. Tisch  
Chancellor  
New York State Board of Regents

Subscribed and sworn to before me  
this 17<sup>th</sup> day of Dec, 2013

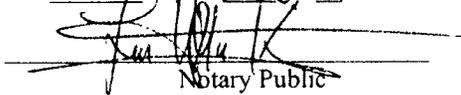


Notary Public  
LESLIE E. TEMPLEMAN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02TE5006383  
Qualified in Albany County  
My Commission Expires 2-27-2015



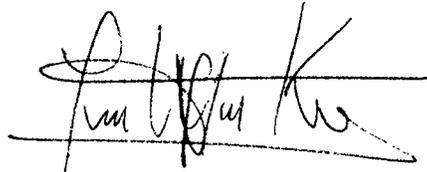
Gil Bernardino  
Board Chair  
Evergreen Charter School

Subscribed and sworn to before me  
this 12 day of DEC 2013



Notary Public

LISETT M. KNOX  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01MO6154779  
Qualified in Nassau County  
My Commission Expires October 23, 14



## SECOND RENEWAL CHARTER

This agreement is executed by and between the Board of Regents of the State of New York ("the **Regents**") and the Board of Trustees of the EVERGREEN CHARTER SCHOOL to renew the charter of the EVERGREEN CHARTER SCHOOL (the "**Charter School**"), an independent public school established under the New York Charter Schools Act of 1998.

### WITNESSETH:

**WHEREAS**, the State of New York enacted the New York Charter Schools Act of 1998, codified as Article 56 of the Education Law, as amended from time to time (the "**Act**");

**WHEREAS**, pursuant to §2851 and §2852 of the Act, the Board of Regents is a charter entity with the authority to (i) approve applications to establish charter schools in the State of New York and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate, and (ii) to renew charters for a period of up to five years;

**WHEREAS**, an application was submitted to the Regents for the establishment of the Charter School pursuant to §2852 of the Education Law and pursuant to its authority under §2852 of the Act, the Regents approved a charter for the Charter School;

**WHEREAS**, subsequent thereto the Regents issued a charter with a term of five years (the "**Initial Charter**") and incorporated an education corporation to establish and operate the Charter School, which Initial Charter may have been renewed or extended one or more times by the Regents; and

**WHEREAS**, the Charter School recently submitted an application for renewal to the Regents pursuant to Education Law subdivision 2851(4), which may have been modified or supplemented, and at its meeting on March 11, 2014, the Regents thereafter (i) determined that the application for renewal satisfies each and every requirement set forth in subdivisions 2851(4) and 2852(2) of the Education Law, (ii) approved the application for renewal, and (iii) authorized the renewal of the School's current charter, all of the foregoing subject to the limitations, restrictions and conditions in this agreement; and

**WHEREAS**, pursuant to the Education Law, the Regents are authorized to approve the proposed renewal charter and extend the School's current charter for the term set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants, representations, warranties and agreements contained here, the parties hereby agree as follows:

## SECTION 1. CHARTER, EFFECTIVE DATE & LOCATION

1.1. Charter. This agreement (the “**Charter Agreement**”) and the exhibits hereto, specifically, certain terms of operation, set forth collectively and attached hereto as Exhibit A (the “**Renewal Application**”); the Oversight Plan as described in §6.2 of this agreement, Exhibit B; and, where applicable, the Comprehensive Management Contract Requirements, attached hereto as Exhibit C (the “**Management Contract Requirements**”), shall constitute the charter (the “**Charter**”) and shall be binding on the Charter School. The Charter, together with the amended certificate of incorporation issued by the Regents, shall set the terms and expectations for the operation of the School and shall be binding on the Charter School. Upon its effective date, the Charter supersedes and replaces any previous charter agreement or understandings between the parties hereto.

1.2. Effective Date: Term. The Charter shall take effect immediately upon its (i) approval by the Regents *and* (ii) expiration of the school’s current charter (the “**Effective Date**”). The Charter shall expire on June 30, 2017 unless earlier terminated or renewed pursuant to the terms of this Charter or of the Act.

1.3. Location. The Charter School shall be located at a site (the “**School Building**”) within the school district of location as identified in the Renewal Application or, if the Charter School is located within the City School District of the City of New York, the community school district identified in the Renewal Application. The Charter School shall ensure that all necessary leases, contracts, certificates of occupancy, and health and safety approvals for the school building are valid and in force at all times as set forth in the Opening Procedures section of the Oversight Plan. The Charter School may change its physical location or obtain additional facilities within the same school district, or if the Charter School is located within the City School District of the City of New York, the community school district, provided that the Charter School obtains the same permits and certificates as are required by this paragraph, as well as satisfies the provisions of the Act, including but not limited to §2853(1)(b-1), and provided further that (i) the Charter School notifies SED of the proposed change in location or addition of facilities not less than sixty (60) days prior to taking any final action in connection therewith; and (ii) SED does not issue a rejection to the Charter School within thirty (30) days of its receipt of such notification. SED shall issue a rejection only for good cause. SED may shorten or otherwise waive the 60-day notice requirement for good cause shown.

## SECTION 2. OPERATION OF SCHOOL

2.1. Mission Statement. The Charter School shall operate under the mission statement set forth in the Renewal Application.

2.2. Age; Grade Range; Number of Students. The Charter School shall provide instruction to pupils in such grades and numbers in each year of operation under the Charter as described in the Renewal Application, provided that the Charter School, upon making all reasonable efforts to recruit students, may enroll a lesser or greater number of students in each grade, or lesser or greater number students from one year to the next, within reason, without

being deemed in material breach of the Charter, as long as such enrollment variation does not substantially alter the school's educational design as described in the Renewal Application. Notwithstanding the foregoing sentence, the Charter School must obtain prior written approval from SED prior to (i) enrolling any student, who, if enrolled, would cause the school's enrollment to exceed the total maximum enrollment of the school as set forth in the Renewal Application or (ii) commencing or continuing instruction where the total number of students enrolled is less than eighty-five percent (85%) of the Projected Enrollment for a given academic year as set forth in the Renewal Application or the total enrollment is less than fifty (50) students. The Charter School shall demonstrate good-faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students eligible for free and reduced-price lunch when compared to the enrollment figures for such students in the school district (or if the charter school is located within the City School District of the City of New York, the community school district) in which the charter school is located.

2.3 Admission; Enrollment; Attendance. The Charter School shall have in place and implement policies for admission, enrollment, attendance and student withdrawal that are consistent with §2854(2)(a),(b) and (d), and any other applicable law and regulations and policies set forth in the Renewal Application. The Charter School shall ensure the taking of attendance pursuant to 8 NYCRR § 104.1.

2.4 Student Transfers and Exits. Any student transfer out of the Charter School shall be documented by a transfer form signed by the student's parent/guardian, which affirmatively states that the student's transfer is voluntary. The Charter School shall annually collect and report to SED, in a format required or approved by SED, exit data on all students transferring from or otherwise exiting the school for any reason (other than graduation), voluntary or involuntary. Such exit data shall identify each departing student by name and shall document the date of and reason(s) for each student departure.

2.5 Student Learning and Achievement. The Charter School shall implement the educational programs described in the Renewal Application so that its students may meet or exceed the performance standards adopted by the Regents and in the Performance Framework (section III of the Oversight Plan described in section 6.2 of this agreement). The Charter School understands that its success in meeting the goals, measures, and standards set forth in the Performance Framework shall be the predominant criterion by which the success of its education program will be evaluated by the Board of Regents upon the School's application for future renewal of the Charter.

2.6 Evaluation of Pupils. The Charter School shall implement student assessment requirements applicable to other public schools to the same extent such examinations are required of other public school students in New York State. In addition, the Charter School shall supplement the above assessment tools with other assessment tools, consistent with those set forth in the Renewal Application.

2.7 Curriculum. The curriculum established by the Charter School shall be consistent with the curriculum described in the Renewal Application. The Charter School shall have the

right to make reasonable modifications to such curriculum to permit the school to meet its educational goals and student achievement standards. However, any modifications, either individually or cumulatively, that are of such a nature or degree as to cause the education program as described in the Renewal Application to no longer be in operation will require a material charter revision in accordance with 8 NYCRR §3.16(c).

2.8 School Calendar; Days and Hours of Operation. The days and hours of the operation of the Charter School shall be as set forth in the Renewal Application and in no event shall the school provide less instructional time during a school year than is required of other public schools.

2.9 Disciplinary Code. The Charter School shall implement written rules and procedures for discipline, including guidelines for suspension and expulsion, consistent with the policies, if any, set forth in the Renewal Application, and disseminate those rules and procedures to students and parents. The rules and procedures shall be consistent with the requirements of due process, the provision of alternative instruction and with federal laws and regulations governing the placement of students with disabilities. The Charter School shall adopt and implement the provisions of 34 CFR Part 300 relating to the discipline of students with disabilities. To the extent that any provision of the Renewal Application conflicts with the provisions of this paragraph or 34 CFR Part 300, the provisions of this paragraph and 34 CFR Part 300 shall govern.

2.10 Nonsectarian Status. The Charter School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The Charter School shall ensure that the school is not wholly or in part under the control or direction of any religious denomination and that no denominational tenet or doctrine shall be taught.

2.11 Code of Ethics. The Charter School, its trustees, officers and employees shall abide by the Code of Ethics of the school, which must be consistent with the provisions of Sections 800 through 806 of the General Municipal Law as made applicable by the Act, and must also include standards with respect to disclosure of conflicts of interest regarding any matter brought before the Charter School Board of Trustees (the “**Board**”). The Code of Ethics shall be consistent with the policies, if any, set forth in the Renewal Application.

2.12 Non-discrimination. The Charter School shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by any other public school.

2.13 Governance; School Trustees; By-laws. (a) The Charter School shall be governed by a Board of Trustees. All individuals elected or appointed to the Board shall possess the qualifications for such position as are set forth in the Renewal Application. In no event shall a person with an interest in a for-profit contract with the Charter School serve on the Board of Trustees except to the extent permitted by the General Municipal Law. Prior to the appointment or election of any individual to the Board, the Board must submit to SED (pursuant to and together with a duly approved resolution of the Board) the name of the proposed member of the Board and such individual must timely provide to SED, in writing and/or in person, such

background information as SED shall require (the **“School Trustee Background Information”**). Within forty-five (45) days of receiving the name of, and all required background information about, the proposed member of the Board, SED may in writing approve, disapprove, or request additional information about, such individual. In the event that SED does not provide in writing an approval, disapproval, or a request for additional information within the 45-day time period, the proposed member may be seated by the Board. If SED requests additional information about the proposed member, such proposed member may not be seated unless and until SED indicates in writing that the member may be seated. A failure by the Board or the proposed member to timely provide the School Trustee Background Information to SED shall be grounds for disapproval. If the School Trustee Background Information contains material misstatements or material omissions of fact, this shall constitute misconduct and the Regents may remove the School Trustee. The Board shall operate pursuant to the bylaws and other rules and procedures set forth in the Renewal Application, including but not limited to the term of office permitted and the provisions for the election and appointment of new members. The Board shall have final authority and responsibility for policy and operational decisions of the school, though nothing shall prevent the Board from delegating day-to-day decision-making authority to officers and employees of the Charter School.

(b) Except as provided by subparagraph (d) of this paragraph, the Board shall operate pursuant to the bylaws of the Charter School set forth in the Renewal Application or as amended pursuant to subparagraph (c) of this paragraph 2.13 and the relevant governance provisions of the Not-for-Profit Corporation Law and Education Law.

(c) The By-laws shall not conflict with any term of the Charter or with applicable law, including provisions of the Education Law, General Municipal Law and Not-for-Profit Corporation Law applicable to charter schools.

(d) Notwithstanding any provision to the contrary in the Charter Agreement, Terms of Operation or By-laws, in no event shall the Board of Trustees, at any time, be comprised of voting members of whom more than forty (40) percent are directors, officers, employees, agents or otherwise affiliated with any single entity (with the exception of the Charter School or of another charter school), regardless of whether said entity is affiliated or otherwise partnered with the Charter School. For the purposes of this paragraph, “single entity” shall mean any individual entity, as well as any and all related entities to such entity as parents, subsidiaries, affiliates and partners. SED may, at its sole discretion, waive this restriction upon a written request from the Charter School.

(e) Where the Charter School has engaged an educational service provider or other entity that provides comprehensive management services to the school pursuant to a contract between such entity and the Charter School:

(i) if such entity is a for-profit entity, no employee, director, officer, agent or individual otherwise affiliated with such entity and/or any related entity, nor any immediate family members of such persons, shall be eligible to serve on the Board of Trustees;

(ii) if such entity is a not-for-profit entity, no more than two (2) trustees may be affiliated with such not-for-profit entity, or have immediate family members so affiliated, and one (1) such trustees' affiliation is limited to serving as director of such entity; provided however, that in such case the following restrictions shall apply and be contained in the By-laws:

(A) termination of the contract with the not-for-profit educational service provider or other entity shall constitute cause for removal of such person(s) from the Board of Trustees, and upon such termination such person(s) may be removed from the Board of Trustees by vote of the Board of Trustees provided there is a quorum of at least a majority of the entire Board of Trustees present at the meeting; and

(B) such person(s) shall not hold the offices of chair or treasurer of the Board of Trustees; and

(C) when the Board of Trustees has proper grounds to go into executive session pursuant to the Open Meetings Law, and the Board of Trustees is to discuss or vote upon an issue related to the not-for-profit management company or entity, the personnel of such company or entity, or such person(s), the Board of Trustees may, after such person(s) has had an opportunity to fully address the Board of Trustees, continue such executive session outside of the presence of such person(s); and

(D) the number of trustees on the Board of Trustees shall not be less than seven (7) where two (2) trustees are affiliated with the not-for-profit entity and not less than six (6) where one (1) trustee is affiliated with the not-for-profit entity.

(f) The Board shall require that each Trustee who has served on the Board during a school year shall file annually a Disclosure of Financial Interest by a Charter School Trustee with the Regents, the form and requirements of which shall be provided by the Regents. The report shall set forth and attest to transactions between the Charter School on the one hand and a Trustee and any entity with which such Trustee is affiliated, on the other, as such transactions may be defined by the Regents. As set forth in paragraph 6.1 of this Charter Agreement, the report for each Trustee shall be submitted yearly as part of the School's annual report ("**Annual Report**"). In the event that any Trustee fails to file a report within thirty (30) days of its due date of August 1, or such report is in material respects incomplete, misleading or untruthful, and the Regents and/or their agents inform the Board of its determination in this regard, the Charter School, notwithstanding any provision of its By-laws, shall in a timely fashion remove such Trustee pursuant to a vote of the Board and the failure of the Board to so act shall be a material violation of the Charter and be subject to further action in accordance with law. Should a Trustee resign from or otherwise leave the Board without having submitted a report for any year in which such Trustee served, the Charter School shall provide the Regents with a record of the transactions required by the report for that Trustee for each relevant school year, such reports to be signed by the Charter School and due on August 1 as part of the Annual Report.

2.14 Partnership with a Management Provider. To the extent that the Renewal Application provides for entering into (or renewing) a contract with any third-party entity under which such entity will provide comprehensive (all or a substantial portion of the) services

necessary to manage and operate the Charter School, then the Charter School shall, no later than the “**Effective Date**” as set forth in paragraph 1.2 of this Charter Agreement, execute a legally binding and enforceable agreement with such entity named in the Renewal Application (the “**Management Provider**”) in a form substantially similar to that contained in the Renewal Application (the “**Management Contract**”), subject to the approval of SED and the requirements set forth in Exhibit C. The Management Contract shall set forth with particularity inter alia, (i) the contingent obligations and responsibilities of each party in the event that the contract must be modified in order to obtain or maintain the Charter School's status under federal law as a 501(c)(3) entity; and (ii) in the case of a Charter School that intends to renew a Management Contract with a for-profit business or corporate entity and is not prohibited from doing so pursuant to §2851(1) of the Act, the extent of the Management Provider's participation in the organization, operation and governance of the Charter School. No later than thirty (30) days prior to entering into (or renewing) the Management Contract, the Charter School shall provide a copy of the Management Contract in proposed final form to the Regents. Such Management Contract shall be accompanied by a letter from legal counsel retained by the Charter School stating that the Management Contract meets such counsel’s approval. Such counsel may not represent the Management Provider. The Management Contract shall not be executed until the Charter School is notified by SED that the Management Contract meets its approval. The Charter School shall not enter into any contract for comprehensive school management services to be performed in substantial part by any other entity not identified as such in the Renewal Application without receiving prior written approval from the Regents in accordance with §2852(7) of the Act. In addition, to the extent that, pursuant to §2851(1) of the Act, the Charter School was prohibited from entering into a Management Contract with a for-profit business or corporate entity, such prohibition is applicable to this charter renewal as well.

2.15 Parental and Staff Involvement. The Charter School shall take such steps and implement such processes consistent with those described in the Renewal Application to promote parental and staff involvement in school governance.

2.16 Student Transportation. The Charter School shall meet the transportation needs of students not otherwise eligible for transportation pursuant to Education Law §3635, to the extent provided for in the Renewal Application. The Charter School may contract with a school district for the provision of supplemental transportation services to the school. All transportation provided by the Charter School shall comply with all safety laws and regulations applicable to other public schools. The Charter School shall not require parents to transport their child to and/or from school or school-sponsored events related to the curriculum. Notwithstanding the above, the Charter School's failure to provide such supplemental transportation as is contemplated in the Renewal Application, where such transportation was to be provided by contract with the school district, shall not be deemed a material or substantial violation of the Charter, where the Charter School has attempted to negotiate such contract in good faith with the applicable school district. In such event, the Regents may require the Charter School to provide the contemplated supplemental transportation services by alternative means if such means would be reasonable under the circumstances.

2.17 Health Services. The Charter School shall provide health services directly or through the school district in which the charter school is located pursuant to Education Law §912, and in accordance with §2854(1)(b) of the Act.

2.18 Food Services. The Charter School shall provide food services to students as required by applicable law and regulation.

2.19 F.O.I.L. and Open Meetings Law. The Charter School shall implement policies to ensure that it is in full compliance with Articles Six and Seven of the Public Officers Law.

### **SECTION 3. STUDENTS WITH DISABILITIES**

3.1 Provision of Services. The Charter School shall provide special education, related services and accommodations to students with disabilities consistent with those described in the Renewal Application and in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1401 et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), including such special education and related services set forth in a student's Individualized Education Program recommended by the committee or subcommittee on special education of the student's school district of residence.

3.2 Funding of Services. The Charter School is authorized to receive from a local school district direct payment of any federal or state aid attributable to a student with a disability attending the Charter School in proportion to the level of services for such student with a disability that the Charter School provides directly or indirectly. The amounts payable directly by a school district to a charter school may be increased by mutual agreement of such school district and the Charter School in order to provide the appropriate levels of services required by the individualized education program of a student with a disability.

### **SECTION 4. PERSONNEL**

4.1 Status. The Board shall employ and contract with necessary teachers, administrators and other school personnel. The staffing structure of the School shall be consistent with that set forth in the Renewal Application, provided, however, that the contract of employment of the principal, headmaster or other chief school officer of the Charter School shall include a provision requiring said individual to cooperate fully with any distinguished educator appointed pursuant to Education Law §211-c.

4.2 Personnel Policies: staff responsibilities. The Board shall make available in written form its hiring and personnel policies and procedures, including the qualifications required by the Board in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities. Such policies and procedures shall be consistent with those, if any, set forth in the Renewal Application.

4.3 Instructional Providers. (a) The Charter School shall employ or otherwise utilize in instructional positions only those individuals who are certified in accordance with the requirements applicable to other public schools, or who are otherwise qualified to teach under clauses (i)-(iv) of § 2854(3)(a-1) of the Act and applicable federal law. For purposes of this section, "instructional positions" means all those positions involving duties and responsibilities that, if otherwise undertaken in the public schools of New York, would require teacher certification, including positions as teaching assistants. Teachers exempted from certification under clauses (i)-(iv) of §2854(3)(a-1) of the Act shall not in total comprise more than thirty percent (30%) of the instructional employees of the Charter School, or five (5) teachers, whichever is less. A teacher certified or otherwise approved by the Commissioner of Education of the State of New York (the "**Commissioner**") shall not be counted against these numerical limits.

(b) Paraprofessionals. Paraprofessionals (teachers' aides) employed by the Charter School must meet all credentialing requirements imposed by applicable federal law.

4.4 Criminal History Checks. The Charter School shall maintain and implement established procedures for conducting criminal history record checks of all employees and prospective employees of the Charter School as well as all other individuals who have regular access to the students enrolled in the school (including but not limited to volunteers and employees and agents of any company and organization which is party to a contract to provide services to the School) as is required or permitted by law and regulation.

4.5 Pension Payments. The employees of the Charter School may be deemed employees of the local school district for the purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial contributions for such benefits shall be the responsibility of the Charter School and its employees. Notwithstanding any contrary provision of the Charter, the parties shall comply with §119.2 of the Commissioner's regulations and with any additional regulations promulgated by the Commissioner, in consultation with the New York State Comptroller, to implement the provisions of this paragraph.

## SECTION 5. FINANCE AND MANAGEMENT

5.1 Management and Financial Controls. The Charter School shall at all times maintain appropriate governance and management procedures and financial controls.

5.2 Financial Statements; Interim Reports. The Charter School shall maintain financial statements that are prepared in accordance with generally accepted accounting principles. All statements required by the Financial Accounting Standards Board (FASB) Statement No. 117, *Financial Statements of Not-for-Profit Organizations*, should be presented including a Statement of Financial Position, Statement of Activities, and Statement of Cash Flows. In addition, the statements shall include the required note disclosures and a supplemental schedule of functional expenses. Upon request by SED, the Charter School shall prepare and

submit to SED within **forty-five (45) days** of the end of each quarter unaudited financial statements for that preceding quarter in accordance with guidelines issued by the SED.

5.3 Audits. The Charter School shall retain an independent certified public accountant (CPA), licensed in New York State, to perform an audit of the Charter School's annual financial statements, in accordance with any audit guidelines issued by SED ("Audit Guide"). Section 2851(2)(f) of the Act requires that the audit be comparable in scope to those required of other public schools. The independent audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States as well as any additional requirements and guidelines provided by the Regents. The audit must include a management letter, if applicable, and other reports required by GAGAS. The audited financial statements must be submitted to SED by **November 1** of each fiscal year. The Charter School must submit this report along with a corrective action plan addressing any weaknesses or problems identified in the report. SED may waive this requirement. If the Charter School spends \$500,000 or more in federal awards during the fiscal year, an independent audit as prescribed in the federal Office of Budget and Management Circular A-133 must also be completed and filed with the federal government and SED. The Charter School must conduct programmatic audits as set forth in the Renewal Application and provide copies of such audits to SED upon request.

5.4 Fiscal Year. The fiscal year of the Charter School shall commence on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

5.5 Annual Budget and Cash Flow Projections. Upon request, the Charter School shall prepare and provide to SED a copy of its annual budget and monthly cash flow projection for each fiscal year.

5.6 Funding Procedure. The Charter School shall maintain accurate enrollment data and daily records of student attendance and shall report enrollment to SED and the school districts of residence of its students in a timely manner. Pursuant to §2856(1) of the Act, payments by the school district of residence shall be made in six substantially equal installments each year, the first on the first business day of July and every two months thereafter, such amounts to be calculated as set forth at 8 NYCRR 119.1.

5.7. Exemption from Taxation. The Charter School shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special *ad valorem* levies on its earnings and its property, including property leased by the Charter School. Instruments of conveyance to or from the Charter School and any bonds or notes issued by the Charter School, together with income therefrom, shall at all times be exempt from taxation.

5.8. Collateral for Debt. The Charter School may pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit. However, the Charter School shall not pledge or assign monies provided pursuant to §2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility.

5.9. Tuition and Fees. The Charter School shall not charge tuition to any student, provided that the Charter School may require the payment of fees on the same basis and to the same extent as other public schools.

5.10. Outside Funding. The Board may accept gifts, donations or grants of any kind made to the Charter School and expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor. However, no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the Charter.

5.11. Maintenance of Corporate Status: Tax Exemptions. The Charter School shall maintain its status as an education corporation and its federal tax-exempt status. The Charter School shall provide the Regents with copies of all applications and filings relating to maintaining its federal tax-exempt status and shall immediately notify the Regents of any action by the Internal Revenue Service to withdraw the school's status as a §501(c)(3) entity.

5.12. Insurance. The Charter School shall, at its own expense, purchase and maintain at all times the insurance coverage for liability, property loss, and the personal injury of students as required by the Act and described in the Renewal Application, together with any other additional insurance that the Charter School deems necessary. Upon request by SED, the Charter School shall provide SED with certificates of insurance or other satisfactory proof evidencing coverage. All such insurance policies shall contain a provision requiring notice to SED, at least thirty days (30) in advance, of any material change, nonrenewal or termination. Notwithstanding any provision to the contrary, the Charter School shall take all steps necessary to comply with any regulations promulgated by the Commissioner and Superintendent of Insurance to implement §2851(2)(o) of the Act.

## SECTION 6. REPORTS AND OVERSIGHT

6.1. Annual Reports. No later than August 1 succeeding a school year in which the Charter School has provided instruction, the Charter School, pursuant to §2857(2) of the Act, shall submit to the Regents an annual report (the "**Annual Report**") setting forth the academic program and performance of the Charter School for the preceding school year in accordance with the Performance Framework as applicable. As required by the Act, the Annual Report shall be posted on the Charter School's website, transmitted to local newspapers, and available for distribution at Board of Trustee meetings. The format for the Annual Reports shall be prescribed by the Commissioner (the "**Annual Report Guide**").

The Regents may require the Charter School to provide other reasonable supplements to the Annual Report.

6.2. Oversight Plan. The Charter School and the Board acknowledge that the Regents are authorized to oversee the Charter School's operations in all respects, including the right to visit, examine and inspect the school and its records. To permit the Regents to fulfill this oversight function under the Act and ensure that the Charter School is in compliance with all applicable laws and regulations, and the terms and conditions of the Charter, the Charter School

agrees to abide by implement the Oversight Plan, which is posted on the Department's website. It is understood that amendments and revisions may be made to such plan by SED, in consultation with the Charter School.

The Oversight Plan consists of the following sections:

(a) Section I: Opening Procedures. (Relevant only to charter schools prior to beginning their first year of instruction)

(b) Section II: Monitoring Plan. The oversight and monitoring activities to be conducted by SED in its oversight and charter authorization role.

(c) Section III: Performance Framework. The performance benchmarks and measures in the areas of educational success, organizational soundness, and faithfulness to the Charter and law, that the Charter School agrees to meet in order to earn renewal of its charter, including the requirement in Education Law §2851(4)(e) concerning enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program.

(d) Section IV: Closing Procedures. Those procedures, as published at the time on the Department's web site, required to be completed by the Charter School if the school's charter is: revoked, not renewed, or is otherwise terminated.

6.3. Corrective Action. If SED determines that the Charter School is not progressing toward one or more of the performance or education goals set forth in the Charter, that the quality of the Charter School's educational program or governance is not satisfactory, or that the Charter School is not in compliance with the terms and conditions of the Charter and/or applicable law or regulation, then SED may require the Charter School to develop and implement a corrective action plan. Nothing contained herein shall be in derogation of the Regents' ability to revoke the Charter, place the Charter School on probationary status, or initiate mandatory remedial action in accordance with the Act and § 8.3 of this Charter Agreement.

## **SECTION 7. OTHER COVENANTS AND WARRANTIES**

7.1. Compliance with Laws and Regulations. The Charter School shall operate at all times in accordance with the Act and shall meet the same health and safety, civil rights, and student assessment requirements as applicable to other schools. The Charter School acknowledges that the laws that it must comply with include Education Law §409-h and the regulations promulgated thereunder which set forth requirements for notification of pesticide applications.

7.2. Transactions with Affiliates. The Charter School shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the Charter School, any member of the Board or any employee of the Charter School, unless the terms of such transaction (considering all the facts and circumstances) are no less favorable to the Charter

School than those that could be obtained at the time from a person or entity that is not such an affiliate, member or employee.

## SECTION 8. RENEWAL AND REVOCATION

8.1. Renewal Applications. No later than the first of July in the year prior to expiration of the Charter, the Charter School may provide to the Regents an application to renew the Charter in accordance with §2851(4) of the Act, in a format prescribed by SED and in accordance with guidelines issued by SED (“**Renewal Application**”).

Nothing herein shall require the Regents to approve a future renewal application. In the event that an application for renewal is not approved, the parties to the Charter shall fulfill their respective obligations hereunder until expiration of the term of the Charter, and the Charter School shall follow the procedures for dissolution as set forth in §2851(2)(t) of the Act and section 8.4 of this Charter.

8.2. Grounds for Revocation. This Charter may be terminated and revoked:

- (a) by the Regents in accordance with §2855 of the Act; or
- (b) by mutual agreement of the parties hereto.

8.3. Notice and Procedures. Should the Regents determine that one or more of the grounds set forth in §2855(1) of the Act exists for revocation of the Charter, the Regents may, at their discretion, elect:

(a) to revoke the Charter in accordance with the procedures set forth in §2855(2) of the Act; or

(b) to place the Charter School on probationary status, pursuant to §2855(3) of the Act, and cause the Charter School to implement a remedial action plan, the terms and conditions of which the Charter School must agree to abide by in all respects. The failure of a Charter School to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's Charter.

8.4. Dissolution. In the event of non-renewal, termination or revocation of the Charter, the Charter School shall follow the procedures set forth in Section IV of the Oversight Plan (“Closing Procedures”) and §2851(2)(t) of the Act, including the transfer of students and student records to the school district in which the Charter School is located and for the disposition of the Charter School's assets to the school district in which the Charter School is located or to another charter school located within the school district. In addition, in case of such an event, the Charter School will follow any additional procedures required by SED to ensure an orderly dissolution process, including compliance with the applicable requirements of Education Law §§ 219 and 220.

8.5. Escrow Account for Dissolution. The Charter School agrees to maintain an escrow account of no less than \$75,000 to pay for legal and audit expenses that would be associated with a dissolution should it occur.

## SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The parties acknowledge that the Charter School is not operating as the agent, or under the direction and control, of SED, or the Regents, except as required by law, and that SED or the Regents do not assume any liability for any loss or injury resulting from: (i) the acts and omissions of the Charter School, its directors, trustees, agents or employees; (ii) the use and occupancy of the building or buildings, occupied by the Charter School, or any matter in connection with the conditions of such building or buildings; or (iii) any debt or contractual obligation incurred by the Charter School. The Charter School acknowledges that it is without authority to extend the faith and credit of SED, the Regents or the public schools, to any third party.

9.2 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of New York without regard to its conflicts of laws provisions.

9.3. Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach of this Charter.

9.4 Counterparts: Signature by Facsimile. This Charter may be signed in counterparts, which shall together constitute the original Charter. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.5 Terms and Conditions of Operation. The parties hereto expressly agree that the Renewal Application set forth the overall goals, standards and general operational terms, policies and procedures of the Charter School, and that the Renewal Application are not a complete statement of each detail of the Charter School's operation. To the extent that the Charter School desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise differ from those set forth in the Renewal Application, the Charter School shall be permitted to implement such policies, procedures, and specific terms of operation without seeking permission from the Regents or a revision to the Charter, provided that such policies, procedures and terms of operation are (i) not otherwise prohibited or restricted by the Act, other applicable law or the Charter, and (ii) are not materially different from those set forth in the Renewal Application. To the extent that any conflict or incompatibility exists between the Renewal Application and other terms of this Charter, such other terms of this Charter shall govern.

9.6 Revision. This Charter may be revised only by written consent of the parties hereto and, in the case of material revisions, only in accordance with both §2852(7) of the Act and 8 NYCRR §3.16(c).

9.7 Assignment. This Charter may not be assigned or delegated by the Charter School under any circumstances, it being expressly understood that the Charter granted hereby runs solely and exclusively to the benefit of the Charter School incorporated herein.

9.8 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if, as of the required date, it is delivered by hand, overnight courier or facsimile (with confirmation and followed by the original). If delivered by registered or certified mail, postage prepaid, such notice, demand, request or submission shall be mailed 5 days prior to the date required. All notices, demands, requests or submissions will be provided to the Charter School at the address provided by the Charter School to SED for the purposes of receiving such notices. Such notices will be provided to the Regents at the following address: Charter School Office, NYSED, Room 471EBA, 89 Washington Avenue, Albany, NY, 12234.

9.9 Severability. In the event that any provision of this Charter or its application thereof to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter shall continue to be valid and may be enforced to the fullest extent permitted by law.

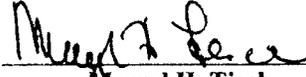
9.10 Entire Charter. This Charter supersedes and replaces any and all prior charters, agreements and understandings between the Regents and the Charter School.

9.11 Construction. This Charter shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter.

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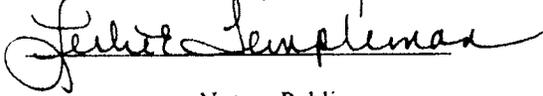
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**Signature Page**

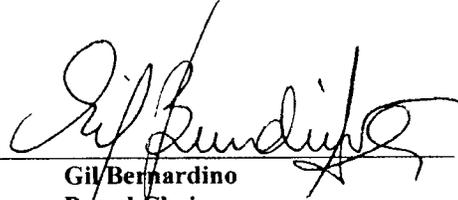


Meryl H. Tisch  
Chancellor  
New York State Board of Regents

Subscribed and sworn to before me  
this 27<sup>th</sup> day of April, 2014.



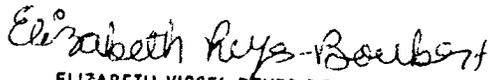
Notary Public  
LESLIE E. TEMPLEMAN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02TE5006383  
Qualified in Albany County  
My Commission Expires 2-27-2015



Gil Bernardino  
Board Chair  
Evergreen Charter School

Subscribed and sworn to before me  
this 30<sup>d</sup> day of April, 2014.

Elizabeth Reyes-Boubert  
Notary Public



ELIZABETH YISSEL REYES-BOUBERT  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01RE6281071  
Qualified in Nassau County  
My Commission Expires May 13, 2017

**EXHIBIT A**  
**RENEWAL APPLICATION**

**[TO BE INSERTED]**

**EXHIBIT B**

**OVERSIGHT PLAN**

The four sections of the Oversight Plan, as described in Section 6.2 of the Charter Agreement, are posted on the Education Department's Charter School Office web site at:

**<http://www.p12.nysed.gov/psc/OversightPlan.html>**

## EXHIBIT C

### COMPREHENSIVE MANAGEMENT CONTRACT REQUIREMENTS

In the event the Charter School intends to contract with a third party for comprehensive school management or operations services ("Management Contract"), the Charter School must meet all of the following requirements:

1. Required Provisions of Bylaws. The bylaws of the Charter School shall provide that the Charter School may not enter into any contract for comprehensive school management or operations services ("Management Contract") without first submitting such Management Contract to SED for review. The Charter School shall further incorporate within its bylaws, or duly establish pursuant to such bylaws, procedures for the termination of the Management Contract as provided herein.

2. Submission of Management Contract. The Management Contract shall be submitted to SED for approval no later than forty-five (45) days prior to its effective date. If SED determines that the Management Contract does not comply with the provisions set forth in Section 3 of this Exhibit, or that the Charter School's entering into the Management Contract would otherwise be in violation of the conditions set forth in this Exhibit, the Charter, or the Charter School Law, then SED shall notify the Charter School within thirty (30) days, stating with particularity the grounds for its objections. In such event, the Charter School shall not enter into the Management Contract unless and until the deficiencies noted by SED have been remedied to SED's reasonable satisfaction.

3. Required Terms of Management Contract. The Management Contract shall include, without limitation, the following Required Terms:

i. The Management Contract shall be subject to, and shall incorporate by reference, the terms and conditions of the Charter.

ii. The Management Contract shall clearly delineate the respective roles and responsibilities of the provider of comprehensive school management or operations services ("the Management Provider") and the Charter School in the management and operation of the school facility for which the Management Provider shall provide management or operations services. The Management Contract shall also include clear performance terms and procedures by which the Charter School will regularly evaluate the Management Provider and hold the Management Provider accountable for performance.

iii. The Management Contract shall clearly state all contract payments, lease payments, management fees, administrative fees, licensing fees, performance bonuses, expenses and any other amounts to be paid to the Management Provider, or otherwise to be paid for the Contract Services by the Charter School, and shall clearly explain the method for calculating such fees or payments.

iv. The Management Contract shall be terminable by the Charter School, in accordance with its bylaws or other established termination procedures, (a) upon default by the Management Provider, including without limitation any act or omission of the Management Provider that causes a default under the Charter or that causes the Charter School to be in violation of the Act, or (b) for other good cause shown.

v. The Management Contract shall require that the Management Provider furnish the Charter School with all information deemed necessary by the Charter School or SED for the proper completion of the budget, quarterly reports, or Financial Audits, as required by the Charter.

vi. The Management Contract shall provide that all financial reports provided or prepared by the Management Provider shall be presented in GAAP/FASB approved nonprofit format.

vii. The Management Contract shall provide that all employees or contractors of the Management Provider who have direct, regular contact with students of the Charter School shall be subject to fingerprint-based criminal background investigations and checks in compliance with applicable laws.

viii. The Management Contract shall contain provisions requiring compliance with all requirements, terms and conditions established by any Federal or State funding source.

#### 4. Financial Reporting.

a. Budget. The budget prepared by the Charter School pursuant to paragraph 5.5 of the Charter shall include, without limitation, the following itemized information:

i. All revenue anticipated to be received by school districts of residence under the Charter.

ii. All expenses and anticipated expenses associated with the operation and management of the Charter School.

iii. All expenses associated with the operation of the Board of Trustees of the Charter School including, without limitation, personnel, occupancy and travel expenses, if any, provided that any such expenses not paid out of revenues received from school districts of residence are not required to be separately itemized hereunder.

iv. All contract payments, lease payments, management fees, administrative fees, licensing fees, performance bonuses, expenses and other amounts budgeted for the Management Provider, or otherwise budgeted for the Contract Services by the Charter School, with the method for calculating such fees or payments clearly explained.

v. All loan repayments for any loans made to the Charter School by the Service Provider, including separate line items for interest, principal and premium, if any, on such loan repayments.

vi. All investments in the Charter School by the Management Provider, including the expected returns on equity for such investments.

b. Quarterly Financial Statements. In the event that quarterly financial statements are required to be furnished by the Charter School pursuant to paragraph 5.2 of the Charter, such financial statements shall reflect the entire school's financial operations, including an itemized accounting of all amounts paid to the Management Provider or otherwise paid for the Contract Services, which amounts shall be itemized in a manner that clearly corresponds to those categories provided in the Charter School's annual budget or the Management Contract.

c. Annual Audit. The Financial Audits required under paragraph 5.3 of the Charter shall include review of all fees and payments made by the Charter School to the Management Provider.

d. Reporting of Loans and Investments. All loans to, or investments in, the Charter School by the Management Provider must be evidenced by appropriate documentation, either in the contract between the Charter School and the Management Provider, or through separate agreements. In the case of investments, such documentation shall explain how the investment shall be treated on the books of the Charter School and shall clearly state the Management Provider's expected return on equity.

Nothing in this paragraph 4 shall be construed to waive or otherwise limit the obligation of the Charter School to provide information otherwise required to be reported by the Charter School under the Act or the Charter.

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EXHIBIT B

Evergreen Charter School's  
By-Laws, as amended to date

# EVERGREEN CHARTER SCHOOL

## BY-LAWS

### **ARTICLE I: NAME**

The name of the Corporation is Evergreen Charter School (hereinafter “the School”).

### **ARTICLE II: MEMBERSHIP**

The School has no members. The rights which would otherwise vest in the members vest in the Directors of the School (hereinafter the “Board” or the “Trustees”) of the School. Actions which would otherwise require approval by a majority of all members or approval by the members require only approval of a majority of all Trustees or approval by the Board of Trustees (hereinafter the “Board”).

### **ARTICLE III: BOARD OF TRUSTEES**

**A. Powers.** The Board shall conduct or direct the affairs of the School and exercise its powers, subject to the provisions of the Education Law and Not-for-Profit Corporation Law, as well as the requirements of the School’s Charter and these Bylaws. The Board may delegate the management of the activities of the School to others, so long as the affairs of the School are managed, and its powers are exercised, under the Board’s ultimate jurisdiction.

Without limiting the generality of the powers hereby granted to the Board, but subject to the same limitations, the Board shall have all the powers enumerated in these Bylaws, and the following specific powers:

1. To elect and remove Trustees;
2. To select and remove Officers, agents and employees of the School; to prescribe powers and duties for them; and to fix their compensation;
3. To conduct, manage and control the affairs and activities of the School, and to make rules and regulations;
4. To enter into contracts, leases and other agreements which are, in the Board’s judgment, necessary or desirable in obtaining the purposes of promoting the interests of the School;
5. To carry on the business of operating the School and apply any surplus that results from the business activity to any activity in which the School may lawfully engage;
6. To act as trustee under any trust incidental to the School’s purposes, and to receive, hold, administer, exchange and expend funds and property subject to such a trust;

7. To acquire real or personal property, by purchase, exchange, lease, gift, devise, bequest, or otherwise, and to hold, improve, lease, sublease, mortgage, transfer in trust, encumber, convey or otherwise dispose of such property;

8. To borrow money, incur debt, and to execute and deliver promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities, subject to the provisions of the Not-for-Profit Corporation Law and any limitations noted in the By-laws;

9. To indemnify and maintain insurance on behalf of any of its Trustees, Officers, employees or agents for liability asserted against or incurred by such person in such capacity or arising out of such person's status as such, subject to the applicable provisions of the New York Not-for-Profit Corporation Law and the limitations noted in these Bylaws.

10. To approve the mission statement and policies that guide management and implementation of the School's programs.

**B. Number of Trustees.** The number of Trustees of the School shall be not fewer than seven (7) and shall not exceed fifteen (15). The Board shall fix the exact number of Trustees, within these limits, by Board resolution or amendment of the Bylaws.

**C. Election of Trustees.**

1. Election. The Board shall elect the Trustees by the vote of a majority of the Trustees then in office. Trustees-elect assume office subject to approval by the Charter Entity. Each Trustee-elect becomes a member of the Board subject to approval by the charter authorizer. Trustees that are elected to fill vacancies and newly created trusteeships shall hold office until the next annual meeting of the Board or until their successors have been elected and qualified or until death, resignation, or removal. The Board shall elect Trustees whose terms begin on the date of the Annual Meeting during the year they are elected, or at a Regular Meeting designated for that purpose, or at a Special Meeting called for that purpose.

2. Eligibility. The Board may elect any person who in its discretion it believes will serve the interests of the School faithfully and effectively, provided that each Trustee of the Board shall be at least 18 years of age. A Trustee need not be a citizen of the United States. In selecting and approving Trustees, the Board will seek individuals whose backgrounds, expertise, and accomplishments support the mission of the School.

3. Interested Persons. Not more than 49% of the persons serving on the Board may be interested persons. An "interested person" is: (1) any person currently being compensated by the School for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor or otherwise; or (2) any sister, brother, ancestor, descendant, spouse, domestic partner, sister-in-law, brother-in-law, daughter-in-law, son-in-law, mother-in-law or father-in-law or first cousin or first cousin-in-law of any such person. No more than 40% of the Trustees of the Board will be members of any other single not-for-profit board.

4. Term of Office.

a. The Trustees elected shall be divided into three classes for the purpose of staggering their terms of office. All classes shall be as nearly equal in number as possible.

b. The terms of office of the Trustees initially classified shall be as follows: that of the first class shall expire at the next annual meeting of the Trustees, the second class at the second succeeding annual meeting and the third class at the third succeeding annual meeting. Following the expiration of these designated terms, the term of each Trustee shall continue for three (3) years.

c. The term of office of a Trustee elected to fill a vacancy in these Bylaws begins on the date of the Trustee's election, and continues: (1) for the balance of the unexpired term in the case of a vacancy created because of the resignation, removal, or death of a Trustee, or (2) for the term specified by the Board in the case of a vacancy resulting from the increase of the number of Trustees authorized.

d. A Trustee's term of office shall not be shortened by any reduction in the number of Trustees resulting from amendment to the Charter, the Bylaws, or other Board action.

e. A Trustee's term of office shall not be extended or shortened beyond that for which the Trustee was elected by amendment of the school's charter or the Bylaws or other Board action.

5. Time of Elections. The Board shall elect Trustees whose terms begin on July 1st of a given year at the Annual Meeting for that year, or at a Regular Meeting designated for that purpose, or at a Special Meeting called for that purpose.

**D. Removal of Trustees.** The Board may remove a Trustee for cause upon majority vote of all Trustees (other than the Trustee subject to removal). In addition, a Trustee may be removed from office on examination and due proof of the truth of a written complaint by any trustee, of misconduct, incapacity or neglect of duty; provided, that at least one week's previous notice of the proposed action shall have been given to the accused and to each trustee. The Board may remove a Trustee without cause upon 100% vote of all Trustees (other than the Trustee subject to removal).

**E. Resignation by Trustee.** A Trustee may resign by giving written notice to the Board Chair or Secretary. The resignation is effective upon receipt of such notice, or at any later date specified in the notice. The acceptance of a resignation by the Board Chair or Secretary shall not be necessary to make it effective, but no resignation shall discharge any accrued obligation or duty of a Trustee.

**F. Vacancies.** A vacancy is deemed to occur on the effective date of the resignation of a Trustee, upon the removal of a Trustee, upon declaration of vacancy pursuant to these Bylaws, or upon a Trustee's death. A vacancy is also deemed to exist upon the increase by the Board of the authorized number of Trustees.

**G. Compensation of Trustees.** Trustees shall serve without compensation. However, the Board may approve reimbursement of a Trustee's actual and necessary expenses while conducting School business.

#### **ARTICLE IV: OFFICES**

The School's principal office shall be at the following address: Evergreen Charter School, 91 North Franklin Street, Suite 200, Hempstead, New York, 11550; or at such other place as the Board may select by resolution or amendment of the Bylaws. The Secretary shall note any change in office on the copy of the Bylaws maintained by the Secretary. The School may also have offices at such other places, within the State of New York, as the Board may from time to time determine.

#### **ARTICLE V: MEETINGS OF THE BOARD**

**A. Place of Meetings.** Board Meetings shall be held at the School's principal office or at any other reasonably convenient place as the Board may designate.

**B. Annual Meeting.** An Annual Meeting shall be held in the month of June of each year for the purpose of electing Trustees, making and receiving reports on corporate affairs, and transacting such other business as comes before the meeting.

**C. Regular Meetings.** Ten (10) Meetings inclusive of the June Annual Meeting shall be held each year on dates determined by the Board.

**D. Special Meetings.** A Special Meeting shall be held at any time called by the Chair, or by any Trustee upon written demand of not less than one-half of the entire Board.

**E. Adjournment.** A majority of the Trustees present at a meeting, whether or not a quorum, may adjourn the meeting to another time and place.

**F. Notice to Trustees.** Notices to Trustees of Board Meetings shall be given as follows:

1. Annual Meetings and Regular Meetings may be held without notice if the Bylaws or the Board fix the time and place of such meetings.

2. Special Meetings shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, facsimile or e-mail. Notices will be deemed given when deposited in the United States mail, addressed to the recipient at the address shown for the recipient in the School's records, first-class postage prepaid; when personally delivered in writing to the recipient; or when faxed, e-mailed, or communicated orally, in person or by telephone, to the Trustee or to a person whom it is reasonably believed will communicate it promptly to the Trustee.

**G. Waiver of Notice.** Notice of a meeting need not be given to a Trustee who signs a waiver of notice or written consent to holding the meeting or an approval of the minutes of the meeting, whether before or after the meeting, or attends the meeting without protest prior to the meeting or at its commencement, of the lack of notice. The Secretary shall incorporate all such waivers, consents and approvals into the minutes of the meeting.

H. Public Notice. Public notice of all Board meetings shall be given in accordance with the requirements of the Article 7 of the Public Officers Law.

I. Open Meetings Law. As provided under the NYS Open Meeting Law, every meeting of the Board will be open to the general public, whether or not there is intent to take action.

J. Board Minutes. Minutes will be kept of all open meetings of the Board to record and summarize motions, proposals, resolutions and other items voted upon and the vote thereon. Minutes will be kept of any activity in executive session meetings taken by formal vote, which shall consist of a record or summary of the final determination of such action. Minutes taken of open meetings and minutes taken in executive session will be available to the public as required. Minutes taken in open meetings or in executive session need not contain records of sessions not required to be made public.

A. **Executive Sessions**. Executive sessions will occur when a motion for executive session is made during an open meeting, identifying the general area for the Executive Session and carried by a majority vote. Executive sessions may be held for:

1. Matters that will imperil public safety and if disclosure may reveal the identity of a law enforcement agent or informer;
2. Matters that contain information referring to a current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
3. Discussion regarding proposed, pending, or current litigation;
4. Matters about the medical, financial, credit, or employment history of a particular person;
5. Matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal of a particular person;
6. Preparation, grading or administering of examinations;
7. Proposed acquisition, sale, or lease of real property or securities when publicity would substantially affect the value thereof;
8. Any matter made confidential by the State or federal law.

The appropriation of public funds will not be voted upon in Executive Session.

## **ARTICLE VI: ACTION BY THE BOARD**

A. **Quorum**. Unless a greater proportion is required by law, a majority of the entire Board of Trustees shall constitute a quorum for the transaction of any business or of any specified item of business.

B. **Action by the Board**.

1. Actions Taken at Board Meetings. Any business may be transacted and any corporate action may be taken at any regular or special meeting of the Board of Directors at which a quorum is present, whether such business or proposed action be stated in the notice of such meeting or not, unless special notice of such business or proposed action is required by law or by these bylaws. Except as otherwise provided by statute or by these Bylaws, the vote of a

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majority of the Board present at the time of the vote, if a quorum is present at such time, shall be the act of the Board. If at any meeting of the Board there shall be less than a quorum present, the Trustees present may adjourn the meeting until a quorum is obtained.

2. Board Participation by Other Means. In all events, a quorum of Trustees must be present to lawfully conduct a Board Meeting of the charter school. To the extent permitted by Article 7 of the Public Officers Law, trustees participating by means of video-conferencing may be counted toward achieving a quorum. Once a quorum is present, additional Trustees may participate in a Board meeting through conference telephone or similar communication equipment, provided that all Trustees participating in such meeting can hear one another and there is no objection from any Trustee or any person in the public audience. Trustees other than in-person or by live video-conferencing shall not vote. Trustees participating by means of video-conferencing shall do so from a site at which the public may attend, listen and observe. All meetings of the board are subject to the provisions of the Open Meetings Law.

3. Action by the Board Without a Meeting. Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board of Trustees or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereof by the members of the Board of Trustees or committee shall be filed with the minutes of the proceedings of the Board of Trustees or committee. Action by the Board without a meeting shall occur only as permitted by the Public Officers Law

### C. Committees.

1. Appointment of Committees. The Board may create committees for any purpose, and the Chair of the Board shall appoint members to and designate the chairs of such committees. A Board Committee will consist of not fewer than three Trustees, who shall serve at the pleasure of the Chair of the Board, except that any executive committee of the Board shall comprise not fewer than five trustees. The Chair of the Board may appoint any Trustee in good standing to any Committee, except that no Trustee affiliated with the lessor or owner of the school's facility may serve on the Finance Committee so long as that Committee has authority to review matters related to facilities. In the event that such authority is transferred to a different and separate Committee, any Trustee affiliated with the lessor or owner of the school's facility may serve on that Committee.

2. Standing Committees. The Board shall have the following standing committees: Executive (chaired by the Board Chair), Finance (Chaired by the Treasurer), Education and Accountability, and Personnel. Additional Chairs and committee members may be appointed by the Chair of the Board.

3. Authority of Board Committees. The Chair of the Board may delegate to a Board committee any of the authority of the Board, except with respect to:

- a. The election of Trustees;
- b. Filling vacancies on the Board or any committee which has the authority of the Board;

- c. The amendment or repeal of Bylaws or the adoption of new Bylaws; and
- d. The appointment of other committees of the Board, or the members of the committees.

4. Procedures of Committees. The Board may prescribe the manner in which the proceedings of any Board Committee are to be conducted. In the absence of such prescription, a Board Committee may prescribe the manner of conducting its proceedings, except that the regular and special meetings of the Committee are subject to the provisions of these Bylaws and the Open Meetings Law with respect to the calling of meetings.

**D. Standard of Care.**

1. Performance of Duties. Each Trustee shall perform all duties of a Trustee, including duties on any Board Committee, in good faith and with that degree of diligence, care and skill, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstances.

2. Reliance on Others. In performing the duties of a Trustee, a Trustee shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, presented or prepared by:

- a. One or more Officers or employees of the School whom the Trustee believes to be reliable and competent in the matters presented;
- b. Legal counsel, public accountants or other persons as to matters that the Trustee believes are within that person's professional or expert competence; or
- c. A Board Committee on which the Trustee does not serve, duly designated in accordance with a provision of the School's Charter or Bylaws, as to matters within its designated authority, provided the Trustee believes the Committee merits confidence and the Trustee acts in good faith, and with that degree of care specified in Paragraph D.1., and after reasonable inquiry when the need is indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

3. Investments. In investing and dealing with all assets held by the School for investment, the Board shall exercise the standard of care described above in Paragraph D.1. and shall consider among other relevant considerations the long and short term needs of the School in carrying out its purposes, including its present and anticipated financial requirements. The Board may delegate its investment powers to others, provided that those powers are exercised within the ultimate direction of the Board.

**E. Rights of Inspection.** Every Trustee has the right to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the School,

provided that such inspection is conducted at a reasonable time after reasonable notice, and provided that such right of inspection and copying is subject to the obligation to maintain the confidentiality of the reviewed information, in addition to any obligations imposed by any applicable federal, state or local law.

**F. Participation in Discussions and Voting.** Every Trustee has the right to participate in the discussion and vote on all issues before the Board or any Board Committee, except that any Trustee shall be excused from the discussion and vote on any matter involving such Trustee relating to: (a) a self-dealing transaction; (b) a conflict of interest; (c) indemnification of that Trustee uniquely; or (d) any other matter at the discretion of a majority of the Trustees then present.

**G. Duty to Maintain Board Confidences.** Every Trustee has a duty to maintain the confidentiality of all Board actions which are not required by law to be open to the public, including discussions and votes which take place at any Executive Sessions of the Board. Any Trustee violating this confidence may be removed from the Board.

**H. Presiding at Meetings.** Meetings of the Board shall be presided over by the Chair of the Board. In the absence of the Secretary, the Chairperson shall appoint a secretary of the meeting.

## **ARTICLE VII: OFFICERS**

**A. Officers.** The Officers of the School consist of a Chair (hereinafter “Chair”), Vice Chair (hereinafter “Vice Chair”), a Secretary and a Chief Financial Officer (hereinafter “Treasurer”). The School also may have such other officers as the Board deems advisable.

1. Chair. Subject to Board control, the Chair has general supervision, direction and control of the affairs of the School, and such other powers and duties as the Board and these bylaws may prescribe. If present, the Chair shall preside at Board meetings.

2. Vice Chair. If the Chair is absent or disabled, the Vice Chair shall perform all the Chair’s duties and, when so acting, shall have all the Chair’s powers and be subject to the same restrictions. The Vice Chair shall have other such powers and perform such other duties as the Board may prescribe.

3. Secretary. The Secretary shall: (a) keep or cause to be kept, at the School’s principal office, or such other place as the Board may direct, a book of minutes of all meetings of the Board and Board Committees, noting the time and place of the meeting, whether it was regular or special (and if special, how authorized), the notice given, the names of those present, and the proceedings; (b) keep or cause to be kept a copy of the School’s Charter and Bylaws, with amendments; (c) keep or cause to be kept a copy of the School’s incorporation and tax status filings and documentation; (d) give or cause to be given notice of the Board and Committee meetings as required by the Bylaws; and (e) have such other powers and perform such other duties as the Board may prescribe.

4. Treasurer. The Treasurer shall: (a) keep or cause to be kept adequate and correct accounts of the School’s properties, receipts and disbursements; (b) make the books of account available at all times for inspection by any Trustee; (c) deposit or cause to be deposited

the School's monies and other valuables in the School's name and to its credit, with the depositories the Board designates; (d) disburse or cause to be disbursed the School's funds as the Board directs; (e) render or cause to be rendered to the Chair and the Board, as requested but no less frequently than once every fiscal year, an account of the School's financial transactions and financial condition; (f) prepare or cause to be prepared any reports on financial issues required by an agreement on loans; (g) serve as Chairperson of the Finance Committee; and (h) have such other powers and perform such other duties as the Board may prescribe.

**B. Election, Eligibility and Term of Office.**

1. Election. The Board shall elect the Officers annually at the Annual Meeting or a Regular Meeting designated for that purpose or at a Special Meeting called for that purpose, except that Officers appointed to fill vacancies shall be elected as vacancies occur.

2. Eligibility. A Trustee may hold any number of offices, except that neither the Secretary nor Treasurer may serve concurrently as the Chair.

3. Term of Office. Each Officer serves at the pleasure of the Board, holding office until resignation, removal or disqualification from service, or until his or her successor is elected.

**C. Removal and Resignation.** The Board may remove any Officer, either with or without cause, at any time. Such removal shall not prejudice the Officer's rights, if any, under an employment contract. Any Officer may resign at any time by giving written notice to the School, the resignation taking effect upon receipt of the notice or at a later date specified in the notice.

**ARTICLE VIII: NON-LIABILITY OF TRUSTEES**

The Trustees shall not be personally liable for the School's debts, liabilities or other obligations.

**ARTICLE IX: INDEMNIFICATION OF CORPORATE AGENTS**

**A. Indemnification.** The School may, to the fullest extent now or hereafter permitted by and in accordance with standards and procedures provided by Sections 721 through 726 of the Not-for-Profit Corporation Law and any amendments thereto, indemnify any person made, or threatened to be made, a party to any action or proceeding by reason of the fact that he, his testate or intestate was a Trustee, Officer, employee or agent of the Corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees.

**B. Insurance.** The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a Trustee, Officer, employee, or agent of the Corporation, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such.

**ARTICLE X: SELF-DEALING TRANSACTIONS**

The School shall not engage in any self-dealing transactions, except as approved by the Board. "Self-dealing transaction" means a transaction to which the School is a party and in  
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which one or more of the Trustees has a material financial interest (“interested Trustee(s)”). Notwithstanding this definition, the following transaction is not a self-dealing transaction, and is subject to the Board’s general standard of care:

A transaction which is part of a public or charitable program of the School, if the transaction (a) is approved or authorized by the Board in good faith and without unjustified favoritism; and (b) results in a benefit to one or more Trustees or their families because they are in a class of persons intended to be benefited by the program.

#### **ARTICLE XI: OTHER PROVISIONS**

**A. Fiscal Year.** The fiscal year of the School begins on July 1 of each year and ends June 30.

**B. Execution of Instruments.** Except as otherwise provided in these Bylaws and by the Internal Controls Policy of the Evergreen Charter School, the Board may adopt a resolution authorizing any Officer or agent of the School to enter into any contract or execute and deliver any instrument in the name of or on behalf of the School.

**C. Checks and Notes.** Except as otherwise specifically provided by Board resolution, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the School will be signed by the Chair of the Board except for amounts greater than \$5,000 which must be signed by two individuals including of the Chair, Principal and/or the Treasurer. In the absence of the Chair, the Treasurer shall be specifically designated to sign all checks etc. It is only in the absence of both the Chair of the Board and the Treasurer of the Board that the Vice Chair of the Board and Secretary may sign checks. The Chair of the Board, Treasurer, Secretary and Vice Chair must give a full accounting and disclosure of any such items at the next Board meeting following the transaction including information about all items signed, when and for what purpose. In the instance that that the School utilizes a fiscal sponsor, check requests must be made in writing to the fiscal sponsor by those same individuals.

**D. Construction and Definitions.** Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the Not-for-Profit Corporation Law and the Education Law shall govern the construction of these Bylaws. Without limiting the generality of the foregoing, words in these Bylaws shall be read as the masculine or feminine gender, and as the singular or plural, as the context requires, and the word “person” includes both a School and a natural person. The captions and headings in these Bylaws are for reference and convenience only and are not intended to limit or define the scope or effect of any provisions.

**E. Conflict of Interest.** Any Trustee, Officer, or Committee member having an interest in a contract, other transaction or program presented to or discussed by the Board or Board Committee for authorization, approval, or ratification shall make a prompt, full and frank disclosure of his or her interest to the Board or Committee prior to its acting on such contract or transaction. Such disclosure shall include all relevant and material facts known to such person about the contract or transaction that may reasonably be construed to be adverse to the School’s interest.

The body to which such disclosure is made shall thereupon determine, by majority vote, whether the disclosure shows that a conflict of interest exists or can reasonably be construed to exist. If a conflict is deemed to exist, such person shall not vote on, nor use his or her personal influence on, nor be present during the discussion or deliberations with respect to, such contract or transaction (other than to present factual information or to respond to questions prior to the discussion). The minutes of the meeting shall reflect proceedings, including the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation. The Board may adopt formal policies requiring:

1. Regular annual statements from Trustees, Officers and key employees to disclose existing and potential conflicts of interest; and

2. Corrective and disciplinary actions with respect to transgressions of such policies. For the purpose of this section, a person shall be deemed to have an "interest" in a contract or other transaction if he or she is the party (or one of the parties) or any sister, brother, ancestor, descendent, spouse, brother-in-law, daughter-in-law, son-in-law, mother-in-law, or father-in-law of any such person is the party (or one of the parties) contracting or dealing with the School, or is a Director, Trustee or Officer of, or has a significant financial or influential interest in the entity contracting or dealing with the School.

**F. Interpretation of Charter.** To the extent of any conflict between any provision of these by-laws and the Open Meetings Law, the Open Meetings Law will control. Whenever any provision of the Bylaws is in conflict with the provisions of the Charter, the provisions of the Charter shall control. Also, to the extent of any conflict between any provision of these by-laws and the Open Meetings Law, the Open Meetings Law will control.

## **ARTICLE XII: AMENDMENT**

A majority of the Trustees may adopt, amend or repeal these Bylaws subject to approval by the Charter Entity.

## **ARTICLE XIII: NON-DISCRIMINATION POLICY**

The School will undertake and carry on its educational activities without regard to race, age, creed, color, national origin, gender, disability, marital status, sexual orientation or lineage or citizenship status. The School will not discriminate based on any of these characteristics in administering its educational policies, admission policies and other School-administered programs. The School will make its nondiscriminatory policy known, as required by law, to the public school district in which it is located, by publishing a notice of its nondiscriminatory policy in a newspaper of general circulation or a broadcast medium that serves that district.

## **CERTIFICATE OF THE SECRETARY**

The undersigned does hereby certify that the undersigned is the Secretary of the School, an education School duly organized and existing under the laws of the State of New York; that the foregoing Bylaws of said School were duly and regularly adopted as such by the Board of Trustees of said School; and that the above and foregoing Bylaws are now in full force and effect.

\_\_\_\_\_, Secretary

Dated: \_\_\_\_\_

Divider

EXHIBIT C

Evergreen Charter School's  
Good Standing Letter from the Charter Schools Institute of  
The State University of New York



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EXHIBIT D

Evergreen Charter School's  
Resolutions

**UNANIMOUS WRITTEN CONSENT OF**

**THE BOARD OF DIRECTORS**

**OF**

**EVERGREEN CHARTER SCHOOL**

The undersigned, constituting all of the members of the Board of Directors of Evergreen Charter School a Charter School organized under the laws of the State of New York (“**School**”), hereby take the following actions by written consent of its Board of Directors:

**WHEREAS**, Circulo Real Property Corporation (“**Landlord**”) owns the land known as 605 Peninsula Boulevard, Hempstead, New York (the “**Land**”) upon which Landlord owns a 35,000 square foot building (the “**Building**”) (the Building together with the Land, parking, fixtures, equipment and other improvements located on the Land, collectively, the “**Premises**”); and

**WHEREAS**, Landlord has agreed to lease the Premises to the School, and the School desires to lease the Premises from the Landlord pursuant a Lease Agreement, substantially in the form as set forth in **Exhibit A** hereto (“**Lease Agreement**”).

**WHEREAS**, Oppenheimer Funds, Inc. (“**Oppenheimer**”) in consideration of its agreement to purchase upon issuance of The Town of Hempstead Local Development Compensation Revenue Bonds, Series 2019 (Circulo Real Property Holding Corporation Project) Bonds, to be issued to refinance indebtedness associated with the Premises, requested that the School execute and deliver a right of first offer to Oppenheimer, substantially in the form as set forth **Exhibit B** hereto (“**ROFO**”).

**WHEREAS**, the ROFO would entitle Oppenheimer to be provided a first purchase offer of future bonds to be issued for the benefit of the School for its middle-school or high-school facility whichever is to be financed and constructed first, and prevent the offering of such future bonds to other purchasers on more favorable terms.

**WHEREAS**, the undersigned desire, as directors of the School, for and on behalf of the School, to grant the authority to certain officers of the School to execute and deliver the Lease and the ROFO and to take such additional actions, negotiate, prepare, enter into, execute and deliver, such additional agreements, documents and certificates as may be necessary and advisable to consummate the transactions contemplated herein.

**NOW THEREFORE LET IT BE:**

**RESOLVED**, that the President, Vice President, Secretary, or Treasurer, and any successor thereof, of the Board of Directors of the School (each, an “**Authorized Person**”) be, and they hereby are, authorized and empowered, to execute and deliver the Lease and the ROFO and negotiate, prepare, execute and deliver any other documents, agreements, instruments, amendments and certificates related thereto or required thereby, in each case containing such terms and conditions, setting forth such rights and obligations and otherwise addressing or dealing with such subjects or matters determined to be necessary, appropriate or desirable by the Authorized Person executing the same, the execution thereof by such Authorized Person to be conclusive evidence of such determination, and to do all such other acts or deeds as are or as are deemed by such Authorized Person to be necessary, appropriate or desirable to effectuate the intent of, or matters reasonably contemplated or implied by, this written consent;

*[SIGNATURE PAGES FOLLOW]*

This Unanimous Written Consent may be signed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

Dated: March 26, 2019

 I vote yes for THE written unanimous consent to be taken. However, I abstain from the vote

Name: Gil Bernardino, Director, President

Dated: March \_\_, 2019

\_\_\_\_\_

Name: Sarah Brewster, Director, Vice President

Dated: March \_\_, 2019

\_\_\_\_\_

Name: Gladys Rodriguez, Director, Secretary

Dated: March \_\_, 2019

\_\_\_\_\_

Name: Jose Canosa, Esq., Director, Treasurer

Dated: March \_\_, 2019

\_\_\_\_\_

Name: Nancy Iglesias-Gillen, Director

Dated: March \_\_, 2019

\_\_\_\_\_

Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019

\_\_\_\_\_

Name: Yvonne Mowatt, Director

Dated: March \_\_, 2019

\_\_\_\_\_

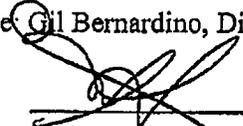
Name: Ariel Sotelo, Director

This Unanimous Written Consent may be signed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Gil Bernardino, Director, President

Dated: March 28, 2019

  
I vote yes For the written unanimous consent to be taken, but I abstain from the vote

\_\_\_\_\_  
Name: Sarah Brewster, Director, Vice President

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Gladys Rodriguez, Director, Secretary

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Jose Canosa, Esq., Director, Treasurer

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Nancy Iglesias-Gillen, Director

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019

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Name: Yvonne Mowatt, Director

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Ariel Sotelo, Director

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Dated: March \_\_, 2019 \_\_\_\_\_

Name: Gil Bernardino, Director, President

Dated: March \_\_, 2019 \_\_\_\_\_

Name: Sarah Brewster, Director, Vice President

Dated: March 28<sup>th</sup>, 2019 \_\_\_\_\_  


Name: Gladys Rodriguez, Director, Secretary

Dated: March \_\_, 2019 \_\_\_\_\_

Name: Jose Canosa, Esq., Director, Treasurer

Dated: March \_\_, 2019 \_\_\_\_\_

Name: Nancy Iglesias-Gillen, Director

Dated: March \_\_, 2019 \_\_\_\_\_

Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019 \_\_\_\_\_

Name: Yvonne Mowatt, Director

Dated: March \_\_, 2019 \_\_\_\_\_

Name: Ariel Sotelo, Director

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Dated: March \_\_, 2019

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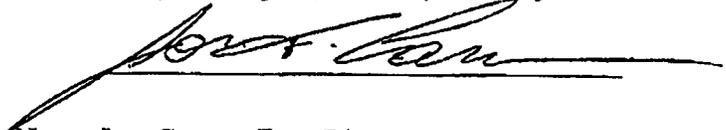
Name: Sarah Brewster, Director, Vice President

Dated: March \_\_, 2019

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Name: Gladys Rodriguez, Director, Secretary

Dated: March <sup>28<sup>th</sup></sup> 2019

\_\_\_\_\_

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Dated: March \_\_, 2019

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Dated: March \_\_, 2019

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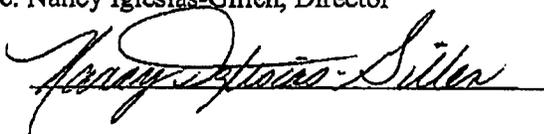
Name: Jose Canosa, Esq., Director, Treasurer

Dated: March \_\_, 2019

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Name: Nancy Iglesias-Gillen, Director

Dated: March 28, 2019

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Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019

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Dated: March \_\_, 2019

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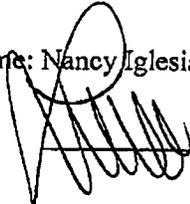
Name: Jose Canosa, Esq., Director, Treasurer

Dated: March \_\_, 2019

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Name: Nancy Iglesias-Gillen, Director

Dated: March 28, 2019



\_\_\_\_\_

Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019

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Dated: March \_\_, 2019

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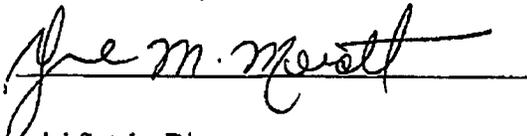
Name: Luis Ras, Esq., Director

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Dated: March 28, 2019

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Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019

\_\_\_\_\_  
Name: Yvonne Mowatt, Director

Dated: March 28, 2019

  
\_\_\_\_\_  
Name: Ariel Sotelo, Director

*I Vote Yes for the written unanimous consent to be taken sent / after from the vote*

This Unanimous Written Consent may be signed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

Dated: March 28, 2019



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Name: Gil Bernardino, Director, President

Dated: March \_\_, 2019

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Name: Sarah Brewster, Director, Vice President

Dated: March \_\_, 2019

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Name: Gladys Rodriguez, Director, Secretary

Dated: March \_\_, 2019

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Name: Jose Canosa, Esq., Director, Treasurer

Dated: March \_\_, 2019

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Dated: March \_\_, 2019

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Name: Luis Ras, Esq., Director

Dated: March \_\_, 2019

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Name: Yvonne Mowatt, Director

Dated: March \_\_, 2019

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Name: Ariel Sotelo, Director

EXHIBIT A

## LEASE AGREEMENT

**LEASE AGREEMENT** (the "Lease"), made as of the \_\_\_\_ day of March, 2019, by and between **CIRCULO REAL PROPERTY HOLDING CORPORATION**., a New York not-for-profit corporation ("Landlord") and **EVERGREEN CHARTER SCHOOL**, a New York not-for-profit corporation ("Tenant").

**WHEREAS**, Landlord owns the land known as 605 Peninsula Boulevard, Hempstead, New York (the "Land") upon which Landlord owns a 35,000 square foot building (the "Building") (the Building together with the Land, parking, fixtures, equipment and other improvements located on the Land, collectively, the "Premises"); and

**WHEREAS**, Landlord has agreed to lease to Tenant and Tenant has agreed to lease from Landlord, the Premises, upon the terms and conditions more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the promises and covenants herein contained, it is mutually agreed by and between Landlord and Tenant as follows:

1. Premises.

Landlord hereby leases and demises to Tenant and Tenant hereby hires and rents from Landlord the Premises. The Premises shall include all fixtures, furnishings, building equipment and other equipment located in or on the Building.

2. Quiet Enjoyment.

If and so long as this Lease remains in full force and effect and no Event of Default (defined below) shall have occurred, Landlord covenants and agrees that Tenant may peaceably and quietly enjoy the Premises and Tenant's possession of the Premises will not be disturbed by Landlord, its successors and assigns.

3. Term.

The term (the "Term") of this Lease shall commence on the date of the closing (the "Closing of the Bonds") of the Town of Hempstead Local Development Corporation ("TOHLDC") Revenue Bonds Series 2019 (Circulo Real Property Holding Corporation Project) (the "Bonds") (the "Commencement Date") and shall terminate and expire on the date (i) none of the Bonds remain outstanding and (ii) no bonds or other debt issued to refund any of the Bonds ("Refunding Bonds") remain outstanding (the "Expiration Date"), unless extended or sooner terminated as provided herein. The Bonds are issued pursuant to an Indenture of Trust to be entered into between TOHLDC and UMB Bank, N.A., as Trustee (the "Bond Trustee") in connection with the Bonds (the "Indenture") and certain related documents (collectively, the "Bond Documents").

4. Rent.

(a) Commencing as of the date of the Closing of the Bonds and for the balance of the Term of this Lease, Tenant covenants and agrees to pay to the Bond Trustee or

Landlord, as applicable: (i) fixed rent in the amount set forth in Section 4(b) below ("Fixed Rent"); (ii) any amounts required to restore any debt service reserve fund for the Bonds or any Refunding Bonds to its required funding level under the applicable Bond Documents; (iii) any amounts required to restore the Repair Fund established pursuant to Section 22 hereof to its then required level; (iv) any Bond Trustee fees and expenses (including reasonable legal expenses) and any TOHLDC fees and expenses (including reasonable legal expenses) imposed under the Bond Documents; and (v) all other sums, costs, expenses, charges or other payments which Tenant assumes, agrees or is obligated to pay pursuant to any provision of this Lease or under the applicable Bond Documents (amounts payable under clauses (ii), (iii), (iv) and (v) being collectively referred to as "Additional Rent"). Fixed Rent and Additional Rent are hereinafter collectively referred to as the "Rent".

(b) Fixed Rent shall be equal to the principal and interest payments and redemption premium, if any, due on the Bonds and any principal and interest payments and redemption premium, if any, due on any Refunding Bonds in accordance (in the case of the Bonds) with the level debt service amortization and redemption premium schedule annexed hereto as Exhibit A and made part hereof and with any acceleration or redemption provisions in the Indenture. If the issuance of any Refunding Bonds results in a modification in the requirements for monthly debt service, Landlord has the unilateral right to adjust the Fixed Rent at any time during the Term of this Lease and provide Tenant a revised Exhibit A.

(c) Fixed Rent shall be payable in advance, without demand or offset, in monthly installments when the Landlord's loan payments are due as set forth in Bond Documents and in Exhibit A throughout the Term of this Lease directly to the Bond Trustee. Subject to the Bond Documents, the Tenant shall pay on the first day of each month, an amount equal to (i) 1/3 of the next upcoming quarterly interest payment on the Bonds due and owing on the next debt service payment date for the Bonds, and (ii) 1/6 of the next upcoming semi-annual principal payment or sinking fund payment of the Bonds due and owing on the next debt service payment date.

(d) Additional Rent to restore any debt service reserve fund to its required balance as a result of a decline in market value or a draw to meet payments due on the Bonds or Refunding Bonds shall be due within 30 days of notice of the decline or the occurrence of the draw or as otherwise set forth in the Bond Documents. Additional Rent to restore the Renewal and Replacement Fund to its then required level shall be due and payable at the rate of \$2,100 per month. All other Additional Rent shall be paid immediately when due and payable.

(e) The parties acknowledge and agree that the Rent shall be absolutely net to Landlord so that this Lease shall yield to Landlord the full amount of the installments or amounts of the Rent throughout the Term, subject to any other provisions of this Lease which expressly provide otherwise. It is agreed and intended that Rent payable hereunder by Tenant shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction and that Tenant's obligation to pay all such amounts, throughout the Term is absolute and unconditional and except to the extent otherwise expressly specified in this Lease, the respective obligations and liabilities of Tenant and Landlord hereunder shall in no way be released, discharged or otherwise affected for any

reason, including without limitation: (i) any defect in the condition, merchantability, design, quality or fitness for use of the Premises, the Building or any part thereof, or the failure of the Premises or the Building to comply with all applicable laws, including any inability to occupy or use the Premises by reason of such non-compliance; (ii) any damage to, removal, abandonment, salvage, loss, theft, scrapping or destruction of or any requisition or taking of the Premises, the Building or any part thereof, or any environmental conditions on the Premises or any property in the vicinity of the Premises; (iii) any restriction, prevention or curtailment of or interference with any use of the Premises, the Building, or any part thereof; (iv) any defect in title to or rights to the Premises or Building or any lien on such title or rights to the Premises or Building; (v) any change, waiver, extension, indulgence or other action or omission or breach in respect of any obligation or liability of or by any person; (vi) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceedings relating to Tenant or any other person, or any action taken with respect to this Lease by any trustee or receiver of Tenant or any other person, or by any court, in any such proceeding; (vii) any right or claim that Tenant has or might have against any person, including without limitation Landlord or any vendor, manufacturer, contractor of or for the Premises or the Building; (viii) any failure on the part of Landlord or any other person to perform or comply with any of the terms of this Lease, or of any other agreement; (ix) any invalidity, unenforceability, rejection or disaffirmance of this Lease by operation of law or otherwise against or by Tenant or any provision hereof; (x) the impossibility of performance by Tenant or Landlord, or both; (xi) any action by any court, administrative agency or other government agency; (xii) any interference, interruption or cessation in the use, possession or quiet enjoyment of the Premises or otherwise; or (xiii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether foreseeable or unforeseeable, and whether or not Tenant shall have notice or knowledge of any of the foregoing; provided, however, that the foregoing shall not apply or be construed to restrict Tenant's rights in the event of any act or omission by Landlord constituting gross negligence or willful misconduct for which the Tenant is not insured or required to be insured hereunder. This Lease shall be non-cancelable by Tenant for any reason whatsoever and, Tenant, to the extent now or hereafter permitted by applicable law, waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease or to any diminution, abatement or reduction of Rent payable hereunder. Under no circumstances or conditions shall Landlord be expected or required to make any payment of any kind hereunder or have any obligations with respect to the use, possession, control, maintenance, alteration, rebuilding, replacing, repair, restoration or operation of all or any part of the Premises or the Building, and Tenant expressly waives the right to require any such action at the expense of Landlord pursuant to any applicable law. Any present or future law to the contrary shall not alter this Lease of the parties.

(f) If Tenant shall fail to pay any installment of Rent within fifteen (15) days after the due date thereof, Tenant shall pay to the Bond Trustee a late charge equal to two percent (2%) percent of the amount of such installment in addition to being subject to an Event of Default under Section 21 hereof.

5. Real Estate Taxes.

(a) During the Term hereof, Tenant shall pay all real estate taxes, assessments, water and sewer rents and water and sewer charges and all other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind, including any fine, penalty or interest imposed thereon, which are assessed or imposed upon the Premises or any part thereof, or become payable in respect of the use or occupancy of the Premises as herein provided (collectively, "Taxes") directly to the applicable taxing authority. Tenant shall not be liable for the payment of any Taxes which accrue prior to the Commencement Date.

(b) If any Taxes may be paid in installments, Tenant may exercise such option to pay the same in installments. All Taxes that Tenant has agreed to pay pursuant to this Lease and which are not so paid by Tenant may be paid by Landlord on thirty (30) days prior written notice to Tenant. Repayment of any amount so paid by Landlord (with interest at the rate set forth in Section 16 hereof with regard to payments to discharge liens) shall be deemed Additional Rent and shall be due and payable to Landlord by Tenant on demand from Landlord.

(c) In the event Landlord receives a refund of any Taxes previously paid by Tenant, Tenant shall receive such refund, less Landlord's cost to collect such refund. Tenant shall have the right and option to contest or review by legal, administrative or other proceedings the amount or validity of any Taxes, upon condition that Landlord's interest in the Premises shall not, under any circumstances, be put at risk or forfeited by reason of such contest or review and Tenant shall make conditional payments as necessary to prevent any such risk. Landlord shall join in any such contest or review if and only to the extent necessary in order to properly prosecute such proceedings. The proceedings referred to herein shall include, but shall not be limited to, appropriate appeals from any judgment, decrees or orders made in any such proceedings.

(d) Nothing contained in this Lease shall require Tenant to pay any franchise, corporate, estate, inheritance, succession, capital levy, income, profits or revenue tax of Landlord or any other tax assessment, charge, or levy upon the rent payable by Tenant under this Lease, provided, however, that if at any time during the Term of this Lease, under the laws applicable to Landlord, a tax on rents is assessed against Landlord or the Rent, as a substitution in whole or in part for taxes assessed on the Premises, such tax shall be deemed to be included within the Taxes which Tenant is required to pay under this Article 5. Tenant shall furnish to Landlord for its inspection official receipts of the appropriate taxing authority or other proof satisfactory to Landlord evidencing payment.

(e) Notwithstanding the foregoing, the parties recognize that as of the date hereof the Tenant is not subject to pay real property taxes as a result of its use of the Premises.

6. Condition.

The Premises are hereby accepted by Tenant in their "as is" condition and state of repair.

7. Use.

Tenant shall use the Premises to operate a charter school and for all ancillary and administrative services thereto, and for no other purpose. Tenant shall not do or permit anything to be done upon the Premises or any part thereof which would: (i) make void or voidable any insurance in force upon the Premises; (ii) make it difficult or impossible to obtain fire or other insurance upon the Premises at commercially reasonable rates; (iii) cause or be likely to cause damage to the Premises or any part thereof; (iv) constitute a public or private nuisance; (v) violate applicable law or the Certificate of Occupancy for the Premises; (vi) could adversely affect the exclusion of interest on the Bonds or any Refunding Bonds from federal gross income pursuant to any provision of the Internal Revenue Code of 1986 (the “Code”); or (vii) could adversely affect the status of the Landlord or the Tenant as an organization described in Section 501 (c)(3) of the Code.

8. Insurance.

Tenant shall maintain and comply with all insurance coverages, terms and provisions as set forth on Exhibit B annexed hereto and such other and increased insurance requirements that may be requested by TOHLDC, or by Bond Trustee acting at the direction of the beneficial owners of a majority in principal amount of the Bonds and any Refunding Bonds outstanding (the “Majority Bondholder”). Upon request, Tenant shall deliver to Landlord, TOHLDC and Bond Trustee policies or insurance certificates as provided in Exhibit B annexed hereto.

9. Utilities.

(a) During the Term hereof, Tenant shall pay all costs and expenses for all utilities, including, without limitation, ventilation, air conditioning, lighting, mechanical, electrical and other systems, plumbing, water, heating oil, gas or other fuel, and cleaning services supplied to, servicing, or used in connection with the Premises and all mechanical systems therein, including, without limitation, the heating, air conditioning, ventilation and lighting equipment, directly to the utility company or vendor providing such utilities.

(b) Tenant shall not use or install any fixtures, equipment or machines the use of which in conjunction with other fixtures, equipment or machines would result in an overload of the mechanical, electrical or other systems and equipment supplying the Building. Tenant shall not permit its use of electric current to exceed the capacity of then existing risers, feeders, the electrical service panel or bus ducts to the Building.

10. Maintenance.

Tenant covenants to take good care of the Premises, which shall include without limitation the parking lots, sidewalks, curbs, docking areas and vaults, if any, adjoining the Premises, and to keep the same in good working order and repair and to make promptly all necessary repairs, repaving and restriping thereto, interior and exterior, structural and nonstructural, ordinary as well as extraordinary, foreseen as well as unforeseen, and equal in

quality and class and does hereby expressly waive any right to make repairs at the expense of Landlord as provided for in any statute or law in effect at the time of the execution of this Lease or any amendment hereto, or any other statute or law which may hereafter be enacted during the term of this Lease. Such repairs shall be executed pursuant to the provisions of Section 11 below. Tenant covenants to keep the Premises and sidewalks in a clean and orderly condition and free of dirt, rubbish, snow and ice. Tenant shall be responsible for all repairs and maintenance of all appliances, building systems, heating, air conditioning and ventilation systems, and all generators located in and/or servicing the Premises, including without limitation, elevators. All of Tenant's maintenance obligations hereunder shall be at its sole cost and expense. Notwithstanding the foregoing, Landlord has the right to conduct inspections periodically, upon reasonable notice to Tenant to ensure and oversee that all required repairs and maintenance are being completed to the reasonable satisfaction of Landlord.

11. Alterations.

(a) Tenant may execute any alterations, additions or improvements (hereinafter called an "Alteration") to the Premises at any time and from time to time during the Term of this Lease with Landlord's and TOHLDC's prior written consent, subject to the terms and conditions of the Loan Agreement, executed and delivered between the Landlord and TOHLDC in connection with the Bonds (the "Loan Agreement").

(b) Title to each Alteration which is real property, fixtures (but not Tenant's Property, as defined below), improvements or replacement equipment installed in the Premises or any part thereof at any time, either by Tenant or by Landlord on Tenant's behalf, shall, upon installation be free and clear of all liens and shall immediately upon installation vest and become the property of Landlord and shall remain upon and be surrendered with the Premises. Upon completion of all Alterations, Tenant shall obtain a Certificate of Occupancy (or equivalent certificate) which may be required by any governmental authority to evidence completion of the Alteration and to authorize the use or occupancy of all or any part of the Premises.

(c) Tenant will not install or place any vaults or safes in the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) In connection with any Alterations, Tenant shall deliver to Landlord and TOHLDC such other reasonable requests of Landlord or TOHLDC, including additional insurance coverage as the case may be.

12. Tenant's Property & Equipment

Notwithstanding any contrary provision contained herein, Tenant shall have the right, at its own cost and expense, to install readily removable machinery, equipment and fixtures as Tenant may require from time to time ("Tenant's Property"). Tenant's Property shall remain personalty of the Tenant notwithstanding the fact that it may be affixed or attached temporarily to the Premises, and shall, during the term of this Lease or any extension or renewal thereof, belong to and be removable by Tenant.

13. Rights of Landlord, TOHLDC and Bond Trustee.

Upon reasonable advance notice (except in the case of an emergency), Landlord may enter the Premises at all reasonable times to examine the Premises to make repairs, alterations, improvements or additions. Landlord shall be permitted to take all material into and upon the Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part. Entry upon the Premises by Landlord by any of said means or otherwise shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into the Premises or a detainer or eviction of Tenant from the Premises. In the exercise of its rights under this Section 13, Landlord shall make reasonable efforts not to interfere with Tenant's use of the Premises. Nothing herein shall diminish Tenant's obligations to make and pay for all repairs under Paragraph 10 above. TOHLDC and the Bond Trustee and the duly authorized agents of either of them shall have the right at all reasonable times upon prior notice to the Tenant to inspect the Premises.

14. Assignments.

Tenant shall not assign, mortgage, pledge or encumber this Lease and shall not sublet, license or otherwise allow another person or entity to use all or any portion of the Premises without (i) Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed and; (ii) the prior written consent of TOHLDC, subject to the terms and conditions of the Loan Agreement, which consent may be conditioned on the receipt of an opinion of nationally recognized bond counsel that any such action will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

15. Subordination.

(a) This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate to all ground leases, overriding leases and underlying leases of the Land, the Building and the Premises now or hereafter existing and to all mortgages (including any and all modifications, replacements, extensions, spreaders and renewals thereof) which may now or hereafter affect the Land, the Building and/or the Premises or any such lease. In confirmation of such subordination, Tenant shall promptly execute, acknowledge and deliver any instrument that Landlord may reasonably request to evidence such subordination. Any lease to which this Lease is subject and subordinate is herein referred to as a "Superior Lease" and the lessor of a Superior Lease is herein referred to as a "Superior Lessor;" and any mortgage to which this Lease is subject and subordinate is herein referred to as a "Superior Mortgage;" and the holder of a Superior Mortgage is herein referred to as a "Superior Mortgagee."

(b) In the event of any act or omission of Landlord that would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, or entitle Tenant to any abatement or offset against the payment of rent, Tenant shall not exercise such right (i) until it has given written notice of such act or omission or the accrual of such claim or right, to each Superior Mortgagee and each Superior

Lessor whose name and address shall previously have been furnished to Tenant, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlord or such Superior Mortgagee or Superior Lessor within a reasonable period of time, until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy but not to exceed sixty (60) days), provided such Superior Mortgagee or Superior Lessor shall with due diligence give Tenant written notice of intention to, and commence and continue to remedy such act or omission.

(c) If any Superior Lessor or Superior Mortgagee shall succeed to the rights of Landlord hereunder, whether through possession or foreclosure action or delivery of a new lease or deed or other equivalent action, then, at the request of such party (hereinafter referred to as a "Successor Landlord"), Successor Landlord shall agree to provide an SNDA (as defined below) to Tenant and upon execution by Tenant, Tenant shall attorn to and recognize each Successor Landlord as Tenant's landlord under this Lease and shall within ten (10) days after request by such Successor Landlord execute and deliver any instrument such Successor Landlord may reasonably request to confirm such recognition and attornment. Upon such recognition and attornment, this Lease shall continue in full force and effect as a direct lease between Successor Landlord and Tenant on all the terms, conditions, and covenants as set forth in this Lease except that the Successor Landlord shall not be:

- (i) liable for any previous act or omission of Landlord (or its predecessor in interest) under this Lease;
- (ii) subject to any credits, offsets, claims, counterclaims, demands or defenses (except to the extent that credits or offsets are expressly set forth in this Lease and available to Tenant because of events occurring after the date of attornment) which Tenant may have against Landlord (or its predecessors in interest);
- (iii) bound by any previous modification of this Lease or by any previous prepayment of more than one month's fixed rent, unless such modification or prepayment shall have been expressly approved in writing by the Superior Mortgagee or Superior Lessor through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this lease;
- (iv) bound by any covenant to undertake or complete any construction of the Premises or any portion thereof or pay for or reimburse Tenant for any costs incurred in connection with such construction;
- (v) required to account for any security deposit of Tenant except to the extent actually received by such Successor Landlord;
- (vi) liable for the obligations of Landlord under this Lease for any period of time other than such period as such Successor Landlord holds such interest;
- (vii) responsible for any monies owing by Landlord to the credit of Tenant;

(viii) bound by any obligation to make any payment to Tenant or grant or be subject to any credits, except to the extent the obligation to make such payment or to grant or be subject to such credit is expressly set forth in this Lease and first accrues after the date of attornment;

(ix) liable for any payment of rent that Tenant may have made to Landlord more than thirty (30) days before the date such rent was first due and payable under the Lease with respect to any period after the date of attornment other than, and only to the extent that, the Lease expressly required such a prepayment.

The foregoing provisions shall inure to the benefit of Tenant and any Successor Landlord, shall apply to the tenancy of Tenant and shall be self-operative, without requiring any further instrument to give effect to said provisions. Tenant, however, within thirty (30) days of demand of any Successor Landlord, agrees to execute, from time to time, an instrument reasonably acceptable to Tenant in confirmation of the foregoing provisions, satisfactory to such Successor Landlord, in which Tenant shall acknowledge such attornment. Nothing contained in this Section shall be construed to impair any right, privilege or option of any Successor Landlord or, except as otherwise provided in this Lease, to impair any right, privilege or option of Tenant.

(d) This Section shall be self-operative and no further instrument of subordination shall be required provided that the subordination provisions of this Section 15 shall not apply to the Superior Mortgagee or Superior Lessor unless the Superior Mortgagee or Superior Lessor shall deliver to Tenant an executed (by Landlord and such mortgage holder) Subordination, Non-Disturbance and Attornment Agreement (an "SNDA") in recordable form for the benefit of Tenant, which SNDA shall be in form and substance satisfactory to the Superior Mortgagee. Any such SNDA shall provide that such mortgage holder shall agree that if and so long as no Event of Default hereunder shall have occurred and be continuing, the leasehold estate granted to Tenant and all of the rights of Tenant pursuant to this Lease shall not be terminated, modified, affected or disturbed by any action which such mortgage holder may take to foreclose any such mortgage, and that any Successor Landlord shall recognize this Lease as being in full force and effect as if it were a direct lease between such Successor Landlord and Tenant upon all of the terms, covenants, conditions and options granted to Tenant under this Lease, subject to such other provisions in such mortgage holder's standard SNDA. In confirmation of such subordination, Tenant, within ten (10) days after request therefor, shall execute and deliver such SNDA and any other instrument that Landlord, the Superior Lessor or the Superior Mortgagee or any of their respective successors in interest may reasonably request to evidence such subordination. Notwithstanding the foregoing, whether or not Tenant executes, acknowledges and/or delivers such SNDA to Landlord or to such Superior Lessor or Superior Mortgagee, Landlord shall be deemed to have fulfilled all of its obligations under this Section 15 with respect to obtaining an SNDA from such Superior Lessor or Superior Mortgagee, and this Lease shall be subordinate to such mortgage or lease, if Landlord so delivers to Tenant an SNDA from such Superior Lessor or Superior Mortgagee for the benefit of Tenant, executed by Landlord and such Superior Lessor or Superior Mortgagee, as applicable (whether or not counter-executed by Tenant) in form and substance satisfactory to such Superior Lessor or such Superior Mortgagee, as applicable. The lien of any such lease or mortgage shall not cover Tenant's trade fixtures or personal property located in or on the Premises.

16. Liens.

Tenant has no authority to incur any debt or make any charge against Landlord or create any lien upon this Lease or the Premises, for work or materials furnished for the same. In the event that any labor, materials or equipment are furnished to Tenant with respect to which any mechanics' or materialmens' lien might be filed against the Premises, Tenant agrees to take appropriate action to assure that no such lien will be filed, and Tenant agrees to pay, when due, all sums of money that may become due for any such labor, materials or equipment and to cause any such lien to be fully discharged and released or bonded in accordance with the Lien Law of the State of New York promptly upon receiving notice thereof. If Tenant has not obtained the discharge of any such lien within thirty (30) days after notice given by Landlord in writing to Tenant, Landlord may pay the amount of such lien and the amount so paid, with interest thereon at the rate of twelve percent (12%) per annum, shall be deemed Additional Rent reserved under this Lease and shall be payable forthwith and with the same remedies to Landlord as in the case of default in the payment of Rent. In no event shall Landlord's interest under this Lease be subject to any liens for improvements made by Tenant.

17. Fire or Casualty Loss.

Except as otherwise expressly provided herein, damage to or destruction of the Premises by fire or other casualty shall not release or diminish Tenant's obligations hereunder, entitle Tenant to surrender possession of the Premises, terminate this Lease or violate any provisions hereof. Tenant covenants and agrees that in case of damage to or destruction of the Premises by fire or other casualty, Tenant, at Tenant's sole cost and expense, will promptly repair, restore, replace and rebuild the same to the condition existing immediately prior to such damage or destruction, in accordance with Section 11, above. All insurance proceeds received on account of such damage or destruction whether received by Landlord or Tenant, less the reasonable costs, if any, of such recovery (which costs shall be payable to the party incurring such costs) shall be deposited into a special account in the Renewal Fund held by the Bond Trustee under the Indenture and shall be applied as provided in the Loan Agreement.

18. Eminent Domain.

If any part of the Premises is taken or condemned for a public or quasi-public use (a sale in lieu of condemnation to be deemed a taking or condemnation) (each an "Appropriation"), this Lease shall, as to the part taken, terminate as of the date title shall vest in the condemnor and continue in full force as to the remainder and in the event of such a partial taking, Tenant shall restore, subject to unavoidable delays, the remaining portion of the Premises to a complete architectural unit. Such restoration, repairs, and/or reconstruction shall be performed in accordance with the terms of Section 11, above. Any condemnation proceeds received on account of such Appropriation by Landlord or Tenant, less the reasonable costs of collecting the same, if any, shall be deposited into a special account in the Renewal Fund and used for such restoration to restore the improvements located on the Premises and paid out as provided in the Loan Agreement. In the event of a total condemnation (a sale in lieu of condemnation to be deemed a taking or condemnation) and the Landlord and Tenant do not acquire, by construction or otherwise, facilities of substantially the same nature as the Premises, this Lease shall terminate as of the date title shall vest in the condemnor. In such event, the amounts deposited in the

Renewal Fund shall be applied towards the payment of the principal of, redemption price of, and interest to maturity or the earliest practicable redemption date for the Bonds and all expenses of redemption and the Bond Trustee's and TOHLDC's fees and expenses in connection therewith. If the amounts in the Renewal Fund, and any other fund held by the Bond Trustee under the Indenture, are insufficient for the payment of such amounts, Tenant shall be responsible for the payment of any remaining amounts owed. Landlord and Tenant each covenant and agree that promptly after receipt by either party of notice from the condemning authority of the pendency of any such condemnation, such party shall deliver to the other party a copy of such notice. Any termination hereunder shall be without prejudice to the rights of either Landlord or Tenant to recover compensation from the condemning authority for any loss or damage caused by such Appropriation, the parties hereto agreeing that both Landlord and Tenant shall have the right to make claims for any loss or damage it suffers and that all net proceeds of such claims shall be applied first to provide for redemption of the Bonds and any Refunding Bonds in accordance with the applicable Bond Documents.

19. No Broker.

Landlord and Tenant each represents that in connection with this Lease it dealt with no broker nor has either had any correspondence or other communication in connection with this Lease with any other person who is a broker, and that so far as each of Landlord and Tenant is aware there is no broker who negotiated this Lease. Landlord and Tenant each hereby indemnifies the other and agrees to hold the other harmless from any and all loss, cost, liability, claim, damage, or expense (including court costs and attorneys' fees) arising out of any inaccuracy of the above representation.

20. Surrender and Holding Over.

At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises to the Landlord. If Tenant shall hold over and remain in possession of the Premises or any part thereof after the expiration of the Term of this Lease, such holding over shall not be deemed or construed to be an extension or renewal of this Lease, and Tenant shall be liable to Landlord for any loss or damage incurred by Landlord as a result thereof, including consequential damages. In addition, for each month or any part thereof that such holding over continues, Tenant shall pay to Landlord a monthly fee for the use and occupancy of the Premises equal to the Rent payable for the month immediately preceding such hold over, and there shall be no adjustment or abatement for any partial month; provided that if for any reason any Bonds or Refunding Bonds then remain outstanding, the Fixed Rent component of the Rent shall be one hundred fifty percent (150%) of the amount due in such preceding month. The provisions of this section shall not be deemed to limit or exclude any of Landlord's rights of re-entry or any other right granted to Landlord hereunder, at law or in equity.

21. Default and Termination.

(a) Any of the following events shall be deemed an "Event of Default" under this Lease:

(i) if Tenant fails to make any payment of Rent on the due date thereof and fails to cure such delinquency within ten (10) days after written notice from Landlord to Tenant; or

(ii) if Tenant fails to maintain its status as a 501(c)(3) charitable organization pursuant to the requirements of the Internal Revenue Service ("501(c)(3) Status"), and fails to restore its 501(c)(3) Status within thirty (30) days after written notice from the IRS;

(iii) if Tenant fails to maintain its charter with the State of New York of any time during the term of this Lease;

(iv) if Tenant breaches any covenant of this Lease (other than the covenant for the payment of Rent) and fails to cure such breach within thirty (30) days after written notice thereof has been sent by Landlord to Tenant; or

(v) if Tenant becomes involved in a legal proceeding which results in the levy of execution on or the acquisition of Tenant's leasehold interest created hereunder by a trustee in bankruptcy, receiver, assignee or other legal officer appointed in any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or creditors' proceedings and such default is not corrected or cured within forty-five (45) days after the commencement of such proceeding.

(b) Upon the occurrence of any one or more Events of Default, Landlord may serve a written three (3) day notice upon Tenant specifying the nature of said default and upon the expiration of said three (3) day period, if Tenant has failed to remedy such Event of Default, then Landlord may serve a written three (3) day notice of cancellation of this Lease upon Tenant, and upon the expiration of said three (3) day period, this Lease and the term hereunder shall end and expire as fully and completely as if the expiration of said three (3) day period were the day herein definitely fixed for the end and expiration of this Lease and the Term hereof and Tenant shall then quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided.

(c) If the cancellation notice provided for under Section 21(b) above, shall be given, and the Term hereof shall expire as aforesaid, then and in any such event, Landlord may, without notice, re-enter the Premises either by force or otherwise and dispossess Tenant by summary proceeding or otherwise, and may remove all persons, fixtures and chattels therefrom and Landlord shall not be liable for any damages resulting therefrom and Tenant hereby waives the service of notice of intention to re-enter, retake or commence legal proceeding to that end. Such re-entry and repossession shall not work a forfeiture of the Rent to be paid and the covenants to be performed by Tenant during the full Term of this Lease. Upon such repossession of the Premises, Landlord shall be entitled to recover, as liquidated damages and not as a penalty, a sum of money equal to the present value of the Rent payable for a twelve (12) month period. Upon the happening of any one or more of the Events of Default, Landlord may repossess the Premises by forcible entry or detainer suit, or otherwise, without demand or notice of any kind to Tenant (except as hereinabove expressly provided for) and without terminating this Lease.

(d) Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term of this Lease would have expired or limit or preclude recovery by Landlord against Tenant of any sums or damages which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. All the remedies hereinbefore given to Landlord and all rights and remedies given to it at law and in equity shall be cumulative and concurrent.

22. Repair Fund.

Commencing on the Commencement Date and then on the anniversary of the Commencement Date for the next nine (9) years, Tenant shall deposit \$25,000.00 annually with the Bond Trustee (for a total of \$250,000.00), as security for the full and faithful performance by Tenant of all repair, maintenance and replacement obligations under the Lease (the "Repair Fund"), which Repair Fund shall be returned to Tenant after the expiration hereof, provided Tenant has fully and faithfully carried out all of the terms, covenants and conditions on its part to be performed under this Lease. Upon any Event of Default by Tenant of any of Tenant's repair, maintenance or replacement obligations ("Tenant's Repair Obligations") under the Lease, Landlord shall have the right to request a draw from the Bond Trustee for any amounts needed to cure or complete such Tenant's Repair Obligations from the Repair Fund in accordance with the terms of the Indenture. If Landlord applies all or any part of the Repair Fund to cure any Event of Default of Tenant, Tenant shall, upon demand, replenish the amount so applied by Landlord as Additional Rent as set forth herein.

23. Estoppel Certificates.

Landlord or Tenant each shall, at any time and from time to time, within ten (10) business days after receipt of notice from the other, execute, acknowledge and deliver to the requesting party a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified, and setting forth the modifications), (ii) the dates to which the Rent has been paid, (iii) to the best knowledge of party delivering the statement, if any party is in default in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Lease, and if in default, specifying each such default, and (iv) such other true statements as Landlord or Landlord's mortgagee or designee may require. It is intended that any such statement delivered pursuant to this section may be relied upon by the requesting party, or any prospective purchaser, assignee or mortgagee.

24. Hazardous Material.

(a) Tenant shall not (i) manufacture, generate, utilize, store, handle, treat, process, or Release any Hazardous Substances at, in, under, from or on the Premises or (ii) suffer or permit to occur any violation of Environmental Laws with respect to the Premises. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord and at Tenant's sole cost) and hold harmless Landlord, the Bond Trustee and its partners, officers, directors, employees, agents, successors, grantees, assigns and mortgagees from any and all

claims, demands, liabilities, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions, causes of action and losses of any and every kind and nature, including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of the rentable or usable space or of any amenity, natural resource damages, damages arising from any adverse impact on leasing space on the Premises, and sums paid in settlement of claims and for attorney's fees, consultant's fees and expert's fees that may arise during or after the Term or any extension of the Term in connection with any breach by Tenant of the covenants contained in this section, the presence, Release or threatened Release of Hazardous Substances at, in, under, from, to or on the Premises, or any violation or alleged violation of any Environmental Laws. For purposes of this section, the term "costs" includes, without limitation, costs, expenses and consultant's fees, expert's fees and attorney's fees incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, restoration, monitoring or maintenance work. This covenant of indemnity shall survive the termination of this Lease. Notwithstanding the foregoing, the prohibition contained herein shall not apply to ordinary office products that may contain de minimis quantities of Hazardous Substances, provided such products are used in compliance with Environmental Laws; however, Tenant's indemnification obligations are not diminished with respect to the presence of such products. Tenant shall immediately notify Landlord and the Bond Trustee of any Release or threatened Release at, in, under, from, to or on the Premises.

(b) "Environment" shall mean all indoor and outdoor air, surface water, groundwater, surface or subsurface land, including, without limitation, all fish, wildlife, biota and all other natural resources. "Environmental Laws" shall mean all federal, state and local laws (including, without limitation, case and common law), statutes, regulations, rules, ordinances, guidance, permits, licenses, grants, orders, decrees and judgments relating to the Environment, human health and safety, preservation or reclamation of natural resources, or to the management, handling, use, generation, treatment, storage, transportation, disposal, manufacture, distribution, formulation, packaging, labeling, Release or threatened Release of or exposure to Hazardous Substances, whether now existing or subsequently amended or enacted, including, without limitation: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300(f) et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act 7 U.S.C. Section 136 et seq.; the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq.; and the Oil Pollution Act of 1990, 33 U.S.C. Section 2701 et seq. "Hazardous Substances" shall mean all explosive materials, radioactive materials, hazardous or toxic materials, wastes, chemicals or substances, petroleum, petroleum by-products and petroleum products (including, without limitation, crude oil or any fraction thereof), asbestos and asbestos-containing materials, radon, lead, polychlorinated biphenyls, mold, urea-formaldehyde, and all materials, wastes, chemicals and substances that are regulated by any Environmental Law, including, without limitation, hazardous materials listed in 49 C.F.R. Section 172.101 and materials defined as hazardous substances pursuant to Section 101(14) of CERCLA. "Release" shall mean any spilling, leaking,

pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Substances into the Environment.

25. Landlord's Expenses.

(a) Tenant shall pay, on demand, all cost and expenses, including reasonable attorneys' fees, incurred either directly or indirectly by Landlord in enforcing any obligation (provided Landlord shall be the prevailing party) or curing any default by Tenant under this Lease or otherwise participating in any action or proceeding arising from the filing, imposition, contesting, discharging or satisfaction of any lien or claim of lien, in defending or otherwise participating in any legal proceedings initiated by or on behalf of Tenant. All such expenses shall be deemed to be Additional Rent and shall be payable on demand.

(b) Landlord shall pay, on demand, all cost and expenses, including reasonable attorneys' fees, incurred either directly or indirectly by Tenant in enforcing any obligation (provided Tenant shall be the prevailing party) or curing any default by Landlord under this Lease or otherwise participating in any action or proceeding arising from the filing, imposition, contesting, discharging or satisfaction of any lien or claim of lien, in defending or otherwise participating in any legal proceedings initiated by or on behalf of Landlord.

26. Signs.

Tenant may place or install such signs and/or awnings in, on or about the Premises (including, without limitation, both the interior and exterior surfaces of windows and doors), with Landlord's prior written approval, which shall not unreasonably be withheld, provided such signs and/or awnings do not violate any laws, ordinances, rules or regulations promulgated by any governmental body having jurisdiction, and are maintained at all times in good condition by Tenant at its own cost and expense in accordance with the aforesaid laws, ordinances, rules and regulations. Tenant shall not remove, alter or replace any of Landlord's existing signage in or annexed to the Premises without Landlord's prior written consent.

27. Bondholder Consent; Attorney General Approval and Bond Closing.

The Lease shall be conditioned on Landlord obtaining the consent of TOHLDC and the Majority Bondholder (which for the purposes this Section 27 prior to the issuance of the Bonds shall be any party which has agreed subject to conditions to become the Majority Bondholder) (collectively, the "Consents"), obtaining approval ("AG Approval") from the Attorney General of the State of New York ("AG") and the occurrence of the Closing of the Bonds on or before ninety (90) days from the date hereof. Tenant shall comply with all reasonable requests of TOHLDC, the Majority Bondholder and the AG, as the case may be, in connection with the Consents and AG Approval. Landlord shall use commercially reasonable efforts to obtain the Consents and AG Approval on or before ninety (90) days from the date hereof, provided, however, if the Consents or AG Approval are denied, or Landlord is unable to obtain the Consents and AG Approval within the stated time frame or if the Closing of the Bonds does not occur on or before ninety (90) days from the date hereof, then in any of such events, this Lease shall automatically terminate and be of no further force and effect (unless the parties agree to extend the stated time frame), and neither party shall have any further rights or obligations

hereunder, except for those which specifically state are to survive the expiration or earlier termination hereof.

28. General Provisions.

(a) Captions. The captions or titles to the various sections of this Lease are for convenience and ease of reference only and do not define, limit, augment or describe the scope, content or intent of this Lease or of any parts thereof.

(b) Successors and Assigns. Each and every covenant and condition of this Lease shall be binding upon and shall inure to the benefit of the heirs, successors, personal representatives and permitted assigns of Landlord and Tenant; but this section shall in no way validate an assignment of all or any part of this Lease which is invalid under other provisions hereof.

(c) Severability. The invalidity or illegality of any provisions of this Lease shall not affect the remaining provisions thereof.

(d) Number and Gender. When used in this Lease, the singular number includes the plural, and the plural the singular, unless the context otherwise requires; the neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes a corporation, partnership, or other legal entity when the context so requires; and the word "person" means an individual or individuals, a partnership or partnerships, a corporation or corporations, or any combination thereof, when the context so requires.

(e) Joint and Several Obligations. If Tenant consists of more than one person, the obligation of all such persons is joint and several.

(f) Notices. Any notice or demand provided for in this Lease shall be in writing and shall be deemed delivered either: (i) when delivered in person to the recipient thereof; or (ii) on the date shown on the return receipt after deposit, or should the recipient thereof fail to sign the return receipt, then three days after deposit in the United States mail in a sealed envelope or container, registered or certified and postage prepaid; or (iii) sent overnight by nationally recognized courier, and addressed in each case to the party to whom notice is hereby given at the address listed above, or to such other address as may be supplied by such party in writing.

(g) Situs. The Lease shall be construed and interpreted according to the laws of the State of New York.

(h) Recording of Lease. This Lease shall not be recorded.

(i) Force Majeure. If circumstances beyond the control of Landlord (such as acts of God, fires, strikes, power shortages, etc., - financial inability excepted) shall temporarily make it impossible for Landlord to perform under this Lease, then the principles of force majeure will apply and the rights and obligations of the parties will be temporarily suspended during the force majeure period.

(j) No Recourse. Notwithstanding anything to the contrary in this Lease, Tenant shall look solely to the interest of the Landlord in the Premises, as the case may be, for satisfaction of any remedy it may have hereunder or in connection herewith and shall not look to any other assets of the other or of any other person, firm or corporation. There shall be absolutely no personal liability on the part of any present or future stockholder, or any officer, director, trustee, member or affiliate of Landlord or any partners of such partnership or any of its successors or assigns with respect to any obligation hereunder or in connection herewith.

(k) 501(c)(3) Status. The Tenant (i) is an organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (an "Exempt Organization") and is not a "private foundation," as such term is defined under Section 509(a) of the Code, (ii) has received a letter or other notification from the Internal Revenue Service to that effect, and such letter or other notification has not been modified, limited or revoked, (iii) is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification, and the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist, and (iv) is exempt from federal income taxes under Section 501(a) of the Code.

29. Special Covenants of Tenant. In connection with and in consideration of the issuance and sale of the Bonds, the Landlord and Tenant make the following representations, warranties and covenants to TOHLDC, the Bond Trustee and the Bondholders (as defined in the Bond Documents) as third party beneficiaries:

(i) Landlord and Tenant agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Lease, the Loan Agreement and the Bonds, including without limitation any reports or information requested by the TOHLDC, the Majority Bondholder or the Bond Trustee.

(ii) Tenant agrees that it will have its books and records audited as of the end of each Fiscal Year of the Tenant, such Fiscal Year being each 12 month period beginning of July 1 and ending on June 30 (the "Fiscal Year"), commencing with the Fiscal Year ending June 30, 2019, in accordance with New York state law, and shall furnish in accordance with the requirements set forth below to Landlord and the Bond Trustee and at its request, to any Bondholder (as defined in the Bond Documents), a copy of the audited report accompanied by a certificate signed by an authorized representative of Tenant setting forth, to the best of the authorized representative's knowledge, whether or not Tenant currently is, or has been during such Fiscal Year, in default of the performance of any covenant contained herein. Tenant will notify Landlord, the Bond Trustee and any requesting Bondholder in writing of any change in its accountant and stating the reasons for such change.

(iii) (A) While any Bonds are outstanding, the Tenant will, or by written direction cause, the Annual Report (as defined below) to be delivered to Bond Trustee and any requesting Bondholder, as well as to the Landlord for inclusion in its continuing disclosure filings relative to the Bonds and any Refunding Bonds, on or before one hundred eighty (180) days of each Fiscal Year end (the "Report Date"), beginning on or before December 31, 2019.

(B) The term “Annual Report” will include the Tenant’s audited financial statements and the financial and operating data of the Tenant, including without limitation, application, enrollment and wait list data, academic results and rates and charges. The Tenant will also provide an auditor’s certificate showing calculations of and compliance (or lack thereof) with the Fixed Rent Coverage Ratio and Days Cash on Hand requirements set forth below.

(C) The Annual Report will contain or incorporate by reference an officer’s certificate or other form of annual certification to the effect that as of June 30 of the prior Fiscal Year, no events of default have occurred and/or are continuing, and the Tenant is in compliance with all covenants, insurance and other requirements under this Lease, or, if applicable, detailed information as to all actions being taken to correct any events of default or lack of compliance.

(D) In addition to the Annual Report, the Tenant will also provide to the same parties receiving the Annual Report and for the same purposes quarterly reports (“Quarterly Reports”) within forty-five (45) days of the end of each quarter presenting such financial and operating data as may be reasonably required by TOHLDC, Landlord or the Majority Bondholder in connection with the issuance of the Bonds or any Refunding Bonds. Further, the Tenant will participate in at least one informational call each year with the Landlord, the Majority Bondholder and all other requesting Bondholders on such dates and at such times as the Landlord may arrange and Tenant shall respond to such reasonable questions and additional information requests as any such Bondholder may present.

(iv) Days Cash on Hand Requirement. Tenant covenants and agrees to maintain at least (x) 30 Days Cash on Hand as of the last day of Fiscal Year 2019, (y) 40 Days Cash on Hand as of the last day of Fiscal Year 2020, and (z) 50 Days Cash on Hand as of the last day of Fiscal Year 2021 and as of the last day of each Fiscal Year thereafter.

The Days Cash on Hand requirement will be tested as of June 30 in each Fiscal Year, commencing June 30, 2019. The Tenant may spend its cash, cash equivalents, liquid investments and unrestricted marketable securities between annual testing dates without any other restriction other than to be in compliance with the Days Cash on Hand requirement by the next annual testing date.

Tenant will employ its auditor to provide to the Bond Trustee, any requesting Bondholder and Landlord, by no later than December 15 of each year, commencing December 15, 2019, with a certification of the Days Cash on Hand as of the preceding June 30 test date.

If the Days Cash on Hand is less than (x) 30 Days Cash on Hand as of the last day of Fiscal Year 2019, (y) 40 Days Cash on Hand as of the last day of Fiscal Year 2020, and (z) 50 Days Cash on Hand as of the last day of Fiscal Year 2021 and as of the last day of each Fiscal Year thereafter, then Tenant will promptly employ an Independent Consultant to review and analyze the operations and administration of Tenant within 60 days, promptly submit written reports and make such recommendations (a copy of each such report and recommendations shall be delivered to Landlord, TOHLDC, the Bond Trustee, the Majority Bondholder and any requesting Bondholder) as to the operation and administration of Tenant as such Independent Consultant deems appropriate, including any recommendation as to a revision of the methods of

operation of Tenant. Tenant agrees to implement any recommendations by the Independent Consultant and, to the fullest extent practicable and allowed by law and consistent with its covenants hereunder, to fully adopt and carry out such recommendations.

(v) Fixed Rent Coverage Ratio. Tenant covenants and agrees to maintain a Fixed Rent Coverage Ratio (as hereinafter defined) of at least 1.10:1.00, tested annually at the end of each Fiscal Year. Tenant will employ its auditor to provide to the Bond Trustee, any requesting Bondholder and Landlord, by no later than December 15th of each year, commencing December 15, 2019, with a certification stating the Fixed Rent Coverage Ratio as of the preceding June 30 test date. Commencing with the Fixed Rent Coverage Ratio first determined based upon Tenant's June 30, 2019 audit, if such Fixed Rent Coverage Ratio certified is below 1.10:1.00, Tenant covenants to retain promptly, at its expense, an Independent Consultant to submit a written report within 60 days and make recommendations (a copy of such report and recommendations shall be delivered to Landlord, TOHLDC, Bond Trustee, the Majority Bondholder and any requesting Bondholder) with respect to revenues or other financial matters of Tenant which are relevant to increasing the Fixed Rent Coverage Ratio to at least 1.10:1.00. Tenant shall adopt and follow the recommendations of the Independent Consultant.

So long as Tenant is otherwise in full compliance with the obligations under the Bond Documents and, to the fullest extent practicable, the recommendations of the Independent Consultant, it shall not constitute an Event of Default if the Fixed Rent Coverage Ratio for any Fiscal Year ending on or after June 30, 2019, is less than 1.10:1.00 for such Fiscal Year (as evidenced by Tenant's audited financial statements for such Fiscal Year).

Notwithstanding the immediately preceding paragraph, if the Fixed Rent Coverage Ratio is less than 1.00:1.00 for two consecutive years (as evidenced by Tenant's audited financial statements for such Fiscal Years), then the Bond Trustee if so directed by the Majority Bondholder shall declare an event of default under the Bond Documents and the Bond Trustee may, subject to the terms of the Indenture, exercise one or more of the remedies permitted under the Bond Documents.

(vi) Permitted Indebtedness. Tenant covenants and agrees that it will not hereafter incur or assume (the terms "incur" and "assume", for the purposes hereof, to mean and include the guaranteeing of or the direct or indirect assumption of liability for the debts of others) any Indebtedness (as defined herein), other than Indebtedness permitted pursuant to this Section ("Permitted Indebtedness"). Provided no Event of Default hereunder shall have occurred and then be continuing, Tenant may incur or assume Indebtedness for such lawful purposes of Tenant as shall be specified in reasonable detail in a certified resolution of Tenant, provided that, on or before the date on which any such Indebtedness is to be incurred or assumed, Tenant shall deliver to TOHLDC and to the Bond Trustee a certificate of the chief financial officer of Tenant in form and substance acceptable to the TOHLDC and the Majority Bondholder demonstrating that for the Fiscal Year immediately preceding the incurring or assumption of the Indebtedness the Fixed Charges Coverage Ratio (as hereinafter defined) for the Fiscal Year was at least 1.10:1.00 calculated as if the Indebtedness to be incurred had been outstanding throughout such year and projecting a Fixed Charges Coverage Ratio of at least 1.10:1.00 for the current and next succeeding Fiscal Year taking into account budgeted future revenues for the next succeeding Fiscal Year.

The foregoing notwithstanding, Tenant may incur Indebtedness for the purpose of expanding its current charter school business by acquisition or construction and equipping of additional facilities for educational programs if the Tenant shall deliver a certificate as described in the preceding sentence demonstrating that for the Fiscal Year immediately preceding the incurring or assumption of the Indebtedness the Fixed Charges Coverage Ratio for the Fiscal Year was at least 1.10:1.00 (without regard to the proposed Indebtedness) and the Fixed Charges Coverage Ratio for the Fiscal Year in which the commencement of operations at the additional facilities is to occur will be 1.05:1.00 and in the next consecutive two Fiscal Years shall be 1.10:1.00 and 1.15:1.00, respectively (relying on such projected enrollment and per student revenue as the Independent Consultant shall certify is reasonable).

If the Tenant shall issue or assume any Indebtedness in addition to the Fixed Rent, beginning in the Fiscal Year for which Tenant is required to project a Fixed Charges Coverage Ratio of at least 1.15:1.00 under this Section 29(vi), Tenant covenants and agrees to maintain a Fixed Charges Coverage Ratio of at least 1:10:1.00, tested annually at the end of each Fiscal year. Tenant's covenant to maintain a Fixed Charges Coverage Ratio shall be subject to all the terms and conditions set forth in Section 29(v) with respect to maintenance of the Fixed Rent Coverage Ratio, including without limitation the circumstances under which a report of an Independent Consultant is required and under which failure to maintain the required coverage ratio may constitute an Event of Default hereunder or an event of default under the Bond documents.

Further, in the event that Tenant obtains any bridge loan financing ("Bridge Loan") in connection with the acquisition of any real estate for the construction of a new school building ("New School Building Parcel"), then, in such event the Bridge Loan shall be automatically deemed Permitted Indebtedness, without having to meet any other requirements hereunder, and shall not be used for the purposes of calculating the Fixed Charges Coverage Ratio (set forth above) for the fiscal year in which the Bridge Loan is obtained nor for the following three fiscal years. In the event that Tenant defaults under any of the terms of the Bridge Loan, Tenant shall promptly provide the Majority Bondholder with written notice of any such default and the Majority Bondholder shall then have the right, at its option, to cure any of said defaults. After an event of default under the Bridge Loan being or resulting from non-payment of the outstanding principal amount of said Bridge Loan, upon maturity or acceleration thereof, Majority Bondholder shall have the right to cure such default and upon such cure, compel Tenant to mortgage the New School Building Parcel in favor of the Majority Bondholder in an amount not to exceed the full payoff amount of the Bridge Loan in addition to all other rights the Majority Bondholder may have acquired or succeeded to by virtue of the curing and or payoff of the Bridge Loan.

(vii) The Tenant agrees that neither it nor any related party to the Tenant (as defined in Treas. Reg. §1.150-(b)) will purchase or agree to purchase as of the date of issuance any of the Bonds to the extent prohibited by any Bond Document.

As used herein, the following terms shall have the meanings set forth below:

"Annual Report" means any annual report provided by the Tenant, pursuant to and as described in this Section 29 of this Lease.

“Audited Financial Statements” means the annual audited financial statements of the Tenant.

"Days Cash on Hand" means: (i) the sum of cash, cash equivalents, liquid investments and unrestricted marketable securities (valued at the lower of cost or market) of Tenant, as shown on Tenant's audited financial statements for each Fiscal Year ("Cash on Hand"); divided by (ii) the quotient of Operating Expenses, as shown on the audited financial statements for the preceding Fiscal Year, divided by 365.

“Fixed Charges Coverage Ratio” means, for any Fiscal Year, (Net Operating Income of Tenant)/(Fixed Rent plus Maximum Annual Other Debt Service). For purposes of this definition, Fixed Rent and Other Debt Service shall not be treated as a deduction in calculating Net Operating Income.

"Fixed Rent Coverage Ratio" means, for any Fiscal Year, (Net Operating Income of Tenant)/(Fixed Rent). For purposes of this definition, Fixed Rent shall not be treated as a deduction in calculating Net Operating Income.

“Indebtedness” means all obligations for payment of principal and interest with respect to money borrowed, incurred or assumed by Tenant and all purchase money mortgages, financing or capital leases, installment purchase contracts, or other similar instruments in the nature of a borrowing by which Tenant will be unconditionally obligated to pay. For the avoidance of doubt, the term “Indebtedness” includes Fixed Rent.

“Independent Consultant” means (a) in the case of an individual, one who is not a member of the governing body of TOHLDC, the Majority Bondholder, Bond Trustee or Tenant or an officer or employee of any of the same, and (b) in the case of a partnership, corporation or association, one which does not have a partner, director, officer, member or substantial stockholder who is a member of the governing body of TOHLDC, the Majority Bondholder, Bond Trustee or Tenant or an officer or employee of any of the same; provided, however, that the fact that a person is retained regularly by or transacts business with TOHLDC, the Majority Bondholder, Bond Trustee or Tenant shall not make such person an employee within the meaning of this definition, in each case provided that such person or entity is reasonably acceptable to the Majority Bondholder. The Tenant shall give written notice of the selection of an Independent Consultant to all Bondholders. If the Majority Bondholder does not file its written objection with the Landlord and the Tenant within twenty (20) days after the date of such written notice, the proposed Independent Consultant will be deemed to be acceptable to the Majority Bondholder.

“Maximum Annual Other Debt Service” means, for any Fiscal Year, the largest amount of Other Debt Service coming due on any Indebtedness other than Fixed Rent in the current or any further Fiscal Year.

"Operating Expenses" means costs, fees and expenses of Tenant incurred with respect to the operation, management, improvement, repair or replacement of all or any part of the Premises and the business of Tenant, including without limitation all matters described in Sections 9, 10 and 11 hereof and maintenance, repair expenses, utility expenses, administrative

and legal expenses, miscellaneous operating expenses, advertising costs, payroll expenses (including taxes), the cost of materials and supplies used for current operations of Tenant, the cost of vehicles, equipment leases and service contracts, taxes upon the operations of Tenant, charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which are such as may reasonably be expected to be incurred in accordance with generally accepted accounting principles, all in such amounts as reasonably determined by Tenant; provided, however, "Operating Expenses" shall not include depreciation, amortization or other non-cash expenses nor payment for improvements to the Premises to the extent capitalized for Tenant's accounting purposes.

(vii) "Other Debt Service" means scheduled payments of interest and principal (including sinking fund installments) on Indebtedness other than Fixed Rent.

30. Third Party Beneficiaries. The parties agree that TOHLDC, Bond Trustee and the Majority Bondholder shall be third party beneficiaries of this Lease.

**\*\*\* SIGNATURE PAGE IMMEDIATELY FOLLOWS \*\*\***

**IN WITNESS WHEREOF**, the parties have executed this Lease as indication of their agreement to the information set out therein.

**Landlord:**

**CIRCULO REAL PROPERTY  
HOLDING CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**Tenant:**

**EVERGREEN CHARTER SCHOOL**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

Bonds Amortization Schedule Immediately Follows

## EXHIBIT B

### Insurance Coverages, Forms and Provisions Immediately Follows

#### Insurance Required.

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

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

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Tenant is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Tenant who are located at or assigned to the Premises. This coverage shall be in effect from and after the Completion Date (as such term is defined in the Loan Agreement) or on such earlier date as any employees of the Tenant first occupy the Premises.

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

(d) During the Construction Period (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Tenant shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

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

(ii) Comprehensive general liability providing coverage for:

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

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

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

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

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

Additional Provisions Respecting Insurance(a) All insurance required above shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. The company issuing the policies required by Sections (a) and (e) above shall be rated “A” or better by A.M. Best Co., Inc. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by Sections (a) and (e) above shall contain a standard New York non-contributory mortgagee clause showing the interest of the Issuer as first mortgagee and provide for payment to the Bond Trustee of the Net Proceeds of insurance resulting from any claim for loss or damage thereunder, and all policies of insurance required above shall provide for at least thirty (30) days’ prior written notice of the restriction, cancellation or modification thereof to TOHLDC and the Bond Trustee. The policy evidencing the insurance required by Section (c) above shall name TOHLDC and the Bond Trustee as additional named insureds. All policies evidencing the insurance required by Sections (d)(ii) and (iv) above shall name TOHLDC and the Tenant as additional named insureds. Upon request of the Majority Bondholder, the Tenant will assign and deliver to the Bond Trustee the policies of insurance required under Section (a) above, so and in such manner and form that the Trustee

shall at all times, upon such request and until the payment in full of the Bonds, have and hold said policies and the Net Proceeds thereof as collateral for the payment of the Bonds. The policies under Section (a), (b) and (c) above shall contain appropriate waivers of subrogation.

(b) In addition, each contractor must protect TOHLDC and the Bond Trustee with respect to the policies required under Section (d)(ii), (iii) and (iv) above as additional insureds on a primary and non-contributory basis via ISO endorsements CG 20 26 and CG 20 37 or their equivalents and the endorsements must specifically identify TOHLDC and the Trustee as additional insureds.

(c) The policies (or certificates and binders) of insurance required by Section (a) A shall be deposited with the Bond Trustee and TOHLDC on or before the Closing Date. A copy of the policy (or certificate or binder) of insurance required by Section (c) above shall be delivered to TOHLDC on or before the Closing Date. A copy of the policies (or certificates and binders) of insurance required by Sections (d)(ii) and (iv) above shall be delivered to TOHLDC on or before the Closing Date. The Tenant shall deliver to TOHLDC and the Bond Trustee before the first Business Day of each twelve (12) month period thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding twelve (12) month period, insurance of the types and in the amounts required by the provisions above and complying with the additional requirements hereof. Prior to the expiration of each such policy or policies, the Tenant shall furnish to TOHLDC and the Bond Trustee a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required hereby. The Tenant shall provide such further information with respect to the insurance coverage required by the Loan Agreement as TOHLDC and the Bond Trustee may from time to time reasonably require.

EXHIBIT B

[Name, Title]  
Evergreen Charter School  
[Address]

[DATE]

Dear \_\_\_\_\_:

On behalf of OppenheimerFunds, Inc. ("Oppenheimer") I am writing to confirm the terms of a right of first offer (the "ROFO") which Evergreen Charter School ("Evergreen"), a New York not-for-profit corporation, has agreed to grant to Oppenheimer in consideration of its agreement to purchase upon issuance The Town of Hempstead Local Development Compensation Revenue Bonds, Series 2019 (Circulo Real Property Holding Corporation Project) Bonds (the "2019 Circulo Bonds").

The 2019 Circulo Bonds are being issued to refinance the property located at 605 Peninsula Boulevard in Hempstead, NY, occupied by Evergreen as tenant and used to operate its charter school. Evergreen may in the future issue or cause to be issued other bonds to finance facilities to be used to continue, improve, expand and/or relocate its charter school operations in New York. The initial issuance of such bonds for Evergreen's single middle-school or high-school facility whichever is to be financed and constructed first, shall hereinafter be referred to as the "New Bonds".

Subject to the terms and conditions of this letter and applicable securities laws, if Evergreen proposes to offer or sell or cause to be offered or sold any New Bonds, then Evergreen shall first offer such New Bonds to Oppenheimer. Oppenheimer shall be entitled to apportion the right of first offer hereby granted to it in such proportion as it deems appropriate, among itself and its affiliates.

Evergreen shall give written notice (the "Offer Notice") to Oppenheimer, stating (i) its bona fide intention to offer or cause to be offered any such New Bonds, (ii) the principal amount of such New Bonds to be offered, and (iii) the interest rate, issue price, redemption terms and other material terms upon which it proposes to offer such New Bonds.

By notification to Evergreen within twenty (20) days after the Offer Notice is received, Oppenheimer may elect to purchase by issuing a commitment letter, at the price and on the terms specified in the Offer Notice, all or a portion of such New Bonds. The closing of any sale pursuant to this letter agreement shall occur within the later of one hundred and twenty (120) days of the date that the Offer Notice is given and the date of issue and sale of any New Bonds pursuant to the following paragraph of this letter.

If all New Bonds referred to in the Offer Notice are not elected to be purchased as provided in the preceding paragraph, Evergreen may, during the one hundred twenty (120) day period following the expiration of the twenty (20) day period from the date the Offer Notice is received by Oppenheimer, subject to disclosure of Oppenheimer's rights hereunder, offer such New Bonds to any person or persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If Evergreen does not enter into an agreement for the sale of such New Bonds within one hundred twenty (120) day period, or if the New Bonds are not sold pursuant to such agreement within one hundred twenty (120) days of the execution thereof, the right of first offer provided hereunder shall be deemed to be revived and no New Bonds shall be offered unless first offered to Oppenheimer in accordance with all the terms of this letter agreement.

This letter agreement is intended to be a binding, enforceable agreement governed by the law of the state of New York, without regard to any conflict of law principles which would result in application of the law of any other state. In addition to any and all other remedies that may be available at law, Oppenheimer shall be entitled to specific performance of the agreements and obligations of Evergreen hereunder and to such injunctive or other equitable relief as any court of competent jurisdiction may grant.

If the terms of this letter agreement are acceptable to Evergreen please indicate your acceptance and agreement on behalf of Evergreen by executing a duplicate copy in the space provided below and return it to us.

Sincerely yours,

OppenheimerFunds, Inc.

By: \_\_\_\_\_  
[Name/Title]

The terms of this letter agreement  
are hereby accepted and agreed to.

Evergreen Charter School

By: \_\_\_\_\_  
[Name/Title]

Divider

EXHIBIT E

Evergreen Charter School's  
501(c)(3) Determination Letter

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **MAY 20 2010**

EVERGREEN CHARTER SCHOOL  
C/O RACHEL FERNBACK, ESQUIRE  
MORITT, HOCK, HAMROFF & HOROWITZ  
400 GARDEN CITY PLAZA  
GARDEN CITY, NY 11530

Employer Identification Number:  
26-4652712  
DLN:  
100126016  
Contact Person:  
JOYCE DARBY ID# 95011  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
July 31  
Public Charity Status:  
170(b)(1)(A)(ii)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
January 13, 2009  
Contribution Deductibility:  
Yes  
Addendum Applies:  
Yes

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

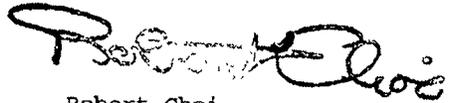
Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 947 (DO/CG)

EVERGREEN CHARTER SCHOOL

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Choi". The signature is written in a cursive style with a large initial "R" and "C".

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure: Publication 4221-PC

EVERGREEN CHARTER SCHOOL

INFORMATION FOR CHARTER SCHOOLS

You are not subject to the specific publishing requirements of Revenue Procedure 75-50, 1975-2 C.B., page 587, as long as you are operating under a contract with the local government. If your method of operation changes to the extent that your charter is terminated, cancelled, or not renewed, you should notify us. You will also be required to comply with Revenue Procedure 75-50.

Divider

EXHIBIT F

Evergreen Charter School's  
Certificate(s) of Insurance  
as Required by the Lease Agreement



**NOTEPAD:**HOLDER CODE TOWNOFL  
INSURED'S NAME Evergreen Charter SchoolEVERG-1  
OP ID: KNPAGE 2  
Date 08/06/2019

General Liability Waiver of Subrogation applies. Umbrella follows the General Liability, Auto Liability, Workers Compensation, Employee Benefits Liability, Abuse and Molesation limits and forms.

The General Liability Form#PI-GLD-VS-NY (01/08)- Additional Insured and Waiver of Subrogation applies.

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the additional insureds named in this certificate, except 10 days for Non-Payment of Premium, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.



**NOTEPAD:**HOLDER CODE **UMBBANK**  
INSURED'S NAME **Evergreen Charter School****EVERG-1**  
**OP ID: KN**PAGE 2  
Date **08/06/2019**

General Liability Waiver of Subrogation applies. Umbrella follows the General Liability, Auto Liability, Workers Compensation, Employee Benefits Liability, Abuse and Molestation limits and forms.

The General Liability Form#PI-GLD-VS-NY (01/08)- Additional Insured and Waiver of Subrogation applies.

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the additional insureds named in this certificate, except 10 days for Non-Payment of Premium, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/06/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>RAL Services, Inc.</b> 240 Plandome Road Manhasset, NY 11030 Steven Tokofsky	516-365-8400	<b>CONTACT NAME:</b> Karla Negrete <b>PHONE (A/C, No, Ext):</b> 516-365-8400 <b>FAX (A/C, No):</b> 516-365-8690 <b>E-MAIL ADDRESS:</b> knegrete@raiservices.com		
	<b>INSURER(S) AFFORDING COVERAGE</b>			
<b>INSURED</b> <b>Evergreen Charter School</b> 605 Peninsula Boulevard Hempstead, NY 11550	INSURER A :	Tokio Marine Spec Ins Co	NAIC #	23850
	INSURER B :	Philadelphia Ins Co	NAIC #	18058
	INSURER C :	Guard Ins (BH)	NAIC #	14702
	INSURER D :	Hartford Ins Group	NAIC #	19682
	INSURER E :			
	INSURER F :			

### COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

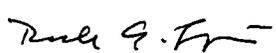
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>A&amp;M \$1M/\$2M</b> GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	Y Y	PPK2018321	07/31/2019	07/31/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Emp Ben. \$ 1,000,000
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY		PHPK2018421	07/31/2019	07/31/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		PUB687855	07/31/2019	07/31/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	<input checked="" type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	EVWC903479	08/07/2019	08/07/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E L EACH ACCIDENT \$ 1,000,000 E L DISEASE - EA EMPLOYEE \$ 1,000,000 E L DISEASE - POLICY LIMIT \$ 1,000,000
D	<input checked="" type="checkbox"/> <b>DISABILITY</b>		LNY634207	01/01/2019	01/01/2020	DBL/PFL Statutory
B	<input checked="" type="checkbox"/> <b>EDUC PROF LIAB</b>		PHPK1859519	07/31/2018	07/31/2019	E&O/D&O 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Reference Location#: 605 Peninsula Boulevard, Hempstead, New York 11550.  
Circulo Real Property Holding Corporation; UMB Bank, N.A, Town of Hempstead  
Local Development Corporation ("TOHLDC"), and The Bond Trustee are included  
as Additional Insured under the General Liability policy as required by  
written lease contract agreement. (CONTINUE NEXT PAGE)

### CERTIFICATE HOLDER

### CANCELLATION

<b>CIRCULO</b>  Circulo Real Property Holding Corporation 26 West Park Ave 2nd Fl Long Beach, NY 11561	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  

**NOTEPAD:**

HOLDER CODE CIRCULO  
INSURED'S NAME Evergreen Charter School

EVERG-1  
OP ID: KN

PAGE 2  
Date 08/06/2019

General Liability Waiver of Subrogation applies. Umbrella follows the General Liability, Auto Liability, Workers Compensation, Employee Benefits Liability, Abuse and Molesation limits and forms.

The General Liability Form#PI-GLD-VS-NY (01/08)- Additional Insured and Waiver of Subrogation applies.

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the additional insureds named in this certificate, except 10 days for Non-Payment of Premium, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.



# EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)  
08/06/2019

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

PRODUCER NAME, CONTACT PERSON AND ADDRESS RAL Services, Inc. 240 Plandome Road Manhasset, NY 11030 Richard A. Longo 516-365-8684	PHONE (A/C, No, Ext): 516-365-8400	COMPANY NAME AND ADDRESS Tokio Marine Spec Ins Co ++ One Bala Plaza Suite 100 Bala Cynwyd, PA 19004	NAIC NO: 23850
FAX (A/C, No): 516-365-8690	E-MAIL ADDRESS: ral@raiservices.com	IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE:	SUB CODE:	POLICY TYPE Commercial Pkge/Multi Lines	
AGENCY CUSTOMER ID #: EVERG-1	NAMED INSURED AND ADDRESS Evergreen Charter School c/o Circulo de la Hispanidad 605 Peninsula Boulevard Hempstead, NY 11550	LOAN NUMBER	POLICY NUMBER PPK2018321
ADDITIONAL NAMED INSURED(S)	EFFECTIVE DATE 07/31/19	EXPIRATION DATE 07/31/20	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
		THIS REPLACES PRIOR EVIDENCE DATED:	

## PROPERTY INFORMATION (ACORD 101 may be attached if more space is required) BUILDING OR BUSINESS PERSONAL PROPERTY

LOCATION / DESCRIPTION  
605 Peninsual Blvd  
Hempstead, NY 11550  
Charter School

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION	PERILS INSURED	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL	DED
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$					500,000
					1,000
<input checked="" type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> RENTAL VALUE		X			If YES, LIMIT 300,000 Actual Loss Sustained, # of months 12
BLANKET COVERAGE		X			If YES, indicate value(s) reported on property identified above \$
TERRORISM COVERAGE		X			Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		X			
IS DOMESTIC TERRORISM EXCLUDED?		X			
LIMITED FUNGUS COVERAGE			X		If YES, LIMIT DED
FUNGUS EXCLUSION (if "YES", specify organization's form used)		X			
REPLACEMENT COST		X			
AGREED VALUE		X			
COINSURANCE		X			If YES, 100%
EQUIPMENT BREAKDOWN (if Applicable)		X			If YES, LIMIT DED
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg		X			If YES, LIMIT DED
- Demolition Costs		X			If YES, LIMIT DED
- Incr Cost of Construction		X			If YES, LIMIT DED
EARTH MOVEMENT (if Applicable)		X			If YES, LIMIT DED
FLOOD (if Applicable)		X			If YES, LIMIT DED
WIND / HAIL INCL <input type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions		X			If YES, LIMIT DED 1,000
NAMED STORM INCL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Subject to Different Provisions		X			If YES, LIMIT: DED
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS		X			

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST		LENDER'S LOSS PAYABLE	<input checked="" type="checkbox"/> LOSS PAYEE	LENDER SERVICING AGENT NAME AND ADDRESS
<input checked="" type="checkbox"/> CONTRACT OF SALE				
<input checked="" type="checkbox"/> MORTGAGEE				
NAME AND ADDRESS				
Town of Hempstead Local Development Corporation 350 Front Street Floor 2 Hempstead, NY 11550				AUTHORIZED REPRESENTATIVE <i>Richard A. Longo</i>

**NOTES:**INSURED'S NAME **Evergreen Charter School****EVERG-1**

PAGE 2

OP ID: KN

Date **8/6/2019**

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the additional insureds named in this certificate, except 10 days for Non-Payment of Premium, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.



# EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

OP ID: KN

DATE (MM/DD/YYYY)  
08/06/2019

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

PRODUCER NAME, CONTACT PERSON AND ADDRESS RAL Services, Inc. 240 Plandome Road Manhasset, NY 11030 Richard A. Longo 516-365-8684	PHONE (A/C, No, Ext): 516-365-8400	COMPANY NAME AND ADDRESS Tokio Marine Spec Ins Co ++ One Bala Plaza Suite 100 Bala Cynwyd, PA 19004	NAIC NO: 23850
FAX (A/C, No): 516-365-8690	E-MAIL ADDRESS: ral@ralservices.com	IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE:	SUB CODE:	POLICY TYPE Commercial Pkge/Multi Lines	
AGENCY CUSTOMER ID #: EVERG-1	NAMED INSURED AND ADDRESS Evergreen Charter School c/o Circulo de la Hispanidad 605 Peninsula Boulevard Hempstead, NY 11550	LOAN NUMBER	POLICY NUMBER PPK2018321
ADDITIONAL NAMED INSURED(S)	EFFECTIVE DATE 07/31/19	EXPIRATION DATE 07/31/20	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
		THIS REPLACES PRIOR EVIDENCE DATED:	

**PROPERTY INFORMATION** (ACORD 101 may be attached if more space is required)  BUILDING OR  BUSINESS PERSONAL PROPERTY

LOCATION / DESCRIPTION 605 Peninsual Blvd Hempstead, NY 11550	Charter School
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.	

COVERAGE INFORMATION	PERILS INSURED	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL	DED	AMOUNT OF INSURANCE
COMMERCIAL PROPERTY COVERAGE						\$ 500,000
<input checked="" type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> RENTAL VALUE		X				300,000 Actual Loss Sustained, # of months 12
BLANKET COVERAGE		X				If YES, indicate value(s) reported on property identified above: \$
TERRORISM COVERAGE		X				Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		X				
IS DOMESTIC TERRORISM EXCLUDED?		X				
LIMITED FUNGUS COVERAGE			X			If YES, LIMIT DED
FUNGUS EXCLUSION (If "YES", specify organization's form used)		X				
REPLACEMENT COST		X				
AGREED VALUE		X				
COINSURANCE		X				If YES, 100%
EQUIPMENT BREAKDOWN (If Applicable)		X				If YES, LIMIT DED
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg		X				If YES, LIMIT: DED
- Demolition Costs		X				If YES, LIMIT DED
- Incr Cost of Construction		X				If YES, LIMIT DED
EARTH MOVEMENT (If Applicable)		X				If YES, LIMIT DED
FLOOD (If Applicable)		X				If YES, LIMIT DED
WIND / HAIL INCL <input type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions		X				If YES, LIMIT DED 1,000
NAMED STORM INCL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Subject to Different Provisions		X				If YES, LIMIT DED
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS		X				

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**ADDITIONAL INTEREST**

<input checked="" type="checkbox"/> CONTRACT OF SALE	<input type="checkbox"/> LENDER'S LOSS PAYABLE	<input checked="" type="checkbox"/> LOSS PAYEE	LENDER SERVICING AGENT NAME AND ADDRESS
<input checked="" type="checkbox"/> MORTGAGEE			
NAME AND ADDRESS  UMB Bank, N.A. 2 South Broadway, Suite 600 Saint Louis, MO 63102			AUTHORIZED REPRESENTATIVE  <i>Mark G. Fr...</i>

**NOTES:**INSURED'S NAME **Evergreen Charter School****EVERG-1**

PAGE 2

**OP ID: KN**Date **8/6/2019**

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the additional insureds named in this certificate, except 10 days for Non-Payment of Premium, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.



# EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)  
08/06/2019

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PRODUCER NAME, CONTACT PERSON AND ADDRESS <b>RAL Services, Inc.</b> 240 Plandome Road Manhasset, NY 11030 Richard A. Longo 516-365-8684		PHONE (A/C, No, Ext): <b>516-365-8400</b>	COMPANY NAME AND ADDRESS <b>Tokio Marine Spec Ins Co ++</b> One Bala Plaza Suite 100 Bala Cynwyd, PA 19004	NAIC NO: <b>23850</b>
FAX (A/C, No): <b>516-365-8690</b>	E-MAIL ADDRESS: <b>ral@ralservices.com</b>		IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE: AGENCY CUSTOMER ID #: <b>EVERG-1</b>	SUB CODE:	POLICY TYPE <b>Commercial Pkge/Multi Lines</b>		
NAMED INSURED AND ADDRESS <b>Evergreen Charter School</b> c/o Circulo de la Hispanidad 605 Peninsula Boulevard Hempstead, NY 11550		LOAN NUMBER	POLICY NUMBER <b>PPK2018321</b>	
ADDITIONAL NAMED INSURED(S)		EFFECTIVE DATE <b>07/31/19</b>	EXPIRATION DATE <b>07/31/20</b>	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
		THIS REPLACES PRIOR EVIDENCE DATED:		

**PROPERTY INFORMATION (ACORD 101 may be attached if more space is required)**  BUILDING OR  BUSINESS PERSONAL PROPERTY

LOCATION / DESCRIPTION  
605 Peninsul Blvd  
Hempstead, NY 11550  
*Charter School*

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION	PERILS INSURED	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL	DED
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE	\$	500,000			1,000
<input checked="" type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> RENTAL VALUE		<input checked="" type="checkbox"/>			If YES, LIMIT <b>300,000</b> Actual Loss Sustained, # of months <b>12</b>
BLANKET COVERAGE		<input checked="" type="checkbox"/>			If YES, indicate value(s) reported on property identified above \$
TERRORISM COVERAGE		<input checked="" type="checkbox"/>			Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		<input checked="" type="checkbox"/>			
IS DOMESTIC TERRORISM EXCLUDED?		<input checked="" type="checkbox"/>			
LIMITED FUNGUS COVERAGE			<input checked="" type="checkbox"/>		If YES, LIMIT DED
FUNGUS EXCLUSION (If "YES", specify organization's form used)		<input checked="" type="checkbox"/>			
REPLACEMENT COST		<input checked="" type="checkbox"/>			
AGREED VALUE		<input checked="" type="checkbox"/>			
COINSURANCE		<input checked="" type="checkbox"/>			If YES, <b>100%</b>
EQUIPMENT BREAKDOWN (If Applicable)		<input checked="" type="checkbox"/>			If YES, LIMIT: DED
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg		<input checked="" type="checkbox"/>			If YES, LIMIT DED
- Demolition Costs		<input checked="" type="checkbox"/>			If YES, LIMIT DED
- Incr Cost of Construction		<input checked="" type="checkbox"/>			If YES, LIMIT DED
EARTH MOVEMENT (If Applicable)		<input checked="" type="checkbox"/>			If YES, LIMIT DED
FLOOD (If Applicable)		<input checked="" type="checkbox"/>			If YES, LIMIT DED
WIND / HAIL INCL <input type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions		<input checked="" type="checkbox"/>			If YES, LIMIT DED <b>1,000</b>
NAMED STORM INCL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Subject to Different Provisions		<input checked="" type="checkbox"/>			If YES, LIMIT DED
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS		<input checked="" type="checkbox"/>			

**CANCELLATION**  
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

<b>ADDITIONAL INTEREST</b>	
CONTRACT OF SALE MORTGAGEE	LENDER'S LOSS PAYABLE <input checked="" type="checkbox"/> LOSS PAYEE <b>Landlord</b>
LENDER SERVICING AGENT NAME AND ADDRESS	
NAME AND ADDRESS <b>Circulo Real Property Holding Corporation</b> 26 West Park Ave 2nd Fl Long Beach, NY 11561	
AUTHORIZED REPRESENTATIVE <i>Richard G. Longo</i>	

**NOTES:**

INSURED'S NAME **Evergreen Charter School**

**EVERG-1**

**OP ID: KN**

PAGE 2

Date **8/6/2019**

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the additional insureds named in this certificate, except 10 days for Non-Payment of Premium, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.