

## Lease Agreement

THIS LEASE AGREEMENT is made and entered into this \_\_\_\_ day of October, 2011 by and between The School Board of Sarasota County, Florida, a body corporate under the laws of the State of Florida, hereinafter referred to as "School Board", and Circus Sarasota Inc., a Florida not-for-profit corporation.

### WITNESSETH:

WHEREAS, the Sarasota Sailor Circus "Circus" has been operated by the SCHOOL BOARD for decades in order to provide Sarasota County youth the opportunity to receive instruction about, and perform in, a circus; and

WHEREAS, CIRCUS SARASOTA INC. has agreed to undertake responsibility for the operation of the Circus and to continue providing circus related instruction and opportunities to the youth of Sarasota County; and

WHEREAS, in order to continue the operation of the Circus, CIRCUS SARASOTA INC. will lease certain real property from SCHOOL BOARD; and

WHEREAS, SCHOOL BOARD finds that CIRCUS SARASOTA INC.'s operation of the Circus will benefit the public and serve a valid public purpose.

NOW, THEREFORE, in consideration of the foregoing premises and in consideration of the covenants hereinafter contained, it is agreed between the parties as follows:

1. GRANT OF LEASEHOLD: SCHOOL BOARD does hereby lease unto CIRCUS SARASOTA INC. and CIRCUS SARASOTA INC. does hereby accept from SCHOOL BOARD the real property (the "leasehold premises" or "premises") described in Exhibit "A".
2. LEASE TERM AND RENTAL AMOUNT: The term of this Lease Agreement shall be for a period of 42 years. The lease term shall commence on October 5, 2011, or the date this Lease Agreement is fully executed by the parties hereto, whichever is later. The leasehold premises shall rent for a total of \$42.00 dollars, payable upon the execution of this Lease Agreement. The faithful performance by CIRCUS SARASOTA INC. of the terms, conditions and covenants contained herein shall be deemed to be additional consideration for the grant of the lease of CIRCUS SARASOTA INC. If not earlier terminated pursuant to the terms herein, at the conclusion of the term of this Lease, it may be extended by the mutual agreement of the parties for an additional ten (10) year period.

3. USE OF LEASEHOLD PREMISES: The parties agree that the leasehold premises shall be used for the following purposes: circus training, instruction, and performances; administrative offices; storage of circus equipment; and community events that may involve the serving of food and beverages, including alcoholic beverages.
4. COMPLIANCE WITH LAW: CIRCUS SARASOTA INC. shall comply with all applicable federal, state, county and municipal laws, ordinances and regulations regarding the operation of the facility, the construction of improvements, and the use of the premises.
5. CONSTRUCTION OF IMPROVEMENTS: Subject to the prior approval of the SCHOOL BOARD, during the term of this Lease Agreement, CIRCUS SARASOTA INC. shall have the right to demolish or alter current improvements on the leasehold premises and to construct improvements on the leasehold premises including air conditioning, dressing and changing facilities and administrative offices. All improvements shall be erected in a good and workmanlike manner. Prior to demolishing or altering existing improvements, commencing construction of new improvements, or erection of signage, CIRCUS SARASOTA INC. must submit its plans and specifications to the Superintendent of the SCHOOL BOARD, or the Superintendent's designee, and obtain written consent. Such consent, or lack thereof, will be communicated to CIRCUS SARASOTA INC., in writing, no more than 60 days after submittal.
6. MANAGEMENT AND MAINTENANCE OF LEASEHOLD PREMISES AND IMPROVEMENTS: CIRCUS SARASOTA INC. shall have the sole responsibility to manage and operate the facilities including all improvements constructed on the leasehold premises, except as otherwise specified within this Lease Agreement. CIRCUS SARASOTA INC. at its sole expense shall maintain the leasehold premises including the interior and exterior of any structure on the leasehold premises. CIRCUS SARASOTA INC. shall keep the improvements in a state of good repair for the entire term of this Lease Agreement, and any extensions hereof.

CIRCUS SARASOTA INC. shall maintain any exterior landscaping of the premises including the parking area in good repair. CIRCUS SARASOTA INC. agrees that SCHOOL BOARD shall have the right at all reasonable times to enter upon the grounds of the leasehold premises. CIRCUS SARASOTA INC. shall not commit, nor suffer to be committed, waste to the leasehold premises, or to any improvement on the leasehold premises. CIRCUS SARASOTA INC. acknowledges that SCHOOL BOARD shall have no responsibility for the operation and maintenance of the facilities on the leasehold premises, except as otherwise provided in this Lease Agreement.

7. INDEMNIFICATION: CIRCUS SARASOTA INC. shall indemnify and save SCHOOL BOARD harmless from and against any and all liability and costs arising from injury to persons or property occasioned wholly or in part by any act or omission of CIRCUS SARASOTA INC., its employees, invitees and all other persons whom CIRCUS

SARASOTA INC. permits in, on or about the leasehold premises except to the extent that such liabilities and costs result from the direct negligence of SCHOOL BOARD, its agents, employees, subcontractors, or invitees. CIRCUS SARASOTA INC. shall defend any and all actions, suits or proceedings which may be brought against SCHOOL BOARD, or in which the SCHOOL BOARD, may be impleaded or joined with others as a result of CIRCUS SARASOTA INC.'s occupancy of the leasehold premises, and shall satisfy, pay and discharge any and all such judgments, orders and decrees that may be recovered against CIRCUS SARASOTA INC. or SCHOOL BOARD, in any such action or proceedings. This provision shall survive expiration or termination of this Lease Agreement.

Notwithstanding any provision of this Lease Agreement to the contrary, no provision of this Lease Agreement shall be construed as a waiver of SCHOOL BOARD's right of sovereign immunity or the provisions of Section 768.28, Florida Statutes.

8. PERMANENT IMPROVEMENTS TO BECOME PROPERTY OF SCHOOL BOARD: REMOVAL OF TRADE FIXTURES: Every permanent improvement of any nature whatsoever constructed upon the leasehold premises by CIRCUS SARASOTA INC. shall become the property of SCHOOL BOARD, upon the expiration of this Lease Agreement, or upon its earlier termination in accordance with the provisions hereof or law. CIRCUS SARASOTA INC. retains the right to remove all of its trade fixtures, including its tangible personal property, at the termination of this Lease Agreement. Should CIRCUS SARASOTA INC. fail to remove any trade fixtures or personal property at the expiration of thirty (30) days following the termination of this Lease Agreement, then the same shall become the property of SCHOOL BOARD, and SCHOOL BOARD shall have the right to dispose of the same at private or public sale and without liability to CIRCUS SARASOTA INC. therefore.
9. DESTRUCTION OF PREMISES: In the event of the total or partial destruction of the improvements on the leasehold premises by fire or otherwise, at CIRCUS SARASOTA INC.'s sole option, the lease shall terminate and the rights of all parties hereunder shall cease (except such rights and liabilities as may have accrued to the time of such destruction) or CIRCUS SARASOTA INC. shall have the right to rebuild such improvements and to continue its occupancy and usage of the leasehold premises under the terms of this Lease Agreement. In the event of a termination pursuant to this paragraph, SCHOOL BOARD may require CIRCUS SARASOTA INC. to return the leasehold premises in the same condition as existed at the commencement of the Lease. It is not the intention of the parties that the CIRCUS SARASOTA INC. would leave partially or substantially destroyed facilities on the property, or leave the leasehold premises in an unsafe condition, or cause a nuisance or eyesore. In the event that CIRCUS SARASTOA INC. elects to terminate the lease following a fire or other casualty, SCHOOL BOARD shall have the option to require the CIRCUS SARASOTA INC. to remove the structures from the property and return the property to its original condition.

10. PLEDGE, ASSIGNMENT OR ENCUMBRANCE: CIRCUS SARASOTA INC. shall not assign this Lease Agreement or sublet or grant any concession or license to use the facilities or any part thereof without the written consent of SCHOOL BOARD or its superintendent. No sublease, contract, or assignment shall release CIRCUS SARASOTA INC. from its obligations and responsibilities under this Lease.

CIRCUS SARASOTA INC. shall keep the leasehold premises and improvements constructed thereon free and clear of all liens, mortgages, claims of lien and encumbrances. CIRCUS SARASOTA INC. shall maintain the leasehold premises and any improvements thereon free from all orders, notices and violations filed or entered by any public or quasi-public authorities. No lien arising under Part I of Chapter 713, Florida Statutes, or any statute of similar import, shall extend to the interest of SCHOOL BOARD in the leasehold premises. CIRCUS SARASOTA INC. shall pay all costs incurred in connection with the construction, alteration, demolition, maintenance, repair of any and all improvements on the leasehold premises. In connection with construction of improvements, CIRCUS SARASOTA INC. shall comply with the provisions of Florida Statutes Section 255.05.

11. JOINT VENTURE: SCHOOL BOARD and CIRCUS SARASOTA INC. warrant and represent that by the execution of this Lease Agreement is not the intent of the parties that the use of the leasehold premises by CIRCUS SARASOTA INC., or the construction of the improvements thereof by CIRCUS SARASOTA INC., be construed or deemed to represent a joint venture or undertaking between CIRCUS SARASOTA INC. and SCHOOL BOARD. CIRCUS SARASOTA INC. shall, at all times, be solely responsible for the operation of the facilities on the leasehold premises, the maintenance of the improvements constructed thereon, and the conduct of all activities and services provided by CIRCUS SARASOTA INC. as part of the circus facilities.

12. UTILITIES: CIRCUS SARASOTA INC. shall fully and promptly pay for all water, trash, gas, electricity, sewerage, telephone service and other public utilities of every kind furnished to the leasehold premises throughout the term hereof, and all other costs and expenses of every kind whatsoever of or in connection with the use, operation and maintenance of the leasehold premises and all activities conducted thereon.

13. RESERVATION OF EASEMENT: SCHOOL BOARD owns lands adjacent to the leasehold premises. It is conceivable that with regard to such future development there may be a need for access and use of portions of the leasehold premises for the installation, construction, repair, maintenance, and replacement of lines, pipes, wells, drains, cables, equipment, apparatus, structures, roads, roads, driveways, and other items for utility services of all kinds (including without limitation, water, sewer, gas, drainage, irrigation, fire protection, electricity, telephone, cable television, and trash disposal). SCHOOL BOARD reserves an easement over, across, and under the leasehold premises for the above described purposes.

SCHOOL BOARD's reservation of such easement shall not be construed as placing any obligation on SCHOOL BOARD which is not expressly set forth elsewhere in this Agreement. If the use by SCHOOL BOARD of the easement reserved hereunder causes damage to any building, structure, or other improvements on the leasehold premises, such damage shall be repaired by SCHOOL BOARD at its expense. In exercising its rights under this paragraph, the SCHOOL BOARD will make a good faith attempt to coordinate with CIRCUS SARASOTA INC. to ensure such work will not unduly interfere with CIRCUS SARASOTA INC.'s activities on the leasehold premises.

14. SUBORDINATION: All rights and interests of CIRCUS SARASOTA INC. hereunder are and shall be and remain subject, subordinate, and inferior to all mortgages, trust deeds, ground leases, or security instruments (each of which shall be referred to herein as Security Instrument"), heretofore or hereafter given and encumbering the Premises, or any part thereof, and to all renewals, modifications, consolidations, replacements, and extensions of any such Security Instrument. The rights of the holder of any Security Instrument shall at times be and remain prior and superior to all the rights and interests of CIRCUS SARASOTA INC. This provision shall operate as a subordination agreement with respect to all Security Instruments and all renewals, modifications, consolidations, replacements, and extensions thereof. If the holder of a Security Instrument, or any Person agreeing to make a loan secured by a Security Instrument on the Premises, shall require confirmation of any subordination for which provision is herein made or a separate subordination agreement with respect to any transaction, CIRCUS SARASOTA INC. shall execute such confirmation or subordination agreement in the form required by such Security instrument holder or other person agreeing or proposing to make a loan secured by a Security Instrument on the Premises. In the event any proceedings are brought for foreclosure of, or in the event of the exercise of any power of sale under, any Security Instrument, CIRCUS SARASOTA INC. shall attorn to the Security Instrument holder or purchaser upon any such foreclosure or sale and recognize such holder or purchaser as the Landlord under this Agreement.

Notwithstanding the provisions of the foregoing paragraph, provided that CIRCUS SARASOTA INC. is not otherwise in default under the terms of this Agreement, CIRCUS SARASOTA INC.'s rights to peaceful occupation and possession of the Premises in accordance with the provisions of this Agreement shall not be disturbed for the term of this Agreement and any execution of a subordination agreement shall contain a non-disturbance agreement.

15. CIRCUS SARASOTA INC. ENVIRONMENTAL RESTRICTIONS: circus Sarasota Inc. shall not cause or permit to occur:

- A. Any violation of governmental regulations related to environmental conditions on, under, or about the leasehold premises, or arising from CIRCUS SARASOTA INC.'s use or occupancy of the Premises, including, but not limited to, soil and ground conditions; or
- B. The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substances on, under, or about the Premises, or the transportation to or from the Premises of any Hazardous Substances or than in strict compliance with all governmental laws, rules and regulation. Should any governmental authority or third party demand that a clean-up plan be prepared and that a clean-up be undertaken because of any deposit, spill, discharge, or other release of Hazard Substances caused by CIRCUS SARASOTA INC. or CIRCUS SARASOTA INC.'s officers, agents, employees, invitees, or licenses that occurs during the term of this submit, and implement the required plans and all related bonds and other financial assurances. CIRCUS SARASOTA INC. shall indemnify SCHOOL BOARD against all liability arising from (1) any deposit, spill, discharge, or other release of Hazard Substances that occurs during the term of this Agreement at or from the Premises or as a result of CIRCUS SARASOTA INC.'s use or occupancy of the Premises; (2) CIRCUS SARASOTA INC.'s failure to provide all information, make all submissions, and take all steps required by all governmental authorities under Governmental Regulations; (3) CIRCUS SARASOTA INC.'s failure to comply with CIRCUS SARASOTA INC.'s obligations under this paragraph. CIRCUS SARASOTA INC.'s obligations and liabilities under this section shall survive the expiration or termination of this Agreement. Hazardous Substances shall mean flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any Governmental Regulations.

16. NET AGREEMENT: Except as otherwise explicitly set forth in this Lease Agreement, CIRCUS SARASOTA INC. and SCHOOL BOARD agree that this is a net agreement, with CIRCUS SARASOTA INC. assuming all responsibilities for all other maintenance, taxes, insurance, utilities, or other services, expenses, or incidents of ownership of the leasehold premises and the improvements, and that the rent payments are to be absolutely net (sometimes known as triple net) to the SCHOOL BOARD. SCHOOL BOARD shall have absolutely no liability or responsibility for such payments for expenses, and makes no warranties with respect to the leasehold premises whatsoever. Any real estate or ad valorem taxes or assessments that become due

and payable with regard to the leasehold premises shall be paid by CIRCUS SARASOTA INC. before delinquency.

17. SURRENDER OF PREMISES: At the expiration of the Lease Agreement term, CIRCUS SARASOTA INC. shall quit and surrender the leasehold premises hereby leased in as good a state and condition as they were in at the commencement of this Lease Agreement, reasonable use and wear thereof excepted, and subject to the provisions of paragraph 8.
18. HOLDOVER BY TENANT: Should CIRCUS SARASOTA INC. remain in possession of the leasehold premises with the consent of SCHOOL BOARD after the natural expiration of this Lease Agreement and any renewal thereof, a new tenancy from month-to-month shall be created between CIRCUS SARASOTA INC. and SCHOOL BOARD which shall be subject to all terms and conditions hereof, but shall be terminable on fifteen (15) days written notice served by either CIRCUS SARASOTA INC. or SCHOOL BOARD on the other party.
19. DEFAULT/TERMINATION: CIRCUS SARASOTA INC. acknowledges that the conditions, covenants and requirements on its part to be kept as stated herein are material inducements to SCHOOL BOARD entering into this Lease Agreement. Should CIRCUS SARASOTA INC. fail to perform any of the conditions, covenants and requirements on its part to be kept under either this Lease Agreement or the contemporaneously executed Operating Agreement, then this lease Agreement may be terminated at the option of SCHOOL BOARD, and any unexpired term hereunder shall be forfeited. In such event, SCHOOL BOARD may take possession of the leasehold premises and improvements and shall have the right to remove all persons therefrom. The foregoing notwithstanding, CIRCUS SARASOTA INC. shall be given written notice of any default or breach, and termination and forfeiture of the Lease Agreement shall not result if, within ninety (90) days of receipt of such notice, CIRCUS SARASOTA INC. has corrected the default or breach, or has taken action to effect such correction within a reasonable time. CIRCUS SARASOTA INC. shall have the right to terminate this Lease Agreement upon ninety days written notice to the Superintendent of Schools in the event that CIRCUS SARASOTA INC. determines it needs to discontinue operation of the Circus. Any termination of this Lease Agreement shall also operate to terminate the Operating Agreement between the parties. In any action brought to enforce the terms and provisions of this lease, the prevailing party shall be entitled to an award of attorney's fees and costs.
20. QUIET ENJOYMENT: SCHOOL BOARD covenants and agrees that, so long as CIRCUS SARASOTA INC. observes and performs all of the covenants, conditions, and stipulations of this Lease, CIRCUS SARASOTA INC. may lawfully and quietly hold, occupy, and enjoy the leasehold premises during the term of this Lease, subject to the terms hereof, governmental regulations, and restrictions, reservations and easements of record.

21. BINDING EFFECT: This Lease Agreement shall be binding upon the respective successors of the parties hereto.
22. REMEDIES CUMULATIVE: All remedies hereinbefore and hereafter conferred on SCHOOL BOARD shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.
23. WAIVER: The failure of SCHOOL BOARD to take any action with respect to any breach of any term, covenant contained herein, or any instance of default, shall not be deemed to be a waiver of the same and the subsequent acceptance of rent or further performance hereunder by CIRCUS SARASOTA INC. shall not be deemed to be a waiver of any default or breach by CIRCUS SARASOTA INC.
24. CONDEMNATION: In the event that so much of the leasehold premises are taken by reason of the exercise of the right of eminent domain by any public or quasi-public authority, so that the Premises are rendered unsuitable for use as intended, CIRCUS SARASOTA INC. shall have the right to terminate this agreement as of the date when possession is required to be surrendered to the taking or condemning authority. SCHOOL BOARD reserves unto itself all rights to damages accruing on account of the taking, or by reason of any act of the public or quasi-public authority for which damages are payable; provided, however, CIRCUS SARASOTA INC. may recover from the condemning authority an amount payable for its leasehold estate and for business damages.
25. ZONING: If a rezoning of the property is required in order to permit CIRCUS SARASOTA INC. to use the leasehold property for its intended purposes, CIRCUS SARASOTA INC. shall be permitted to seek an appropriate rezone of the property. The work necessary to rezone the property will be done by CIRCUS SARASOTA INC. at its cost, and SCHOOL BOARD will cooperate in executing any necessary papers required by the governmental entities in this regard.

IN WITNESS WHEREOF, this Lease Agreement has been signed and sealed, in duplicate, by the respective parties hereto.

THE SCHOOL BOARD OF  
SARASOTA COUNTY, FLORIDA

CIRCUS SARASOTA INC.

By: \_\_\_\_\_  
Frank Kovach, Chair

By: \_\_\_\_\_  
Pedro Reis, CEO

Date: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESSES:

WITNESSES:

\_\_\_\_\_  
Printed name: \_\_\_\_\_  
\_\_\_\_\_

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Printed name \_\_\_\_\_  
\_\_\_\_\_

Approved for Legal Content  
September 21, 2011, by Matthews, Eastmoore,  
Hardy, Crauwels & Garcia, Attorneys for  
The School Board of Sarasota County, Florida  
Signed: ASH