

TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION

(TOWN OF HEMPSTEAD, NEW YORK)

AND

CIRCULO REAL PROPERTY HOLDING CORPORATION

LOAN AGREEMENT

Dated as of August 1, 2019

\$2,470,000

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

and

\$11,170,000

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

and

\$900,000

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

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THIS LOAN AGREEMENT, dated as of August 1, 2019 (the “**Loan Agreement**”), is by and between the TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION, a local development corporation existing under the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550 (the “**Issuer**”), and 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**”), having an office at 20 West Park Avenue, Long Beach, New York 11561 (the “**Institution**”).

RECITALS

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pursuant to and in accordance with the provisions of the New York Membership Corporation Law as in effect in 1966, as superseded by Section 1411 of the New York Not-for-Profit Corporation Law (collectively, the “**Act**”) and is empowered under the Act to undertake the providing of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

WHEREAS, the Issuer proposes to issue its \$2,470,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-1 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019A-1 Bonds**”), and its \$11,170,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-2 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019A-2 Bonds**”; and, together with the Series 2019A-1 Bonds, the “**Series 2019A Bonds**”) and its \$900,000 Taxable Revenue Refunding Bonds (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019B Bonds**”; and together with the Series 2019A Bonds, the “**Series 2019 Bonds**”), under Section 145 of the Internal Revenue Code of 1986, as amended (the “**Code**”), for the benefit of the Institution, for the purposes of, along with other available monies of the Institution: (A) paying all costs in connection with refunding the outstanding Civic Facility Revenue Bonds, Series 2007 (Circulo de la Hispanidad, Inc. Civic Facility) issued by the Town of Hempstead Industrial Development Agency (the “**IDA**”), in the amount of \$15,000,000 (the “**Series 2007 Bonds**”), for the benefit of Circulo de la Hispanidad, Inc., a not-for-profit corporation, organized and existing under the laws of the State, and an Exempt Organization (the “**Organization**”), the proceeds of which Series 2007 Bonds were used to finance the costs of (i) the issuance of the Series 2007 Bonds, and (ii) the acquisition of an approximately 0.895 acre parcel of land located at 605 Peninsula Boulevard and the construction and equipping of an approximately 35,000 square foot two-story commercial building located thereon, and an adjacent approximately 0.1147 acre parcel of land located at 134 Linden Avenue, consisting of parking facilities, all located in the Village of Hempstead, Town of Hempstead, Nassau County, New York (collectively, the “**Facility**”) (clauses (i) and (ii) are collectively, the “**Series 2007 Project**”), which Facility has been conveyed by the Organization to the Institution and leased by the Institution to Evergreen Charter School, a not-for-profit education corporation, organized and existing under the laws of the State and an Exempt Organization (the “**School**”), to be used as a charter school serving students in kindergarten through grade 8; (B) fund a debt service reserve fund and a repair and replacement fund; (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; and

WHEREAS, the Issuer is issuing the Series 2019 Bonds pursuant to the terms of an Indenture of Trust, dated as of August 1, 2019 (the “**Indenture**”), by and between the Issuer and UMB Bank, N.A., as trustee (the “**Trustee**”); and

WHEREAS, contemporaneously with the execution of the Indenture, the Issuer will loan the proceeds of the Series 2019 Bonds to the Institution for the purposes of financing the Series 2019 Project pursuant to the terms of this Loan Agreement; and

WHEREAS, the Institution has leased the Facility to the School pursuant to a certain Lease Agreement, dated April 5, 2019 (the “**Lease Agreement**”), by and between the Institution and the School; and

WHEREAS, in order to further secure the payment of the Series 2019 Bonds, the Institution will grant a mortgage lien on and security interest in the Facility to the Issuer pursuant to a Mortgage and Security Agreement, dated as of August 1, 2019 (the “**Mortgage**”), from the Institution to the Issuer, which Mortgage will be assigned by the Issuer to the Trustee pursuant to Assignment of Mortgage and Security Agreement, dated August 8, 2019, (the “**Assignment**”), from the Issuer to the Trustee; and

WHEREAS, as security for the payment of the Series 2019 Bonds, the Organization will enter into a certain Guaranty Agreement, dated as of August 1, 2019 (the “**Guaranty**”), from the Organization to the Trustee; and

WHEREAS, the Series 2019 Bonds will be further secured by an Assignment of Leases and Rents, dated August 1, 2019 (the “**Assignment of Leases and Rents**”), among the Institution, the Issuer and the Trustee; and

WHEREAS, simultaneously with the issuance of the Series 2019 Bonds, the Institution will execute and deliver to the Issuer (i) a promissory note evidencing the loan by the Issuer to the Institution of the proceeds of the Series 2019A-1 Bonds, which promissory note will be endorsed by the Issuer to the Trustee and will be in substantially the form attached hereto as Exhibit C-1, (ii) a promissory note evidencing the loan by the Issuer to the Institution of the proceeds of the Series 2019A-2 Bonds, which promissory note will be endorsed by the Issuer to the Trustee and will be in substantially the form attached hereto as Exhibit C-1, and (iii) a promissory note evidencing the loan by the Issuer to the Institution of the proceeds of the Series 2019B Bonds, which promissory note will be endorsed by the Issuer to the Trustee and will be in substantially the form attached hereto as Exhibit C-2 (collectively, the “**Notes**”); and

WHEREAS, the execution and delivery of the Indenture and this Loan Agreement and the issuance of the Series 2019 Bonds under the Act as herein provided have been in all respects approved and duly and validly authorized by resolutions duly adopted by the Issuer.

AGREEMENT

For and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby mutually agree as follows:

ARTICLE I

DEFINITIONS

All capitalized terms used in this Loan Agreement not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached to the Indenture, which meanings are incorporated herein and made a part hereof by reference.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of Issuer. The Issuer makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Issuer is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute, deliver and perform each of the Issuer Documents and the other documents contemplated thereby. Each of the Issuer Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Issuer.

(b) The Issuer will cause the Series 2019 Project to be financed and will loan the Bond Proceeds to the Institution pursuant to this Loan Agreement, all for the Public Purposes of the State.

(c) To finance a portion of the Costs of the Series 2019 Project, the Issuer will issue the Series 2019 Bonds in the aggregate principal amount of \$14,540,000. The Series 2019 Bonds will be issued, mature, bear interest, be redeemable and have other terms and provisions as provided for in the Series 2019 Bonds and the Indenture.

(d) By an inducement resolution adopted on January 24, 2019 the Issuer determined that, based upon its review of the materials submitted and the representations made by the Institution relating to the Series 2019 Project, the Series 2019 Project is a Type II action under SEQR and does not require further environmental review.

(e) By Certificate of Approval duly executed on August 1, 2019, the Applicable Elected Representative, based upon a review of the materials submitted and the representations made by the Institution relating to the Series 2019 Project approved the issuance of the Series 2019 Bonds pursuant to Section 147(f) of the Code.

(f) Neither the execution and delivery of any of the Issuer Documents or the other documents contemplated thereby, or the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Issuer Documents or the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, the Issuer's Certificate of Incorporation or By-Laws, as amended, or any corporate restriction or any agreement or instrument to which the Issuer is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Issuer under the terms of the Act or any such law, ordinance, Certificate of Incorporation, By-Laws, restriction, agreement or instrument, except for Permitted Encumbrances.

(g) Each of the Issuer Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms.

Section 2.2 Representations and Covenants of Institution. The Institution makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Institution is a not-for-profit corporation duly organized and validly existing under the laws of the State of New York, is in good standing under the laws of the State and has full legal right, power and authority to execute, deliver and perform each of the Institution Documents and the other documents contemplated thereby. Each of the Institution Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Institution.

(b) The Institution (i) is 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.

(c) Neither the execution and delivery of any of the Institution Documents or the other documents contemplated thereby nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Institution Documents or the other documents contemplated thereby will, to the best of its knowledge, conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof, the Institution's Certificate of Incorporation or By-Laws, as amended, or any corporate restriction or any agreement or instrument to which the Institution is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Institution under the terms of any such law, ordinance, Certificate of Incorporation, By-Laws, restriction, agreement or instrument, except for Permitted Encumbrances.

(d) There is no action, suit, investigation or proceeding pending or, to the knowledge of the Institution, threatened against the Institution or any properties or rights of the Institution before any court, arbitrator or administrative or governmental body which might result in any materially adverse change in the business, condition or operations of the Institution or which involves the possibility of materially adversely affecting the ability of the Institution to comply with this Loan Agreement.

(e) The Facility and operation thereof does now and at all times will comply with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Institution and the Facility.

(f) Each of the Institution Documents and the other documents contemplated thereby constitutes a valid and binding obligation of the Institution enforceable against the Institution in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditor's rights generally, and subject to usual principles of equity.

(g) The Institution agrees that it (i) shall not perform any act or enter into any agreement which would adversely affect its status as an Exempt Organization and shall conduct its operations in a manner which conforms to the standards necessary to qualify the Institution as a charitable organization within the meaning of Section 501(c)(3) of the Code or any successor provisions of federal income tax law, and (ii) shall not perform any act, enter into any agreement or use or permit the Facility, or any portion thereof, to be used in any manner, or for any trade or business or other non-exempt use related to the purposes of the Institution, which would adversely affect the exclusion of interest on the Series 2019 Bonds from federal gross income pursuant to Section 103 of the Code.

(h) The Institution will operate all portions of the Facility throughout the Loan Term as an educational facility or for such other uses or purposes as would not adversely affect the Institution's status as an Exempt Organization or the exclusion of interest on the Series 2019 Bonds from gross income for federal income tax purposes.

(i) The Institution agrees that neither it nor any related party to the Institution (as defined in Treas. Reg. § 1.150-1(b)) will purchase any of the Series 2019 Bonds in an amount related to the obligation represented by this Loan Agreement.

(j) The Institution, shall comply with all provisions of the Labor Law, the Executive Law and the Civil Rights Law of the State applicable to the Facility and shall include in any construction contracts all provisions that be required to be inserted therein by such provisions. The Institution shall comply with the relevant policies of the Issuer with respect to such laws, which are set forth as Exhibit B attached hereto. Except as provided in the preceding two sentences, the provisions of this subsection do not create any obligations or duties not created by applicable law outside of the terms of this Loan Agreement.

(k) Except as set forth in that certain Phase I Environmental Site Assessment, dated July, 2019, issued by GEI Consultants, Inc., P.C., and provided to the Issuer prior to the date hereof:

- (i) to the best of the Institution's knowledge, the Facility has never been used by previous owners, operators or occupants or the Institution to generate, manufacture, refine, transport, treat, store, handle or dispose, transfer, produce, process or in any manner deal with any Hazardous Material (as hereinafter defined);
- (ii) the Institution has not received a summons, citation, directive, letter or other communication, written or oral, from any Government Authority (as hereinafter defined) concerning any intentional or unintentional action or omission on the Institution's part which had resulted in the violation of any Environmental Laws (as hereinafter defined), as the same may relate to the Facility;
- (iii) to the best of the Institution's knowledge, after due inquiry and investigation, no lien has been attached to any revenues or any real or personal property owned by the Institution and located in the state where the Facility is located, including, but not limited to the Facility, for "Damages" and/or "Cleanup and Removal Costs", as such terms are hereinafter defined in any Environmental Law, or arising from an intentional or unintentional act or omission in violation thereof by the Institution or by any previous owner and/or operator of such real or personal property, including, but not limited to the Mortgaged Property (as defined in the Mortgage);
- (iv) the Institution has duly complied, and shall continue to comply, with the provisions of the Environmental Laws governing it, its business, assets, property, facilities and the Mortgaged Property, and shall keep the Mortgaged Property free and clear of any liens imposed pursuant to such laws;
- (v) the Institution shall not, and shall not permit any of its officers, partners, members, employees, agents, contractors, licensees, tenants, occupants or others to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, process or in any manner deal with any Hazardous Material on the Mortgaged Property except in accordance with all Environmental Laws applicable thereto;
- (vi) there is not now outstanding any Environmental Complaint (as hereinafter defined) issued by any Governmental Authority to the Institution or relating to the Institution's business, assets, property, and facilities or the Mortgaged Property under any Environmental Law, and there is not now existing any condition which, if known by the proper authorities, could result in any Environmental Complaint; and
- (vii) the Institution has, and will continue to have, all necessary licenses, certificates and permits under the Environmental Laws relating to the Institution and its facilities, property, assets, and business, and the Mortgaged Property and the foregoing are in compliance with all Environmental Laws.

Section 2.3 Covenant with Owners. The Issuer and the Institution agree that this Loan Agreement and the Tax Regulatory Agreement are executed in part to induce the purchase by others of the Series 2019 Bonds. Accordingly, all covenants and agreements on the part of the Issuer and the Institution set forth in this Loan Agreement and in the Tax Regulatory Agreement

are hereby declared to be for the benefit of the Owners from time to time of the Series 2019 Bonds.

ARTICLE III

TITLE TO FACILITY

Section 3.1 Warranty of Title. The Institution hereby covenants and warrants to the Issuer and to the Trustee that the Institution has good and marketable title in and to the Facility, except for Permitted Encumbrances.

ARTICLE IV

FINANCING OF SERIES 2019 PROJECT; ISSUANCE OF THE BONDS

Section 4.1 Financing of Series 2019 Project. The Institution agrees that the Bond Proceeds of the Series 2019 Bonds will be used to pay the Costs of the Series 2019 Project.

Section 4.2 Issuance of the Series 2019 Bonds; Disbursement of Bond Proceeds. In order to provide funds for payment of the Costs of the Series 2019 Project, together with other payments and incidental expenses in connection therewith, the Issuer agrees that it will authorize, issue, sell and cause the Series 2019 Bonds to be delivered on the terms set forth in the Indenture. Bond Proceeds shall be disbursed in accordance with the provisions of the Indenture and Section 4.3 hereof.

Section 4.3 Application of Bond Proceeds. Except as provided in Section 10.2(a)(ii) hereof, the Bond Proceeds, upon the written direction of an Authorized Representative of the Institution, and on the conditions provided for in the Indenture, shall be applied to pay only the following costs and items of expense paid by or on behalf of the Issuer on or after January 24, 2019, except as may otherwise be provided under the Tax Regulatory Agreement or included in a resolution of the Board of Directors of the Institution indicating an intent to reimburse the Institution for Costs of the Series 2019 Project incurred prior to that date:

- (i) all fees, taxes, charges and other expenses for recording or filing, as the case may be, any documents that the Issuer or the Trustee may deem desirable in order to protect or perfect any security interest contemplated by the Indenture,
- (ii) all costs necessary to refund the Series 2007 Bonds,
- (iii) all legal, accounting and any other fees, costs and expenses incurred in connection with the preparation, printing, reproduction, authorization, issuance, execution, sale and distribution of the Series 2019 Bonds and the Bond Documents and all other documents in connection herewith or therewith, the refunding of the Series 2007 Bonds and with any other transaction contemplated by this Loan Agreement or the Indenture,

- (iv) any administrative fee and fee for services of the Issuer,
- (v) reimbursement to the Institution for any of the above-enumerated costs and expenses.

Section 4.4 Certification as to Completion. The Institution certifies to the Issuer that the Series 2019 Project is complete as of the Closing Date.

Section 4.5 Payment of Costs of the Project by Institution.

(a) In the event that the Net Proceeds of the Series 2019 Bonds are not sufficient to pay in full all Costs of the Series 2019 Project, the Institution agrees to pay, for the benefit of the Issuer and the Trustee, all such sums as may be in excess of the Net Proceeds of the Series 2019 Bonds.

(b) The Institution shall not be entitled to any reimbursement for such excess cost or expense from the Issuer or the Trustee or the Owners of any of the Series 2019 Bonds, nor shall it be entitled to any diminution or abatement of any other amounts payable by the Institution under this Loan Agreement.

Section 4.6 Construction Signage. The Issuer shall have the right to erect on the Facility site at the Issuer's own cost and expense a sign stating that financing for the Series 2019 Project has been provided through the Town of Hempstead Local Development Corporation.

Section 4.7 Remedies to Be Pursued Against Contractors, Subcontractors, Materialmen and Their Sureties. In the event of a default by any contractor, subcontractor, materialman or other Person under any contract made by it in connection with the Facility, or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Institution, at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it against the contractor, subcontractor, materialman or other Person so in default and against any surety for the performance of such contract. The Institution may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman, surety or other Person which the Institution deems reasonably necessary. The Net Proceeds of any recovery from a contractor, subcontractor, materialman or other Person shall be applied as provided in Section 7.4 hereof.

Section 4.8 Covenant; Arbitrage Bond Covenant. The Issuer and the Institution covenant that (i) they will comply with the provisions of the Code required to preserve the exclusion from gross income of interest on the Series 2019A Bonds for Federal income tax purposes, and (ii) they will not use or permit the use of any proceeds of the Series 2019A Bonds in any manner which would cause the Series 2019A Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

ARTICLE V

LOAN PROVISIONS

Section 5.1 Loan of Series 2019 Bond Proceeds. The Issuer hereby agrees to loan the Bond Proceeds to the Institution in accordance with the provisions of this Loan Agreement. Such Bond Proceeds shall be disbursed to the Institution in accordance with the provisions of Section 4.3 hereof, the Indenture and the Tax Regulatory Agreement.

Section 5.2 Reserved.

Section 5.3 Loan Payments and Other Amounts Payable.

(a) The Institution shall pay or cause to be paid to the Issuer on the Closing Date the Issuer's administrative fee in the amount of \$78,037.25 (which includes the Issuer's administrative fee of \$72,700.00 plus the Initial Compliance Fee of \$3,000 and the public notice fees of \$2,337.25). The Institution shall pay to the Issuer an Annual Compliance Fee of \$1,500 on or before January 1 of each year commencing on January 1, 2020 and continuing through the term of the Loan Agreement. The Institution shall pay or cause to be paid as basic loan payments

(i) on or before September 1, 2019 an amount equal to the September 1, 2019 interest payment due and payable on Series 2019 Bonds directly to the Trustee and thereafter on or before the first Business Day of each month commencing on October 1, 2019 and continuing until all of the Outstanding Series 2019 Bonds have been paid in full, with respect to the interest due and payable on the Series 2019 Bonds, an amount equal to one-third (1/3) of the next upcoming quarterly interest payment directly to the Trustee;

(ii) on or before the first Business Day of each month commencing on September 1, 2019 and continuing through and including December 1, 2019, with respect to the principal due on the Series 2019 Bonds, an amount equal to one-fourth (1/4) of the next upcoming semi-annual principal payment or Sinking Fund Payment due and owing on the next Debt Service Payment Date directly to the Trustee and thereafter on or before the first Business Day of each month commencing on January 1, 2020 and continuing until all of the Outstanding Series Bonds have been paid in full, with respect to the principal due on the Series 2019 Bonds, an amount equal to one-sixth (1/6) of the next upcoming semi-annual principal payment or Sinking Fund Payment due and owing on the next Debt Service Payment Date directly to the Trustee;

(iii) on each Redemption Date, with respect to the Redemption Price (other than by Sinking Fund Payments due and payable on the Series 2019 Bonds), whether as an optional or mandatory redemption, an amount equal to the Redemption Price together with accrued interest on the Series 2019 Bonds being redeemed on such Redemption Date;

The Institution's obligation to pay such basic loan payments shall be evidenced by the Notes, substantially in the form attached hereto as Exhibit C. To the extent the School makes

Lease Payments directly to the Trustee, the Institution shall receive a credit against its obligations to make Loan Payments under this Section 5.3(a).

(b) In addition to the Loan Payments pursuant to Section 5.3(a) hereof, throughout the Loan Term, the Institution shall pay to the Issuer as additional loan payments, within fifteen (15) days of the receipt of demand therefor, an amount equal to the sum of the expenses of the Issuer and the members thereof incurred (i) by reason of the Issuer's financing of the Series 2019 Project, or (ii) in connection with the carrying out of the Issuer's duties and obligations under the Issuer Documents, the payment of which is not otherwise provided for under this Loan Agreement. Other than the Annual Compliance Fee, the foregoing shall not be deemed to include any annual or continuing administrative or management fee beyond any initial administrative fee or fee for services rendered by the Issuer.

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

(d) If, after making a valuation of the Debt Service Reserve Fund as set forth in Section 4.12(d) of the Indenture, the Trustee notifies the Institution that the amount on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement or upon a draw by the Trustee on the Debt Service Reserve Fund pursuant to Section 4.06(e) of the Indenture the Institution shall pay to the Trustee, in addition to the amounts required under Section 5.3(a), as a special loan payment, within thirty (30) days thereof, an amount equal to the amount necessary to restore the balance in the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement.

(e) Commencing on the Closing Date, and on each August 8th thereafter for the following nine (9) years, the Institution shall deposit or cause to be deposited \$25,000 with the Trustee for deposit into the Repair and Replacement Fund. If, on any such date, the amount in the Repair and Replacement Fund is equal to or greater than \$250,000, then the Institution shall not be required to make a payment into the Repair and Replacement Fund on such date. The Institution shall also replenish any amounts withdrawn from the Repair and Replacement Fund in accordance with Section 8.14(c) hereof.

(f) The Institution, under the provisions of this Section 5.3, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Institution shall fail timely to make any payment required in Section 5.3(a), the Institution shall pay the same together with all late payment penalties specified in the Series 2019 Bonds. In the event the Institution shall fail timely to make any payment required in Section 5.3(b), the Institution shall pay the same together with interest on such payment at the per annum rate of ten percent (10%), but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made. If the date that any payments are due and owing under the provisions of this Section 5.3 is not a Business Day, the Institution shall make such payment or cause such payment to be paid on the immediately preceding Business Day.

Section 5.4 Obligations of Institution Hereunder Unconditional. The obligations of the Institution to make the payments required in Section 5.3 hereof, and to perform and observe any and all of the other covenants and agreements on its part contained herein, shall be a general obligation of the Institution, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Issuer. The Institution agrees it will not (i) suspend, discontinue or abate any payment required hereunder, (ii) fail to observe any of its other covenants or agreements in this Loan Agreement, or (iii) terminate this Loan Agreement for any cause whatsoever unless and until the Series 2019 Bonds, including premium, if any, and interest thereon, have been paid or provided for in accordance with the Indenture.

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

Section 5.5 Payment of Additional Moneys in Prepayment of Series 2019 Bonds. In addition to any other moneys required or permitted to be paid pursuant to this Loan Agreement, the Institution may, upon the School's written consent, subject to the terms of the Indenture, pay moneys to the Trustee (i) to be applied as the prepayment of amounts to become due and payable by the Institution pursuant to Section 5.3(a) hereof and the Notes, or (ii) to be used for the redemption or prepayment of any Series 2019 Bonds at such time or times and on such terms and conditions as is provided in such Series 2019 Bonds and in the Indenture. The Institution shall notify the Issuer and the Trustee in writing as to the purpose of any such payment.

Section 5.6 Rights and Obligations of the Institution upon Prepayment of Series 2019 Bonds. In the event the Series 2019 Bonds shall have been paid in full prior to the termination of this Loan Agreement, or provision for such payment shall have been made in accordance with the Indenture, the Issuer, at the sole cost of the Institution, shall obtain and record or file appropriate terminations, discharges or releases of any security interest relating to the Facility or under the Indenture.

Section 5.7 Security Interest. The Institution acknowledges that the payments by the Institution under this Loan Agreement and the Notes are intended as security for payment of the principal of, Redemption Price of and interest on the Series 2019 Bonds. In addition, to secure payment of all loan payments and other sums owing by the Institution hereunder and to secure the payment and performance of all debts, liabilities and obligations of the Institution under all of the Bond Documents, the Institution hereby grants a security interest to the Issuer in (i) all insurance, now owned or hereafter acquired, insuring any of the Equipment or the Facility against any loss or damage whatsoever, and all proceeds thereof, (ii) all awards heretofore and hereafter paid or payable to the Institution by reason of a taking or condemnation of any part of the Facility (including any Equipment) or any right of the Institution appurtenant thereto by competent authority as a result of the exercise of the power of eminent domain, including but not limited to any awards or payments for use and occupation or for change of grade of streets, together with any and all claims of the Issuer with respect thereto, and the proceeds thereof, (iii) all moneys and securities from time to time held by the Trustee pursuant to and under any of the

Bond Documents, except moneys and securities held in the Rebate Fund (to the extent necessary to insure proper transfer to the Rebate Fund), and all investments and re-investments of any such moneys and securities, and the proceeds thereof, and (iv) all files or other documentation of the Institution dealing with the receipt or payment of any of the foregoing (collectively, the “**Collateral**”). The security interest referred to in this Section shall be assigned by the Issuer to the Trustee.

Section 5.8 Financing Statements. The Institution hereby irrevocably appoints the Trustee, as the Institution’s lawful attorney-in-fact and agent, to prepare and execute any Uniform Commercial Code continuation statements or amendments or assignments on the Institution’s behalf in order to protect the Issuer’s and the Trustee’s security interests in payments made pursuant to this Loan Agreement and any assignment thereof and in any Property demised under this Loan Agreement and on the Institution’s behalf to file such financing statements signed by the Trustee, without the Institution’s execution thereof, in any appropriate public office.

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1 Maintenance and Modifications of the Facility by Institution.

(a) The Institution shall, at its sole cost and expense (so far as is applicable by the context):

(i) maintain or cause the Facility to be maintained by the School pursuant the Lease Agreement in good and substantial order and repair and in such fashion that the value and utility of the Facility will not be diminished and will make or cause to be made all necessary and appropriate repairs, replacements, and renewals thereof, whether interior or exterior, structural or non-structural; all repairs, replacements and renewals to be at least equal, in quality and class, to that of the original Facility;

(ii) not use or cause the whole or any part of the Mortgaged Property to be used in such a manner as to cause the same to be subject to forfeiture under applicable laws. In the event that any person or entity, in possession of the whole or any part of the Facility, or otherwise, may, by acts or omissions, cause the Mortgaged Property to be subject to forfeiture, the Institution, within five (5) days after receiving notice of the occurrence of any such act or omission, shall notify the Issuer of the occurrence of such act or omission and shall commence such legal proceedings against the party committing or permitting the acts or omissions as shall be necessary to prevent such forfeiture;

(iii) comply with, or cause to be complied with, all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorization, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers which may, as at the date of this Mortgage or thereafter, affect the Mortgaged Property or any part

thereof or its use or condition, or which may affect any adjoining sidewalks, curbs, vaults and vault space if any, or streets or ways in so far as the Institution is required to comply therewith. The Institution represents and warrants that the Mortgaged Property is being used and operated in compliance with all applicable laws;

(iv) comply with, or cause to be complied with, all requirements of the issuer of any policy(s) of insurance covering or affecting the whole or any part of the Mortgaged Property, and all orders, rules, regulations and other requirements of the New York Board of Fire Underwriters (or that of any other body exercising similar functions) applicable to the Mortgaged Property or any part thereof; and

(v) not do or permit any act or thing which is contrary to the requirements or prohibitions of any document of record affecting the Mortgaged Property nor commit or permit any waste of or any nuisance in, at or on the Mortgaged Property or any part thereof.

(b) Subject to the Lease Agreement and this Loan Agreement, the Facility or the Equipment (as defined in the Mortgage), or any part or portion thereof, shall not be removed, altered or demolished without the prior written consent of the Issuer in each instance; provided that the Institution shall have the right, without the consent of the Issuer to remove and dispose of, free from the lien of the Mortgage, such Equipment as from time to time may become worn out or obsolete, provided that, simultaneously with or prior to such removal, any such Equipment shall be replaced with Equipment of like kind and value at least equal to that of the replaced Equipment and free from any title retention, security interest or other encumbrance. Any additions, modifications or improvements which cost in excess of \$250,000 shall also require the written consent of the Majority Bondholder. All such additions, modifications or improvements made by the Institution shall become a part of the Facility.

(c) During the Loan Term, the Institution shall not remove any part of the Facility outside of the jurisdiction of the Issuer.

Section 6.2 Installation of Additional Equipment. Subject to the provisions of Section 8.10 hereof, the Institution or any permitted sublessee of the Institution from time to time may install additional machinery, equipment or other personal property in the Facility (which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility; provided that, the acquisition and installation of such property is not financed from either the Project Fund or the Renewal Fund. The Institution from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the Institution from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility; provided that, any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended, and provided further that, if any damage is occasioned to the Facility by such removal, the Institution agrees promptly to repair such damage at its own expense.

Section 6.3 Taxes, Assessments and Utility Charges.

(a) The Institution agrees to pay, as the same become due and before any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all taxes, payments in lieu of taxes and governmental charges of any kind whatsoever which may at any time be assessed or levied against or with respect to the Facility and any machinery, equipment or other Property installed or brought by the Institution therein or thereon, including, without limiting the generality of the foregoing, any sales or use taxes imposed with respect to the Facility or any part or component thereof or the rental or sale of the Facility or any part thereof and any taxes levied upon or with respect to the income or revenues of the Issuer from the Facility; (ii) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Facility; and (iii) all assessments and charges of any kind whatsoever made by any governmental body for public improvements; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Institution shall be obligated under this Loan Agreement to pay only such installments as are required to be paid during the Loan Term. The Institution represents and warrants that all of the charges and taxes described in this Section 6.3(a) have been paid as of the date on which same are due.

(b) The Institution may, in good faith, contest any such taxes, assessments and other charges. In the event of any such proceedings, the Institution shall pay, under protest, such taxes, assessments or other charges so contested.

(c) The Issuer agrees that if the Institution contests any taxes, assessments or other charges as provided for in paragraph 6.3(b) hereof, the Institution shall be entitled to retain all such amounts.

Section 6.4 Insurance Required. At all times throughout the Loan Term, the Institution shall, at its sole cost and expense, maintain or cause to be maintained insurance and shall cause the School to maintain all insurance required by the Lease Agreement covering the Facility against such risks and for such amounts as are customarily insured against by facilities of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Issuer, without deduction for depreciation and normal wear and tear, but in no event less than the principal amount of the Series 2019 Bonds. No failure or omission on the part of the Issuer to request any such appraisals or proof shall relieve the Institution of any of its obligations under this Article VI.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Institution is required by law to provide, covering loss resulting

from injury, sickness, disability or death of employees of the Institution who are located at or assigned to the Facility.

(c) Insurance protecting the Issuer, the Trustee and the Institution against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Institution under Section 8.2 hereof) 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 the Issuer, the Trustee and the Institution against any loss or liability or damage for personal injury, including bodily injury or death, or property damage.

(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 Institution shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

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

(ii) Comprehensive general liability providing coverage for:

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

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

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

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

(e) Business interruption insurance for the Institution and School covering operating expenses (including all payments under the Lease Agreement) for twelve (12) months of each of the Institution and the School.

(f) If the Facility is now located in an area having special flood hazards or if such area hereafter shall be designated by the United States Government, or any agency thereof, as having special flood hazards, the coverages provided by a policy insuring against floods in an amount equal to the lesser of (A) the amount of the Series 2019 Bonds or (B) the maximum amount available pursuant to federal law.

(g) Insurance against such other hazards (including war damage insurance, if and when the same is available from the United States Government or any agency or subdivision thereof) as may be reasonably required by the Issuer from time to time and as are customarily insured against with respect to like properties.

(h) The Institution shall require all tenants and users of the Facility, including without limitation the Organization, to maintain the insurance required by Section 6.4(b) and (c) hereof.

Section 6.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 6.4 hereof 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 Section 6.4(a) hereof 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 Section 6.4(a) hereof shall provide for payment to the Trustee of the Net Proceeds of insurance resulting from any claim for loss or damage thereunder, and all policies of insurance required by Section 6.4 hereof shall provide for at least thirty (30) days' prior written notice of the restriction, cancellation or modification thereof to the Issuer and the Trustee. The policy evidencing the insurance required by Section 6.4(c) hereof shall name the Issuer and the Trustee as additional insureds. All policies evidencing the insurance required by Sections 6.4(d)(ii) and (iv) shall name the Issuer and the Institution as additional insureds. Upon request of the Trustee, the Institution will assign and deliver to the Trustee the policies of insurance required under Section 6.4(a), so and in such manner and form that the Trustee shall at all times, upon such request and until the payment in full of the Series 2019 Bonds, have and hold said policies and the Net Proceeds thereof as collateral for the payment of the Series 2019 Bonds. The policies under Sections 6.4(a), (b) and (c) shall contain appropriate waivers of subrogation.

(b) The policies (or certificates and binders) of insurance required by Section 6.4(a) hereof shall be deposited with the Trustee on or before the Closing Date. A copy of the policy (or certificate or binder) of insurance required by Sections 6.4(b) and (c) hereof shall be delivered to the Issuer on or before the Closing Date. The Institution shall deliver to the Issuer and the Trustee before the first Business Day of each twelve (12) month period thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full

force and effect, with a term covering at least the next succeeding twelve (12) month period, insurance of the types and in the amounts required by Section 6.4 hereof and complying with the additional requirements of Section 6.5(a) hereof. Prior to the expiration of each such policy or policies, the Institution shall furnish to the Issuer and the Trustee a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by this Loan Agreement. The Institution shall provide such further information with respect to the insurance coverage required by this Loan Agreement as the Issuer and the Trustee may from time to time reasonably require.

Section 6.6 Application of Net Proceeds of Insurance. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4 hereof shall be applied as follows: (i) the Net Proceeds of the insurance required by Section 6.4(a) hereof shall be applied as provided in Section 7.1 hereof, and (ii) the Net Proceeds of the insurance required by Sections 6.4(b), (c), and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 6.7 Right of Trustee or Issuer to Pay Taxes, Insurance Premiums and Other Charges. If the Institution fails (i) to pay any tax, together with any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, assessment or other governmental charge required to be paid by Section 6.3 hereof, (ii) to maintain any insurance required to be maintained by Section 6.4 hereof, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or occupancy of the Facility or by any requirement, order or notice of violation thereof issued by any governmental person, (iv) to pay any mechanic's Lien which is recorded or filed against the Facility or any part thereof (unless contested or bonded in accordance with the provisions of Section 8.9(b) hereof), or (v) to pay any other amount or perform any act hereunder required to be paid or performed by the Institution hereunder, the Issuer or the Trustee may, but shall not be obligated to, pay or cause to be paid such tax, assessment or other governmental charge or the premium for such insurance or any such other payment or may perform any such act. No such payment shall be made or act performed by the Issuer or the Trustee until at least ten (10) days shall have elapsed since notice shall have been given by the Trustee to the Issuer, with a copy of such notice being given simultaneously to the Institution (or by the Issuer to the Institution and the Trustee), and in the case of any tax, assessment or governmental charge or the amounts specified in clauses (iii), (iv) and (v) hereof, no such payment shall be made in any event if the Institution is contesting the same in good faith and diligently prosecuting the same unless an Event of Default hereunder shall have occurred and be continuing. No such payment by the Issuer or the Trustee shall affect or impair any rights of the Issuer hereunder or of the Trustee under the Indenture arising in consequence of such failure by the Institution. The Institution shall, on demand, reimburse the Issuer or the Trustee for any amount so paid or for expenses or costs incurred in the performance of any such act by the Issuer or the Trustee pursuant to this Section (which shall include all reasonable legal fees and disbursements), together with interest thereon from the date of payment of such amount, expense or cost by the Issuer or the Trustee at the per annum rate of ten percent (10%).

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage or Destruction of the Facility.

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

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

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

(iii) upon the occurrence of such damage or destruction, if the Net Proceeds are in excess of \$250,000, all such Proceeds derived from the insurance shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in Section 11.1 and subsection 7.1(f) hereof, the Institution shall at its option with the consent of the Majority Bondholder and subject to the provisions of the Tax Regulatory Agreement, either (A) replace, repair, rebuild, restore or relocate the Facility or such portion of the Facility, or (B) direct the Trustee to apply such Net Proceeds to the payment of the principal of the Series 2019 Bonds as they become due and payable or the Redemption Price of Bonds subject to Redemption pursuant to Section 3.01(c) of the Indenture.

(b) If the Institution replaces, repairs, rebuilds, restores or relocates the Facility in accordance with subsection (a)(iii) hereof, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in Section 4.07 of the Indenture to pay or reimburse the Institution for the cost of such replacement, repair, rebuilding, restoration or relocation.

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

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

(ii) the exclusion of the interest on the Series 2019 Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;

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

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

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

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

(f) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration or relocation shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, be applied in accordance with the provisions of Section 4.06(d) of the Indenture.

(g) If the Institution shall exercise its option to terminate this Loan Agreement pursuant to Section 11.1 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof. If an Event of Default hereunder shall have occurred and is continuing and the Trustee shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof.

(h) If the entire amount of the Series 2019 Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the Institution.

(i) Except upon the occurrence and continuation of an Event of Default, the Institution with the consent of the Issuer, not to be withheld unreasonably, shall have the right to settle and adjust all claims under any policies of insurance required by Sections 6.4(a) and (d) hereof on behalf of the Issuer and on its own behalf.

Section 7.2 Condemnation.

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

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

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

(iii) upon the occurrence of such Condemnation, if the Net Proceeds are in excess of \$250,000, all such Proceeds derived therefrom shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in Section 11.1 and subsection (f) hereof, the Institution shall with the consent of the Majority Bondholder and subject to the provisions of the Tax Regulatory Agreement, either:

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

(B) redeem an amount of Bonds at least equal to the Net Proceeds in accordance with Section 3.01 of the Indenture.

(b) If the Institution replaces, repairs, rebuilds, restores or relocates the Facility or such portion of the Facility or acquires a Substitute Facility, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in Section 4.07 of the Indenture to pay or reimburse the Institution for the cost of such replacement, repair, rebuilding, restoration or, relocation of the Facility or acquisition of a Substitute Facility.

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

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

(ii) the exclusion of the interest on the Series 2019 Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;

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

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

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

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

(f) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration, relocation or acquisition of Substitute Facility shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, be used to redeem the Series 2019 Bonds as provided in the Indenture.

(g) If the Institution shall exercise its option to terminate this Loan Agreement pursuant to Section 11.1 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof. If any Event of Default hereunder shall have occurred and is continuing and the Trustee shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Sections 10.2 and 10.4 hereof.

(h) If the entire amount of the Series 2019 Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the Institution.

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

Section 7.3 Condemnation of Non-Project Property. The Institution shall be entitled to the proceeds of any Condemnation award or portion thereof made for damage to or taking of any Property which, at the time of such damage or taking, is not part of the Facility.

Section 7.4 Recovery Against Contractor, Etc.

(a) If at any time during the Loan Term, provided no Event of Default under Section 10.1 has occurred and is continuing, proceeds shall become available from any recovery against a contractor, subcontractor, materialman or other Person with respect to the Facility, such proceeds shall be deposited in the Renewal Fund and applied as provided in Section 4.07 of the Indenture.

(b) After the occurrence and continuation of an Event of Default under Section 10.1 hereof, the proceeds of any such recovery shall be applied as provided in Section 10.2 hereof.

(c) If the entire amount of the Series 2019 Bonds and interest thereon have been fully paid, or provision therefor has been made in accordance with the Indenture, the surplus thereof shall be paid to the Institution for its business purposes.

(d) Except upon the occurrence and continuation of an Event of Default, the Institution shall have the right to settle and adjust all claims against such contractors, subcontractors, materialmen or other Persons.

ARTICLE VIII
SPECIAL COVENANTS

Section 8.1 No Warranty of Condition or Suitability by Issuer. THE ISSUER HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE INSTITUTION OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE INSTITUTION WILL BE SUFFICIENT TO PAY THE COST OF THE PROJECT. THE INSTITUTION ACKNOWLEDGES THAT THE ISSUER IS NOT THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE INSTITUTION IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR PURPOSES OF THE INSTITUTION. THE ISSUER SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE INSTITUTION OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 8.2 Hold Harmless Provisions.

(a) The Institution agrees that the Issuer, the Trustee and each Paying Agent shall not be liable for and agrees to defend, indemnify, release and hold the Issuer, the Trustee and each Paying Agent harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility, or (ii) liability arising from or expense incurred in connection with the Issuer's financing of the Series 2019 Project, including without limiting the generality of the foregoing, all claims arising from the breach by the Institution of any of its covenants contained herein, and all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Issuer, the Trustee or any Paying Agent are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Issuer, the Trustee or any Paying Agent or any of their respective members, directors, trustees, officers, agents or employees. The foregoing indemnities shall apply notwithstanding the fault or gross negligence in part of the Issuer, the Trustee or any Paying Agent, or any of their respective members, directors, trustees, officers, agents or employees, and irrespective of the breach of a statutory obligation (other than a breach caused by any of their respective gross negligence or intentional or willful wrongdoing) or the application of any rule of comparative or apportioned

liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(b) Notwithstanding any other provisions of this Loan Agreement, the obligations of the Institution pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the Issuer, the Trustee or their respective members, directors, officers, agents and employees, relating to the enforcement of the provisions herein specified.

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

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

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

Section 8.4 Institution to Maintain Its Existence. The Institution agrees that during the Loan Term (a) it will maintain its existence as a not-for-profit corporation constituting an Exempt Organization subject to service of process within the State and will not dissolve or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it or acquire all or substantially all of the assets of one or more entities without the prior written consent of the Issuer; (b) it will preserve its status as an organization described in Section 501(c)(3) of the Code; (c) it will own the Facility and lease the Facility to the School pursuant to the Lease Agreement, and will charge Lease Payments in an amount that will be sufficient in each Fiscal Year to provide funds for the following: (1) the payment by the Institution of all of its expenses for the operation, maintenance and repair of its facilities or Facility in such year; (2) the payment of all amounts due under this Loan Agreement in such year; and (3) the payment of all Indebtedness and all other obligations of the Institution due in such year; and (d) it will not perform any act, enter into any agreement, or use or permit the Facility to be used in any manner or for any unrelated trade or business as described in Section 513(a) of the Code, which could adversely affect the exemption of interest on the Series 2019 Bonds from Federal income taxes pursuant to Sections 103 and 145 of the Code. Prior to the Institution performing any act, entering into any agreement or using or permitting the Facility to be used in any manner that would constitute an unrelated trade or business within the meaning of Section 513(a) of the Code, the Institution shall provide written notice to the Issuer and the Trustee and the Issuer and the Trustee shall receive an opinion of counsel satisfactory to each of them to the effect that such

contemplated act, agreement or use will not adversely affect the exemption of interest on the Series 2019 Bonds for Federal income tax purposes.

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

Section 8.6 Agreement to Provide Information. The Institution agrees within a reasonable period of time following a written request by the Issuer to provide and certify or cause to be provided and certified such information concerning the Institution, its finances, its operations and its affairs necessary to enable the Issuer to make any report required by law, including with limitation pursuant to the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009, each as amended from time to time, or any other reports required by the New York State Authority Budget Office or the Office of the State Comptroller, governmental regulation or any of the Issuer Documents or Institution Documents.

Section 8.7 Books of Record and Account; Financial Statements. The Institution at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles consistently applied, of all transactions and events relating to the business and affairs of the Institution. The Trustee and the Issuer shall each have the right to inspect such books and records of the Institution at reasonable times and upon reasonable prior notice.

Section 8.8 Compliance with Orders, Ordinances, Etc.

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

(b) The Institution shall keep or cause the Facility to be kept free of Hazardous Substances, except in compliance with applicable law. Without limiting the foregoing, the Institution shall not cause or permit the Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws, regulations and permits, nor shall the Institution cause or permit, as a result of any intentional or unintentional act or omission on the part of the Institution or any contractor, subcontractor, tenant or subtenant, a release of Hazardous Substances onto the Facility or onto any other property. If the Institution receives any notice of (1) the presence of Hazardous Substances at the Facility, (2) any violation of or noncompliance with any Environmental Law (as hereinafter defined), (3) the occurrence of a Hazardous Discharge (as hereinafter defined) on or about any asset, business, facility or property

of the Institution or caused by the Institution, or (4) any Environmental Complaint (as hereinafter defined) affecting the Institution or the Facility or the Institutions' operations, assets, business, facilities or properties, then the Institution will give written notice of the foregoing to the Trustee and the Issuer within five (5) days of receipt thereof. The Institution shall comply with and shall take all steps to ensure compliance by all contractors, subcontractors, tenants and subtenants with any Environmental Complaints, all applicable federal, state and local laws (including, without limitation, all Environmental Laws), ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and shall take all steps to ensure that all contractors, subcontractors, tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Institution shall (a) diligently and promptly conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Substances, on, from, or affecting the Facility through completion (i) in accordance with all applicable federal, state, and local laws (including, without limitation, Environmental Laws), ordinances, rules, regulations, and policies, (ii) to the satisfaction of the Trustee and the Issuer, and (iii) in accordance with the orders and directives of all federal, state, and local governmental authorities; (b) defend, indemnify, and hold harmless the Trustee and the Issuer, their employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release, or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise, (ii) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Trustee and the Issuer, which are based upon or in any way related to such Hazardous Substances, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses; and (c) to ensure that the Institution does correct, cleanup, remove, resolve or minimize the impact of any Hazardous Materials, Environmental Discharge or Environmental Complaint at the Issuer's option, (i) post a bond from a surety, or (ii) cause a lending institution to issue a letter of credit for the benefit of the Trustee and the Issuer and any Governmental Authority requiring the same; the surety or the lending institution (as applicable), and the form, the substance, and the amount of such bond or letter of credit to be satisfactory to the Issuer, and the applicable Governmental Authority. The provisions of this Section shall be in addition to any and all other obligations and liabilities the Institution may have to the Trustee at common law, and shall survive the transactions contemplated herein. For the purposes of this Agreement the following terms shall have the following meanings:

"Environmental Complaint" shall mean any judgment, lien, order, complaint, notice, citation, action, proceeding or investigation pending before any Governmental Authority, including, without limitation, any environmental regulatory body, with respect to or threatened against or affecting the Institution or relating to its business, assets, property or facilities or the Facility, in connection with any Hazardous Substances or any Hazardous Discharge or any Environmental Law.

“Environmental Laws” shall mean any applicable federal, state or local laws, rules, regulations, resolutions, ordinances, directives or orders (whether now existing or hereafter enacted or promulgated) or any judicial or administrative interpretation of such laws, rules, regulations, resolutions, ordinances, directives or orders or any other applicable determination regarding land, water, air, health, safety or environment including, for example but not limited to, the Federal Statutes and the State Statute.

“Governmental Authority” shall mean any federal, state, or local government, governing body, agency, court, tribunal, authority, subdivision, bureau or other recognized body having jurisdiction to enact, promulgate, interpret, enforce, review or repeal any Environmental Law.

“Hazardous Discharge” shall mean any release of a Hazardous Substance caused by the seeping, spilling, leaking, pumping, pouring, emitting, using, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substance into the environment, and any liability for the costs of any cleanup or other remedial action.

“Hazardous Substances” shall mean, without limitation, flammables, explosives, radioactive materials, radon, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls or related or similar materials, petroleum products, explosives, radioactive materials, or any other hazardous or toxic or harmful materials, wastes and substances or any other chemical, material, substance or element which is hereinafter defined, determined, identified, prohibited, limited or regulated by the Environmental Laws, or any other chemical, material, substance or element which is known to be harmful to the health or safety of occupants of property or which is hereinafter defined as a hazardous or toxic substance by any Federal, State, or local law, ordinance, rule or regulation, including, but not limited to the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), and/or the regulations promulgated in relation thereto, all as the same may be amended from time to time (collectively, the "Federal Statutes"); the New York State Environmental Conservation Law Article 27, Title 13 (the "State Statute"), and the regulations promulgated in relation thereto, all as the same may be amended from time to time.

(c) Notwithstanding the provisions of subsections (a) and (b) hereof, the Institution may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence (a “Contest”); provided, however, that: (i) enforcement proceedings with respect to any and all Environmental Laws are deferred or stayed during the pendency of the Contest; (ii) the Trustee and the Issuer shall not be subject to any civil or criminal or other penalties or liabilities, costs or expenses by reason of any such Contest or postponement of compliance; (iii) the Institution, at the Trustee’s request, shall post a bond, cause the issuance of a letter of credit or provide such other security required under the provisions of subsection (b) above; (iv) the lien of the Mortgage shall not be impaired in the sole judgment of the Trustee and no Event of Default shall be continuing hereunder; (v) the Institution shall notify the Trustee in

writing within five (5) days after commencement of a Contest, and shall give the Trustee and the Issuer a monthly report, during the period of a Contest, on the Institution's progress with respect thereto, and shall promptly give the Trustee and Issuer such other information with respect thereto as they may reasonably request; and (vi) the Institution shall, at its sole cost and expense, execute and deliver any documents jurisdictionally necessary or proper to prosecute such Contest proceedings. In such event, the Institution may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the Institution that by failure to comply with such requirement or requirements, the Facility or any part thereof may be subject to loss, penalty or forfeiture, in which event the Institution shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the Trustee and to the Issuer. If at any time the then existing use or occupancy of the Facility shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Institution shall not cause or permit such use or occupancy to be discontinued without the prior written consent of the Issuer and the Trustee.

(d) Notwithstanding the provisions of this Section 8.8, if, because of a breach or violation of the provisions of subsections (a) or (b) hereof (without giving effect to subsection (c) hereof), either the Issuer, the Trustee, or any of their respective members, directors, officers, agents, or employees, shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Issuer or the Trustee, the Institution shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Issuer or the Trustee, as the case may be, and their respective members, directors, officers, agents and employees deem sufficient, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

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

(f) The Institution, throughout the term of the Lease Agreement, agrees that it will cause the School to comply with all provisions of Section 24 of the Lease Agreement.

Section 8.9 Discharge of Liens and Encumbrances.

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

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

appeal therefrom, unless the Issuer or the Trustee shall notify the Institution that by nonpayment of any such item or items, the Facility or any part thereof may be subject to loss or forfeiture, in which event the Institution shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Issuer, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the Issuer to protect its interests. Mechanics' Liens shall be discharged or bonded within fifteen (15) days following the filing or perfection thereof.

Section 8.10 Identification of Equipment. All Equipment, as described in Exhibit A attached hereto, which is financed or refinanced in whole or in part with proceeds of the Series 2019 Bonds pursuant to the provisions of this Loan Agreement shall be properly identified by the Institution by such appropriate records, including computerized records, as may be approved by the Trustee. Such Equipment shall be covered by the security interests created by the Mortgage.

Section 8.11 Depreciation Deductions and Investment Tax Credit. The parties agree that, as between them, the Institution shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility pursuant to Section 167 or Section 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any part of the Facility which constitutes "Section 38 Property".

Section 8.12 Employment Opportunities, Notice of Jobs. The Institution covenants and agrees that, in consideration of the participation of the Issuer in the transactions contemplated herein, it will, except as otherwise provided or governed by collective bargaining contracts or agreements to which it is a party, cause any new permanent employment opportunities created in connection with the Facility to be listed with the New York State Department of Labor, Community Services Division and with the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act (PL 97-300), as superseded by the Workforce Innovation and Opportunity Act (PL 113-128), in which the Facility is located (collectively, the "**Referral Agencies**"). The Institution also agrees that, except as otherwise provided or governed by collective bargaining contracts or agreements to which it is a party, it will use its best efforts to consider first for such new permanent employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the Referral Agencies.

Section 8.13 Additional Indebtedness. The Institution may not incur Additional Indebtedness, except as consented to by the Majority Bondholder.

Section 8.14 Certain Additional Covenants.

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

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

(c) The Institution agrees that during the term of this Loan Agreement, amounts on deposit in the Repair and Replacement Fund shall be disbursed from time to time to the Institution to pay maintenance and repair costs with respect to the Facility upon the submission to the Trustee of a requisition signed by an Authorized Representative of the Institution and (unless such consent right is waived) consented to by the Majority Bondholder or the Construction Monitor substantially in the form of Exhibit B annexed to the Indenture. Each requisition shall also include a certification that as of the date thereof, no Default or Event of Default hereunder or under the other Bond Documents has occurred and is continuing. The Institution shall pay, or cause to be paid, to the Trustee for deposit to the Repair and Replacement Fund, in immediately available funds, an amount equal to the total amount of such disbursements made for a particular project in monthly installments of \$2,100, commencing in the month following completion of such project, until the Repair and Replacement Fund is restored to its then required level.

(d) The Institution shall not permit any amendments or modifications to the Lease Agreement without the prior written consent of the Majority Bondholder and the Issuer.

(e) The Institution shall comply at all times during the Loan Term with the covenants set forth in Section 29 of the Lease Agreement, subject to any applicable cure periods set forth therein.

(f) The Institution shall cause monthly monitoring of the active inline exhaust fan at the Facility to confirm that the sub-slab depressurization system is properly functioning, and to provide the Issuer and the Trustee with written reports of such monthly monitoring promptly upon written request therefor from the Issuer or the Trustee.

Section 8.15 Continuing Disclosure Agreement. The Institution and the School has executed and delivered to the Trustee a Continuing Disclosure Agreement, dated the date of initial delivery of the Series 2019 Bonds. The Institution hereby covenants and agrees with the holders from time to time of the Series 2019 Bonds that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement, as amended from time to time, applicable to it. Notwithstanding any other provision of this Loan Agreement, failure of the Institution or the School to comply with the Continuing Disclosure Agreement shall not be considered a default or an event of default under this Loan Agreement and the rights and remedies provided by this Loan Agreement upon the occurrence of such a default or an event of default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein.

Section 8.16 Securities Law Status. The Institution affirmatively represents, warrants and covenants that, as of the date of this Loan Agreement, it is an organization organized and

operated: (i) exclusively for civic or charitable purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inure to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and of the Securities Exchange Act of 1934, as amended. The Institution agrees that it shall not perform any act nor enter into any agreement which shall change such status as set forth in this Section 8.16.

Section 8.17 Rebate Covenant. The Institution covenants to make, or cause to be made, any and all payments required to be made to the United States Department of the Treasury in connection with the Series 2019A Bonds pursuant to Section 148(f) of the Code and to comply with instructions received from Bond Counsel pursuant to the certification with respect to the making of any such payments.

Section 8.18 Reliance by Trustee. The Trustee shall be entitled to rely on any instructions and certificates given by the Institution pursuant to the terms hereof and the Institution shall indemnify the Trustee for the consequences of all actions taken pursuant to any such instructions.

Section 8.19 Pledge of Pledged Revenues. In order to secure the payment of the principal amount of the Series 2019 Bonds issued under the Indenture, and the payment of the premium, if any, Sinking Fund Payments and interest on the Series 2019 Bonds, and to secure the payment and performance of the Institution's obligations under this Loan Agreement, the Notes, the Mortgage, and the other Institution Documents, the Institution hereby grants a security interest in and pledges, assigns, transfers and sets over to the Issuer the Pledged Revenues and all future Pledged Revenues.

ARTICLE IX

ASSIGNMENTS AND LEASING; AND PLEDGE OF INTERESTS

Section 9.1 Restriction on Sale of the Facility.

(a) Except as otherwise specifically provided in this Article IX and in Article X hereof, the Institution shall not sublease, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof or any of its rights under this Loan Agreement, without the prior written consent of the Issuer, the School and the Majority Bondholder.

Section 9.2 Removal of Equipment.

(a) The Issuer shall not be under any obligation to remove, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary item of Equipment. In any instance where the Institution determines that any item of Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Institution, with the prior written consent of the Issuer (which consent may not be unreasonably withheld but may be subject to such reasonable conditions as the Issuer may deem appropriate), may remove such items from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a

whole or in part, provided that such removal will not materially impair the operation of the Facility for the purpose for which it is intended.

(b) The Issuer and the Trustee shall execute and deliver to the Institution all instruments prepared by or on behalf of the Institution which are necessary or appropriate to enable the Institution to sublease or otherwise dispose of, free and clear of any lien, claim or encumbrance, including, but not limited to, any releases of and from this Loan Agreement, any such item of Equipment. The Institution shall pay any costs (including reasonable counsel fees and expenses) incurred in transferring title to any item of Equipment removed pursuant to this Section 9.2.

(c) The removal of any item of Equipment pursuant to this Section shall not entitle the Institution to any abatement or diminution in or postponement of the rents payable by it under this Loan Agreement.

Section 9.3 Assignment, Leasing and Subleasing.

(a) This Loan Agreement may not be assigned, in whole or in part, and except for the leasing of the Facility to the School pursuant to the Lease Agreement, the Facility may not be leased, in whole or in part, without the prior written consent of the Issuer and the Majority Bondholder in each instance. Any assignment or lease shall be on the following conditions:

- (i) no assignment or lease shall relieve the Institution from primary liability for any of its obligations hereunder or under any other of the Institution Documents;
- (ii) the assignee or lessee shall assume the obligations of the Institution hereunder to the extent of the interest assigned or leased, shall be jointly and severally liable with the Institution for the performance thereof and shall be subject to service of process in the State of New York;
- (iii) the Institution shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Issuer and to the Trustee a true and complete copy of such assignment or lease and the instrument of assumption;
- (iv) neither the validity nor the enforceability of the Series 2019 Bonds or any Bond Document shall be adversely affected thereby;
- (v) the exclusion of the interest on the Series 2019 Bonds from gross income for Federal income tax purposes will not be adversely affected;
- (vi) the assignee or lessee shall be an Exempt Organization and shall utilize the Facility substantially in the same manner as the Institution as facilities of higher education; and
- (vii) the Institution has received prior written consent from the School.

(b) If the Trustee or the Issuer shall so request, as of the purported effective date of any assignment or lease pursuant to subsection (a) of this Section 9.3, the Institution, at its sole

cost, shall furnish the Trustee or the Issuer, as appropriate, with an opinion, in form and substance satisfactory to the Trustee or the Issuer, as appropriate, (i) of Bond Counsel as to items (v) and (vi) above, and (ii) of Independent Counsel as to items (i), (ii) and (iv) above.

Section 9.4 Pledge of Issuer's Interests to Trustee. The Issuer shall pledge and assign its rights to and interest in this Loan Agreement and in all amounts payable by the Institution pursuant to Section 5.3 hereof, and all other provisions of this Loan Agreement (other than Unassigned Rights and except for the moneys and investments from time to time in the Rebate Fund), to the Trustee as security for the payment of the principal of, and premium, if any, and interest on the Series 2019 Bonds. The Institution hereby acknowledges and consents to such pledge and assignment by the Issuer. Notwithstanding the foregoing, all indemnities herein contained shall, subsequent to such pledge and assignment, continue to run to the Issuer for its benefit as well as for the benefit of the Trustee.

Section 9.5 Merger of Issuer.

(a) Nothing contained in this Loan Agreement shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of its interest in the entire Facility to any other public benefit corporation or political subdivision which has the legal authority to enter into this Loan Agreement, provided that:

(i) upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Loan Agreement to be kept and performed by the Issuer shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Issuer's interest in the Facility shall be transferred; and

(ii) the exclusion of the interest on the Series 2019 Bonds from gross income for Federal income tax purposes shall not be adversely affected thereby.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of interest, the Issuer shall give notice thereof in reasonable detail to the Institution and the Trustee and shall furnish to the Institution and the Trustee (i) a favorable opinion of Independent Counsel as to compliance with the provisions of Section 9.5(a)(i) hereof, and (ii) a favorable opinion of Bond Counsel opining as to compliance with the provisions of Section 9.5(a)(ii) hereof. The Issuer promptly shall furnish such additional information with respect to any such transaction as the Institution or the Trustee may reasonably request.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined.

(a) The following shall be "Events of Default" under this Loan Agreement:

- (i) the failure by the Institution to pay or cause to be paid on the date due, the amounts specified to be paid pursuant to Sections 5.3(a), (b), (d) and (e) hereof;
- (ii) the failure by the Institution to observe and perform any covenant contained in Sections 6.3, 6.4, 6.5, 8.2, 8.4, 8.5, 8.6, 8.8, 8.12, 8.13, 8.14, and 9.3 hereof;
- (iii) any representation or warranty of the Institution herein or in the Bond Purchase Agreement shall prove to have been false or misleading in any material respect and the same shall have, in the opinion of the Issuer, a materially adverse effect upon the Institution, the Series 2019 Project, or the exclusion of interest on the Series 2019A Bonds from gross income for federal income tax purposes;
- (iv) the failure by the Institution to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in 10.1(a)(i) or (ii)) for a period of thirty (30) days after receiving written notice, specifying such failure and requesting that it be remedied, given to the Institution by the Issuer or the Trustee; provided, however, that if such default cannot be cured within thirty (30) days but the Institution is proceeding diligently and in good faith to cure such default, then the Institution shall be permitted an additional ninety (90) days within which to remedy the default;
- (v) the dissolution or liquidation of the Institution; or the failure by the Institution to release, stay, discharge, lift or bond within sixty (60) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Institution generally to pay its debts as they become due; or an assignment by the Institution for the benefit of creditors; the commencement by the Institution (as the debtor) of a case in Bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the Institution (as the debtor) and a court having jurisdiction in the premises enters a decree or order for relief against the Institution as the debtor in such case or proceeding, or such case or proceeding is consented to by the Institution or remains undismissed for sixty (60) days, or the Institution consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Institution for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors (the term "dissolution or liquidation of the Institution" as used in this subsection shall not be construed to include any transaction permitted by Section 8.4 hereof);
- (vi) an Event of Default under or a default on the part of the Institution of its obligations under the Indenture shall have occurred and be continuing;
- (vii) the invalidity, illegality or unenforceability of any of the Bond Documents, provided the same does not permit the Issuer or the Trustee, as the case may be, to recognize the material benefits of the respective documents;

(viii) a breach of any covenant or representation contained in Section 8.8 hereof with respect to environmental matters;

(ix) an Event of Default under the Mortgage, the Assignment of Leases and Rents or the Lease Agreement, shall have occurred and be continuing;

(x) the suspension, revocation, termination or failure of renewal of the School's Charter by the New York State Board of Regents.

(b) Notwithstanding the provisions of Section 10.1(a) hereof, if by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under this Loan Agreement (other than its obligations under Section 5.3(a), (b) or (d) hereof) and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Trustee, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under this Loan Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

Section 10.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred, the Issuer or the Trustee may, with the consent of the Majority Bondholder (except with respect to a default in connection with Section 8.6 hereof, in which case Majority Bondholder consent is not necessary), take, to the extent permitted by law, any one or more of the following remedial steps:

(i) Subject to the provisions of the Indenture, declare, by written notice to the Institution, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid Loan Payments payable pursuant to Section 5.3(a) hereof and pursuant to the Promissory Note in amount equal to the aggregate unpaid principal balance of all Bonds together with all interest which has accrued and will accrue thereon to the date of payment and all premium, if any, and (B) all other payments due under this Loan Agreement;

(ii) (A) apply any undisbursed money in the Project Fund, Repair and Replacement Fund and Renewal Fund to the payment of the costs and expenses incurred in connection with the enforcement of the rights and remedies of the Trustee and the Issuer, and (B) apply any undisbursed monies in the Project Fund, Repair and Replacement Fund, the Renewal Fund, and any other Fund or Account under the Indenture (other than those sums attributable to Unassigned Rights and except for the monies and investments from time to time in the Rebate Fund) to the payment of the outstanding principal amount of the Series 2019 Bonds and premium, if any, and accrued and unpaid interest on the Series 2019 Bonds;

(iii) direct the Trustee to foreclose on the Mortgage, the Assignment of Leases and Rents or otherwise realize upon or seize any portion of the Trust Estate; or

(iv) take any other action at law or in equity that may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Institution under this Loan Agreement.

(b) Reserved.

(c) Any sums payable to the Issuer as a consequence of any action taken pursuant to this Section 10.2 (other than those sums attributable to Unassigned Rights and except for the moneys and investments from time to time in the Rebate Fund) shall be paid to the Trustee and applied to the payment of the Series 2019 Bonds.

(d) No action taken pursuant to this Section 10.2 shall relieve the Institution from its obligation to make all payments required by Section 5.3 hereof and pursuant to the Promissory Note.

(e) Reserved.

(f) The Issuer shall have all of the rights, powers and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation, the right to seize or otherwise dispose of any or all of the Collateral described in Section 5.7 hereof, and to receive the payment of or take possession of the Collateral or the proceeds thereof. Upon the occurrence of an Event of Default by the Institution hereunder, the Institution hereby agrees that it will not commingle any moneys or other proceeds received by it in connection with any Collateral with any other moneys, funds or accounts of the Institution.

Section 10.3 Remedies Cumulative. No remedy herein conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee, as appropriate, to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Loan Agreement.

Section 10.4 Agreement to Pay Attorneys' Fees and Expenses.

(a) In the event the Institution should default under any of the provisions of this Loan Agreement and the Issuer should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Institution herein contained, the Institution shall, on demand therefor, pay to the Issuer the reasonable fees of such attorneys and such other reasonable expenses so incurred.

(b) In the event the Institution should default under any of the provisions of this Loan Agreement and the Trustee should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Institution herein contained, the Institution shall, on demand therefor, pay to the Trustee the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 10.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.6 Certificate of No Default. The Institution shall deliver to the Issuer and the Trustee each year no later than January 15 a certificate signed by the Treasurer or the Executive Director of the Institution (i) stating that the Institution is not in default under this Loan Agreement and no Event of Default exists under this Loan Agreement or any other Institution Document and/or (ii) disclosing if an Event of Default has occurred within the past year and/or is continuing, the nature of such Event of Default, and describing the cure which was or is being implemented in connection with the same. Such certificate shall also contain all information required by Section 8.6 hereof.

ARTICLE XI

EARLY TERMINATION OF LOAN AGREEMENT; OPTION IN FAVOR OF INSTITUTION

Section 11.1 Early Termination of Loan Agreement. The Institution shall have the option, upon the School's written consent, to terminate this Loan Agreement at any time that the Series 2019 Bonds are subject to redemption in whole under the Indenture and upon filing with the Issuer and the Trustee a certificate signed by an Authorized Representative of the Institution stating the Institution's intention to do so pursuant to this Section and the date upon which such payment shall be made (which date shall not be less than forty-five (45) nor more than ninety (90) days from the date such certificate is filed) and upon compliance with the requirements set forth in Section 11.2 hereof.

Section 11.2 Conditions to Early Termination of Loan Agreement. In the event the Institution exercises its option to terminate this Loan Agreement in accordance with the provisions of Section 11.1 hereof, the Institution shall make the following payments:

(a) To the Trustee for the account of the Issuer: an amount certified by the Trustee which, when added to the total amount on deposit with the Trustee for the account of the Issuer and the Institution and available for such purpose, will be sufficient to pay the principal of, Redemption Price of, and interest to maturity or the earliest practicable redemption date, as the case may be, on the Series 2019 Bonds, all expenses of redemption and the Trustee's fees and expenses.

(b) To the Issuer: an amount certified by the Issuer sufficient to pay all unpaid fees and expenses of the Issuer incurred under the Bond Documents.

(c) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under the Bond Documents.

Section 11.3 Amounts Remaining on Deposit with the Trustee upon Payment of Bonds. After payment in full of the principal of, Redemption Price of and interest on the Series 2019 Bonds and the payment of all fees, charges, expenses and other amounts required to be paid under the Bond Documents, all amounts on deposit with the Trustee for the account of the Issuer and the Institution under the Bond Documents (except for amounts attributable to Unassigned Rights and except for the moneys and investments from time to time in the Rebate Fund) shall belong to and be paid to the Institution by the Trustee as an overpayment of loan payments, and neither the Trustee nor the Owners of the Series 2019 Bonds shall have any rights hereunder, except those that shall have theretofore vested.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices. All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows or to such other address as any party may specify in writing to the other:

To the Issuer:

Town of Hempstead Local Development Corporation
350 Front Street, 2nd Floor
Hempstead, New York 11550-4037
Attention: Executive Director and Chief Executive Officer

To the Institution:

Circulo Real Property Holding Corporation
20 West Park Avenue
Long Beach, New York 11561
Attention: Executive Director

To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
Attention: Corporate Trust Services

To the School:

Evergreen Charter School
605 Peninsula Boulevard
Hempstead, New York 11550
Attention: President

A duplicate copy of each notice, certificate and other written communication given hereunder by either the Issuer or the Institution to the other shall also be given to the Trustee, and a duplicate copy of each notice, certificate and any other written communication given hereunder by either the Trustee or the Issuer to the other shall also be given to the Institution, at the addresses herein set forth or provided for. Such notice shall be deemed to have been given upon receipt or upon refusal of the party being notified to accept delivery of such notice.

Whenever a notice to or consent or approval from the School is required, such notice to or consent or approval from the School shall only be required if the Lease is in effect and the School is not in default thereunder.

Section 12.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 12.3 Severability. In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.4 Amendments, Changes and Modifications. This Loan Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties hereto in accordance with the provisions of Article X of the Indenture and without the concurring written consent of the Trustee.

Section 12.5 Execution of Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Loan Agreement and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Loan Agreement as to the parties hereto and may be used in lieu of the original Loan Agreement and signature pages for all purposes.

Section 12.6 Applicable Law. This Loan Agreement shall be governed by and construed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles.

Section 12.7 List of Additional Equipment; Further Assurances.

The Issuer and the Institution shall execute and deliver all instruments and shall furnish all information necessary or appropriate to perfect or protect any security interest created or contemplated by this Loan Agreement and the Indenture.

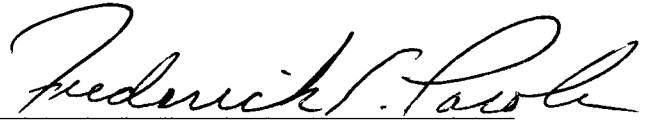
Section 12.8 Survival of Obligations. This Loan Agreement shall survive the purchase and sale of the Series 2019 Bonds and the performance of the obligations of the Institution to make payments required by Section 5.3 and all indemnities shall survive the foregoing and any termination or expiration of this Loan Agreement and the payment, prepayment or redemption of the Series 2019 Bonds.

Section 12.9 Table of Contents and Section Headings not Controlling. The Table of Contents and the headings of the several Sections in this Loan Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Loan Agreement.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Issuer and the Institution have caused this Loan Agreement to be executed in their respective names by their duly authorized officers, all dated as of August 1, 2019.

**TOWN OF HEMPSTEAD LOCAL
DEVELOPMENT CORPORATION**

By: 

Name: Frederick E. Parola
Title: Executive Director and
Chief Executive Officer

**CIRCULO-REAL PROPERTY HOLDING
CORPORATION**

By: 

Name: Sarah E. R. Brewster
Title: Executive Director

EXHIBIT A

EQUIPMENT

All equipment, fixtures, machinery, building materials and items of personal property acquired, constructed, renovated and installed in connection with the Town of Hempstead Local Development Corporation's (the "**Issuer**") Circulo Real Property Holding Corporation/Evergreen Charter School Project located at the Facility described in the Loan Agreement, dated as of August 1, 2019 (the "**Loan Agreement**"), by and between the Issuer and Circulo Real Property Holding Corporation, and financed or refinanced in whole or in part with proceeds of the Issuer's Tax-Exempt Revenue Refunding Bonds, Series 2019A-1 (Circulo Real Property Holding Corporation/Evergreen Charter School Project), Tax-Exempt Revenue Refunding Bonds, Series 2019A-2 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) and Taxable Revenue Refunding Bonds, Series 2019B (Circulo Real Property Holding Corporation/Evergreen Charter School Project).

EXHIBIT B

Compliance with Labor Law, Executive Law and Civil Rights Law

The purpose of the Town of Hempstead Local Development Corporation (the “**Issuer**”) is to provide benefits that reduce costs and financial barriers to the creation and to the expansion of business and enhance the number of jobs in the Town of Hempstead.

The Issuer has consistently sought to ensure that skilled and fair paying construction jobs be encouraged in projects funded by the issuance of the Issuer’s tax exempt bonds.

Now therefor, the parties to the attached Loan Agreement (the “**Agreement**”) further agree to be bound by the following, which are hereby made a part of the Agreement.

I. The Institution agrees that:

- (a) no laborer, workman or mechanic, in the employ of any of the Institution or any contractor, subcontractor or other person doing or contracting to construct the Facility shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law of the State of New York (the “**Labor Law**”) or at prevailing overtime wages;
- (b) (i) the construction, renovation and equipping of the Facility shall be governed by the requirements of Section 220-d of Article 8 of the Labor Law as if such Section 220-d of the Labor Law applied to the Institution and the Facility, and when requested by the Issuer, it will provide to the Issuer a plan for an apprenticeship program, or (ii) it will provide to the Issuer a project labor agreement or alternative proposal, approved in writing by the Issuer, to pay fair wages to workers at the construction site; and
- (c) In the event that any of these conditions cannot be met, the Institution shall submit to the Issuer an explanation as to the reasons for its failure or inability to comply with such conditions. Furthermore, this policy may be waived, in the sole and final discretion of the Issuer, in the event that the Institution demonstrates to the Issuer special circumstances or economic hardship to justify a waiver to be in furtherance of the purposes and goals of the Issuer.

II. To the extent required by law, the Institution agrees that:

- (a) in the hiring of employees for the performance of work in constructing and equipping of the Facility, or for the manufacture, sale or distribution of materials, equipment or supplies in connection with the construction and equipping of the Facility, neither the Institution nor any contractor,

subcontractor nor any person acting on behalf of the Institution shall by reason of race, creed, color, disability, sex, national origin, marital status or Vietnam era veteran status discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;.

(b) neither the Institution nor any contractor, subcontractor, nor any person on its behalf shall, in connection with the construction and equipping of the Facility, discriminate against or intimidate any employee hired for the performance of work involved in constructing and equipping the Facility on account of race, creed, color, disability, sex, national origin, marital status or Vietnam era veteran status; and

(c) the aforesaid provisions of this section covering every contract for the manufacture, sale or distribution of materials, equipment or supplies in connection with the construction and equipping of the Facility shall be limited to operations performed within the territorial limits of the State of New York; and

(d) the Institution shall comply with any other applicable requirements of Section 220-e of the Labor Law.

III. To the extent required by law, the Institution will comply with the applicable provisions of Sections 291-299 of the Executive Law, and with the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights, and will permit access to its books, records and accounts by the State Division of Human Rights, the Attorney General and the Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and the Civil Rights Law.

EXHIBIT C

FORM OF PROMISSORY NOTE

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS NOTE, THIS NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH OF WHICH ARE REFERRED TO HEREIN

\$[2,470,000][\\$11,170,000][\\$900,000]

August 8, 2019

PROMISSORY NOTE

FOR VALUE RECEIVED, 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**”), having an office at 20 West Park Avenue, Long Beach, New York 11561 (the “**Institution**”), by this promissory note hereby promises to pay to the order of the TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION, a local development corporation existing under the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550 (the “**Issuer**”) the principal sum of [TWO MILLION FOUR HUNDRED SEVENTY THOUSAND AND NO/100 (\$2,470,000)][ELEVEN MILLION ONE HUNDRED SEVENTY THOUSAND AND NO/100 (\$11,170,000)][NINE HUNDRED THOUSAND (\$900,000)], together with interest on the unpaid principal amount hereof, from the date of the issuance and delivery of the Series 2019[A-1][A-2][B] Bonds (as such term is hereinafter defined) until paid in full, at a rate per annum equal to the respective rates of interest borne from time to time by the Series 2019[A-1][A-2][B] Bonds, together with all Sinking Fund Payments, Redemption Price and purchase price payments as and when due. All capitalized terms used but not defined in this Promissory Note shall have the respective meanings assigned such terms by the Indenture (as hereinafter defined) or by the Loan Agreement (as hereinafter defined). All such payments shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America and shall be paid at the designated corporate trust office of UMB Bank, N.A., or its successor as trustee (the “**Trustee**”) under the Indenture.

The principal amount, interest, Sinking Fund Payments, Redemption Price, and purchase price shall be payable on the dates and in the amounts that principal of, interest on Sinking Fund Payments, Redemption Price of and purchase price of the Series 2019[A-1][A-2][B] Bonds are payable under the Loan Agreement (as defined below), subject to prepayments and credits to the extent provided in the Indenture and the Loan Agreement.

This Series 2019 [A-1][A-2][B] Promissory Note is referred to in the Loan Agreement, dated as of August 1, 2019 (the “**Loan Agreement**”), between the Institution and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

This Series 2019 [A-1][A-2][B] Promissory Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture of Trust, dated as of August 1, 2019 (the “**Indenture**”), by and between the Issuer and the Trustee, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment.

Such assignment is made as security for the payment of the Issuer’s \$[2,470,000][11,170,000][900,000] in aggregate principal amount of [Tax-Exempt][Taxable] Revenue Refunding Bonds (Circulo Real Property Holding Corporation/Evergreen Charter School Project), Series 2019[A-1][A-2][B](the “**Series 2019 Bonds**”), issued by the Issuer pursuant to the Indenture. All the terms, conditions and provisions of the Indenture, the Loan Agreement and the Series 2019 Bonds are hereby incorporated as a part of this Series 2019 [A-1][A-2][B] Promissory Note.

The Institution may at its option, and may under certain circumstances be required to, prepay together with accrued interest, all or any part of the amounts due under this Series 2019 [A-1][A-2][B] Promissory Note, as provided in the Loan Agreement and the Indenture.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Institution.

The Institution hereby promises to pay costs of collection and attorneys’ fees and expenses in case of default on this Promissory Note.

This Series 2019 [A-1][A-2][B] Promissory Note shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflicts of law principles thereof.

(Remainder of Page Intentionally Left Blank – Signature Page Follows)

This Series 2019 [A-1][A-2][B] Promissory Note is signed and delivered as of the date first above written.

**CIRCULO REAL PROPERTY HOLDING
CORPORATION**

By: _____

Name: Sarah E. R. Brewster

Title: Executive Director

FORM OF ENDORSEMENT

PAY TO THE ORDER of UMB BANK, N.A., without recourse, as Trustee under the Indenture referred to in the within mentioned Loan Agreement, as security for the Series 2019 Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Series 2019[A-1][A-2][B] Promissory Note.

TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION

By: _____
Name: Fredrick E. Parola
Title: Executive Director and
Chief Executive Officer

(END OF FORM OF PROMISSORY NOTE)