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**GLEN COVE  
INDUSTRIAL DEVELOPMENT AGENCY**

**Straight Lease Transaction  
(Equity Transfer)**

**with**

**GLEN COVE VILLA LLC  
(successor-by-merger to  
135 GLEN COVE AVE. CORP.)**

**Closing Date: September 1, 2023**

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**STRAIGHT LEASE TRANSACTION  
(Equity Transfer)**

**with**

**GLEN COVE VILLA LLC  
(successor-by-merger to  
135 GLEN COVE AVE. CORP.)**

**Closing Date: September 1, 2023**

**Definitions:**

Agency	Glen Cove Industrial Development Agency
Company	Glen Cove Villa LLC (successor-by-merger to 135 Glen)
135 Glen	135 Glen Cove Ave. Corp.
Livingston	Livingston Glen Cove Corp.
Guarantor	Manoj Narang
City	City of Glen Cove, as PILOT Mortgagee

**Index of Documents:**

**A. Transaction Documents**

1. Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) between the Agency and the Company
2. Ratification and Reaffirmation Agreement (PILOT Mortgage) made by the Company in favor of the City
3. Environmental Compliance and Indemnification Agreement made by the Company and the Guarantor in favor of the Agency
4. Guaranty made by the Guarantor in favor of the Agency

**B. Organizational Documents**

5. Agency General Certificate
  - (a) Consent Resolution

6. Company General Certificate of the Company
  - (a) Articles of Organization
  - (b) Amended and Restated Operating Agreement
  - (c) Written Consent of Members and Manager
  - (d) Good Standing Certificate (NY)
  - (e) Pending Litigation
  - (f) Certificate of Merger

**C. Miscellaneous Documents**

7. Certificate of Insurance from the Company
8. Opinion of Counsel to the Company and the Guarantor
9. Amended Thirty-Day Sales Tax Report (ST-60 Form) (and proof of mailing)
10. Amended Application for Amended Real Property Tax Exemption (RP-412-a Form)
  - (a) Directive to the Tax Assessors
11. Agency Certificate Regarding Conflicts of Interest



**AMENDMENT NO. 1 TO SUBLEASE AGREEMENT**

THIS AMENDMENT NO. 1 TO SUBLEASE AGREEMENT (this “Amendment”) dated as of September 1, 2023 (the “Effective Date”), by and between the GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 9 Glen Street, Glen Cove, NY 11542 (the “Agency”), and GLEN COVE VILLA LLC (as successor-by-merger to 135 Glen Cove Ave. Corp.), a limited liability company organized and existing under the laws of the State of New York, having an office at 162-20 77th Road, Flushing, NY 11366 (the “Company”).

**WITNESSETH:**

WHEREAS, 135 Glen Cove Ave. Corp., a corporation organized and existing under the laws of the State of New York (the “Applicant”), on behalf of itself and/or its affiliates or related designees submitted an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Block: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the “Land”), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the “Building”) on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion thereof (collectively, the “Project Facility”), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, on or about December 16, 2021, the Agency entered into a “straight lease” transaction with respect to the Project pursuant to the following: (A) a Company Lease

Agreement dated as of December 1, 2021 between the Applicant and the Agency (the “Company Lease”); (B) a Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 between the Agency and the Applicant (the “Agency Lease”); (C) a Payment in Lieu of Taxes Agreement dated as of December 1, 2021 between the Agency and the Applicant (the “PILOT Agreement”); and (D) certain other documents, instruments and agreements executed and delivered in connection therewith (collectively, the “Transaction Documents”); and

WHEREAS, the Applicant requested that the Agency consent to (A) the merger of the Applicant with and into Glen Cove Villa LLC, or another newly formed limited liability company approved by the Agency (“Villa”), such that Villa would be the surviving entity of such merger; (B) the ownership structure of Villa consisting of Livingston Glen Cove Corp., or another newly formed corporation approved by the Agency (“LGCC”), as to 60% of the membership interests in Villa, and MATT Glen Cove LLC, or another newly formed limited liability company approved by the Agency (“MATT”), as to 40% of the membership interests in Villa; (C) the membership interests in LGCC being owned solely by Daniel Livingston; and (D) the membership interests in MATT being owned equally by: (i) Michael DeSousa, (ii) Anthony DeSousa, (iii) Thomas DeSousa, and (iv) Thomas DeSousa (collectively, the “Merger Transaction”); and

WHEREAS, the Agency consented to the Merger Transaction by resolution adopted by the members of the Agency on January 25, 2022; and

WHEREAS, the merger of the Applicant with and into the Company was effective on or about March 1, 2022; however, the proposed transfer of equity interests described above did not occur as part of the Merger Transaction; and

WHEREAS, by letter dated May 4, 2023, the Company requested that the Agency consent to an alternative transfer of equity in the Company (the “Equity Transfer Transaction”); and

WHEREAS, the Agency consented to the Equity Transfer Transaction by resolution adopted by the members of the Agency on May 9, 2023, subject to, inter alia, the execution and delivery of this Amendment by the parties;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Company and the Agency mutually covenant, warrant and agree as follows:

## SECTION 1. DEFINITIONS.

SECTION 1.1 Interpretation. For purposes of this Amendment, unless otherwise defined herein, all capitalized terms used herein including, but not limited to, those capitalized terms used and/or defined in the recitals hereto, shall have the respective meanings assigned to such terms in the Transaction Documents.

## SECTION 2. AMENDMENTS.

SECTION 2.1 Effective as of the Effective Date, Section 1.1 of the Agency Lease is hereby amended by deleting the definitions of “Environmental Indemnification,” “Guarantor” and “Guaranty” and replacing such definitions with the following:

“‘Environmental Indemnification’ means the Environmental Compliance and Indemnification Agreement dated as of September 1, 2023 from the Company and the Guarantor in favor of the Agency.

‘Guarantor’ means, individually or collectively, as the context may require, Manoj Narang, a natural person.

‘Guaranty’ means the Guaranty dated as of September 1, 2023 from the Guarantor in favor of the Agency.”

SECTION 2.2 Effective as of the Effective Date, Section 2.2(R) of the Agency Lease is hereby deleted in its entirety and replaced with the following:

“(R) The Company is, and shall at all times during the term of this Lease, continue to be (a) managed by Manoj Narang and/or Varander Nayar, who shall have day-to-day operational control of the Company, and (b) solely owned by Glen Cove VM Holdings LLC (“Glen Cove VM”) as to a 90.50% membership interest and Livingston Glen Cove Villa LLC (“Livingston”) as to a 9.50% membership interest, unless otherwise approved in writing by the Agency in advance. Notwithstanding the foregoing, upon at least thirty (30) days prior notice to the Agency in each instance (such notice to include such documents and information as requested by the Agency): (a) Glen Cove VM may transfer its interest in the Company to an entity owned and controlled solely by Varander Nayar, Manoj Narang, Nilesh Patel and/or Derrick Staten, and (b) Livingston may transfer its interest in the Company to an entity owned and controlled solely by Daniel Livingston.”

SECTION 2.3 Section 8.14 of the Agency Lease is hereby amended by adding the following sentence to the end thereof:

“Such financial statement submission shall be accompanied by a certification executed by an Authorized Representative of the Company confirming that the representation contained in Section 2.2(R) of the Agency Lease is true, accurate and complete.”

### SECTION 3. CONDITIONS.

SECTION 3.1 Conditions Precedent. This Amendment shall only become effective upon the fulfillment, prior to or contemporaneously with the delivery hereof, of the following conditions precedent:

(A) the execution and delivery by the Company and the Agency of an original or counterpart originals of this Amendment;

(B) the Company and the Guarantor (as defined herein) shall deliver such other documents, instruments and agreements as the Agency may reasonably require in connection with the transactions contemplated by this Amendment;

(C) all other documents and legal matters in connection with this Amendment and the transactions contemplated by the Agency Lease as amended by this Amendment shall be executed and delivered in form and substance satisfactory to the Agency; and

(D) the Company shall pay the Agency’s consent and amendment fee in the amount of \$5,000 and shall pay all reasonable fees and expenses (including reasonable attorneys’ fees and expenses) incurred by the Agency in connection with the preparation, execution and delivery of this Amendment and the closing of the transactions contemplated hereby.

### SECTION 4. LIMITED RELEASE.

SECTION 4.1 Limited Release of Prior Guarantor. Effective from and after the Effective Date, the Agency hereby releases 162-20 77<sup>th</sup> Road LLC (“Prior Guarantor”) from all of its obligations, liabilities and duties relating to the Project Facility, including, without limitation, its obligations, liabilities and duties arising under the Agency Lease, the PILOT Agreement and the other Transaction Documents, except that the Prior Guarantor is not hereby released from any obligations, liabilities or duties under the Agency Lease, the PILOT Agreement or any other Transaction Document arising prior to the Effective Date (collectively, the “Prior Obligations”), including, without limiting the generality of the foregoing, the obligations of the Prior Guarantor to indemnify and defend the Agency and to hold the Agency harmless under the Agency Lease, the PILOT Agreement and the other Transaction Documents with respect to the Prior Obligations and irrespective of whether a particular cause of action in



connection with such Prior Obligations was commenced or commences before or after the Effective Date.

## SECTION 5. MISCELLANEOUS.

### SECTION 5.1 Representations and Warranties.

(A) All terms, conditions, covenants, representations and warranties of the Company contained in the Agency Lease and the other Transaction Documents, except as expressly modified hereby, are hereby assumed by the Company (as successor-by-merger to the Applicant) and are hereby ratified, confirmed and reaffirmed by the Company as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Amendment.

(B) The Company represents and warrants to the Agency that it has the necessary power and has taken all necessary action to make this Amendment the valid and enforceable obligation it purports to be, and that this Amendment constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(C) The Company represents and warrants to the Agency that no Event of Default specified in any of the Transaction Documents has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Neither the Company nor any Affiliate of the Company has employed or retained any appointed or elected government official to solicit or secure the Agency's agreement to enter into this Amendment upon an agreement or understanding for a commission or percentage, brokerage or contingent fee.

SECTION 5.2 Additional Matters. All other documents and legal matters in connection with this Amendment and the transactions contemplated by the Agency Lease as amended by this Amendment shall be satisfactory in form and substance to the Agency.

SECTION 5.3 Survival of Representations and Warranties. All representations and warranties made in this Amendment or any other document furnished in connection with this Amendment shall survive the execution and delivery of this Amendment and no investigation by the Agency or any closing shall affect the representations and warranties or the right of the Agency to rely upon them.

SECTION 5.4 Reference to Lease. The Agency Lease, the Transaction Documents and any and all other agreements, documents, or instruments heretofore, now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Agency Lease, as amended hereby, are hereby amended so that any reference in the Agency Lease, the Transaction Documents or such other agreements, documents or instruments executed in connection with the Agency Lease to the “Lease” shall mean a reference to the Agency Lease, as amended hereby.

SECTION 5.5 Governing Law. This Amendment, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

SECTION 5.6 Successors and Assigns. The Company and the Agency, as such terms are used herein, shall include the legal representatives, successors and assigns of those parties.

SECTION 5.7 Counterparts. This Amendment may be executed in any number of counterparts and by the Company and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment. This Amendment may be modified only by a written agreement signed by Authorized Representatives of the Company and the Agency.

SECTION 5.8 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

SECTION 5.9 Conflicting Provisions. In the event of any conflict in the terms and provisions of this Amendment and the terms and provisions of the Agency Lease, the terms and provisions of this Amendment shall govern.

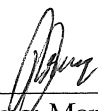
SECTION 5.10 No Waiver. Except as expressly provided herein, this Amendment shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the Agency Lease, the PILOT Agreement, the PILOT Mortgage, any other Transaction Document or any other agreement, document or instrument executed and/or delivered in connection with any of the foregoing, or of any of the Agency’s rights thereunder, all of which are and shall remain in full force and effect, nor to result in a loss of priority of the lien of the PILOT Mortgage over the rights of any junior lienor. This Amendment shall not be construed to constitute a consent to other or further action by the Company or to entitle the Company to any other consent.

SECTION 5.11 Entire Agreement. This Amendment constitutes the entire agreement and understanding between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Company: GLEN COVE VILLA LLC (successor-by-merger to 135 GLEN COVE AVE. CORP.)

By:  \_\_\_\_\_  
Name: Manoj Narang  
Title: Manager

Agency: GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Ann Fangmann  
Executive Director


[Signature Page to Amendment No. 1 to Sublease Agreement]

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Company: GLEN COVE VILLA LLC (successor-by-merger to 135 GLEN COVE AVE. CORP.)

By: \_\_\_\_\_  
Name: Manoj Narang  
Title: Manager

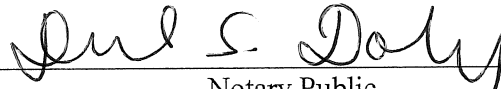
Agency: GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

By:  \_\_\_\_\_  
Ann Fangmann  
Executive Director

[Signature Page to Amendment No. 1 to Sublease Agreement]

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

On the 12<sup>th</sup> day of September, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public  
**DANIEL S. DORNFELD**  
Notary Public, State of New York  
No. 02DO5024564  
Qualified in Suffolk County  
Commission Expires May 9, 20\_\_

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

On the \_\_\_ day of September, 2023, before me, the undersigned, personally appeared Ann Fangmann, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

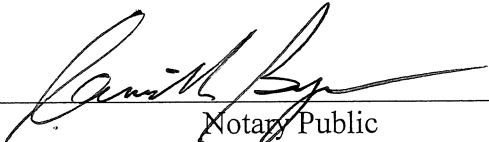
STATE OF NEW YORK    )  
                                  )SS.:  
COUNTY OF                )

On the \_\_\_ day of October, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
                                  )SS.:  
COUNTY OF NASSAU    )

On the 12 day of October, 2023, before me, the undersigned, personally appeared Ann Fangmann, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public  
CAMILLE BYRNE  
Notary Public, State of New York  
No. 01BY4729113  
Qualified in Nassau County  
Commission Expires January 31, 2027





**RATIFICATION AND REAFFIRMATION AGREEMENT**  
(PILOT Mortgage)

135 Glen Cove Corp. (the “Applicant”) and Glen Cove Industrial Development Agency (the “Agency”) executed a Mortgage and Assignment of Leases and Rents dated as of December 1, 2021 (as amended, modified, supplemented and restated from time to time, the “PILOT Mortgage”) in favor of the City of Glen Cove (the “PILOT Mortgagee”), pursuant to which the Applicant and the Agency mortgaged their respective interests in the Mortgaged Property (as defined in the PILOT Mortgage) to secure the obligation of the Applicant to make certain payments in lieu of real property taxes and assessments on the Land and the Building (as such terms are defined in the PILOT Mortgage). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 (the “Original Lease”) between the Applicant and the Agency, as amended by Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) dated as of the date hereof (the “Amendment”; the Original Lease as amended by the Amendment being referred to herein as the “Lease”) between Glen Cove Villa LLC (as successor-by-merger to 135 Glen Cove Ave. Corp.) (the “Company”) and the Agency.


The Applicant and the Company have requested that the Agency consent to the Equity Transfer Transaction (as such terms are defined in the Amendment). It is a condition to the Agency’s granting of such consent that the Company expressly assume and then ratify and reaffirm its obligations under the PILOT Mortgage.

The Company hereby expressly assumes the obligations of the Applicant under the PILOT Mortgage. The undersigned hereby ratifies and reaffirms its obligations under the PILOT Mortgage and represents and warrants to the Agency that the PILOT Mortgage is in full force and effect and that the undersigned is not in default thereunder. The undersigned restates and reiterates each of its representations and warranties set forth or incorporated by reference in the PILOT Mortgage as of the date hereof and further represents and warrants to the Agency that the undersigned has no right of set off, defense, claim or counterclaim with respect to its obligations under the PILOT Mortgage.

Nothing herein shall be deemed a limitation, modification or amendment of any of the terms of the PILOT Mortgage. Nothing herein shall be deemed to be a limitation, modification, amendment, release of or waiver with respect to any other document, instrument or agreement made by the undersigned in favor of the Agency or the PILOT Mortgagee.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Ratification and Reaffirmation Agreement as of the 12<sup>th</sup> day of September, 2023.

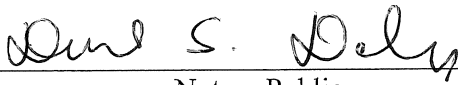
GLEN COVE VILLA LLC (successor-by-merger to  
135 GLEN COVE AVE. CORP.)

By:   
Name: Manoj Narang  
Title: Manager

[Signature Page to Ratification and Reaffirmation Agreement (PILOT Mortgage)]

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

On the 12<sup>th</sup> day of September, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**DANIEL S. DORNFELD**  
Notary Public, State of New York  
No. 02DO5024564  
Qualified in Suffolk County  
Commission Expires May 9, 2025

[Acknowledgment Page to Ratification and Reaffirmation Agreement (PILOT Mortgage)]



**ENVIRONMENTAL COMPLIANCE  
AND INDEMNIFICATION AGREEMENT**

**THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT**, dated as of September 1, 2023 (this “Agreement”), is given by the persons, firms and corporations identified as Indemnitors at the end of this Agreement (each, an “Indemnitor” and, collectively, the “Indemnitors”), to GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the “Agency”), having its principal office at 9-13 Glen Street, Glen Cove, NY 11542.

WITNESSETH:

**WHEREAS**, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”), and Chapter 374 of the 1974 Laws of New York, as amended, constituting Section 919 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

**WHEREAS**, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

**WHEREAS**, 135 GLEN COVE AVE. CORP., a corporation organized and existing under the laws of the Stat of New York (the “Applicant”), submitted an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Bock: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the “Land”), which Land is more particularly described on Exhibit A attached hereto, (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the “Building”) on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion thereof (collectively, the “Project Facility”), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the

granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

**WHEREAS**, on or about December 16, 2021, the Agency entered into a “straight lease” transaction with respect to the Project pursuant to the following: (A) a Company Lease Agreement dated as of December 1, 2021 between the Applicant and the Agency (the “Company Lease”); (B) a Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 between the Agency and the Applicant, as amended by Amendment No. 1 to Sublease Agreement of even date herewith between the Agency and the Company (as defined below) (the “Lease Agreement”); (C) a Payment in Lieu of Taxes Agreement dated as of December 1, 2021 between the Agency and the Applicant (the “PILOT Agreement”); and (D) certain other documents, instruments and agreements executed and delivered in connection therewith (collectively, the “Transaction Documents”); and

**WHEREAS**, the Applicant requested that the Agency consent to (A) the merger of the Applicant with and into Glen Cove Villa LLC, or another newly formed limited liability company approved by the Agency (“Villa” or the “Company”), such that Villa would be the surviving entity of such merger; (B) the ownership structure of Villa consisting of Livingston Glen Cove Corp., or another newly formed corporation approved by the Agency (“LGCC”), as to 60% of the membership interests in Villa, and MATT Glen Cove LLC, or another newly formed limited liability company approved by the Agency (“MATT”), as to 40% of the membership interests in Villa; (C) the membership interests in LGCC being owned solely by Daniel Livingston; and (D) the membership interests in MATT being owned equally by: (i) Michael DeSousa, (ii) Anthony DeSousa, (iii) Thomas DeSousa, and (iv) Thomas DeSousa (collectively, the “Merger Transaction”); and

**WHEREAS**, the Agency consented to the Merger Transaction by resolution adopted by the members of the Agency on January 25, 2022; and

**WHEREAS**, the merger of the Applicant with and into the Company was effective on or about March 1, 2022; however, the proposed transfer of equity interests described above did not occur as part of the Merger Transaction; and

**WHEREAS**, by letter dated May 4, 2023, the Company requested that the Agency consent to an alternative transfer of equity in the Company (the “Equity Transfer Transaction”); and

**WHEREAS**, the Agency consented to the Equity Transfer Transaction by resolution adopted by the members of the Agency on May 9, 2023, subject to, inter alia, the execution and delivery of this Agreement by the Indemnitors; and

**WHEREAS**, Manoj Narang is the holder of an indirect ownership interest in the Company and, therefore, will benefit from the Agency's consent to the Equity Transfer Transaction; and

**WHEREAS**, the Company is the owner of fee title to the Land and the Building (collectively, the "Facility Realty");

**NOW, THEREFORE**, in consideration of the foregoing and to induce the Agency to consent to the Equity Transfer Transaction, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitors hereby jointly and severally covenant and agree with the Agency as follows:

1. DEFINITIONS. All capitalized terms used in this Agreement and not heretofore defined shall have the meanings set forth below. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Lease Agreement.

(a) Disposal means the intentional or unintentional abandonment, discharge, deposit, injection, dumping, spilling, leaking, storing, burning, thermal destruction or placing of any substance so that it or any of its constituents may enter the Environment. The term "Disposal" also includes the thermal destruction of the Hazardous Substance and the burning of such as fuel for the purpose of recovering usable energy.

(b) Environment means any water including but not limited to surface water and ground water or water vapor; any land including land surface or subsurface; river, stream, lake or other sediments, air; fish, wildlife, plants; and all other natural resources or environmental media.

(c) Environmental Laws mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or Disposal of Hazardous Substances and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

(d) Environmental Permits mean licenses, permits, approvals, authorizations, notices, consents or registrations required by any applicable Environmental Laws and all applicable judicial and administrative orders in connection with ownership, lease, purchase, transfer, closure, use and/or operation of the Project Facility and/or as may be required for the storage, treatment, generation, transportation, processing, handling, removal, cleanup, maintenance, production or Disposal of Hazardous Substances, or for the sale, transfer or conveyance of the Project Facility.

(e) Intentionally omitted

(f) Hazardous Substance(s) means all (i) hazardous materials including, without limitation, any explosives, radioactive materials, radon, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, lead based paints, petroleum, petroleum products, methane, hazardous materials, hazardous chemicals, hazardous wastes, extremely hazardous wastes, restricted hazardous wastes, hazardous or toxic substances, toxic pollutants, hazardous air pollutants, pollutants, contaminants, toxic chemicals, toxics, pesticides or related materials as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, as amended (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f, et seq.), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, et seq.), Articles 15 or 27 of the New York State Environmental Conservation Law, or in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule or regulation of any Governmental Authority having jurisdiction, and (ii) substances identified as emerging contaminants by any Governmental Authority, including, but not limited to, (a) per- and polyfluoroalkyl substances (“PFAS”), including, but not limited to, perfluorooctanoic acid (“PFOA”) and perfluorooctanesulfonic acid (“PFOS”), and (b) 1, 4 dioxane.

(g) Improvements mean any buildings, structures and other improvements (if any) presently or hereafter located on the Land, including, without limitation, the Building.

(h) Indemnitee means the Agency, its successors and assigns, and their respective officers, directors, employees, agents, representatives, attorneys, contractors and subcontractors.

(i) Indemnitors has the meaning given to such term in the preamble to this Agreement.

(j) Release has the same meaning given to that term in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as amended (42 U.S.C. Section 9601, et seq.) and the regulations promulgated thereunder. The term “Release” also includes Disposal, but is not subject to an exclusion for acts done in full compliance with an Environmental Permit.

2. REPRESENTATIONS AND WARRANTIES: The Indemnitors each represent and warrant to the Agency to the best of their respective knowledge, information and belief that:

(a) The Project Facility is not being used and has not been used for the storage, treatment, generation, transportation, processing, handling, production or Disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of



petroleum or petroleum based products other than in accordance with all applicable Environmental Laws and Environmental Permits, except as has been disclosed in writing to the Agency.

(b) Underground storage tanks are not and have not been located on the Project Facility, except as set forth in Exhibit B hereto.

(c) The Project Facility and the Environment on, at, from and surrounding the Project Facility, including, without limitation, the soil, subsoil, bedrock, surface water, sediment and groundwater of the Project Facility are free of any Hazardous Substances beyond any legally permitted levels.

(d) There has been no Release nor is there the threat of a Release on, at or from the Project Facility, or any property adjacent to or within the immediate vicinity of the Project Facility which through soil, subsoil, bedrock, surface water or groundwater or vapor migration or intrusion could come to be located on the Project Facility, and the Indemnitors have not received any form of notice or inquiry from any federal, state or local governmental agency or authority, any operator, tenant, subtenant, licensee, permittee or occupant of the Project Facility or any property adjacent to or within the immediate vicinity of the Project Facility or any other person with regard to a Release or the threat of a Release on, at or from the Project Facility or any property adjacent to or within the immediate vicinity of the Project Facility.

(e) All presently required Environmental Permits have been obtained and are in full force and effect.

(f) To the best of their knowledge, no event has occurred with respect to the Project Facility that, with the passage of time or the giving of notice, or both, would constitute a violation of any applicable existing Environmental Law or non-compliance with any presently required Environmental Permit.

(g) To the best of their knowledge, there are no Environmental Laws, Environmental Permits, agreements, consent orders, decrees, judgments, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority relating to the past, present or future ownership, use, operation, sale, transfer or conveyance of the Project Facility which require any change in the present condition of the Project Facility or any work, repairs, construction, containment, clean-up, investigations, studies, removal or other remedial action or capital expenditures with respect to the Project Facility.

(h) They have received no notice, and are not otherwise aware, of any actions, suits, claims or proceedings, pending or threatened with respect to the

Project Facility, which could cause the incurrence of expenses or costs of any name or description or which seek money damages, injunctive relief, remedial action or any other remedy that arise out of, relate to or result from (i) a violation or alleged violation of any applicable Environmental Law or non-compliance or alleged non-compliance with any Environmental Permit, (ii) the presence of any Hazardous Substance or a Release or the threat of a Release on, at or from the Project Facility or any property adjacent to or within the immediate vicinity of the Project Facility or (iii) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Project Facility or the ownership, use, operation, sale, transfer or conveyance thereof.

3. COVENANTS: The Indemnitors covenant and agree with the Agency as follows:

(a) The Indemnitors shall keep, and shall use their best efforts to cause all operators, tenants, subtenants, licensees, permittees, invitees, visitors and occupants of the Project Facility to keep, the Project Facility free of all Hazardous Substances other than those used in the ordinary course of business and in material compliance with all Environmental Laws and shall not cause or knowingly permit the Project Facility or any part thereof to be used for the storage, treatment, generation, transportation, processing, handling, production or Disposal of any Hazardous Substances, except for such Hazardous Substances and in such quantities as would not violate any Environmental Laws.

(b) The Indemnitors shall comply with, and shall use their best efforts to cause all operators, tenants, subtenants, licensees, permittees, invitees, visitors and occupants of the Project Facility to comply with, all applicable Environmental Laws, and shall obtain and comply with, and shall use their best efforts to cause all operators, tenants, subtenants, licensees, permittees, invitees and occupants of the Project Facility to obtain and comply with, all Environmental Permits.

(c) The Indemnitors shall not cause or knowingly permit any change to be made in the present or intended use of the Project Facility which would (i) involve the storage, treatment, generation, transportation, processing, handling, production or Disposal of any Hazardous Substance other than in material compliance with all applicable Environmental Laws, or the use of the Project Facility as a landfill or other waste disposal site or for military, manufacturing or industrial purposes, or other than as permitted by law for the storage of petroleum or petroleum based products, (ii) violate any applicable Environmental Law, (iii) constitute non-compliance with any Environmental Permit, or (iv) increase the risk of a Release.

(d) The Indemnitors shall promptly provide the Agency with a copy of all written notifications which any of them gives or receives with respect to any past

or present Release or the threat of a Release on, at or from the Project Facility or any property adjacent to or within the immediate vicinity of the Project Facility of which they are aware.

(e) The Indemnitors shall undertake and complete all investigations, studies, sampling and testing and all removal and other remedial actions necessary to contain, remove and clean up, in accordance with, but only to the extent required by, all applicable Environmental Laws and all Environmental Permits, all Hazardous Substances that are determined to be present at the Project Facility.

(f) The Indemnitors shall at all times upon reasonable prior notice allow the Agency and its officers, employees, agents, representatives, contractors and subcontractors reasonable access to the Project Facility for the purposes of ascertaining site conditions for the purposes of determining whether the Indemnitors and the Property comply with Environmental Laws or their obligations under this Agreement, including, but not limited to, subsurface conditions, at the Indemnitors' sole cost and expense. The Agency shall provide the Indemnitors, at the request of any Indemnitor, a copy of all reports and findings.

(g) If at any time the Agency obtains any evidence or information which reasonably suggests that potential environmental problems may exist at the Project Facility, the Agency may, after discussion with the Indemnitors, require that a full or supplemental environmental inspection and audit report with respect to the Project Facility of a scope and level of detail satisfactory to the Agency be prepared by an environmental engineer or other qualified person acceptable to the Agency, at the Indemnitors' expense. Said audit may include a physical inspection of the Project Facility, a visual inspection of any property adjacent to or within the immediate vicinity of the Project Facility, personal interviews and a review of all Environmental Permits. If the Agency requires, such inspection shall also include a records search and/or subsurface testing for the presence of Hazardous Substances in the soil, subsoil, bedrock, surface water and/or groundwater or other environmental media. Any such subsurface test shall be undertaken so as to minimize the disruption of the Indemnitors' operations and that of tenants, subtenants and occupants and damage to the Project Facility and the Improvements thereon. If said audit report indicates the presence of any Hazardous Substance or a Release or the threat of a Release on, at or from the Project Facility, the Indemnitors shall promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean-up and other remedial actions.

(h) Attached hereto as Exhibit C is a complete list of all Environmental Permits presently required for the ownership, use or operation of the Project Facility and the businesses located thereon. The Indemnitors agree to notify the

Agency of any additions, deletions, withdrawal or modifications of any Environmental Permits and the list thereof. Upon written request of the Agency, the Indemnitors shall furnish the Agency true and complete copies of all Environmental Permits.

4. INDEMNIFICATION PROVISIONS: The Indemnitors hereby jointly and severally, absolutely and unconditionally, covenant and agree, at their sole cost and expense, to indemnify, protect, defend (with attorneys selected by each such Indemnitee and approved by the Indemnitors in their reasonable discretion), and save harmless each and every Indemnitee from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or reasonable out-of-pocket expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements for attorneys and experts selected by the Indemnitee and reasonably approved by the Indemnitors) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnitee relating to, resulting from or arising out of (a) the use of the Project Facility for the storage, treatment, generation, transportation, processing, handling, production or Disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (b) the presence or claimed presence of any Hazardous Substance or a Release or the threat of a Release on, at or from the Project Facility, (c) the failure to promptly undertake and diligently pursue to completion all reasonably necessary, appropriate and legally required investigative, containment, removal, clean-up and other remedial actions with respect to a Release or the threat of a Release on, at or from the Project Facility, (d) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Project Facility or the ownership, use, operation, sale, transfer or conveyance thereof, (e) a violation of any applicable Environmental Law, (f) non-compliance with any Environmental Permit, (g) a material misrepresentation or inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by the Indemnitors in this Agreement or by the Company in Section 3.3 of the Lease Agreement, (h) off-site environmental liability arising out of off-site disposal of Hazardous Substances located at, on or under the Project Facility, and (i) the designation by the New York State Department of Environmental Conservation, the United States Environmental Protection Agency or any other governmental authority of the Agency as a party responsible or potentially responsible for the remediation of any condition on or at the Project Facility or properties in the vicinity of the Project Facility, except those arising solely a result of the gross negligence or willful misconduct of the Agency, or its contractors, employees, officers, directors or agents (other than the Company) (collectively, the "Indemnified Matters"). Indemnitees shall provide reasonably prompt notice to Indemnitors of any damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or reasonable expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements for attorneys and experts selected by the Indemnitee and reasonably approved by the Indemnitors) which may be imposed upon, incurred by or asserted or awarded against any Indemnitee.

The liability of the Indemnitors to each Indemnitee hereunder shall be perpetual and shall survive, and shall in no way be limited, abridged, impaired or otherwise affected, by (i) any amendment or modification of any of the Transaction Documents, (ii) any extensions of time for payment or performance required by any of the Transaction Documents, (iii) the release of any Indemnitor, any guarantor of any of the indebtedness associated with the Project, or any other person, from the performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Transaction Documents or this Agreement by operation of law or the Agency's voluntary act or otherwise, (iv) the invalidity or unenforceability of any of the terms or provisions of the Transaction Documents, (v) any exculpatory provision contained in any of the Transaction Documents, (vi) any applicable statute of limitations, (vii) any investigation or inquiry conducted by or on the behalf of the Agency or any other Indemnitee or any information which the Agency or any other Indemnitee may have or obtain with respect to the environmental or ecological condition of the Project Facility, (viii) the sale, transfer or conveyance of all or part of the Project Facility, (ix) the dissolution or liquidation of any Indemnitor, (x) the death or legal incapacity of any Indemnitor, (xi) the release or discharge, in whole or in part, of any Indemnitor in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding, (xii) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of any Indemnitor under this Agreement or under any other Transaction Document, (xiii) the expiration or termination of the Lease Agreement or any other Transaction Document, or (xiv) the reconveyance of the Project Facility or any interest therein by the Agency to the Company or any other person, whether in accordance with the terms of the Lease Agreement, by foreclosure or deed in lieu of foreclosure, sale or otherwise.

The indemnification agreement contained herein is wholly independent of and in addition to any indemnification agreement heretofore given to the Agency or any other Indemnitee, as part of the Project or otherwise.

5. NO LIABILITY OF AGENCY: The Indemnitors agree that the Agency shall not be liable in any way for the completeness or accuracy of any environmental report or the information contained therein. The Indemnitors further agree that the Agency has no duty to warn any Indemnitor or any other person or entity about any actual or potential environmental contamination or other problem that may have become apparent or will become apparent to the Agency, and are otherwise innocent of any liability whatsoever under any Environmental Law which may arise as a result of the Project Facility or the Agency's interest therein.

6. GOVERNING LAW. This Agreement shall be governed by, construed in accordance with and enforceable under the laws of the State of New York, as the same may be in effect from time to time, without regard to principles of conflicts of law.

7. COUNTERPARTS: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but

one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

8. NOTICES: All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given on the earlier of (1) three (3) Business Days after being sent to the applicable address stated below by registered or certified mail, return receipt requested, or two (2) Business Days after being sent by nationally recognized overnight courier service, or (2) the date on which delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE INDEMNITORS:

c/o Glen Cove Villa LLC  
162-20 77th Road  
Flushing, NY 11366  
Attn: Daniel Livingston

WITH A COPY TO:

Forchelli Deegan Terrana LLP  
333 Earle Ovington Boulevard, Suite 1010  
Uniondale, NY 11553  
Attention: Daniel P. Deegan, Esq.

IF TO THE AGENCY:

Glen Cove Industrial Development Agency  
9-13 Glen Street  
Glen Cove, NY 11542  
Attn: Executive Director

WITH A COPY TO:

Phillips Lytle LLP  
1205 Franklin Avenue, Suite 390  
Garden City, NY 11530  
Attn: Milan K. Tyler, Esq.

The Agency or the Indemnitors may, by notice given hereunder to each other, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

9. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon the Indemnitors and their respective successors, assigns, executors, administrators, legal representatives, distributees and fiduciaries, and all subsequent owners of the Project Facility, and shall inure to the benefit of each Indemnitee.


10. WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY ON ANY CAUSE OF ACTION DIRECTLY OR INDIRECTLY INVOLVING THE TERMS, COVENANTS OR CONDITIONS OF THIS AGREEMENT OR THE PROJECT FACILITY, OR ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

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**IN WITNESS WHEREOF**, the Indemnitors have caused this Agreement to be duly executed as of the day and year first above written.

INDEMNITORS:

GLEN COVE VILLA LLC (successor-by-merger  
to 135 GLEN COVE AVE. CORP.)

By:   
Name: Manoj Narang  
Title: Manager

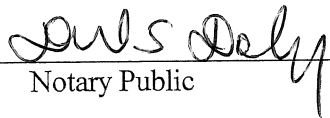
  
MANOJ NARANG

[Signature Page to Environmental Indemnification]



STATE OF NEW YORK     )  
  ) SS.:  
COUNTY OF NASSAU     )

On the 12<sup>th</sup> day of September, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to by the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacities, and that by his signature on the instrument, the individual, or the persons upon behalf of which the individual acted, executed this instrument.

  
Notary Public

**DANIEL S. DORNFELD**  
Notary Public, State of New York  
No. 02DO5024564  
Qualified in Suffolk County  
Commission Expires May 9, 2025

[Acknowledgment Page to Environmental Indemnification

EXHIBIT A  
(Land Description)

Section 21 Block 38 Lots 152, 196, 202 & 203

ALL that certain plot, piece or parcel of land, situate, lying and being in the City of Glen Cove, County of Nassau and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Glen Cove Avenue at the extreme northerly end of the arc of a curve having a radius of 30.00 feet, connecting the easterly side of Glen Cove Avenue and the northerly side of Ralph W. Young Avenue;

RUNNING THENCE along the easterly side of Glen Cove Avenue North 6 degrees 36 minutes 00 seconds East, a distance of 35.28 feet;

THENCE still along the easterly side of Glen Cove Avenue North 3 degrees 28 minutes 00 seconds East, a distance of 139.02 feet to the southerly side of Craft Avenue;

THENCE along the southerly side of Craft Avenue South 86 degrees 32 minutes 00 seconds East, a distance of 175.36 feet;

THENCE still along the southerly side of Craft Avenue South 86 degrees 57 minutes 00 seconds East, a distance of 75.00 feet;

THENCE South 3 degrees 03 minutes 00 seconds West, a distance of 190.83 feet to the northerly side of Ralph W. Young Avenue;

THENCE along the northerly side of Ralph W. Young Avenue South 89 degrees 27 minutes 30 seconds West, a distance of 222.16 feet to the extreme easterly end of the arc connecting the northerly side of Ralph W. Young Avenue and the easterly side of Glen Cove Avenue;

THENCE northwesterly along the arc of said curve and bearing to the right having a radius of 30.00 feet, a distance along said curve 50.86 feet to the point or place of BEGINNING.

Section 21 Block 244 Lots 55, 60, 61 , p/o 67 (Lot 72 and 73)

ALL that certain plot, piece or parcel of land, situate, lying and being in the City of Glen Cove, County of Nassau and State of New York, more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Craft Avenue and the easterly side of Glen Cove Avenue;

RUNNING THENCE along the easterly side of Glen Cove Avenue the following 4 courses and distances:

1. North 3 degrees 28 minutes 00 seconds East, a distance of 42.11 feet;
2. North 3 degrees 19 minutes 00 seconds West, a distance of 46.34 feet;
3. Along the arc of a curve bearing to the left having a radius of 1,040.00 feet, a distance of 226.93 feet;
4. Along the arc of a curve bearing to the right having a radius of 960.00 feet, a distance of 81.95 feet;

THENCE North 87 degrees 36 minutes 16 seconds East, a distance of 163.70 feet;

THENCE North 09 degrees 37 minutes 23 seconds East, a distance of 2.16 feet;

THENCE North 02 degrees 59 minutes 45 seconds West, a distance of 217.04 feet;

THENCE South 77 degrees 43 minutes 00 seconds East, a distance of 34.00 feet;

THENCE North 13 degrees 25 minutes 00 seconds East, a distance of 104.50 feet;

THENCE South 77 degrees 43 minutes 00 seconds East, a distance of 150.00 feet;

THENCE South 13 degrees 25 minutes 00 seconds West, a distance of 298.59 feet;

THENCE South 13 degrees 52 minutes 00 seconds East, a distance of 213.17 feet;

THENCE North 81 degrees 29 minutes 30 seconds West, a distance of 6.89 feet;

THENCE North 86 degrees 44 minutes 30 seconds West, a distance of 54.24 feet;

THENCE South 03 degrees 03 minutes 00 seconds West, a distance of 196.11 feet to the northerly side of Craft Avenue;

THENCE along the northerly side of Craft Avenue North 86 degrees 57 minutes 00 seconds

West, a distance of 50.00 feet;

THENCE North 86 degrees 32 minutes 00 seconds West, a distance of 150.00 feet still along the northerly side of Craft Avenue to the point or place of BEGINNING.

EXHIBIT B  
(Underground Storage Tanks)

None

EXHIBIT C  
(Environmental Permits)



## GUARANTY

THIS GUARANTY dated as of September 1, 2023 (this “Guaranty”) is given by MANOJ NARANG, a natural person, having an address at 2188 Kirby Lane, Syosset, NY 11791 (the “Guarantor”), to the GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 9-13 Glen Street, Glen Cove, NY 11542 (the “Agency”).

### WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 374 of the 1974 Laws of New York, as amended, constituting Section 919 of said General Municipal Law (said Chapter and the Enabling Act, as in effect as of the Closing Date, being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, 135 GLEN COVE AVE. CORP., a corporation organized and existing under the laws of the State of New York (the “Applicant”), submitted an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Bock: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the “Land”), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the “Building”) on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion thereof (collectively, the “Project Facility”), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or



partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, on or about December 16, 2021, the Agency entered into a “straight lease” transaction with respect to the Project pursuant to the following: (A) a Company Lease Agreement dated as of December 1, 2021 between the Applicant and the Agency (the “Company Lease”); (B) a Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 between the Agency and the Applicant, as amended by Amendment No. 1 to Sublease Agreement of even date herewith between the Agency and the Company (as defined below) (the “Lease”); (C) a Payment in Lieu of Taxes Agreement dated as of December 1, 2021 between the Agency and the Applicant (the “PILOT Agreement”); and (D) certain other documents, instruments and agreements executed and delivered in connection therewith (collectively, the “Transaction Documents”); and

WHEREAS, the Applicant requested that the Agency consent to (A) the merger of the Applicant with and into Glen Cove Villa LLC, or another newly formed limited liability company approved by the Agency (“Villa” or the “Company”), such that Villa would be the surviving entity of such merger; (B) the ownership structure of Villa consisting of Livingston Glen Cove Corp., or another newly formed corporation approved by the Agency (“LGCC”), as to 60% of the membership interests in Villa, and MATT Glen Cove LLC, or another newly formed limited liability company approved by the Agency (“MATT”), as to 40% of the membership interests in Villa; (C) the membership interests in LGCC being owned solely by Daniel Livingston; and (D) the membership interests in MATT being owned equally by: (i) Michael DeSousa, (ii) Anthony DeSousa, (iii) Thomas DeSousa, and (iv) Thomas DeSousa (collectively, the “Merger Transaction”); and

WHEREAS, the Agency consented to the Merger Transaction by resolution adopted by the members of the Agency on January 25, 2022; and

WHEREAS, the merger of the Applicant with and into the Company was effective on or about March 1, 2022; however, the proposed transfer of equity interests described above did not occur as part of the Merger Transaction; and

WHEREAS, by letter dated May 4, 2023, the Company requested that the Agency consent to an alternative transfer of equity in the Company (the “Equity Transfer Transaction”); and

WHEREAS, the Agency consented to the Equity Transfer Transaction by resolution adopted by the members of the Agency on May 9, 2023, subject to, inter alia, the execution and delivery of this Guaranty by the Guarantor; and

WHEREAS, the Guarantor is the holder of an indirect ownership interest in the Company and, therefore, will benefit from the Agency's consent to the Equity Transfer Transaction;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the Guarantor does hereby represent, warrant, guaranty and agree with the Agency as follows:

## ARTICLE I DEFINITIONS

Section 1.1 DEFINITIONS. Capitalized terms used herein and not otherwise defined herein shall have the same meanings assigned to such terms in the Lease.

Section 1.2 ACCOUNTING PRINCIPLES. Where the character or amount of any asset or liability or item of income or expense is required to be determined or consolidated or other accounting computation is required to be made for the purposes of this Guaranty, such determination, consolidation or computation shall be made in accordance with generally accepted accounting principles at the time in effect, to the extent applicable, except where such principles are inconsistent with the requirements of this Guaranty.

Section 1.3 DIRECTLY OR INDIRECTLY. Where any provision of this Guaranty refers to action to be taken by any Person, or which provision prohibits any Person from taking certain action, such provision shall be applicable whether such action is to be taken or is not to be taken directly or indirectly by such Person.

## ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.1 REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE GUARANTOR. The Guarantor makes the following representations, warranties and covenants as the basis for the undertakings on his part herein contained:

(A) No consent or approval (governmental or otherwise) or the taking of any action is required as a condition to the validity or enforceability of this Guaranty or any of the other Transaction Documents.

(B) Neither the execution and delivery of this Guaranty or any of the other Transaction Documents to which the Guarantor is a party, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the provisions of this Guaranty or the other Transaction Documents to which the Guarantor is a party will (1) conflict with or result in a breach of any of the terms, conditions or provisions of any restriction, order, judgment, agreement, document or instrument to which the Guarantor is a party or by which the Guarantor or any of the Guarantor's Property is bound, or constitute a default by the Guarantor under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon the Project Facility under the terms of any of the foregoing, other than the Permitted

Encumbrances, (2) to the best of the Guarantor's knowledge, conflict with or result in a violation of Applicable Laws, (3) require consent or approval (which has not been heretofore received and provided to the Agency) under any agreement or instrument to which the Guarantor is a party or by which the Guarantor or any of the Guarantor's Property may be bound or affected, or (4) require consent or approval (which has not been heretofore obtained and provided to the Agency) under or conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any Governmental Authority having jurisdiction over the Guarantor or any of the Property of the Guarantor.

(C) The Transaction Documents to which the Guarantor is a party constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid, legal and binding obligations of the Guarantor, enforceable in accordance with their respective terms.

(D) The Project will not have a "significant adverse environmental impact" (as such term is used in SEQRA) and the Guarantor hereby covenants to comply with all mitigating measures, requirements and conditions enumerated or referenced in the resolution adopted by the Agency on July 29, 2021, under SEQRA applicable to the acquisition, construction, installation, equipping and operation of the Project Facility contemplated by the Lease and in any other approvals issued by any other Governmental Authority with respect to the Project Facility. No material changes with respect to any aspect of the Project Facility have arisen from the date of the adoption of such resolution which would cause the determinations contained therein to be untrue.

(E) There are no actions, suits, investigations or proceedings of or before any Governmental Authority, pending or threatened against the Guarantor or any of the Guarantor's Property which (i) either in any case or in the aggregate, if adversely determined, would materially, adversely affect the condition, financial or otherwise, of the Guarantor, or (ii) question the validity of this Guaranty or any of the Transaction Documents or any action to be taken in connection with the transactions contemplated thereby.

(F) To the best of the Guarantor's knowledge, the Guarantor is not in default with respect to any order, writ, injunction or decree of any Governmental Authority, nor is the Guarantor in violation of any law, statute or regulation, domestic or foreign, to which the Guarantor or any of the Guarantor's Property is subject.

(G) Intentionally omitted.

(H) The Guarantor is not a Prohibited Person, no Affiliate of the Guarantor, and no trustee, shareholder, director, manager or member, if applicable, of the Guarantor is a Prohibited Person.

(I) Neither this Guaranty nor any other Transaction Document nor any other document, certificate, agreement or instrument furnished by the Guarantor contains any untrue

statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

(J) The Guarantor is solvent and the Guarantor has not filed for bankruptcy or reorganization nor has the Guarantor taken any action to achieve protection from their creditors. In addition, no proceeding has been commenced against the Guarantor in bankruptcy or reorganization by the Guarantor's creditors, or to promote the interests of the creditors against the Guarantor.

### ARTICLE III COVENANTS AND AGREEMENTS

#### Section 3.1 GUARANTY OF PAYMENT AND PERFORMANCE.

(A) The Guarantor hereby irrevocably and unconditionally guaranties to the Agency (1) the full and prompt payment of all moneys or rents due under or pursuant to the Lease and any other sums or amounts payable under or pursuant to the Lease, the PILOT Agreement, the PILOT Mortgage, the Regulatory Agreement or any of the other Transaction Documents, when and as the same shall become due, and (2) the complete, prompt and timely performance and observance by the Company of its obligations under the Lease, the Company Lease, the PILOT Agreement, the PILOT Mortgage, the Regulatory Agreement and the other Transaction Documents (collectively, the "Guaranteed Obligations").

(B) This Guaranty is intended by the Guarantor to be an evidence of indebtedness of the Guarantor to the Agency within the meaning of 12 U.S.C. 24(7) and a primary obligation of the Guarantor to pay the sums payable by the Company under each of the Transaction Documents.

(C) All payments by the Guarantor shall be made in immediately available funds, upon written notice by the Agency to the Guarantor of the Company's default and failure of the Company to cure such default within the applicable notice and/or cure period, if any, by wire transfer or other form of payment reasonably satisfactory to the Agency, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts.

(D) Each and every default in payment of any sum payable by the Company under any of the Transaction Documents shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder by the Agency as each cause of action arises.

(E) The Guarantor shall pay to the Agency all fees and reasonable costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Agency in the administration of this Guaranty, or any amendment hereto, or in the protection of its rights or in pursuit of its remedies in respect of this Guaranty.

Section 3.2 OBLIGATIONS UNCONDITIONAL. The obligations of the Guarantor under this Guaranty shall be absolute, unconditional, joint and several and shall remain in full force and effect until each and every one of the Guaranteed Obligations shall have been irrevocably paid and/or performed in full, and such obligations shall not be affected, modified or impaired by any state of facts or the happening from time to time of any event, including, without limitation, any of the following, whether or not with notice to or the consent of the Company and/or of the Guarantor:

(A) the invalidity, irregularity, illegality or unenforceability of, or any defect in, (1) the Lease, (2) any other Transaction Document, or (3) any collateral security for any thereof;

(B) any present or future law or order of any government (de jure or de facto) or of any agency thereof purporting to reduce, amend or otherwise affect the Lease, any other Transaction Documents or any other obligation or right of the Guarantor or any other obligor, or to vary any terms of payment;

(C) any claim of immunity on behalf of the Agency or any other obligor or with respect to any Property of the Agency;

(D) the waiver, compromise, extension, settlement, release or termination of any or all of the obligations, covenants or agreements of any party under the Lease or any of the other Transaction Documents;

(E) the occurrence of, or the failure to give notice to the Guarantor of the occurrence of, an Event of Default under any Transaction Document;

(F) the transfer, assignment or mortgaging, or the purported or attempted transfer, assignment or mortgaging, of all or any part of the interest of the Agency or the Company in the Project Facility, or any failure of or defect in the Agency's or the Company's respective interests in the Project Facility;

(G) the release, sale, exchange, surrender or other change in any security for payment of any obligation under any of the Transaction Documents;

(H) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Lease or any other Transaction Document;

(I) the taking of, or the failure to take, any action by the Agency, the Company and/or the Guarantor;

(J) any failure, omission or delay on the part of the Agency or any other Person to enforce, assert or exercise any right, power or remedy conferred in this Guaranty or any other Transaction Document;

(K) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization or other similar proceedings affecting the Company, the Guarantor or the Agency or any of the assets of any of them, or any allegation or any contest of the validity of the Transaction Documents in any such proceedings;

(L) any event or action that would, in the absence of this Section 3.2, result in the release or discharge of the Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Guaranty;

(M) the default or failure of the Guarantor fully to perform any of the Guarantor's obligations set forth in this Guaranty; or

(N) any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a surety or a guaranty.

Section 3.3 WAIVER BY THE GUARANTOR. The Guarantor hereby waives diligence, presentment, demand for payment, filing of claims with a court in the event of bankruptcy of the Agency or any other Person; protest; notice of reliance on this Guaranty by the Agency, or of dishonor or non-payment of any such liabilities; and any other notice and all demands whatsoever.

Section 3.4 NO SET-OFF BY THE GUARANTOR. No set-off, counterclaim, reduction or diminution of an obligation, or any defense of any kind or nature which the Guarantor has or may have against the Agency or any other party shall be available hereunder to the Guarantor with respect to a claim under this Guaranty. The Guarantor acknowledges that no oral or other agreements, understandings, representations, or warranties exist with respect to this Guaranty or with respect to the obligations of the Guarantor under this Guaranty.

Section 3.5 WAIVER OF JURY TRIAL. THE AGENCY AND THE GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE EACH RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF THIS GUARANTY.

Section 3.6 NATURE OF GUARANTY. This Guaranty is a guaranty of payment and performance and not of collection, and the Guarantor hereby waives any right to require that any action be brought against any other party or to require that resort be had to any security or to any balance of any fund or credit held by the Agency prior to the Agency proceeding under this Guaranty. If at any time any payment of any amount payable by the Company that is guaranteed by the Guarantor pursuant to Section 3.1 hereof is rescinded or is otherwise required to be restored or returned upon the insolvency, bankruptcy or reorganization of the Company or the Guarantor, the Guarantor's obligations hereunder with respect to such payment shall be reinstated as though such payment had been due but not made at such time.

Section 3.8 HOLD HARMLESS PROVISIONS.

(A) The Guarantor hereby release the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, from, agrees that the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, shall not be liable for, and agrees to indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Guarantor) and hold the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from and against, any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency's undertaking the Project, including, but not limited to: (1) liability for loss or damage to Property or bodily injury to or death of any and all Persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project or the Project 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 Project Facility, and (2) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, installing, owning or leasing the Project Facility, including, without limiting the generality of the foregoing, (i) all liabilities or claims arising as a result of the Agency's obligations under the Lease or any of the other Transaction Documents or the enforcement of or defense of validity of any provision of any of the Transaction Documents, and (ii) all liabilities or claims arising as a result of the Agency's involvement in the Project or the granting of the Financial Assistance, (3) all liabilities and expenses arising from the failure or alleged failure of the Project Facility, the Company or the Company's members, managers, officers, agents, attorneys, servants or employees to comply with Applicable Laws, including, without limitation, any claim that the Agency aided or abetted in such failure or alleged failure to comply with Applicable Laws, (4) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Section 4.1(E) of the Lease, and (5) all causes of action and reasonable attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the intentional wrongdoing or gross negligence of the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees.

(B) In the event of any claim against the Agency or its members, officers, agents (other than the Company), attorneys, servants or employees by any employee of the Guarantor or any contractor of the Guarantor 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 Guarantor hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Guarantor or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(C) Notwithstanding any other provisions of this Guaranty, the obligations of the Guarantor pursuant to this Section 3.8 shall remain in full force and effect after the termination or expiration of this Guaranty 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 the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all reasonable expenses, charges and costs incurred by the Agency or its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, relating thereto.

Section 3.9 AGREEMENT TO PROVIDE INFORMATION. The Guarantor agrees, whenever reasonably requested by the Agency, to promptly provide and certify or cause to be provided and certified such information concerning the Guarantor or his finances, operations and affairs and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by Applicable Laws or other governmental regulation.

Section 3.10 NO SUBROGATION. No payment hereunder by the Guarantor shall entitle the Guarantor by subrogation to the rights of the Agency to any payment by any other obligor or out of the property of any other obligor, except for payment and performance in full of the Guaranteed Obligations.

#### ARTICLE IV EVENTS OF DEFAULT

Section 4.1 EVENTS OF DEFAULT DEFINED. An "Event of Default" shall exist if any of the following occurs:

(A) the Guarantor defaults in the payment or performance of any Guaranteed Obligation and such default continues for more than thirty (30) days after written notice thereof has been given to the Guarantor by the Agency;

(B) the Guarantor fails to observe and perform any covenant, condition or agreement on his part to be performed under Section 3.1(E) or Section 3.9 hereof and such failure continues for a period of thirty (30) days after receipt by the Guarantor of written notice specifying the nature of such default or failure from the Agency;

(C) the Guarantor fails to observe and perform any covenant, condition or agreement hereunder on his part to be performed (except as set forth in Section 4.1(A) or (B) above) and (i) continuance of such failure for a period of thirty (30) days after receipt by the Guarantor of written notice specifying the nature of such default or failure from the Agency, or (ii) if by reason of the nature of such default or failure the same can be remedied, but not within the said thirty (30) days, the Guarantor fails to proceed with reasonable diligence after receipt of said notice to cure the same or fail to continue with reasonable diligence his efforts to cure the same or fail to cure the same within ninety (90) days of receipt of said notice;

(D) the Guarantor shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or all or a substantial part of the Guarantor's property, (ii) admit in writing the Guarantor's inability, or be generally



unable, to pay the Guarantor's debts as such debts generally become due, (iii) make a general assignment for the benefit of the Guarantor's creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against the Guarantor in a voluntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(E) a proceeding or case shall be commenced in any court of competent jurisdiction against the Guarantor seeking (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Guarantor or of all or any substantial part of the Guarantor's assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of ninety (90) days; or any order for relief against the Guarantor shall be entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect);

(F) any representation or warranty made (i) by the Company in the materials submitted to the Agency for approval of the Equity Transfer Transaction or the transactions contemplated by this Guaranty, or (ii) by the Company in the Lease or in any other Transaction Document, or (iii) by the Guarantor herein or in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall prove to be false, misleading or incorrect in any material respect as of the date made; or

(G) there shall occur an "Event of Default" under the Lease or any other Transaction Document or under any Permitted Encumbrance.

Section 4.2 REMEDIES ON DEFAULT. If an Event of Default exists, the Agency may proceed to enforce the provisions hereof and to exercise any other rights, powers and remedies available to the Agency under the Transaction Documents and/or under Applicable Law. The Agency, in its sole discretion, shall have the right to proceed first and directly against one (1) or more of the Guarantor without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Agency.

#### Section 4.3 WAIVER AND NOTICE.

(A) No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty now or hereafter existing at law or in equity or by statute.

(B) No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time as often as may be deemed expedient.

(C) In order to entitle the Agency to exercise any remedy reserved to it in this Guaranty, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Guaranty.

(D) In the event any provision contained in this Guaranty shall be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

(E) No waiver, amendment, change, alteration, release, discharge, modification or termination of this Guaranty shall be established by conduct, custom or course of dealing.

## ARTICLE V MISCELLANEOUS

### Section 5.1 NOTICES.

(A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given on the earlier of (a) five (5) Business Days after being sent to the applicable address stated below by registered or certified mail, return receipt requested, or two (2) Business Days after being sent by nationally recognized overnight courier service, or (b) the date on which delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

#### IF TO THE GUARANTOR:

Manoj Narang  
2188 Kirby Lane  
Syosset, NY 11791

#### WITH A COPY TO:

Forchelli Deegan Terrana LLP  
333 Earle Ovington Boulevard, Suite 1010  
Uniondale, NY 11553  
Attn: Daniel P. Deegan, Esq.

IF TO THE AGENCY:

Glen Cove Industrial Development Agency  
9-13 Glen Street  
Glen Cove, NY 11542  
Attn: Executive Director

WITH A COPY TO:

Phillips Lytle LLP  
1205 Franklin Avenue, Suite 390  
Garden City, NY 11530  
Attn: Milan K. Tyler, Esq.

(C) The Agency or the Guarantor may, by notice given hereunder to each other, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 5.2 BINDING EFFECT. This Guaranty shall inure to the benefit of the Agency and the Guarantor and shall be binding upon the Agency, the Guarantor and, as permitted by this Guaranty, their respective successors and assigns.

Section 5.3 SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Agency or the Guarantor to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be held void, voidable, invalid or unenforceable by a court of competent jurisdiction, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Guaranty.

Section 5.4 AMENDMENT. This Guaranty may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the Guarantor hereto and the Agency.

Section 5.5 DATE OF GUARANTY. This Guaranty was executed and delivered as of September 1, 2023.

Section 5.6 EXECUTION OF COUNTERPARTS. This Guaranty 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.

Section 5.7 APPLICABLE LAW. This Guaranty shall be governed by and construed in accordance with the applicable laws of the State of New York, as in effect from time to time, without regard to its principles of conflicts of law.

Section 5.8 SECTION HEADINGS NOT CONTROLLING. The headings of the several sections in this Guaranty have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Guaranty.

Section 5.9 NO RECOURSE; SPECIAL OBLIGATION.

(A) The obligations and agreements of the Agency contained herein and in the other Transaction Documents and any other instrument or document executed in connection therewith or herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company), servant or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company), servants and employees, past, present and future, of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State of New York, the City of Glen Cove or any town, school district or village within which the Project Facility is located, and neither the State of New York, the City of Glen Cove, nor any such town, school district or village, shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights).

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) business days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) business days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten (10) business day period) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company),

attorneys, servants or employees, past, present or future, shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, against all liability expected to be incurred as a result of compliance with such request.

#### Section 5.10 SERVICE OF PROCESS; VENUE.

(A) The Guarantor represents that it is subject to service of process in the State of New York and covenants that it will remain so subject so long as this Guaranty shall be in effect. If for any reason the Guarantor should cease to be so subject to service of process in the State of New York, the Guarantor hereby designates and appoints, without power of revocation, Daniel P. Deegan, Esq., c/o Forchelli Deegan Terrana LLP, 333 Earle Ovington Boulevard, Suite 1010, Uniondale, NY 11553, as his agent for service of process upon whom may be served all process, pleadings, notices or other papers which may be served upon the Guarantor as a result of any of his obligations under this Guaranty; provided, however, that the serving of such process, pleadings, notices or other papers shall not constitute a condition to the Guarantor's obligations hereunder.

(B) The Guarantor irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Guaranty or the other Transaction Documents may be brought in the courts of record of the State of New York in Nassau County or the courts of the United States, Eastern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waives any objection which he may have to the laying of venue of any such suit, action or proceeding in any of such courts. For such time as this Guaranty is in effect, the Guarantor's agent designated above shall accept and acknowledge in the Guarantor's behalf service of any and all process in any such suit, action or proceeding brought in any such court. The Guarantor agrees and consents that any such service of process upon such agents and written notice of such service to the Guarantor in the manner set forth in Section 5.1 hereof shall be taken and held to be valid personal service upon the Guarantor whether or not the Guarantor shall then be doing, or at any time shall have done, business within the State of New York and that any such service of process shall be of the same force and validity as if service were made upon the Guarantor according to the laws governing the validity and requirements of such service in the State of New York, and waive all claim of error by reason of any such service. Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Guarantor or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Guarantor.

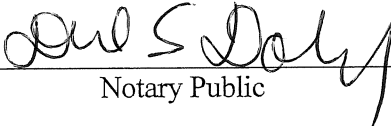
IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the day and year first above written.

  
\_\_\_\_\_  
MANOJ NARANG

[Signature Page to Guaranty]

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NASSAU )

On the 12<sup>th</sup> day of September, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the persons upon behalf of which the individual acted, executed this instrument.

  
\_\_\_\_\_  
Notary Public

**DANIEL S. DORNFELD**  
Notary Public, State of New York  
No. 02DO5024564  
Qualified in Suffolk County  
Commission Expires May 9, 2025

[Acknowledgment Page to Guaranty]





## GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

### GENERAL CERTIFICATE

This certificate is made in connection with the execution by the Glen Cove Industrial Development Agency (the "Agency") of a certain Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) dated as of the date hereof (the "Amendment") by and between Glen Cove Villa LLC (successor-by-merger to 135 Glen Cove Ave. Corp.) and the Agency, and the other documents, instruments, certificates and agreements required to be executed and/or delivered by the Agency (collectively, the "Agency Documents") in connection therewith, all relating to the undertaking by the Agency of a project (the "Project") originally on behalf of 135 Glen Cove Ave. Corp. (the "Applicant"), consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Bock: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the "Land"), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Equipment") necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency.

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 (the "Original Lease") between the Applicant and the Agency, as amended by the Amendment (the Original Lease, as amended by the Amendment, being referred to herein as the "Lease"), except that, for purposes of this certificate, (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date, and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

THE UNDERSIGNED, BEING THE EXECUTIVE DIRECTOR OF THE AGENCY, HEREBY CERTIFIES THAT:

1. The Agency is an industrial development agency duly established under Chapter 1030 of the Laws of 1969 of the State of New York (the "State") constituting Title I of Article 18-A of the New York General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 374 of the 1974 Laws of New York, as amended, constituting Section 919 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), and is a corporate governmental agency constituting a public benefit corporation of the State.

2. The Agency (A) has full legal power and authority to execute, deliver and perform its obligations under each of the Agency Documents, and (B) has taken all actions and obtained all approvals required in connection therewith by the Act and any other applicable laws and regulations.

3. The execution, delivery and performance of all agreements, certificates and documents required to be executed, delivered and performed by the Agency in order to carry out, give effect to and consummate the transactions contemplated by the Agency Documents have been duly authorized by all necessary action of the Agency. No authorization for the execution, delivery or performance of the Agency Documents by the Agency has been repealed, revoked or rescinded.

4. The execution, delivery and performance of the Agency Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each by the Agency do not and will not (A) violate the Act or the By-laws of the Agency, (B) require consent under (which has not heretofore been received) or result in a breach of or default under any credit agreement, purchase agreement, indenture, mortgage, deed of trust, commitment, guaranty, lease or other agreement or instrument to which the Agency is a party or by which the Agency may be bound or affected, or (C) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court, domestic or foreign, having jurisdiction over the Agency or any of the Property of the Agency.

5. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to my knowledge, threatened against or affecting the Agency (nor, to my knowledge, any basis therefor), wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Consent Resolution (as defined below), (B) the validity or the enforceability of the Consent Resolution or the Agency Documents or the transactions contemplated therein, or (C) the existence or organization of the Agency.

6. The Agency Documents have been duly executed and delivered on behalf of the Agency by the Chair, Executive Director or Chief Financial Officer of the Agency; the signature of said officer is the genuine signature of such officer; and the Agency Documents are in substantially the same form as the forms thereof presented to the members of the Agency and approved by the Consent Resolution.

7. The Agency, pursuant to a resolution of the members of the Agency adopted at a meeting of the Agency on May 9, 2023 (the "Consent Resolution"), the members of the Agency, approved and authorized execution and delivery of the Agency Documents and approved other matters in connection therewith. Attached hereto as Exhibit A is a certified copy of the Consent Resolution. Such Consent Resolution was duly adopted by the members of the Agency, has not been amended or modified since its adoption and is in full force and effect as of the date of this certificate in accordance with its terms.

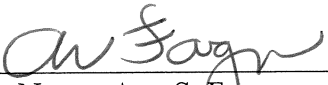
8. The resolutions described in this certificate were duly adopted at a meeting of the Agency duly called and held, and at which a quorum was present and acted throughout.

9. The Agency has complied with all of the agreements and satisfied all of the conditions on its part to be performed and satisfied by the terms of the Agency Documents on or prior to the date hereof. Each of the representations and warranties of the Agency contained in the Agency Documents is true, accurate and complete on and as of the date of this certificate with the same force and effect as though such representations and warranties were made on and as of the date hereof. The Agency Documents are in full force and effect on and as of the date hereof.

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IN WITNESS WHEREOF, I have hereunto set my signature as Executive Director of the Agency this 17<sup>th</sup> day of October, 2023.

GLEN COVE INDUSTRIAL  
DEVELOPMENT AGENCY

BY:   
Name: Ann S. Fangmann  
Title: Executive Director

[Signature Page to Agency General Certificate]

EXHIBIT A  
CONSENT RESOLUTION

Villas at Glen Cove -  
Revised Consent Resolution

A regular meeting of the Glen Cove Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency at 9-13 Glen Street, Glen Cove, Nassau County, New York, on May 9, 2023, at 5:33 p.m., local time.

The meeting was called to order by Chairperson Panzenbeck, upon roll being called, the following members of the Agency were:

PRESENT:

Pamela D. Panzenbeck	Chairperson
Vincent C. Hartley	Vice Chairperson/Treasurer
James J. Cappiello	Member
Grady Farnan	Member
David V. Jimenez	Member
John Fielding	Member

ABSENT:

Tom Hopke	Member
-----------	--------

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Ann S. Fangmann	Executive Director
Camille Byrne	Secretary
Milan K. Tyler, Esq.	Transaction Counsel

The attached resolution no. 7A was offered by Chairperson Panzenbeck, seconded by Grady Farnan:

GC-IDA  
ENTERED  
5-9-23  
CB

Resolution No. 7A

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING  
A CONSENT UNDER THE STRAIGHT LEASE DOCUMENTS FOR A  
CERTAIN PROJECT FOR GLEN COVE VILLA LLC (SUCCESSOR-BY-MERGER  
TO 135 GLEN COVE AVE. CORP.)

WHEREAS, the Glen Cove Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 374 of the 1974 Laws of New York, as amended, constituting Section 919 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, 135 GLEN COVE AVE. CORP., a corporation organized and existing under the laws of the State of New York, on behalf of itself and/or its affiliates or related designees (the "Company"), presented a certain application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a proposed project consisting of the following (the "Project"): (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Block: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the "Land"), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Equipment") necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the Company as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, on July 27, 2021, the Agency adopted a resolution (the “Approving Resolution”), authorizing the undertaking of the Project and the granting of the Financial Assistance with respect to the Project and the Project Facility; and

WHEREAS, on or about December 16, 2021, the Agency entered into a “straight lease” transaction with respect to the Project pursuant to the following: (A) a Company Lease Agreement dated as of December 1, 2021 between the Company and the Agency (the “Company Lease”); (B) a Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 between the Agency and the Company (the “Agency Lease”); (C) a Payment in Lieu of Taxes Agreement dated as of December 1, 2021 between the Agency and the Company (the “PILOT Agreement”); and (D) certain other documents, instruments and agreements executed and delivered in connection therewith (collectively, the “Transaction Documents”); and

WHEREAS, the Company previously requested that the Agency consent to (A) the merger of the Company with and into Glen Cove Villa LLC, or another newly formed limited liability company approved by the Agency (“Villa”), such that Villa shall be the surviving entity of such merger (the “Merger Transaction”); (B) the ownership structure of Villa consisting of Livingston Glen Cove Corp., or another newly formed corporation approved by the Agency (“LGCC”), as to 60% of the membership interests in Villa, and MATT Glen Cove LLC, or another newly formed limited liability company approved by the Agency (“MATT”), as to 40% of the membership interests in Villa; (C) the membership interests in LGCC being owned solely by Daniel Livingston; and (D) the membership interests in MATT being owned equally by: (i) Michael DeSousa, (ii) Anthony DeSousa, (iii) Thomas DeSousa, and (iv) Thomas DeSousa; and

WHEREAS, the Agency consented to the Merger Transaction by resolution adopted by the members of the Agency on January 25, 2022; and

WHEREAS, the merger of the Company with and into Villa was effective on or about March 1, 2022; however, the proposed transfer of equity interests therein described above has not occurred; and

WHEREAS, by letter dated July 8, 2022 (as supplemented by letter dated July 20, 2022), Villa requested that the Agency consent to a further transfer of equity in Villa but that transaction did not close; and

WHEREAS, by letter dated May 4, 2023, Villa has requested that the Agency consent to a different transfer of equity in Villa (the “Proposed Transaction”) and the withdrawal of the former request consents (other than as to the Merger Transaction); and

WHEREAS, the Agency has concluded that the Proposed Transaction is beneficial to the City and the local economy and is consistent with the Agency’s mission and therefore wishes to encourage same; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:



Section 1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Agency Lease.

Section 2. The Agency has considered Villa's request with respect to the Proposed Transaction and hereby finds and determines that the granting of the requested consent by the Agency will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the City of Glen Cove, New York, and improve their standard of living, and thereby serve the public purposes of the Act.

Section 3. No additional "financial assistance" (as such term is used in the Act) is being requested by Villa with respect to the Proposed Transaction and, therefore, no public hearing of the Agency is required pursuant to Section 859-a of the Act.

Section 4. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other applicable laws, rules and regulations that relate thereto.

Section 5. The Agency hereby determines that Villa's request for consent with respect to a previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving "continuing agency administration" which does not involve "new programs or major reordering of priorities that may affect the environment" (6 NYCRR §617.5(c)(20)) and therefore no Findings or determination of significance are required under SEQRA.

Section 6. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other applicable laws, rules and regulations that relate to the requested consent.

Section 7. Based upon the representations made by Villa to the Agency, the Agency hereby approves and consents to the Proposed Transaction and acknowledges and agrees that the provisions of Sections 2.2(R) and 8.4 of the Agency Lease are hereby waived with respect to the Proposed Transaction; provided, however, that (a) nothing herein shall be construed as an agreement by the Agency to grant Villa any other or further consent, waiver or amendment, (b) the Agency's consent to the Proposed Transaction shall not affect or impair in any way the validity, binding effect or enforceability of the Company Lease, the Agency Lease, the PILOT Agreement or any other Transaction Document, and (c) nothing herein shall constitute a waiver by the Agency of any default or Event of Default under the Company Lease, the Agency Lease, the PILOT Agreement or any other Transaction Document, except as expressly set forth herein with respect to the application of Sections 2.2(R) and 8.4 of the Agency Lease to the Proposed Transaction. The foregoing consent is subject to (i) the Executive Director's and IDA counsel's receipt, review and approval of all requisite background checks and any other requested due diligence and (ii) execution and delivery of all Amendment Documents and Consent Documents (as defined below). As a result of the Proposed Transaction, the ownership of the Company shall be as set forth in Exhibit A attached hereto.

Section 8. The Agency hereby consents to the execution and delivery of such documents, instruments and agreements as the Chair, Vice Chair and Executive Director of the Agency, acting individually or jointly, shall deem necessary or desirable to effectuate the Proposed Transaction (collectively, the "Amendment Documents"). The execution and delivery of the Amendment Documents by any one of said officers shall be conclusive evidence of due authorization and approval.

Section 9. The Chair, Vice Chair and Executive Director of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all other consents, papers, instruments, opinions, certificates, tax certificates, tax filings, affidavits and other documents (collectively, the "Consent Documents") and to do and cause to be done any and all acts and things necessary or desirable for carrying out this Resolution. The execution and delivery of the Consent Documents by any one of said officers shall be conclusive evidence of due authorization and approval.

Section 10. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution, the Amendment Documents and the Consent Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred, and duties and liabilities imposed, upon the Agency or the members thereof by the provisions of this Resolution, the Amendment Documents and the Consent Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any Amendment Document or any Consent Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity and neither the members of the Agency nor any officer executing any Amendment Document or any Consent Document shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 11. The authorizations set forth in this Resolution are subject to the condition that Villa shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Phillips Lytle LLP. The Agency's consent fee with respect to the Proposed Transaction shall be \$5,000.

Section 12. The Agency hereby authorizes the Chair, Vice Chair and Executive Director of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which are not inconsistent with the intent and substance of this Resolution, such approval

to be evidenced by the execution by any one of said officers of the Amendment Documents and/or Consent Documents containing such modifications.

Section 13. The Chair, Vice Chair and Executive Director of the Agency, acting individually or jointly, are hereby authorized and directed to distribute copies of this Resolution to Villa and such other parties as any such officer may determine.

Section 14. This Resolution shall take effect immediately and be effective for one-hundred eighty (180) days.

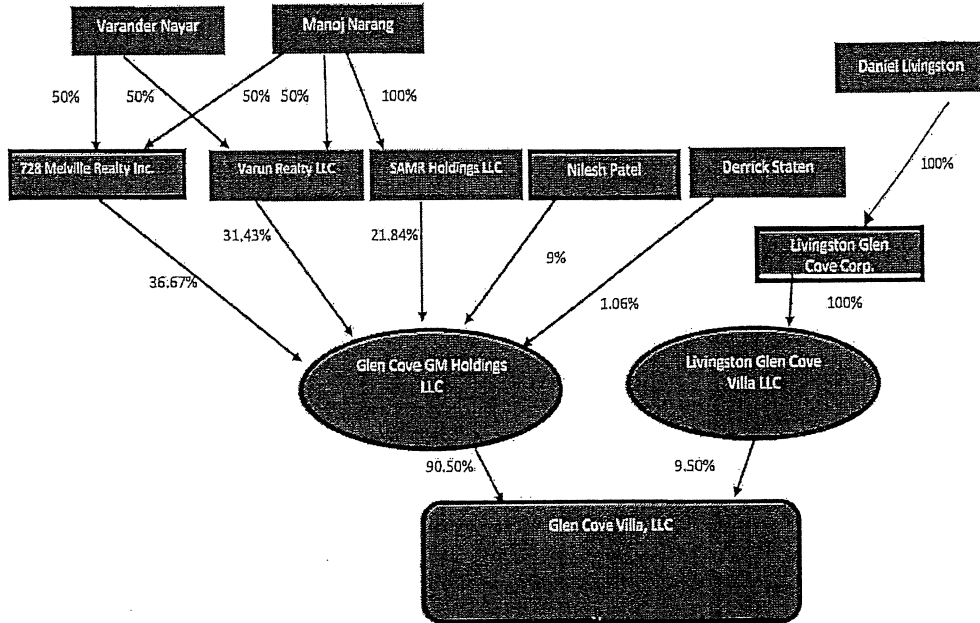
The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Pamela D. Panzenbeck	AYE
Vincent C. Hartley	AYE
James J. Cappiello	AYE
Grady Farnan	AYE
David V. Jimenez	AYE
John Fielding	AYE
Tom Hopke	Absent

The foregoing Resolution was thereupon declared duly adopted.

GC-IDA  
ENTERED  
5-9-23  
OB

EXHIBIT A



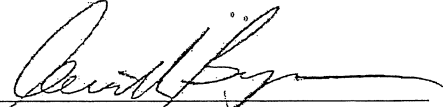

STATE OF NEW YORK     )  
  ) SS.:  
COUNTY OF NASSAU     )

WE, the undersigned officers of the Glen Cove Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 9, 2023 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

WE FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, we have hereunto set our hand this 9<sup>th</sup> day of May, 2023.

  
\_\_\_\_\_  
Secretary  
  
\_\_\_\_\_  
Chair

GC-IDA  
ENTERED  
5-09-23  
CB



GLEN COVE VILLA LLC

COMPANY GENERAL CERTIFICATE

This certificate is made in connection with the execution by Glen Cove Villa LLC (the "Company") of a certain Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) dated as of the date hereof (the "Amendment") by and between Glen Cove Villa LLC (successor-by-merger to 135 Glen Cove Ave. Corp.) and Glen Cove Industrial Development Agency (the "Agency"), and the other documents, instruments, certificates and agreements required to be executed and/or delivered by the Company (collectively, the "Company Documents") in connection therewith, all relating to the undertaking by the Agency of a project (the "Project") originally on behalf of 135 Glen Cove Ave. Corp. (the "Applicant"), consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Block: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the "Land"), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Equipment") necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency.

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 (the "Original Lease") between the Applicant and the Agency, as amended by the Amendment (the Original Lease, as amended by the Amendment, being referred to herein as the "Lease"), except that, for purposes of this certificate, (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date, and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

THE UNDERSIGNED, AS MANAGER OF THE COMPANY, HEREBY CERTIFIES THAT:

1. I am duly authorized to execute and deliver this certificate in the name and on behalf of the Company.

2. The Company (A) has been duly organized, is validly existing and is in good standing as a limited liability company under the laws of the State of New York, with full legal power and authority to own its Property, conduct its business and execute, deliver and perform its obligations under the Company Documents, and (B) has taken all actions and obtained all approvals required in connection with the foregoing.

3. The articles of organization of the Company (and filing receipt), together with all amendments thereto, in the form attached hereto as Exhibit A (collectively, the "Articles"), are in full force and effect on and as of the date of this certificate, without further amendment or modification in any respect.

4. The amended and restated operating agreement of the Company, together with all amendments thereto, in the form attached hereto as Exhibit B (collectively, the "Operating Agreement"), is in full force and effect on and as of the date of this certificate, without further amendment or modification in any respect.

5. Attached hereto as Exhibit C is a true, correct and complete copy of the Written Consent of the Manager (the "Consent") approving and authorizing execution and delivery of the Company Documents. Such Consent was duly adopted by the manager of the Company by written consent on September 29, 2023, has not been amended or modified since its adoption and is in full force and effect on the date of this certificate.

6. Attached hereto as Exhibit D is a true, correct and complete copy of the Certificate of the Secretary of State of New York to the effect that the Company is in good standing in such state.

7. Intentionally omitted.

8. Attached hereto as Exhibit E is a list of all material pending litigation relating to the Company. Except as set forth in Exhibit E, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending or, to the best of my knowledge, threatened against or affecting the Company, nor to the best of my knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect (A) the validity or the enforceability of the Company Documents or the transactions contemplated therein, (B) the organization or existence of the Company, or (C) the business, prospects, Property or condition of the Company.

9. The certificate of merger (and filing receipt) pursuant to which the Applicant was merged with and into the Company, as filed with the New York Secretary of State, are attached hereto as Exhibit F (collectively, the "Certificate") and are in full force and effect on and as of the date of this certificate, without further amendment or modification in any respect.



10. Manoj Narang, as Manager of the Company, has been duly designated to act, individually or jointly, as an "Authorized Representative" of the Company pursuant to and in accordance with the provisions of the Lease.

11. There are no Liens against or overdue taxes, assessments, fees or other governmental charges payable by the Company to the United States, the State of New York, or, to my knowledge, to any other state or municipality in the United States.

12. The execution, delivery and performance of all agreements, certificates and documents required to be executed, delivered and performed by the Company in order to carry out, give effect to and consummate the transactions contemplated by the Company Documents have been duly authorized by all necessary action of the Company. The Company Documents are in full force and effect on and as of the date hereof, and no authority for the execution, delivery or performance of the Company Documents has been repealed, revoked or rescinded.

13. The execution, delivery and performance of the Company Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each by the Company do not and will not (A) violate the Company's Articles or Operating Agreement, (B) require consent under (which has not heretofore been received) or result in a breach of or default under any credit agreement, purchase agreement, indenture, mortgage, deed of trust, commitment, guaranty, lease or other agreement or instrument to which the Company is a party or by which the Company may be bound or affected, or (C) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court, domestic or foreign, having jurisdiction over the Company or any of the Property of the Company.

14. The Company has duly authorized the taking of and has taken any and all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Company Documents.

15. No Event of Default specified in any of the Company Documents has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

16. Each of the representations and warranties of the Company in the Company Documents is true, accurate and complete on and as of the date of this certificate with the same force and effect as though such representations and warranties were made on and as of the date hereof.


17. Each of the Company Documents has been duly executed, acknowledged, where appropriate, and delivered on behalf of the Company by an Authorized Representative of the Company; the signature of said Authorized Representative thereon is the genuine signature of said Authorized Representative; and said executed Company Documents are in substantially the same form as the forms thereof presented to the manager of the Company and approved by the Consent.

18. The Company is not contemplating instituting bankruptcy, insolvency or any similar proceedings against itself.

19. The Company has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied by the terms of the Company Documents at or prior to the date hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate in the name and on behalf of the Company as of the 12<sup>th</sup> day of September, 2023.

By:  \_\_\_\_\_  
Name: Manoj Narang  
Title: Manager

[Signature Page to Company General Certificate]

EXHIBIT A  
ARTICLES OF ORGANIZATION

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for GLEN COVE VILLA LLC, File Number 220202003984 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the  
Department of State, at the City of Albany,  
on September 12, 2023.



*Brendan C. Hughes*

Brendan C. Hughes  
Executive Deputy Secretary of State

Authentication Number: 100004290202 To Verify the authenticity of this document you may access the  
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

ARTICLES OF ORGANIZATION

OF

**GLEN COVE VILLA LLC**

Under Section 203 of the Limited Liability Company Law

THE UNDERSIGNED, being a natural person of at least eighteen (18) years of age and acting as the organizer of the limited liability company (the "company") hereby being formed under Section 203 of the Limited Liability Company Law of the State of New York certifies that:

FIRST: The name of the limited liability company is:

**GLEN COVE VILLA LLC**

SECOND: The purpose of the limited liability company is:

To engage in any lawful act or activity within the purposes for which limited liability companies may be organized pursuant to Limited Liability Company Law provided that the limited liability company is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without such consent or approval first being obtained.

THIRD: The county within the State of New York in which the office of the limited liability company is to be located is Nassau.

FOURTH: The Secretary of State is designated as the agent of the Company upon whom process against the Company may be served. The post office address to which the Secretary of State shall mail a copy of any process served upon the Company is: Russo, Karl, Widmaier and Cordano, PLLC, Attn: Joseph Indusi, 400 Townline Road, Ste. 170, Hauppauge, NY 11788

FIFTH: The limited liability company is to be managed by one or more managers.

SIXTH: The limited liability company shall have a perpetual existence.

NEW YORK STATE DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE  
**FILING RECEIPT**

ENTITY NAME : GLEN COVE VILLA LLC  
DOCUMENT TYPE : NAME RESERVATION  
ENTITY TYPE : RESERVATION OF DOMESTIC LIMITED LIABILITY COMPANY

DOS ID : 6373013  
FILE DATE : 01/11/2022  
FILE NUMBER : 220112000191  
TRANSACTION NUMBER : 202201110002039-516967  
EXISTENCE DATE :  
DURATION/DISSOLUTION : 03/14/2022  
COUNTY :  
RESERVATION PIN : 69123003



SERVICE OF PROCESS ADDRESS :  
FILER : SERVICIO, INC.  
283 WASHINGTON AVE.,  
ALBANY, NY, 12206, USA  
SERVICE COMPANY : SERVICIO, INC.  
SERVICE COMPANY ACCOUNT : 35°

*You may verify this document online at :* <http://ecorp.dos.ny.gov>  
AUTHENTICATION NUMBER : 100000902897

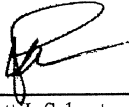
TOTAL FEES:	\$45.00	TOTAL PAYMENTS RECEIVED:	\$45.00
FILING FEE:	\$20.00	CASH:	\$0.00
CERTIFICATE OF STATUS:	\$0.00	CHECK/MONEY ORDER:	\$0.00
CERTIFIED COPY:	\$0.00	CREDIT CARD:	\$0.00
COPY REQUEST:	\$0.00	DRAWDOWN ACCOUNT:	\$45.00
EXPEDITED HANDLING:	\$25.00	REFUND DUE:	\$0.00

Filed with the NYS Department of State on 02/01/2022  
Filing Number: 220202003984 DOS ID: 6393657

SEVENTH: The limited liability company shall defend, indemnify and hold harmless all members, managers, and former members and managers of the limited liability company against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) incurred in connection with any claims, causes of action, demands, damages, liabilities of the limited liability company, and any pending or threatened action, suit, or proceeding. Such indemnification shall be made to the fullest extent permitted by the laws of the State of New York, provided that such acts or omissions which gives rise to the cause of action or proceedings occurred while the Member or Manager was in performance of his or her duties for the limited liability company and was not as a result of his or her fraud, gross negligence, willful misconduct or a wrongful taking. The indemnification provided herein shall inure to the benefit of successors, assigns, heirs, executors, and the administrators of any such person.

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

Dated: February 1, 2022



\_\_\_\_\_  
Scott J. Schuster  
Sole Organizer  
283 Washington Avenue  
Albany, NY 12206



ARTICLES OF ORGANIZATION

OF

**GLEN COVE VILLA LLC**

Under Section 203 of the Limited Liability Company Law

FILED BY:

Service Inc.  
P.O. Box 871  
Albany, NY 12201

Filed with the NYS Department of State on 02/01/2022  
Filing Number: 220202003984 DOS ID: 6393657

NEW YORK STATE DEPARTMENT OF STATE  
 DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE  
**FILING RECEIPT**

ENTITY NAME : GLEN COVE VILLA LLC  
 DOCUMENT TYPE : CERTIFICATE OF MERGER  
 ENTITY TYPE : DOMESTIC LIMITED LIABILITY COMPANY

DOS ID : 6393657  
 FILE DATE : 03/01/2022  
 FILE NUMBER : 220302002173  
 TRANSACTION NUMBER : 202203010000742-667923  
 EXISTENCE DATE : 03/01/2022  
 DURATION/DISSOLUTION : PERPETUAL  
 COUNTY : NASSAU



SERVICE OF PROCESS ADDRESS : THE LLC  
 162-20 77TH ROAD,  
 FRESH MEADOWS, NY, 11366, USA  
 FILER : SERVICO INC.  
 PO BOX 871,  
 ALBANY, NY, 12201, USA  
 SERVICE COMPANY : SERVICO, INC.  
 SERVICE COMPANY ACCOUNT : 35

*You may verify this document online at :* <http://ecorp.dos.ny.gov>  
 AUTHENTICATION NUMBER : 100001163283

TOTAL FEES:	\$85.00	TOTAL PAYMENTS RECEIVED:	\$85.00
FILING FEE:	\$60.00	CASH:	\$0.00
CERTIFICATE OF STATUS:	\$0.00	CHECK/MONEY ORDER:	\$0.00
CERTIFIED COPY:	\$0.00	CREDIT CARD:	\$0.00
COPY REQUEST:	\$0.00	DRAWDOWN ACCOUNT:	\$85.00
EXPEDITED HANDLING:	\$25.00	REFUND DUE:	\$0.00



## CERTIFICATE OF MERGER OF

135 Glen Cove Ave. Corp.

*(Insert Name of Domestic Entity)*

AND

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

INTO

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

Under Section 1003 of the Limited Liability Company Law

FIRST: The name (and if the name has been changed, the name under which it was formed) and jurisdiction of formation or organization of each domestic limited liability company or other domestic business entity that is to merge is:

135 Glen Cove Ave. Corp. - New York  
Glen Cove Villa LLC - New York

SECOND: For each domestic limited liability company and domestic other business entity, the date when its initial articles of organization or formation document was filed with Department of State is:

135 Glen Cove Ave. Corp. - October 24, 2005  
Glen Cove Villa LLC - February 1, 2022

THIRD: The name of the surviving domestic limited liability company is:

Glen Cove Villa LLC

FOURTH: The agreement of merger has been approved and executed by each of the domestic limited liability companies or domestic other business entities that is a party thereto.

FIFTH: The effective date of merger, if it is not to be effective upon the filing of the certificate of merger, is: March 1, 2022. (A future effective date may not exceed 30 days from the date of filing.)

SIXTH: The Secretary of State is designated as agent of the surviving limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

162-20 77th Road, Flushing, NY 11366

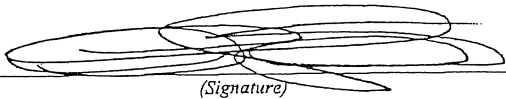
SEVENTH: The agreement of merger is on file at the following place of business of the surviving domestic limited liability company:

162-20 77th Road, Flushing, NY 11366

EIGHTH: A copy of the agreement of merger will be furnished by the surviving domestic limited liability company on request and without cost to any member of any domestic limited liability company or to any person holding an interest in any other business entity that is to merge pursuant to such agreement.

135 Glen Cove Ave. Corp.

*(Name of Domestic Entity)*

X   
*(Signature)*

Daniel Livingston

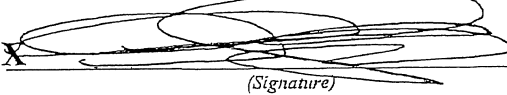
*(Type or Print Name)*

President

*(Capacity of Signer)*

Glen Cove Villa LLC

*(Name of Domestic Limited Liability Company)*

X   
*(Signature)*

Daniel Livingston

*(Type or Print Name)*

Managing Member

*(Capacity of Signer)*

CERTIFICATE OF MERGER  
OF

135 Glen Cove Ave. Corp.

*(Insert Name of Domestic Entity)*

AND

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

INTO

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

Under Section 1003 of the Limited Liability Company Law

Filer's Name and Mailing Address:

Servico Inc.

*Name:*

*Company, if Applicable:*

PO Box 871

*Mailing Address:*

Albany, NY 12201

*City, State and Zip Code:*

NOTES:

1. The name of the limited liability company or other business entity and the date(s) of filing the articles of organization or formation document must exactly match the records of the Department of State. This information should be verified on the Department of State's website at [www.dos.ny.gov](http://www.dos.ny.gov).
2. This sample form was prepared by the New York State Department of State for filing a certificate of merger with a domestic business entity into a domestic limited liability company survivor. The certificate must be signed on behalf of each entity. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal supply stores.
3. The Department of State recommends that legal documents be prepared under the guidance of an attorney.
4. The certificate must be submitted with a \$60 filing fee made payable to the Department of State.

*(For office use only)*

EXHIBIT B  
OPERATING AGREEMENT

## AMENDED AND RESTATED OPERATING AGREEMENT

This Amended and Restated Operating Agreement (this "**Agreement**") of GLEN COVE VILLA LLC, a New York limited liability company (the "**Company**"), is entered into as of April 19, 2023, by and among the Company, the Initial Members (as defined below), and each other person or entity who after the date hereof becomes a Member (as defined below) and a party to this Agreement by executing an amendment to this Agreement or a joinder agreement.

### RECITALS

The Company was formed under the laws of the State of New York, for the purposes set out in Section 2.05 of this Agreement, when the Company's Articles of Organization (as amended, modified, or restated, the "**Articles of Organization**") were filed with the Department of State of the State of New York on February 1, 2022.

Immediately prior to the execution of this Agreement, Livingston Glen Cove Villa LLC ("**LGCVLLC**"), a New York limited liability company, was the sole member of the Company. The Company and LGCVLLC are parties to an Operating Agreement of the Company dated February 28, 2022, setting forth the terms and conditions governing the operation and management of the Company and the other matters set out therein (the "**Existing Operating Agreement**"). Concurrently herewith, pursuant to a Convertible Note Purchase Agreement dated August 1, 2022 ("**Note Purchase Agreement**") and Convertible Promissory Note dated August 1, 2022 (the "**Note**"), made by the Company to the order of SAMR Consulting Inc., a New York Corporation ("**SAMR**") and subsequently assigned to Glen Cove VM Holdings LLC, Glen Cove VM Holdings LLC was issued a 43.9% Membership Interest in the Company and was admitted as a Member of the Company. The terms of the Note Purchase Agreement and the Note are superseded by this Agreement.

The parties wish to amend and restate the Existing Operating Agreement in its entirety as set forth herein, and enter into this Agreement setting forth the terms and conditions governing the operation and management of the Company and the other matters set out herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set out and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I Definitions

**Section 1.01 Definitions.** Capitalized terms used herein shall have the respective meanings set out in this Section 1.01 and when not otherwise defined herein shall have the meanings set out in the NY LLCL:

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

- (a) Crediting to such Capital Account any amount that such Member is obligated to restore or is deemed to be obligated to restore under Treasury Regulations Sections 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1), and 1.704-2(i); and
- (b) Debiting to such Capital Account the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4)-(6).

**"Affiliate"** means, with respect to any Person, any other Person who, directly or indirectly (including through one or more intermediaries), controls, is controlled by, or is under common control with, such Person. For purposes of this definition, **"control,"** when used with respect to any specified Person, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership, membership, or other ownership interests, by contract or otherwise; and the terms **"controlling"** and **"controlled"** shall have correlative meanings.

**"Agreement"** has the meaning set forth in the Recitals.

**"Applicable Law"** means all applicable provisions of (a) constitutions, treaties, statutes, laws, rules, regulations, decrees, ordinances, codes, proclamations, declarations, or orders of any Governmental Authority, (b) any consents or approvals of any Governmental Authority, and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

**"Articles of Organization"** has the meaning set forth in the Recitals.

**"Book Depreciation"** means, for each Fiscal Year, with respect to any Company asset, the Company's depreciation, amortization, or other cost recovery deductions determined for federal income tax purposes, except that if the Book Value of an asset differs from its adjusted tax basis at the beginning of such Fiscal Year, Book Depreciation shall be an amount which bears the same ratio to such beginning Book Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; *provided*, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero and the Book Value of the asset is positive, Book Depreciation shall be determined with reference to such beginning Book Value using any permitted method selected by the Manager in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g)(3).

**"Book Value"** means, with respect to any Company asset, the adjusted basis of such asset for federal income tax purposes, except as follows:

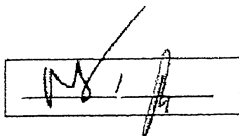
(a) The initial Book Value of any Company asset contributed by a Member to the Company shall be the gross Fair Market Value of such Company asset as of the date of such contribution;

(b) Immediately before the distribution by the Company of any Company asset to a Member, the Book Value of such asset shall be adjusted to its gross Fair Market Value as of the date of such distribution;

(c) The Book Value of all Company assets may, in the sole discretion of the Manager, be adjusted to equal their respective gross Fair Market Values, as reasonably determined by the Manager, as of the following times:

(i) the acquisition of an additional Membership Interest in the Company by a new or existing Member in consideration for more than a *de minimis* Capital Contribution;

(ii) the distribution by the Company to a Member of more than a *de minimis* amount of property (other than cash) as consideration for all or a part of such Member's Membership Interest in the Company; and





(iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g);

(d) The Book Value of each Company asset shall be increased or decreased, as the case may be, to reflect any adjustments to the adjusted tax basis of such Company asset pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Account balances pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); *provided*, that Book Values shall not be adjusted pursuant to this paragraph (d) to the extent that an adjustment pursuant to paragraph (c) above is made in conjunction with a transaction that would otherwise result in an adjustment pursuant to this paragraph (d); and

(e) If the Book Value of a Company asset has been determined pursuant to paragraph (a) or adjusted pursuant to paragraphs (c) or (d) above, such Book Value shall thereafter be adjusted to reflect the Book Depreciation taken into account with respect to such Company asset for purposes of computing Net Income and Net Losses.

**"Business Day"** means a day other than a Saturday, Sunday, or other day on which commercial banks in the State of New York are authorized or required to close.

**"Capital Account"** has the meaning set forth in Section 3.03.

**"Capital Contribution"** means any Member's contribution to the capital of the Company in cash and cash equivalents and the Book Value of any property contributed to the Company by such Member.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Company"** has the meaning set forth in the Recital.

**"Company Minimum Gain"** means "partnership minimum gain" as defined in Treasury Regulations Section 1.704-2(b)(2), substituting the term "Company" for the term "partnership" as the context requires.

**"Confidential Information"** has the meaning set forth in Section 12.02(a).

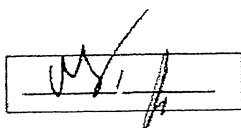
**"Covered Person"** has the meaning set forth in Section 9.01(a).

**"Department of State"** means the Department of State of the State of New York.

**"Electronic Transmission"** means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases (including one or more distributed electronic networks or databases), that creates a record that may be retained, retrieved, and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

**"Equity Securities"** means any and all Membership Interests and any securities of the Company convertible into, or exchangeable or exercisable for, Membership Interests, and warrants or other rights to acquire Membership Interests.

**"Fair Market Value"** of any asset as of any date means the purchase price that a willing buyer having all relevant knowledge would pay a willing seller for such asset in an arm's length transaction, as



determined in good faith by the Manager on such factors as the Manager, in the exercise of its reasonable business judgment, considers relevant.

**"Fiscal Year"** means the calendar year, unless the Company is required to or elects to have a taxable year other than the calendar year, in which case Fiscal Year shall be the period that conforms to its taxable year.

**"GAAP"** means United States generally accepted accounting principles in effect from time to time.

**"Governmental Authority"** means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of law), or any arbitrator, court, or tribunal of competent jurisdiction.

**"Independent Third Party"** means, with respect to any Member, any Person who is not an Affiliate or other Permitted Transferee of such Member or Owner.

**"Initial Member"** means each Person identified on the Members and Owners Schedule as of the date hereof as a Member and who has executed this Agreement or a counterpart thereof.

**"Initial Public Offering"** means any underwritten public offering of Membership Interests (or common stock of the Company or a successor entity upon conversion of such Membership Interests) pursuant to a registration statement filed in accordance with the Securities Act.

**"Joinder Agreement"** means the joinder agreement in form and substance attached hereto as Exhibit A.

**"Lien"** means any mortgage, pledge, security interest, option, right of first offer, encumbrance, or other restriction or limitation of any nature whatsoever.

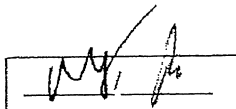
**"Liquidator"** has the meaning set forth in Section 11.03(a).

**"Losses"** has the meaning set forth in Section 9.01(b).

**"Manager"** means, initially, Daniel Livingston, or such other Person as may be designated or become the Manager pursuant to the terms of this Agreement. The Manager shall constitute a "manager" (as that term is defined in the NY LLCL) of the Company.

**"Member"** means (a) each Initial Member and (b) each Person who is hereafter admitted as a member of the Company in accordance with the terms of this Agreement and the NY LLCL, in each case so long as such Person is shown on the Company's books and records as the owner of Membership Interests. The Members shall constitute "members" (as that term is defined in the NY LLCL) of the Company.

**"Member Nonrecourse Debt"** means "partner nonrecourse debt" as defined in Treasury Regulations Section 1.704-2(b)(4), substituting the term "Company" for the term "partnership" and the term "Member" for the term "partner" as the context requires.



**"Member Nonrecourse Debt Minimum Gain"** means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if the Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

**"Member Nonrecourse Deduction"** means "partner nonrecourse deduction" as defined in Treasury Regulations Section 1.704-2(i), substituting the term "Member" for the term "partner" as the context requires.

**"Members and Owners Schedule"** means the schedule attached hereto as **Schedule A**.

**"Membership Interest"** means an interest in the Company owned by a Member, including such Member's right (a) to its distributive share of Net Income, Net Losses, and other items of income, gain, loss, and deduction of the Company, (b) to its distributive share of the assets of the Company, (c) to vote on, consent to, or otherwise participate in any decision of the Members as provided in this Agreement or the NY LLCL, and (d) to any and all other benefits to which such Member may be entitled as provided in this Agreement or the NY LLCL. The Membership Interest of each Member shall be expressed as a percentage interest and shall be set forth in the Members and Owners Schedule.

**"Net Income"** and **"Net Loss"** mean, for each Fiscal Year or other period specified in this Agreement, an amount equal to the Company's taxable income or taxable loss, or particular items thereof, determined in accordance with Code Section 703(a) (where, for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or taxable loss), but with the following adjustments:

(f) Any income realized by the Company that is exempt from federal income taxation, as described in Code Section 705(a)(1)(B), shall be added to such taxable income or taxable loss, notwithstanding that such income is not includable in gross income;

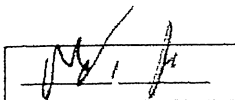
(g) Any expenditures of the Company described in Code Section 705(a)(2)(B), including any items treated under Treasury Regulations Section 1.704-1(b)(2)(iv)(I) as items described in Code Section 705(a)(2)(B), shall be subtracted from such taxable income or taxable loss, notwithstanding that such expenditures are not deductible for federal income tax purposes;

(h) Any gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of the property so disposed, notwithstanding that the adjusted tax basis of such property differs from its Book Value;

(i) Any items of depreciation, amortization, and other cost recovery deductions with respect to Company property having a Book Value that differs from its adjusted tax basis shall be computed by reference to the property's Book Value (as adjusted for Book Depreciation) in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g);

(j) If the Book Value of any Company property is adjusted as provided in the definition of Book Value, then the amount of such adjustment shall be treated as an item of gain or loss and included in the computation of such taxable income or taxable loss; and

(k) To the extent an adjustment to the adjusted tax basis of any Company property pursuant to Code Sections 732(d), 734(b), or 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the



amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

**"Nonrecourse Deductions"** has the meaning set forth in Treasury Regulations Section 1.704-2(b).

**"Nonrecourse Liability"** has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

**"NY LLCL"** means the New York Limited Liability Company Law and any successor statute, as amended from time to time.

**"Offered Securities"** has the meaning set forth in Section 8.03(a).

**"Offering Member"** has the meaning set forth in Section 8.03(a).

**"Offering Notice"** has the meaning set forth in Section 8.03(b)(i).

**"Officer"** means an officer of the Company.

**"Owner"** means each Person who directly or indirectly owns an equity interest in a Member that is an entity.

**"Owner Interest"** means, with respect to each Member or direct or indirect owner of a Member that is an entity, any and all shares of capital stock, partnership interests, membership interests or limited liability company interests of such Person and any securities of such Person convertible into, or exchangeable or exercisable for, such shares of capital stock, partnership interests, membership interests or limited liability company interests of such Person, and warrants or other rights to acquire such interests.

**"Permitted Transfer"** means a Transfer of Membership Interests carried out pursuant to Section 8.02.

**"Permitted Transferee"** means a recipient of a Permitted Transfer.

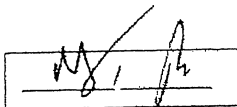
**"Person"** means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

**"PPM"** means that certain Confidential Private Placement Memorandum, dated August 2, 2021, with respect to the Project, as provided by Livingston to the Company.

**"Project"** means the development, construction, and operation of a rental apartment complex consisting of 176 rental units to be located at the Property in accordance with the PPM, as the same may be modified in accordance with this Agreement.

**"Property"** means the parcels of land designated on the Nassau County Land and Tax Map as Section 21, Block 244, Lots 55, 60, 61, 66, and p/o 67 and Section 21, Block 38, Lots 152, 196, 202 and 203, located at 135 Glen Cove Avenue, Glen Cove, New York, together with all improvements thereon and appurtenances thereto.

**"Purchasing Member"** has the meaning set forth in Section 8.03(c).



**“Regulatory Allocations”** has the meaning set forth in Section 5.02(e).

**“Related Party Agreement”** means any agreement, arrangement, transaction, or understanding: (a) in which a Member, Owner or Manager is directly or “indirectly” (as described below) a party, (b) in which a Member, Owner or Manager has a direct or “indirect material financial interest”, as described below, or (c) between the Company and any Member, Owner or Manager or any employee of the Company or any Affiliate of any Member, Owner, or Manager or any employee of the Company. A Member, Owner or Manager is “indirectly” a party to a transaction if that Person has a material financial interest in or is a director, officer, member, manager, shareholder, or partner of a Person, other than the Company, who is a party to the transaction. A Member, Owner or Manager has an “indirect material financial interest” if a Relative of such Member, Owner or Manager has a material financial interest in the transaction, other than having an indirect interest as a Member, Owner or Manager, or if the transaction is with an entity, other than the Company, which has a material financial interest in the transaction and controls, or is controlled by, the Member, Owner or Manager or another person specified in this definition. A Manager or Member is “interested” in a Related Party Agreement if clause (a), (b) or (c) above applies to such Manager or Member or any of its Owners or employees or its or their Affiliates.

**“Relative”** of a natural person means such person’s parents, spouse, children, grandchildren, siblings, father-, mother-, brother-, and sister-in laws, nieces, nephews, and first and second cousins.

**“Representative”** means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants, and other agents of such Person.

**“ROFR Offer Notice”** has the meaning set forth in Section 8.03(c).

**“ROFR Offer Notice Period”** has the meaning set forth in Section 8.03(c).

**“Securities Act”** means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

**“Subsidiary”** means, with respect to any Person, any other Person of which a majority of the outstanding shares or other equity interests having the power to vote for directors, managers, or comparable persons are owned, directly or indirectly, by the first Person.

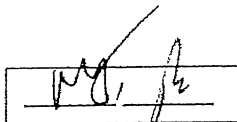
**“Tax Matters Representative”** has the meaning set forth in Section 10.04(a).

**“Taxing Authority”** means any federal, state, local, or foreign taxing authority.

**“Transfer”** means to, directly or indirectly, sell, transfer, assign, gift, pledge, encumber, hypothecate, or similarly dispose of, either voluntarily or involuntarily, by operation of law or otherwise, or to enter into any contract, option, or other arrangement or understanding with respect to the sale, transfer, assignment, gift, pledge, encumbrance, hypothecation, or similar disposition of, any Membership Interests owned by a Person or any interest (including a beneficial interest) in any Membership Interests owned by a Person. **“Transfer”** when used as a noun, and **“Transferred”** when used to refer to the past tense, shall have correlative meanings. **“Transferor”** and **“Transferee”** mean a Person who makes or receives a Transfer, respectively.

**“Treasury Regulations”** means the final or temporary regulations issued by the United States Department of Treasury pursuant to its authority under the Code, and any successor regulations.

**“Waived ROFR Transfer Period”** has the meaning set forth in Section 8.03(d).



**Section 1.02 Interpretation.** For purposes of this Agreement, (a) the words “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation,” (b) the word “or” is not exclusive, and (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. Unless the context otherwise requires, references herein (i) to Articles, Sections, Exhibits, and Schedules mean the Articles and Sections of and Exhibits and Schedules attached to this Agreement, (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, restated, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and (iii) to a statute or Applicable Law means such statute or Applicable Law as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits and Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

## **ARTICLE II Organization**

### **Section 2.01 Formation.**

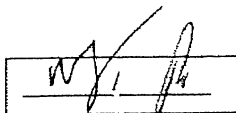
(a) The Company was formed on February 1, 2022, pursuant to the provisions of the NY LLCL, upon the filing of the Articles of Organization with the Department of State.

(b) This Agreement shall constitute the “operating agreement” (as that term is used in the NY LLCL) of the Company. The rights, powers, duties, obligations, and liabilities of the Members shall be determined pursuant to the NY LLCL and this Agreement. To the extent that the rights, powers, duties, obligations, and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the NY LLCL in the absence of such provision, this Agreement shall, to the extent permitted by the NY LLCL, control.

**Section 2.02 Name.** The name of the Company is Glen Cove Villa LLC or such other name or names as may be designated by the Members pursuant to Section 7.02(f); *provided*, that the name shall always contain the words “limited liability company” or the abbreviation “L.L.C.” or “LLC”. The Manager shall give prompt notice to the Members of any change to the name of the Company. The Company may conduct business under any assumed or fictitious name required by Applicable Law or otherwise deemed desirable by the Manager.

**Section 2.03 Principal Office.** The principal office of the Company is located at 162-20 77th Road, Fresh Meadows, New York 11366, or such other place as may from time to time be determined by the Manager. The Manager shall give prompt notice of any such change to each of the Members. The Company may maintain other offices at such other places as may from time to time be determined by the Manager.

**Section 2.04 Address for Service of Process.** The address that the Secretary of State of the State of New York shall forward a copy of any process against the Company and served upon the Secretary of State of the State of New York shall be the address designated in the Articles of Organization, which address (which need not be a place of business of the Company) the Manager may change from time to time in the manner provided by the NY LLCL and Applicable Law.



**Section 2.05 Purpose; Powers.** The Company shall engage solely in the business of: (a) owning, financing, refinancing, rehabilitating, operating, leasing, managing, holding for investment, exchanging, selling, and disposing of the Property; (b) developing the Project; and (c) such other activities as are related to or incidental to the foregoing. The Company shall have all the powers necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the LLCL.

**Section 2.06 Term.** The term of the Company commenced on the date the Articles of Organization were filed with the Department of State and shall continue in existence perpetually until the Company is dissolved in accordance with the provisions of this Agreement or the NY LLCL.

### ARTICLE III Capital Contributions; Capital Accounts

**Section 3.01 Initial Capital Contributions.** Contemporaneously with the execution of this Agreement, each Member has made an initial Capital Contribution and is deemed to own a Membership Interest in the amount set forth opposite such Member's name on the Members and Owners Schedule. The Manager shall update the Members and Owners Schedule upon the issuance or Transfer of any Membership Interest to any new or existing Member in accordance with this Agreement.

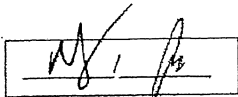
**Section 3.02 Additional Capital Contributions.** No Member shall be required to make any additional Capital Contributions to the Company. However, a Member may make additional Capital Contributions at any time with the written consent of the Manager. To the extent that a Member makes such an approved additional Capital Contribution to the Company, the Manager shall revise the Members and Owners Schedule to reflect an increase in the Capital Contribution and the Membership Interest of the contributing Member, and the corresponding pro rata decrease in the Membership Interest of each non-contributing Member, that fairly and equitably reflects the value of the contributing Member's additional Capital Contribution in relation to the aggregate amount of all Capital Contributions made by the Members.

**Section 3.03 Maintenance of Capital Accounts.** The Company shall establish and maintain for each Member a capital account (each, a "Capital Account") on its books and records in accordance with this Section 3.03. Each Capital Account shall be established and maintained in accordance with the following provisions:

(a) Each Member's Capital Account shall be increased by the amount of: (i) such Member's Capital Contributions, including such Member's initial Capital Contribution and any additional Capital Contributions; (ii) any Net Income or other item of income or gain allocated to such Member pursuant to ARTICLE V; and (iii) any liabilities of the Company that are assumed by such Member or secured by any property distributed to such Member.

(b) Each Member's Capital Account shall be decreased by: (i) the cash amount or Book Value of any property distributed to such Member pursuant to ARTICLE VI and Section 11.03(c); (ii) the amount of any Net Loss or other item of loss or deduction allocated to such Member pursuant to ARTICLE V; and (iii) the amount of any liabilities of such Member assumed by the Company or that is secured by any property contributed by such Member to the Company.

**Section 3.04 Succession Upon Transfer.** If any Membership Interests are Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent it relates to the Transferred Membership Interests and, subject to Section 5.04, shall receive allocations and distributions pursuant to ARTICLE V, ARTICLE VI, and ARTICLE XI in respect of such Membership Interests.



**Section 3.05 Negative Capital Accounts.** If any Member shall have a deficit balance in its Capital Account, such Member shall have no obligation, during the term of the Company or upon dissolution or liquidation thereof, to restore such negative balance or make any Capital Contributions to the Company by reason thereof, except as may be required by Applicable Law or in respect of any negative balance resulting from a withdrawal of capital or dissolution in contravention of this Agreement.

**Section 3.06 No Withdrawals from Capital Accounts.** No Member shall be entitled to withdraw any part of its Capital Account or to receive any distribution from the Company, except as otherwise provided in this Agreement. No Member, including the Manager, shall receive any interest, salary, or drawing with respect to its Capital Contributions or its Capital Account, except as otherwise provided in this Agreement. The Capital Accounts are maintained for the sole purpose of allocating items of income, gain, loss, and deduction among the Members and shall have no effect on the amount of any distributions to any Members, in liquidation or otherwise.

**Section 3.07 Treatment of Loans from Members.** Loans by any Member to the Company shall not be considered Capital Contributions and shall not affect the maintenance of such Member's Capital Account, other than to the extent provided in Section 3.03(a), if applicable.

**Section 3.08 Modifications.** The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulations. If the Manager determines that it is prudent to modify the manner in which the Capital Accounts, or any increases or decreases to the Capital Accounts, are computed to comply with such Treasury Regulations, the Manager may authorize such modifications.

#### **ARTICLE IV Members**

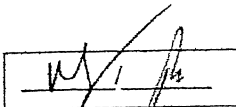
**Section 4.01 Admission of New Members.**

(a) New Members may be admitted from time to time (i) in connection with the issuance of Membership Interests by the Company, subject to compliance with the provisions of Section 7.02(b), Section 8.01(c), and (ii) in connection with a Transfer of Membership Interests, subject to compliance with the provisions of ARTICLE VIII, and in either case, following compliance with the provisions of Section 4.01(b).

(b) For any Person not already a Member of the Company to be admitted as a Member, whether pursuant to an issuance or Transfer of a Membership Interest, such Person shall have delivered to the Company an executed written undertaking substantially in the form of the Joinder Agreement. Upon the satisfaction of any other applicable conditions, including, if a condition, the receipt by the Company of payment for the issuance of such Membership Interest, such Person shall be admitted as a Member and deemed listed as such on the books and records of the Company. The Manager shall also adjust the Capital Accounts of the Members as necessary in accordance with Section 3.03 and 4.01(c).

(c) If the Company issues additional Membership Interests, the Membership Interests of existing Members as reflected on the Members and Owners Schedules shall be reduced on a pro rata basis.

**Section 4.02 No Personal Liability.** Except as otherwise provided by the NY LLCL, by Applicable Law, or expressly in this Agreement, no Member will be obligated personally for any debt,





obligation, or liability of the Company, other Members, or the Manager, whether arising in contract, tort, or otherwise, solely by reason of being or acting as a Member.

**Section 4.03 Withdrawal; Expulsion.**

(a) No Member shall have the ability to withdraw or resign as a Member prior to the dissolution and winding up of the Company and any such withdrawal or resignation or attempted withdrawal or resignation by a Member before the dissolution or winding up of the Company shall be null and void. As soon as any Person who is a Member ceases to hold any Membership Interests, such Person shall no longer be a Member.

(b) A Member may be expelled from the Company upon a unanimous vote of the other Members (excluding the Member to be expelled) if such Member, acting as a Member, (i) materially breaches this Agreement or (ii) commits theft, fraud, or gross negligence against the Company or any Member, in which case such expelled Member shall no longer be a Member and shall be deemed an assignee of its Membership Interest for all purposes, with no right to any payment or distribution as a result of the expulsion.

**Section 4.04 No Interest in Company Property.** No real or personal property of the Company shall be deemed to be owned by any Member individually, but shall be owned by, and title shall be vested solely in, the Company. Without limiting the foregoing, each Member hereby irrevocably waives during the term of the Company any right that such Member may have to maintain any action for partition with respect to the property of the Company.

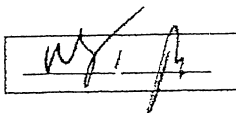
**Section 4.05 Certification of Membership Interests.**

(a) The Manager may, but shall not be required to, issue certificates to each Member representing the Membership Interests held by such Member.

(b) If the Manager shall issue certificates representing Membership Interests, then, in addition to any other legend required by Applicable Law, all certificates representing issued and outstanding Membership Interests shall bear a legend substantially in the following form:

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE NEW YORK LIMITED LIABILITY COMPANY LAW ("NYLLCL") AND AN OPERATING AGREEMENT AMONG THE COMPANY AND ITS MEMBERS, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. NO TRANSFER, SALE, ASSIGNMENT, GIFT, PLEDGE, ENCUMBRANCE, HYPOTHECATION, OR OTHER DISPOSITION OF THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THE NYLLCL AND SUCH OPERATING AGREEMENT.

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS AND MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, GIFTED, PLEDGED, ENCUMBERED, HYPOTHECATED, OR OTHERWISE DISPOSED EXCEPT PURSUANT TO (A) A REGISTRATION STATEMENT EFFECTIVE UNDER SUCH ACT AND LAWS OR (B) AN EXEMPTION FROM REGISTRATION THEREUNDER.



**Section 4.06 Meetings.**

(a) The Members shall not be required to meet annually. Additional meetings may be called by (i) the Manager or (ii) a Member or group of Members holding more than 25% of the Membership Interests.

(b) Written notice stating the place, date, and time of the meeting and, for any meeting of the Members not regularly scheduled, describing the purposes for which the meeting is called, shall be delivered not fewer than ten days and not more than 60 days before the date of the meeting to each Member, by or at the direction of the Manager or the Member(s) calling the meeting, as the case may be. The business to be conducted at such meeting shall be limited to the purposes described in the notice. The Members may hold meetings at the Company's principal office or at such other place, within or outside the State of New York, as the Manager or the Member(s) calling the meeting may designate in the notice for such meeting.

(c) Any Member may participate in a meeting of the Members using conference telephone or similar communications equipment by means of which all Persons participating in the meeting can speak to and hear each other. Such participation in a meeting shall constitute presence in person at such meeting.

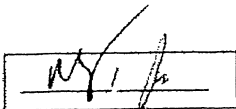
(d) On any matter that is to be voted on by the Members, a Member may vote in person or by proxy, and such proxy may be granted in writing signed by such Member, using Electronic Transmission authorized by such Member, or as otherwise permitted by Applicable Law. Every proxy shall be revocable in the discretion of the Member executing it unless otherwise provided in such proxy; *provided*, that such right to revocation shall not invalidate or otherwise affect actions taken under such proxy before such revocation.

(e) Attendance of a Member at any meeting, in person or by proxy, shall constitute a waiver of notice of such meeting, except where a Member protests, prior to the conclusion of the meeting, of the lack of notice of such meeting or to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

(f) A quorum of any meeting of the Members shall require the presence, whether in person or by proxy, of the Members holding at least a majority of the Membership Interests entitled to vote. Subject to Section 4.07, no action may be taken by the Members unless the appropriate quorum is present at a meeting.

(g) Subject to Section 4.07, Section 7.02, Section 12.09, and any other provision of this Agreement or the NY LLCL requiring the vote, consent, or approval of a different percentage of the Membership Interests or of particular Members, no action may be taken by the Members at any meeting at which a quorum is present without the affirmative vote of the Members holding at least a majority of the Membership Interests entitled to vote.

**Section 4.07 Action Without a Meeting.** Notwithstanding the provisions of Section 4.06, any matter that is to be voted on, consented to, or approved by the Members may be taken without a meeting, without prior notice, and without a vote if a written consent is signed and delivered to the Company's principal office within 60 days of the record date for that action by a Member or the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. A record shall be maintained by the Manager of each such action taken by written consent of a Member or the Members.



**ARTICLE V**  
**Allocations**

**Section 5.01 Allocation of Net Income and Net Loss.** For each Fiscal Year (or portion thereof), after giving effect to the special allocations set out in Section 5.02, Net Income and Net Loss of the Company shall be allocated among the Members pro rata in accordance with their Membership Interests.

**Section 5.02 Regulatory and Special Allocations.** Notwithstanding the provisions of Section 5.01:

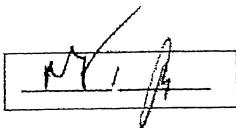
(a) If there is a net decrease in Company Minimum Gain (determined according to Treasury Regulations Section 1.704-2(d)(1)) during any Fiscal Year, each Member shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.02 is intended to comply with the "minimum gain chargeback" requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Nonrecourse Deductions shall be allocated in the manner required by Treasury Regulations Section 1.704-2(i). Except as otherwise provided in Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Fiscal Year, each Member that has a share of such Member Nonrecourse Debt Minimum Gain shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to that Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain. Items to be allocated pursuant to this paragraph shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.02(b) is intended to comply with the "minimum gain chargeback" requirements in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Nonrecourse Deductions shall be allocated to the Members in accordance with their Membership Interests.

(d) In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), Net Income shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit created by such adjustments, allocations, or distributions as quickly as possible. This Section 5.02(d) is intended to comply with the "qualified income offset" requirement in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(e) The allocations set out in paragraphs Section 5.02(a), Section 5.02(b), Section 5.02(c), and Section 5.02(d) above (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Treasury Regulations under Code Section 704. Notwithstanding any other provisions of this ARTICLE V (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating Net Income and Net Losses among Members so that, to the extent possible, the net amount of such allocations of Net Income and Net Losses and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to such Member if the Regulatory Allocations had not occurred.



**Section 5.03 Tax Allocations.**

(a) Subject to Section 5.03(b), Section 5.03(c), and Section 5.03(d), all income, gains, losses, and deductions of the Company shall be allocated, for federal, state, and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses, and deductions pursuant to Section 5.01 and Section 5.02, except that if any such allocation for tax purposes is not permitted by the Code or other Applicable Law, the Company's subsequent income, gains, losses, and deductions shall be allocated among the Members for tax purposes, to the extent permitted by the Code and other Applicable Law, so as to reflect as nearly as possible the allocation set out in Section 5.01 and Section 5.02.

(b) Items of Company taxable income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Code Section 704(c) and the traditional method with curative allocations of Treasury Regulations Section 1.704-3(c), so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value.

(c) If the Book Value of any Company asset is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) as provided in paragraph (c) of the definition of Book Value, subsequent allocations of items of taxable income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c).

(d) Allocations of tax credit, tax credit recapture, and any items related thereto shall be allocated to the Members according to their interests in such items as determined by the Manager taking into account the principles of Treasury Regulations Section 1.704-1(b)(4)(ii).

(e) Allocations pursuant to this Section 5.03 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Income, Net Losses, distributions, or other items pursuant to any provisions of this Agreement.

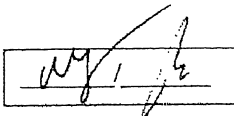
**Section 5.04 Allocations in Respect of Transferred Membership Interests.** In the event of a Transfer of Membership Interests during any Fiscal Year made in compliance with the provisions of ARTICLE VIII, Net Income, Net Losses, and other items of income, gain, loss, and deduction of the Company attributable to such Membership Interests for such Fiscal Year shall be determined using the interim closing of the books method.

**ARTICLE VI**

**Distributions**

**Section 6.01 General.**

(a) Distributions of available cash shall be made to the Members when and in such amounts as determined by the Manager. After making all distributions required for a given Fiscal Year, distributions determined to be made by the Manager pursuant to this Section 6.01(a) shall be paid to the Members in accordance with their respective Membership Interests.



(b) Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution to Members if such distribution would violate Section 508 of the NY LLCL or other Applicable Law.

**Section 6.02 Tax Withholding; Withholding Advances.**

(a) **Tax Withholding.** Each Member agrees to furnish the Company with any representations and forms as shall be reasonably requested by the Company to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

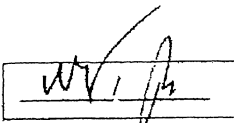
(b) **Withholding Advances.** The Company is hereby authorized at all times to make payments (“**Withholding Advances**”) with respect to each Member in amounts required to discharge any obligation of the Company (as determined by the Tax Matters Representative) based on the advice of legal or tax counsel to the Company to withhold or make payments to any Taxing Authority with respect to any distribution or allocation by the Company of income or gain to such Member and to withhold the same from distributions to such Member. Any funds withheld from a distribution by reason of this Section 6.02(b) shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company makes any Withholding Advance in respect of a Member hereunder that is not immediately withheld from actual distributions to the Member, then the Member shall promptly reimburse the Company for the amount of such payment, plus interest at a rate equal to the prime rate published in the Wall Street Journal on the date of payment plus 2% per annum, compounded annually, on such amount from the date of such payment until such amount is repaid (or deducted from a distribution) by the Member (any such payment shall not constitute a Capital Contribution). Each Member's reimbursement obligation under this Section 6.02(b) shall continue after such Member transfers its Membership Interests.

(c) **Indemnification.** Each Member shall indemnify and hold harmless the Company and the other Members from and against any liability with respect to the taxes, interest, or penalties that may be asserted by reason of the Company's failure to deduct and withhold tax on amounts distributable or allocable to such Member. The provision of this Section 6.02(c) and the obligations of a Member pursuant to Section 6.02(b) shall survive termination, dissolution, liquidation, and winding up of the Company and the withdrawal of such Member from the Company or Transfer of its Membership Interests. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section 6.02, including bringing a lawsuit to collect repayment with interest of any Withholding Advances.

(d) **Overwithholding.** Neither the Company nor the Managers shall be liable for any excess taxes withheld in respect of any distribution or allocation of income or gain to a Member. In the event of an overwithholding, a Member's sole recourse shall be to apply for a refund from the appropriate Taxing Authority.

**ARTICLE VII  
Management**

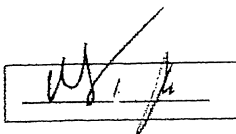
**Section 7.01 Management of the Company.** The business and affairs of the Company shall be managed, operated, and controlled by or under the direction of the Manager. Subject to the provisions of Section 7.02 and except as otherwise provided by the NY LLCL or this Agreement, the Manager shall have full and complete discretion to (a) manage and control the business, property, activities, and affairs of the Company, (b) make all decisions affecting the business, property, activities, and affairs of the Company, and (c) take all such actions as it deems necessary or appropriate to accomplish the purposes of



the Company set out in Section 2.05. The actions of the Manager taken in accordance with the provisions of this Agreement shall bind the Company. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a resolution expressly authorizing such action.

**Section 7.02 Actions Requiring Approval of Members.** Without the consent of the Members holding at least 75% of the Membership Interests, the Company or the Manager, on behalf of the Company, shall not, and shall not enter into any commitment to:

- (a) amend, modify, or waive any provisions of the Articles of Organization; *provided*, that the Manager may, without the consent of the Members, amend the Articles of Organization in accordance with Section 213(b) of the NY LLCL;
- (b) issue additional Membership Interests, Equity Securities, or other securities or admit additional Members to the Company;
- (c) enter into, amend in any material respect, waive, or terminate any Related Party Agreement;
- (d) establish a Subsidiary or enter into any joint venture or similar business arrangement;
- (e) initiate or consummate an Initial Public Offering, qualified public offering, or any other public offering and sale of the Membership Interests, Equity Securities, or any other securities;
- (f) change the Company's name; *provided*, that the name shall always contain the words "limited liability company" or the abbreviation "L.L.C." or "LLC"; or
- (g) make any investment in any other Person in excess of \$25,000.00;
- (h) make any payment or pay any expense in excess of \$25,000.00 unless such expense is within 10% of the budget set forth in Schedule \_\_;
- (i) sell, exchange, lease, assign or otherwise transfer all or substantially all of the assets of the Company;
- (j) borrow money on behalf of the Company in the excess of \$10,000.00;
- (k) lend any Company funds or other assets to any person in an amount or with a value in the excess of \$10,000.00;
- (l) establish any reserves for working capital repairs, replacements, improvements or any other purpose, in excess of an aggregate of \$10,000.00;
- (m) confess a judgment against the Company;
- (n) settle, compromise or release, discharge or pay any claim, demand or debt in excess of \$25,000.00, including claims for insurance;



(o) approve a merger or consolidation of the Company with or into any other limited liability company, corporation, partnership or other entity; or

(p) materially change the nature or character of the business of the Company.

**Section 7.03 Officers.** The Manager may appoint individuals as Officers, as the Manager deems necessary or desirable to carry on the business of the Company, and the Manager may delegate to such Officers such power and authority as the Manager deems advisable. No Officer need be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until his or her successor is designated by the Manager or until his or her earlier death, resignation, or removal. Any Officer may resign at any time upon written notice to the Manager. Any Officer may be removed by the Manager with or without cause at any time. A vacancy in any office occurring because of death, resignation, removal, or otherwise, may, but need not, be filled by the Manager.

**Section 7.04 Compensation and Reimbursement of Manager.** The Manager shall not be compensated, and the Manager may not fix its compensation, for its services as the Manager, but the Company shall reimburse the Manager for all ordinary, necessary, and direct expenses incurred by the Manager on behalf of the Company in carrying out the Company's business activities, including, without limitation, salaries of officers and employees of the Manager who are carrying out the Company's business activities. All reimbursements for expenses shall be reasonable in amount.

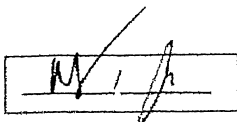
**Section 7.05 Removal of Manager.** The Manager may be removed or replaced at any time, with or without cause, by the holders of 75% of the Membership Interests. Following such removal or replacement, a successor Manager shall be elected by the holders of 75% of the Membership Interests. The removal of the Manager shall not affect its rights as a Member and shall not constitute a dissociation of such Member.

**Section 7.06 Resignation of Manager.** The Manager may resign at any time by giving at least 30 days' prior written notice to the Company. The Company's acceptance of a resignation shall not be necessary to make it effective. The resignation of the Manager shall not affect its rights as a Member and shall not constitute a dissociation of such Member.

**Section 7.07 No Personal Liability.** Except as otherwise provided in the NY LLCL, by Applicable Law, or expressly in this Agreement, the Manager shall not be obligated personally for any debt, obligation, or liability of the Company or any Member, whether arising in contract, tort, or otherwise, solely by reason of being or acting as a Manager.

**Section 7.08 No Exclusive Duty.** The Manager will devote such time and attention to the business of the Company as the Manager determines. The Manager may have other business interests and may, from time to time, engage in other activities in addition to those relating to the Company, including the ownership, operation and management of entities that may compete with the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Manager or in any income or revenues derived therefrom.

**Section 7.09 Related Party Agreements.** The Company shall not enter into or amend any Related Party Agreement without the consent of the Members who are disinterested in the transaction that is the subject of such Related Party Agreement, provided that the Manager may cause the Company to enter into or amend any Related Party Agreement if (x) the Manager gives the Members notice of any such action at least three (3) Business Days prior to taking the same, and (y) such Related Party Agreement or any amendment thereto, as the case may be, is on terms no less favorable to the Company than those that could be obtained from an unaffiliated third party. The granting by the Company of any



waiver of or consent with respect to any provision of a Related Party Agreement, and the taking of any action by the Company to enforce or defend any claim by or against the Company arising under any Related Party Agreement, shall be subject to the approval of the Members who are disinterested in the transaction that is the subject of such Related Party Agreement.

## ARTICLE VIII Transfer

### Section 8.01 General Restrictions on Transfer.

(a) Except as permitted pursuant to Section 8.02 or in accordance with the procedures set out in Section 8.03, no Member shall Transfer all or any portion of its Membership Interest in the Company, except with the written consent of Members holding a majority of the Membership Interests. No Transfer of Membership Interests to a Person not already a Member of the Company shall be deemed completed until the prospective Transferee is admitted as a Member of the Company in accordance with Section 4.01(b) hereof.

(b) Except as permitted pursuant to Section 8.02, (i) no Owner shall Transfer to another Person any portion of, or any rights in, his Owner Interest; (ii) no Member that is an entity shall issue any Owner Interests in such Member; and (iii) no Member that is an entity shall permit or recognize any Transfer of any Owner Interests of such Member.

(c) Notwithstanding any other provision of this Agreement (including Section 8.02), each Member agrees that it will not Transfer all or any portion of its Membership Interest in the Company, and the Company agrees that it shall not issue any Membership Interests:

(i) except as permitted under the Securities Act and other applicable federal or state securities or blue sky laws, and then, with respect to a Transfer of Membership Interests, only upon delivery to the Company of an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act;

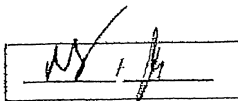
(ii) if such Transfer or issuance would cause the Company to be considered a "publicly traded partnership" under Code Section 7704(b) within the meaning of Treasury Regulations Section 1.7704-1(h)(1)(ii), including the look-through rule in Treasury Regulations Section 1.7704-1(h)(3);

(iii) if such Transfer or issuance would affect the Company's existence or qualification as a limited liability company under the NY LLCL;

(iv) if such Transfer or issuance would cause the Company to lose its status as a partnership for federal income tax purposes;

(v) if such Transfer or issuance would cause the Company to be required to register as an investment company under the Investment Company Act of 1940, as amended;

(vi) if such Transfer or issuance would cause the assets of the Company to be deemed "Plan Assets" as defined under the Employee Retirement Income Security Act of 1974 or its accompanying regulations or result in any "prohibited transaction" thereunder involving the Company; or





(vii) if such Transfer or issuance would (x) violate or breach any loan document, permit, or order to which the Company is a party, unless consent to such Transfer or issuance has been obtained from the applicable Person at the sole expense of the Transferring or issuing Person, or (y) result in any prepayment penalty being payable under any such loan document, unless such prepayment penalty is paid in full when due by the Transferring or issuing Person.

(d) Concurrently with the Transfer of any Membership Interest to any Person that is not a Member at the time of such Transfer, such Person shall, if the Membership Interests of the Members are pledged under any loan document to which the Company is a party at the time of such Transfer, deliver to the Company, for further delivery pursuant to such loan document, such documents as may be required thereunder, including (x) an executed agreement to be bound by any guaranty and pledge agreement entered into by the Members or their Owners; (y) an executed irrevocable stock power or assignment of membership interest, in such form as may be required under such loan document; and (z) any certificate(s) issued by the Company evidencing the Membership Interests that were Transferred to such Person.

(e) Any Transfer or attempted Transfer of any Membership Interest in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company's books and the purported Transferee in any such Transfer shall not be treated (and the purported Transferor shall continue to be treated) as the owner of such Membership Interest for all purposes of this Agreement.

(f) For the avoidance of doubt, any Transfer of a Membership Interest permitted by this Agreement shall be deemed a sale, transfer, assignment, or other disposal of such Membership Interest in its entirety as intended by the parties to such Transfer, and shall not be deemed a sale, transfer, assignment, or other disposal of any less than all of the rights and benefits described in the definition of the term "Membership Interest," unless otherwise explicitly agreed to by the parties to such Transfer.

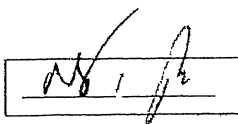
**Section 8.02 Permitted Transfers and Issuances.** The provisions of Section 8.01(b) shall not apply to any Transfer by any Owner of any Owner Interest or the issuance by any Member that is an entity of any of its Owner Interests to any Person; provided, however, that after giving effect to any such issuance or Transfer of Owner Interests of a Member, other than as the result of the death of an Owner, the natural persons who ultimately control such Member as of the date it became a Member continue to own in the aggregate, beneficially and of record, and have the right to vote, directly or indirectly, more than fifty percent (50%) of the Owner Interests of such Member and continue to otherwise individually or collectively control such Member.

**Section 8.03 Right of First Refusal.**

(a) **Right of First Refusal.** If after a Member receives a bona fide offer from an Independent Third Party who is not a Prohibited Person to purchase any or all of its Membership Interests (the "Offered Interests") which such Member desires to accept, such Member (the "Offering Member") shall first offer the Offered Interests to the other Members in accordance with this Section 8.03 before the Transfer of the Offered Interests to the Independent Third Party.

(b) **Offer Notice.**

(i) The Offering Member shall prior to consummating any Transfer to such Independent Third Party, give written notice (the "Offer Notice") to the Company and



the other Members stating that it has received a bona fide offer from an Independent Third Party and specifying (A) the number of Offered Securities to be sold by the Offering Member, (B) the name of the Person who has offered to purchase such Offered Securities, (C) the purchase price and the other material terms and conditions of the Transfer, including a description of any non-cash consideration in sufficient detail to permit the valuation thereof, (D) the proposed date, time, and location of the closing of the Transfer, which shall not be less than 60 day after the date of the Offering Member Notice, and (E) all other material terms and conditions of the Transfer.

(ii) The Offer Notice shall constitute the Offering Member's offer to Transfer the Offered Securities to the other Members, which offer shall be irrevocable until the end of the ROFR Offer Notice Period.

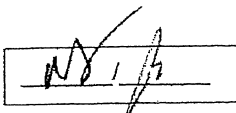
(iii) By delivering the Offer Notice, the Offering Member represents and warrants to the Company and each other Member that (a) the Offering Member has full right, title, and interest in and to the Offered Securities, (b) the Offering Member has all the necessary power and authority and has taken all necessary action to sell such Offered Securities as contemplated by this Section 8.03, and (c) the Offered Securities are free and clear of any and all Liens (other than those arising hereunder, those that may arise under the Securities Act and other applicable federal or state securities or blue sky laws, and those attributable to actions of the purchasers thereof).

(c) **Exercise of the ROFR.**

(i) Upon receipt of the Offer Notice, each Member shall have twenty (20) Business Days (the "**ROFR Offer Notice Period**") to elect to purchase all (but not less than all) of the Offered Securities by delivering a written notice (a "**ROFR Offer Notice**") to the Offering Member and the Company stating that it offers to purchase such Offered Securities on the terms specified in the Offer Notice. Any ROFR Offer Notice shall be binding upon delivery and irrevocable by the applicable Member. If more than one Member delivers a ROFR Offer Notice, each such Member (the "**Purchasing Member**") shall be allocated its pro rata share of the Offered Securities.

(ii) Each Member that does not deliver a ROFR Offer Notice during the ROFR Offer Notice Period shall be deemed to have waived all of such Member's rights to purchase the Offered Securities under this Section 8.03 and, if no Member elects to purchase the Offered Securities pursuant to this Section 8.03, the Offering Member shall thereafter be free to sell the Offered Securities to the Independent Third Party named in the Offering Member Notice without any further obligation to the other Members pursuant to this Section 8.03.

(d) **Consummation of Sale.** If no Member delivers a ROFR Offer Notice in accordance with Section 8.03(c), then the Offering Member may, during the 60 day period immediately following the expiration of the ROFR Offer Notice Period, which period may be extended for a reasonable time not to exceed 30 additional days to the extent reasonably necessary to obtain any required approvals or consents from any Governmental Authority (the "**Waived ROFR Transfer Period**"), Transfer all of the Offered Securities to the Independent Third Party on terms and conditions no more favorable to the Independent Third Party than those set out in the Offering Member Notice. If the Offering Member does not Transfer the Offered Securities within such period or, if such Transfer is not consummated within the Waived ROFR Transfer Period, the rights provided hereunder shall be deemed to be revived and the Offered



Securities shall not be Transferred to the Independent Third Party unless the Offering Member sends a new Offering Member Notice in accordance with, and otherwise complies with, this Section 8.03.

(e) **Cooperation.** Each Member shall take all actions as may be reasonably necessary to consummate the sale contemplated by this Section 8.03 including, without limitation, entering into agreements and delivering certificates and instruments and consents as may be deemed necessary or appropriate.

(f) **Closing.** At the closing of any sale and purchase to any Purchasing Member pursuant to this Section 8.03, the Offering Member shall deliver to the Purchasing Member(s) any certificates issued in accordance with Section 4.05 representing the Offered Securities to be sold, accompanied by evidence of transfer and all necessary transfer taxes paid and stamps affixed, if necessary, against receipt of the purchase price therefore from such Purchasing Member(s) by certified or official bank check or by wire transfer of immediately available funds.

**Section 8.04 Owner Restrictions.** Each Member agrees to cause its operating agreement or shareholders agreement to include restrictions on Transfers of interests in such Member consistent with the provisions of this Article VIII.

## ARTICLE IX Indemnification

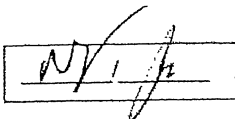
### Section 9.01 Covered Persons.

(a) **Covered Persons.** As used herein, the term "Covered Person" shall mean (i) each Member, including the Manager, (ii) each officer, director, shareholder, partner, member, manager, Affiliate, employee, agent, or Representative of each Member, and each of their respective Affiliates, and (iii) each Manager, Officer, employee, agent, or Representative of the Company.

(b) **Indemnification.** To the fullest extent permitted under the NY LLCL (after waiving all the NY LLCL restrictions on indemnification other than those which cannot be eliminated under the NY LLCL), as the same now exists or may hereafter be amended, substituted, or replaced (but, in the case of any such amendment, substitution, or replacement, only to the extent that such amendment, substitution, or replacement permits the Company to provide broader indemnification rights than the NY LLCL permitted the Company to provide before such amendment, substitution, or replacement), the Company shall indemnify, hold harmless, defend, pay, and reimburse any Covered Person against any and all losses, claims, damages, judgments, fines, or liabilities, including reasonable legal fees or other expenses incurred in investigating or defending against such losses, claims, damages, judgments, fines, or liabilities, and any amounts expended in settlement of any claims (each, a "Loss" and, collectively, "Losses") to which such Covered Person may become subject by reason of:

(i) any act or omission or alleged act or omission performed or omitted to be performed on behalf of the Company, any Member, the Manager, or any of their respective direct or indirect Subsidiaries in connection with the business of the Company; or

(ii) such Covered Person being or acting in connection with the business of the Company as a member, shareholder, partner, Affiliate, manager, director, officer,



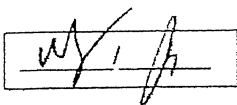
employee, agent, or Representative of the Company, any Member, the Manager, or any of their respective Affiliates, or such Covered Person serving or having served at the request of the Company as a member, manager, director, officer, employee, agent, or Representative of any Person including the Company;

*provided*, that such Loss did not arise from (A) the Covered Person's conduct involving bad faith, willful or intentional misconduct, or a knowing violation of law, as determined by a final, nonappealable order of a court of competent jurisdiction or other final adjudication adverse to such Covered Person, (B) a transaction from which such Covered Person derived an improper personal benefit, (C) a circumstance under which the liability provisions for improper distributions of Section 508 of the NY LLCL are applicable, or (D) a breach of such Covered Person's duties or obligations under Section 409 of the NY LLCL (taking into account any restriction, expansion, or elimination of such duties and obligations provided for in this Agreement). In connection with the foregoing, the termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the Covered Person acted in bad faith, that the Covered Person's conduct constituted willful or intentional misconduct or a knowing violation of law, or that the Covered Person derived an improper personal benefit.

(c) **Control of Defense.** Upon a Covered Person's discovery of any claim, lawsuit, or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 9.01, the Covered Person shall give prompt written notice to the Company of such claim, lawsuit, or proceeding; *provided*, that the failure of the Covered Person to provide such notice shall not relieve the Company of any indemnification obligation under this Section 9.01, unless the Company shall have been materially prejudiced thereby. Subject to the approval of the holders of a majority of the Membership Interests held by the disinterested Members, the Company shall be entitled to participate in or assume the defense of any such claim, lawsuit, or proceeding at its own expense. After notice from the Company to the Covered Person of its election to assume the defense of any such claim, lawsuit, or proceeding, the Company shall not be liable to the Covered Person under this Agreement or otherwise for any legal or other expenses subsequently incurred by the Covered Person in connection with investigating, preparing to defend, or defending any such claim, lawsuit, or other proceeding. If the Company does not elect (or fails to elect) to assume the defense of any such claim, lawsuit, or proceeding, the Covered Person shall have the right to assume the defense of such claim, lawsuit, or proceeding as it deems appropriate, but it shall not settle any such claim, lawsuit, or proceeding without the consent of the holders of a majority of the Membership Interests held by the disinterested Members (which consent shall not be unreasonably withheld, conditioned, or delayed).

(d) **Reimbursement.** The Company shall promptly reimburse (or advance to the extent reasonably required) each Covered Person for reasonable legal or other expenses (as incurred) of such Covered Person in connection with investigating, preparing to defend, or defending any claim, lawsuit, or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 9.01; *provided*, that if it is finally judicially determined that such Covered Person is not entitled to the indemnification provided by this Section 9.01, then such Covered Person shall promptly reimburse the Company for any reimbursed or advanced expenses.

(e) **Entitlement to Indemnity.** The indemnification provided by this Section 9.01 shall not be deemed exclusive of any other rights to indemnification to which those seeking indemnification may be entitled under any agreement or otherwise. The provisions of this Section



9.01 shall continue to afford protection to each Covered Person regardless of whether such Covered Person remains in the position or capacity pursuant to which such Covered Person became entitled to indemnification under this Section 9.01 and shall inure to the benefit of the executors, administrators, legatees, and distributees of such Covered Person.

(f) **Insurance.** To the extent available on commercially reasonable terms, the Company may purchase, at its expense, insurance (i) to cover Losses covered by the indemnification provisions contained in this Article X and (ii) to otherwise cover Losses for any breach or alleged breach by any Covered Person of such Covered Person's duties whether or not covered by the foregoing indemnifications, in each case, in such amount and with such deductibles as the Manager may reasonably determine; *provided*, that the failure to obtain such insurance shall not affect the right to indemnification of any Covered Person under the indemnification provisions contained in this Article X, including the right to be reimbursed or advanced expenses or otherwise indemnified for Losses hereunder. If any Covered Person recovers any amounts in respect of any Losses from any insurance coverage, then such Covered Person shall, to the extent that such recovery is duplicative, reimburse the Company for any amounts previously paid to such Covered Person by the Company in respect of such Losses.

(g) **Funding of Indemnification Obligation.** Notwithstanding anything contained herein to the contrary, any indemnity by the Company relating to the matters covered in this Section 9.01 shall be provided out of and to the extent of Company assets only, and no Member (unless such Member otherwise agrees in writing) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity by the Company.

(h) **Savings Clause.** If this Section 9.01 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Covered Person pursuant to this Section 9.01 to the fullest extent permitted by any applicable portion of this Section 9.01 that shall not have been invalidated and to the fullest extent permitted by Applicable Law.

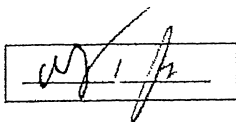
(i) **Amendment.** The provisions of this Section 9.01 shall be a contract between the Company, on the one hand, and each Covered Person who served in such capacity at any time while this Section 9.01 is in effect, on the other hand, pursuant to which the Company and each such Covered Person intend to be legally bound. No amendment, modification, or repeal of this Section 9.01 that adversely affects the rights of a Covered Person to indemnification for Losses incurred or relating to a state of facts existing before such amendment, modification, or repeal shall apply in such a way as to eliminate or reduce such Covered Person's entitlement to indemnification for such Losses without the Covered Person's prior written consent.

**Section 9.02 Survival.** The provisions of this ARTICLE IX shall survive the dissolution, liquidation, winding up, and termination of the Company.

## ARTICLE X Accounting; Tax Matters

**Section 10.01 Financial Statements.** The Company shall furnish to each Member the following reports:

(a) **Annual Financial Statements.** As soon as available, and in any event within 120 days after the end of each Fiscal Year, audited balance sheets of the Company as at the end of



each such Fiscal Year and audited statements of income, cash flows, and Members' equity for such Fiscal Year, in each case setting forth in comparative form the figures for the previous Fiscal Year, accompanied by the certification of independent certified public accountants of recognized national standing selected by the Manager, certifying to the effect that, except as set out therein, such financial statements have been prepared in accordance with GAAP, applied on a basis consistent with prior years, and fairly present in all material respects the financial condition of the Company as of the dates thereof and the results of its operations and changes in its cash flows and the Members' equity for the periods covered thereby.

(b) **Quarterly Financial Statements.** As soon as available, and in any event within 45 days after the end of each quarterly accounting period in each Fiscal Year (other than the last fiscal quarter of the Fiscal Year), unaudited balance sheets of the Company as at the end of each such fiscal quarter and for the current Fiscal Year to date and unaudited statements of income, cash flows, and Members' equity for such fiscal quarter and for the current Fiscal Year to date, in each case setting forth in comparative form the figures for the corresponding periods of the previous fiscal quarter, all in reasonable detail and all prepared in accordance with GAAP, consistently applied (subject to normal year-end audit adjustments and the absence of notes thereto), and certified by the principal financial or accounting Officer of the Company.

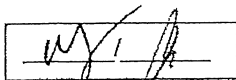
(c) **Monthly Financial Statements.** As soon as available, and in any event within 30 days after the end of each monthly accounting period in each fiscal quarter (other than the last month of the fiscal quarter), unaudited balance sheets of the Company as at the end of each such monthly period and for the current Fiscal Year to date and unaudited statements of income, cash flows, and Members' equity for each such monthly period and for the current Fiscal Year to date, all in reasonable detail and all prepared in accordance with GAAP, consistently applied (subject to normal year-end audit adjustments and the absence of notes thereto).

**Section 10.02 Inspection Rights.** Upon reasonable prior notice from a Member, the Company shall afford the Member and its Representatives access during normal business hours to (a) the Company's properties, offices, plants, and other facilities, (b) the corporate, financial, and similar records, reports, and documents of the Company, including all books and records, minutes of proceedings, internal management documents, reports of operations, reports of adverse developments, copies of any management letters, and communications with Members and the Manager, and permit the Member and its Representatives to examine such documents and make copies thereof, and (c) any Officers, senior employees, and public accountants of the Company, and afford the Member and its Representatives the opportunity to discuss and advise on the affairs, finances, and accounts of the Company with such Officers, senior employees, and public accountants (and the Company hereby authorizes said accountants and other Persons to discuss with such Member and its Representatives such affairs, finances, and accounts); in each case, to the extent such information is for a purpose reasonably related to the Member's interest as a Member.

**Section 10.03 Income Tax Status.** It is the intent of the Company and the Members that the Company shall be treated as a partnership for U.S., federal, state, and local income tax purposes. None of the Company, the Manager, or any Member shall make an election for the Company to be classified as other than a partnership pursuant to Treasury Regulations Section 301.7701-3.

**Section 10.04 Tax Matters Representative.**

(a) **Appointment; Resignation.** The Members hereby appoint the Manager as the "partnership representative" as provided in Code Section 6223(a) (the "Tax Matters Representative"). The Tax Matters Representative can be removed at any time by a vote of

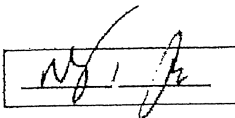


Members holding at least 75% of the Membership Interests, and shall resign if it is no longer a Member. In the event of the resignation or removal of the Tax Matters Representative, Members holding more than 50% of the Membership Interests shall select a replacement Tax Matters Representative.

(b) **Tax Examinations and Audits.** The Tax Matters Representative is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by Taxing Authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Tax Matters Representative shall have sole authority to act on behalf of the Company in any such examinations and any resulting administrative or judicial proceedings, and shall have sole discretion to determine whether the Company (either on its own behalf or on behalf of the Members) will contest or continue to contest any tax deficiencies assessed or proposed to be assessed by any Taxing Authority.

(c) **BBA Elections.** The Tax Matters Representative shall promptly notify the Members of the receipt of a notice of final partnership adjustment and shall take such actions as directed by Members holding at least 75% of the Membership Interests, including whether to (i) file a petition for readjustment in the Tax Court, federal district court, or the Court of Federal Claims, (ii) cause the Company to pay the imputed underpayment under Code Section 6225, or (iii) make the election under Code Section 6226. If the Tax Matters Representative fails to receive any such direction within fifteen (15) days after giving such notice, it shall take such actions as it believes in good faith to be in the best interest of the Members. If the Members direct the Tax Matters Representative to cause the Company to pay the imputed underpayment under Code Section 6225 (i) the Members shall take such actions as requested by the Tax Matters Representative, including filing amended tax returns and paying any tax due under Code Section 6225(c)(2)(A) or paying any tax due and providing applicable information to the Internal Revenue Service under Code Section 6225(c)(2)(B) and (ii) the Company shall use commercially reasonable efforts to make any modifications available under Code Section 6225(c)(3), (4), and (5). The Tax Matters Representative shall equitably apportion any imputed underpayment among the Members (including former Members) based on their interests in the Company for the year giving rise to the imputed underpayment. In determining each Member's share of an imputed underpayment, the Tax Matters Representative shall take into account (by reducing the amount of an underpayment apportioned to a Member) any modifications to the imputed underpayment attributable to a Member under Code Section 6225(c)(2), (3), (4), or (5). The Tax Matters Representative shall seek payment from the Members (and former Members) for the amount of the imputed underpayment attributable to that Member or former Member, and each such Member agrees to pay such amount to the Company. Any such payment made by a Member shall not be treated as a capital contribution. Any amount not paid by a Member or former Member within fifteen (15) days of a request by the Tax Matters Representative shall accrue interest at the rate of 12% per annum. Any imputed underpayment amount paid by the Company on behalf of a Member and not reimbursed by that Member shall be treated as a distribution to such Member.

(d) **Tax Returns and Tax Deficiencies.** Each Member agrees that such Member shall not treat any Company item inconsistently on such Member's federal, state, foreign, or other income tax return with the treatment of the item on the Company's return. Any deficiency for taxes imposed on any Member (including penalties, additions to tax, or interest imposed with respect to such taxes and taxes imposed pursuant to Code Section 6226) shall be paid by such Member and if required to be paid (and actually paid) by the Company, will be recoverable from such Member as provided in **Error! Reference source not found.**



(e) **Section 754 Election.** The Tax Matters Representative will make an election under Code Section 754, if requested in writing by another Member.

(f) **Indemnification.** The Company shall defend, indemnify, and hold harmless the Tax Matters Representative against any and all liabilities sustained as a result of any act or decision concerning Company tax matters and within the scope of such Member's responsibilities as the Tax Matters Representative, so long as such act or decision was done or made in good faith and does not constitute gross negligence or willful misconduct.

(g) **Survival.** The obligations of each Member or former Member under this Section 10.04 shall survive the transfer or redemption by such Member of its membership interest, the termination of this Agreement, or the dissolution of the Company.

**Section 10.05 Tax Returns.** At the expense of the Company, the Manager (or any Officer that it may designate pursuant to Section 7.03) shall endeavor to cause the preparation and timely filing (including extensions) of all tax returns required to be filed by the Company pursuant to the Code as well as all other required tax returns in each jurisdiction in which the Company owns property or does business. As soon as reasonably possible after the end of each Fiscal Year, the Manager or designated Officer will cause to be delivered to each Person who was a Member or Permitted Transferee at any time during such Fiscal Year, IRS Schedule K-1 to Form 1065 and such other information with respect to the Company as may be necessary for the preparation of such Person's federal, state, and local income tax returns for such Fiscal Year.

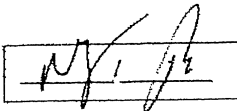
**Section 10.06 Company Funds.** All funds of the Company shall be deposited in its name, or in such name as may be designated by the Manager, in such checking, savings, or other accounts, or held in its name in the form of such other investments as shall be designated by the Manager. The funds of the Company shall not be commingled with the funds of any other Person. All withdrawals of such deposits or liquidations of such investments by the Company shall be made exclusively upon the signature or signatures of such Officer or Officers as the Manager may designate.

## ARTICLE XI Dissolution and Liquidation

**Section 11.01 Events of Dissolution.** The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events:

- (a) An election to dissolve the Company made by 75% of the Membership Interests of the Members;
- (b) The sale, exchange, involuntary conversion, or other disposition or Transfer of all or substantially all the assets of the Company; or
- (c) The entry of a decree of judicial dissolution under Section 702 of the NY LLCL.

**Section 11.02 Effectiveness of Dissolution.** Dissolution of the Company shall be effective on the day on which any event described in Section 11.01 occurs, but the Company shall not terminate until the winding up of the Company has been completed, the assets of the Company have been distributed as provided in Section 11.03, and the Articles of Organization shall have been cancelled as provided in Section 11.04.





**Section 11.03 Liquidation.** If the Company is dissolved pursuant to Section 11.01, the Company shall be liquidated and its business and affairs wound up in accordance with the NY LLCL and the following provisions:

(a) **Liquidator.** The Manager (or other Person designated by the Manager) shall act as liquidator to wind up the Company (the "**Liquidator**"). Subject to a receiver or liquidating trustee being appointed by a court to wind up and liquidate the affairs of the Company, the Liquidator shall have full power and authority to sell, assign, and encumber any or all of the Company's assets and to wind up and liquidate the affairs of the Company in an orderly and business-like manner.

(b) **Accounting.** As promptly as possible after dissolution and again after final liquidation, the Liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(c) **Distribution of Proceeds.** Subject to a receiver or liquidating trustee being appointed by a court to wind up and liquidate the affairs of the Company, the Liquidator shall liquidate the assets of the Company and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of Applicable Law:

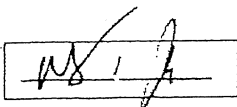
(i) first, to the payment of all of the Company's known debts and liabilities (including debts and liabilities (other than distributions) owed to Members who are creditors, if applicable) and the expenses of liquidation (including sales commissions incident to any sales of assets of the Company);

(ii) second, to the establishment of and additions to reserves that are determined by the Liquidator (or other Persons winding up the affairs of the Company) to be reasonably necessary for any contingent unknown liabilities or obligations of the Company;

(iii) third, to Members and former Members in satisfaction of liabilities for distributions; and

(iv) fourth, to the Members, on a pro rata basis, in accordance with the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the liquidation of the Company occurs.

(d) **Discretion of Liquidator.** Notwithstanding the provisions of Section 11.03(c) that require the liquidation of the assets of the Company, but subject to the order of priorities set out in Section 11.03(c), if upon dissolution of the Company the Liquidator reasonably determines that an immediate sale of part or all of the Company's assets would be impractical or could cause undue loss to the Members, the Liquidator may (subject to a receiver or liquidating trustee being appointed by a court to wind up and liquidate the affairs of the Company) defer the liquidation of any assets except those necessary to satisfy Company liabilities and reserves, and may upon approval of at least 75% of the outstanding Membership Interests, distribute to the Members, in lieu of cash, as tenants in common and in accordance with the provisions of Section 11.03(c), undivided interests in such Company assets as the Liquidator deems not suitable for liquidation.



Any such distribution in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operating of such properties at such time. For purposes of any such distribution, any property to be distributed will be valued at its Fair Market Value.

**Section 11.04 Articles of Dissolution; Cancellation of Foreign Qualifications.** Upon completion of the distribution of the assets of the Company as provided in Section 11.03(c) hereof, the Liquidator shall (a) file articles of dissolution with the Department of State, which filing shall in no event be later than ninety (90) days after the dissolution date of the Company (or at any other time after the expiration of the time period for continuation of the Company without the agreement in writing to continue by the legal representative of the last remaining member under Section 701 of the NY LLCL), (b) cause the cancellation of all qualifications and registrations of the Company as a foreign limited liability company in jurisdictions other than the State of New York, subject to any requirements of such jurisdictions, and (c) and take such other actions as may be necessary to terminate the Company.

**Section 11.05 Survival of Rights, Duties, and Obligations.** Dissolution, liquidation, winding up, or termination of the Company for any reason shall not release any party from any Loss that at the time of such dissolution, liquidation, winding up, or termination already had accrued to any other party or thereafter may accrue in respect of any act or omission before such dissolution, liquidation, winding up, or termination. For the avoidance of doubt, none of the foregoing shall replace, diminish, or otherwise adversely affect any Member's right to indemnification pursuant to ARTICLE IX.

**Section 11.06 Recourse for Claims.** Each Member shall look solely to the assets of the Company for all distributions with respect to the Company, such Member's Capital Account, and such Member's share of Net Income, Net Loss, and other items of income, gain, loss, and deduction, and shall have no recourse therefor (upon dissolution or otherwise) against the Liquidator or any other Member.

## ARTICLE XII

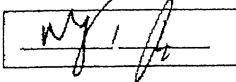
### Livingston Membership Interest Purchase Agreement

**Section 12.01 Membership Interest Purchase Agreement.** The Members and the Company have entered into and executed that certain Membership Interest Purchase Agreement dated April 19, 2023 ("Purchase Agreement"), wherein Glen Cove VM Holdings, LLC, as buyer (hereinafter, "Purchasing Member"), and Livingston Glen Cove Villa LLC, as seller (hereinafter "Selling Member"), agreed to purchase Seller's 46.6% membership interest in the Company. Notwithstanding any provision to the contrary, pursuant to the Purchase Agreement, the Members and Company agree as follows:

(a) Selling Member shall not have the right to vote its remaining 9.5% Membership Interest in the Company (the "Remaining Interest").

(b) Selling Member's Remaining Interest shall be non-dilutable, and Selling Member shall not be obligated to make any financial contributions or capital contributions to the Company. Notwithstanding, Selling Member is entitled to and shall be paid any profits or distributions at the time any profit or distribution is made or distributed to any member or manager of the Company.

(c) Selling Member shall be permitted to sell its Remaining Interest to a third party. However, before Selling Member may accept an offer from a third party to purchase the Remaining Interest, Selling Member must first give written notice of such offer to the Purchasing Member. Purchasing Member shall have ten (10) days from the date of receipt of said offer to provide Selling Member with written acceptance of the offer and upon the same terms and conditions as the offer by the third party. If Purchasing Member shall accept the offer, the closing shall take place within ten (10) days from the date of acceptance. If Purchasing Member fails to accept the offer within ten (10) days of receipt of the offer, Selling Member may proceed to



sell to the third party in accordance with the terms of the offer.

(d) Purchasing Member shall have the right to purchase Selling Member's Remaining Interest as follows: (1) Up to one year after Closing: \$1,900,000.00 (2) After one year, up to two years, after Closing: \$4,100,000.00, and (3) Over two years after closing: \$5,200,000.00. Should Selling Member obtain an offer to purchase the Remaining Interest, as detailed in subsection (c) above, and Purchasing Member shall desire to purchase the Remaining Interest, the purchase price to be paid by Purchasing Member shall equal the greater of the third party offer or the amounts set forth in this subsection (d). Further, notwithstanding any provision to the contrary, in the event Purchasing Member shall sell the Property, Selling Member shall receive payment equal to its non-dilutable share of 9.5% but in no event shall Selling Member receive less than the amounts to be paid to Selling Member as set forth in this Section 12.01(d).

(e) Manoj Narang will be the Manager.

(f) Selling Member shall be permitted to submit bids for the electrical work at the Premises. If Selling Member's bid is within 10% of the average of three qualified blind bids, Selling Member shall receive the contract for electrical work at the Premises.

(g) Selling Member shall have the right to convey the Remaining Interest into an entity or trust for the benefit of his family of his choosing.

(h) Membership Interest Certificates will be used to evidence ownership in the Company.

(i) Selling Member shall not be removed or terminated as a Member from the Company unless Selling Member's Remaining Interest is purchased by Purchasing Member or a third party.

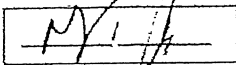
(j) The provisions of Article VI, IX, X and XII of this Operating Agreement shall not be modified without the Selling Member's consent and Selling Member shall have all rights set forth therein.

**Section 12.02 No Amendment; Liquidated Damages.** Purchasing Member shall not amend, modify, or replace this Agreement if such amendment, modification or replacement would have the effect of reducing Selling Member's Remaining Interest or altering or reducing the rights as described in this Article 12, without the prior written consent of Selling Member, which may be withheld in its sole discretion. Purchasing Member's breach of this representation, if it shall result in Selling Member's loss of any portion of its Remaining Interest, shall result in the payment of liquidated damages to Selling Member in the amount of \$5,000,000.00 (Five Million Dollars), as pro-rated to the amount of membership interest Selling Member loses. The parties acknowledge and agree that liquidated damages is an appropriate remedy for the breach of this provision since such damages are difficult to ascertain. The parties further acknowledge and agree that the liquidated damages triggered by this provision bear a reasonable relationship to, and are not plainly or grossly disproportionate to, the probable loss likely to be incurred by Selling Member resulting from Purchasing Member's breach of this provision.

**Section 12.03 Binding Effect.** The provisions set forth in this Article XII are binding on the Members of the Company and the Company. In the event there is any inconsistency between this Operating Agreement as it may be amended and the terms and provisions of the Purchase Agreement or this Article XII, the provisions of the Purchase Agreement and this Article XII shall control. Any terms not defined in this Article XII shall have the meaning ascribed to it in the Purchase Agreement.

### ARTICLE XIII Miscellaneous

**Section 13.01 Further Assurances.** In connection with this Agreement and the transactions contemplated hereby, the Company and each Member hereby agrees, at the request of the Company,



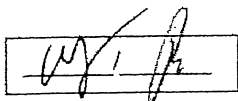
Manager, or any other Member, to execute and deliver, and to cause its Owners to execute and deliver, such additional documents, instruments, conveyances, and assurances and to take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

### Section 13.02 Confidentiality.

(a) Each Member and Owner acknowledges that during the term of this Agreement, it will have access to and become acquainted with trade secrets, proprietary information, and confidential information belonging to the Company and its Affiliates that are not generally known to the public, including, but not limited to, information concerning business plans, financial statements, and other information provided pursuant to this Agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists, or other business documents that the Company treats as confidential, in any format whatsoever (including oral, written, electronic, or any other form or medium) (collectively, "**Confidential Information**"). In addition, each Member and Owner acknowledges that (i) the Company has invested, and continues to invest, substantial time, expense, and specialized knowledge in developing its Confidential Information, (ii) the Confidential Information provides the Company with a competitive advantage over others in the marketplace, and (iii) the Company would be irreparably harmed if the Confidential Information were disclosed to competitors or made available to the public. Without limiting the applicability of any other agreement to which any Member or Owner is subject, no Member or Owner shall, directly or indirectly, disclose or use (other than solely for the purposes of such Member monitoring and analyzing its investment in the Company) at any time, including, without limitation, use for personal, commercial, or proprietary advantage or profit, either during its association with the Company or thereafter, any Confidential Information of which such Member is or becomes aware. Each Member or Owner in possession of Confidential Information shall take all appropriate steps to safeguard such information and to protect it against disclosure, misuse, espionage, loss, and theft.

(b) Nothing contained in Section 12.02(a) shall prevent any Member or Owner from disclosing Confidential Information (i) upon the order of any court, administrative agency, or arbitral tribunal having jurisdiction over such Member, (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Member or Owner, (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories, or other discovery requests, (iv) to the extent necessary in connection with the exercise of any remedy hereunder, (v) to any Member, any Owner, the Manager, or the Company, (vi) to such Member's or Owner's Representatives who, in the reasonable judgment of such Member or Owner, need to know such Confidential Information and agree to be bound by the provisions of this Section 12.02 as if a Member, or (vii) to any potential Permitted Transferee in connection with a proposed Transfer of Membership Interests from such Member, if such potential Permitted Transferee agrees in writing to be bound by the provisions of this Section 12.02 as if a Member before receiving such Confidential Information; *provided*, that in the case of clause (i), (ii), or (iii), such Member or Owner shall notify the Company and other Members of the proposed disclosure as far in advance of such disclosure as practicable (but in no event make any such disclosure before notifying the Company and other Members) and use reasonable efforts to ensure that any Confidential Information so disclosed is accorded confidential treatment satisfactory to the Company, when and if available.

(c) The restrictions of Section 12.02(a) shall not apply to Confidential Information that (i) is or becomes generally available to the public other than as a result of a disclosure by a Member or Owner in violation of this Agreement, (ii) is or has been independently developed or



conceived by such Member or Owner without use of Confidential Information, or (iii) becomes available to such Member or Owner or any of their Representatives on a non-confidential basis from a source other than the Company, the other Members or Owners, or any of their respective Representatives; *provided*, that such source is not known by the receiving Member or Owner to be bound by a confidentiality agreement regarding the Company.

(d) The obligations of each Member under this Section 12.02 shall survive (i) the termination, dissolution, liquidation, and winding up of the Company, (ii) the dissociation of such Member from the Company, and (iii) such Member's Transfer of its Membership Interests. The obligations of each Owner under this Section 12.02 shall survive (i) the termination, dissolution, liquidation, and winding up of the Company, and (ii) the withdrawal of the Member of which such Owner is an Owner from the Company, (iii) such Owner's Transfer of its Owner Interests.

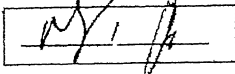
**Section 13.03 Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered or delivery is refused if delivered by hand (with written confirmation of receipt), (b) when received or delivery is refused by the addressee if sent by a nationally recognized overnight courier (receipt requested) with all fees paid, (c) on the date received if sent by facsimile or email of a PDF document or similar image file (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if received after normal business hours of the recipient, or (d) on the date received or delivery is refused if mailed by certified mail, return receipt requested, postage prepaid. Such communications must be sent to (i) a Member, at its address for notices set forth on the Members and Owners Schedule; (ii) to a Manager that is a Member, at its address for notices set forth on the Members and Owners Schedule; (iii) to a Manager that is not a Member, at its address for notices provided to the Members at the time of such election (or, in the absence thereof, to the Company); and (iv) to the Company, at its principal place of business (or, in the case of clauses (i), (ii) and (iii), at such other address for such Person as shall be specified by such Person in a notice given to the Members in accordance with this Section).

**Section 13.04 Headings.** The headings in this Agreement are inserted for convenience or reference only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision of this Agreement.

**Section 13.05 Severability.** If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable under Applicable Law in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as provided in Section 9.01(h), upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**Section 13.06 Entire Agreement.** This Agreement, together with the Articles of Organization and all related Exhibits and Schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, records, representations, and warranties, both written and oral, whether express or implied, with respect to such subject matter.

**Section 13.07 Successors and Assigns.** Subject to the restrictions on Transfers set out herein, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns. This Agreement may not be assigned by any Member except as permitted by this Agreement and any assignment in violation of this Agreement shall be null and void.



**Section 13.08 No Third-Party Beneficiaries.** Except as provided in ARTICLE IX, which shall be for the benefit of and enforceable by Covered Persons as described therein, this Agreement is for the sole benefit of the parties hereto (and their respective heirs, executors, administrators, successors, and permitted assigns) and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 13.09 Amendment.** Except as otherwise provided by this Agreement, no provision of this Agreement may be amended or modified except by an instrument in writing executed by the Company and the Members holding 75% of the Membership Interests. Any such written amendment or modification will be binding upon the Company and each Member. Notwithstanding the foregoing, amendments to the Members and Owners Schedule following any new issuance, redemption, repurchase, or Transfer of Membership Interests in accordance with this Agreement may be made by the Manager without the consent of or execution by the Members.

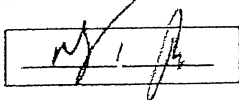
**Section 13.10 Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set out in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. For the avoidance of doubt, nothing contained in this Section 12.10 shall diminish any of the explicit and implicit waivers described in this Agreement.

**Section 13.11 Governing Law.** All issues and questions concerning the application, construction, validity, interpretation, and enforcement of this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York.

**Section 13.12 Submission to Jurisdiction.** The parties hereby agree that any suit, action, or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort, or otherwise, shall be brought in the federal courts of the United States of America or the courts of the State of New York, in each case located in the County of Nassau, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of New York. Each of the parties hereby irrevocably consents to the jurisdiction of such courts in any such suit, action, or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action, or proceeding in any such court or that any such suit, action, or proceeding that is brought in any such court has been brought in an inconvenient forum. Service of process, summons, notice, or other document by registered mail to the address set out in Section 12.03 shall be effective service of process for any suit, action, or other proceeding brought in any such court.

**Section 13.13 Waiver of Jury Trial.** EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**Section 13.14 Equitable Remedies.** Each party hereto acknowledges that a breach or threatened breach by such party of any of its obligations under this Agreement would give rise to irreparable harm to the other parties, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, each of the other



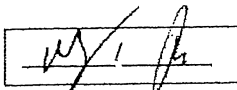
parties hereto shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

**Section 13.15 Attorneys' Fees.** If any party hereto institutes any legal suit, action, or proceeding, including arbitration, against another party in respect of a matter arising out of or relating to this Agreement, the prevailing party in the suit, action, or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.

**Section 13.16 Remedies Cumulative.** The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise, except to the extent expressly provided herein to the contrary.

**Section 13.17 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of Electronic Transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

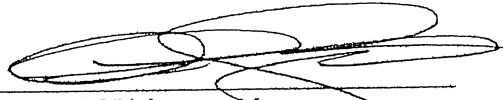
[Signature Page Follows]



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.


COMPANY:

GLEN COVE VILLA LLC


By:   
Daniel Livingston, Manager

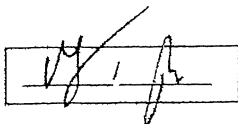
MEMBERS:

LIVINGSTON GLEN COVE VILLA LLC

By:   
Daniel Livingston, Manager

GLEN COVE VM HOLDINGS LLC

By:   
Mandi Marang, Manager





**EXHIBIT A**

**FORM OF JOINDER AGREEMENT**

**JOINDER AGREEMENT**

This agreement is dated as of June 28, 2022, by Glen Cove VM Holdings, LLC, residing at 2188 Kirby Lane, Syosset, NY 11791 (the "Assignee") to and in favor of GLEN COVE VILLA LLC, a New York limited liability company (the "Company") and the members thereof.

**RECITALS**

Assignee has acquired a 43.9% membership interest in the Company (the "Interest") from Livingston Glen Cove Villa LLC. Assignee desires to enter into this agreement to evidence Assignee's agreement to become a party to and be bound by the Company's Amended and Restated Operating Agreement, dated June 28, 2022 (as amended or restated from time to time, the "Operating Agreement").

Assignee does hereby agree as follows:

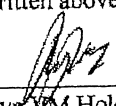
1. **Joinder; Acknowledgments.** Assignee agrees that Assignee is joined as a party to the Operating Agreement effective immediately. Assignee hereby acknowledges receipt of a copy of the Operating Agreement and that Assignee has reviewed all of the terms and conditions thereof, including, without limitation, the relative rights and responsibilities of the manager and the members of the Company thereunder. Assignee agrees to be bound by, and to hold the Interest subject to, all provisions of the Operating Agreement binding on members of Company. Assignee makes the statements in this Article 1 with the intent that the Company may rely upon them in connection with admitting Assignee as a member of the Company.

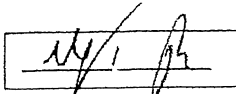
2. **Injunctive Relief.** Assignee acknowledges and agrees that a remedy at law for any breach or threatened breach of this agreement would be inadequate and, therefore, agrees that Company shall be entitled to injunctive relief in addition to any other available rights and remedies in case of any such breach or threatened breach; provided, however, that nothing contained herein shall be construed as prohibiting Company from pursuing any other rights and remedies available for any such breach or threatened breach.

3. **Governing Law; Binding Effect.** This agreement shall be governed by, and construed in accordance with, the laws of the State of New York, except that body of law relating to choice of laws. This agreement shall be binding upon Assignee and Assignee's heirs, representatives, successors and permitted assigns, and shall be for the benefit of Company and its successors and assigns.

4. **Amendment; Execution; Entire Agreement.** This agreement may not be modified, discharged or terminated, nor any of its provisions waived, except by the written agreement of Assignee and Company. Execution and delivery of this agreement by delivery of a facsimile or electronically recorded copy (including a .pdf file) bearing a copy of Assignee's signature shall constitute a valid and binding execution and delivery of this agreement by Assignee. This agreement and the Operating Agreement constitute the entire agreement regarding the subject matter hereof and thereof.

Assignee has executed this agreement as of the date first written above.

  
\_\_\_\_\_  
Glen Cove VM Holdings LLC  
BY: Manoj Narang



**SCHEDULE A**

**MEMBERS AND OWNERS SCHEDULE**

<b>Member Name, Address, Email, and Fax</b>	<b>Initial Contribution Type</b>	<b>Cash Amount or Value of Non-Cash Contribution</b>	<b>Membership Interest</b>
Livingston Glen Cove Villa LLC c/o Daniel Livingston 162-20 77 <sup>th</sup> Road, Flushing, NY 11366	Shares of Stock of 135 Glen Cove Ave. Corp., a New York corporation	\$17,063,774	56.1% 9.5% <i>D. Livingston</i>
Glen Cove VM Holdings LLC c/o Manoj Narang, 2188 Kirby Lane, Syosset, NY 11791	Cash (\$6,000,000) and forgiveness of indebtedness (\$2,875,000)	\$10,760,000	43.9% 9.5% <i>M. Narang</i>
<b>Total:</b>		<b>\$27,823,774</b>	<b>100%</b>

<b>Member Name</b>	<b>Primary Owner Name</b>	<b>Primary Owner Interest</b>	<b>Secondary Owner Name</b>	<b>Secondary Owner Interest</b>
Livingston Glen Cove Villa LLC	Livingston Glen Cove Corp.	100%	Daniel Livingston	100%
Glen Cove VM Holdings LLC	Manoj Narang	50%	--	50

*[Handwritten signature]*

EXHIBIT C

CONSENT

**WRITTEN CONSENT OF MEMBERS AND MANAGER OF  
GLEN COVE VILLA LLC**

Manoj Narang, being the sole manager of GLEN COVE VILLA LLC, a limited liability company formed under the laws of the State of New York, (the "Company"), successor by merger to 135 GLEN COVE AVE. CORP., and Glen Cove VM Holdings, LLC, being the sole voting member in the Company (and holding 90.5% of the total membership interest in the Company), waiving all call and notice of the time, place and purpose of meetings, hereby take the following actions and adopt the following resolutions by written consent in lieu of meeting:

WHEREAS, it is in the best interests of the Company to enter into and deliver the following documents ("Transaction Documents") to the Glen Cove Industrial Development Agency ("Agency") and the City of Glen Cove in connection with the Agency's consent to the change in structure of the Company, transfers of ownership in and management of the Company, and extension of the sales tax agency agreement between the Agency and the Company (as successor by merger) as more fully described in the Transaction Documents:

1. Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) dated as of September 29, 2023 between the Company and the Agency;
  2. a Ratification and Reaffirmation Agreement (PILOT Mortgage) dated as of September 29, 2023 made by the Company in favor of the City of Glen Cove;
  3. Environmental Compliance and Indemnification Agreement dated as of September 29, 2023 from the Company and the Guarantor to the Agency;
  4. UCC-1 Financing Statements (to be filed in the State of New York and Nassau County);
  6. Company General Certificate of the Company from the Company
  7. Amendment No. 2 to Sublease Agreement (Uniform Project Agreement) dated as of September 29, 2023 between the Agency and the Company;
  8. Amended and Restated Sales Tax Agency Agreement dated as of September 29, 2023 between the Agency and the Company;
  9. Ratification and Reaffirmation Agreement (Environmental Indemnification) dated as of September 29, 2023 from the Company and the Guarantor in favor of the Agency;
- and

NOW, THEREFORE, IT IS HEREBY RESOLVED, that Manoj Narang, Manager of the Company, acting alone, is hereby authorized and directed to take such actions, including the execution and delivery of the Transaction Documents and any additional documents, certificates, agreements, instruments and documents, as may be necessary or desirable in connection with the foregoing transactions and to otherwise carry out the foregoing resolutions and to effectuate the transactions authorized hereby; and it is further

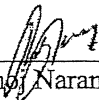
RESOLVED, that all acts and deeds performed on behalf of the Company in entering into, executing, performing, carrying out, or otherwise pertaining to the arrangements and intentions authorized by these resolutions are hereby ratified, approved, confirmed, and declared binding upon the Company. A fax or scan copy hereof shall be treated as an original and this consent may be executed in counterparts.

**[SIGNATURES TO FOLLOW ON NEXT PAGE]**

**[SIGNATURE PAGE TO WRITTEN CONSENT OF MEMBERS AND MANAGER  
OF GLEN COVE VILLA LLC]**

IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of  
September 29, 2023

Glen Cove Villa LLC

By:   
Manoj Narang, Manager

Member:

Glen Cove VM Holdings, LLC


By:   
Manoj Narang, Manager

EXHIBIT D  
NY GOOD STANDING

STATE OF NEW YORK

DEPARTMENT OF STATE

Certificate of Status

I, ROBERT J. RODRIGUEZ, Secretary of State of the State of New York and custodian of the records required by law to be filed in my office, do hereby certify that upon a diligent examination of the records of the Department of State, as of the date and time of this certificate, the following entity information is reflected:

**Entity Name:** GLEN COVE VILLA LLC  
**DOS ID Number:** 6393657  
**Entity Type:** DOMESTIC LIMITED LIABILITY COMPANY  
**Entity Status:** EXISTING  
**Date of Initial Filing with DOS:** 02/01/2022  
**Statement Status:** CURRENT  
**Statement Due Date:** 02/29/2024

I certify that the following is a list of documents on file in the Department of State for said entity:

---

**Document Type:** ARTICLES OF ORGANIZATION  
**Date of Filing:** 02/01/2022  
**Entity Name:** GLEN COVE VILLA LLC

---

**Document Type:** CERTIFICATE OF MERGER  
**Date of Filing:** 03/01/2022

---

**Document Type:** CERTIFICATE OF PUBLICATION  
**Date of Filing:** 03/18/2022

Above space is left blank intentionally.

No information is available from this office regarding the financial condition, business activity or practices of this entity.

WITNESS my hand and official seal of the Department of State, at the City of Albany, on September 12, 2023 at 09:32 A.M.

ROBERT J. RODRIGUEZ, Secretary of State



*Brendan C. Hughes*

By Brendan C. Hughes  
Executive Deputy Secretary of State

Authentication Number: 100004290255 To Verify the authenticity of this document you may access the  
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>



EXHIBIT E  
PENDING LITIGATION RELATING TO THE COMPANY

EXHIBIT F  
CERTIFICATE OF MERGER

**NEW YORK STATE DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE  
FILING RECEIPT**

**ENTITY NAME :** GLEN COVE VILLA LLC  
**DOCUMENT TYPE :** CERTIFICATE OF MERGER  
**ENTITY TYPE :** DOMESTIC LIMITED LIABILITY COMPANY

**DOS ID :** 6393657  
**FILE DATE :** 03/01/2022  
**FILE NUMBER :** 220302002173  
**TRANSACTION NUMBER :** 202203010000742-667923  
**EXISTENCE DATE :** 03/01/2022  
**DURATION/DISSOLUTION :** PERPETUAL  
**COUNTY :** NASSAU



**SERVICE OF PROCESS ADDRESS :** THE LLC  
 162-20 77TH ROAD,  
 FRESH MEADOWS, NY, 11366, USA  
**FILER :** SERVICO INC.  
 PO BOX 871,  
 ALBANY, NY, 12201, USA  
**SERVICE COMPANY :** SERVICO, INC.  
**SERVICE COMPANY ACCOUNT :** 35

*You may verify this document online at :* <http://ecorp.dos.ny.gov>  
**AUTHENTICATION NUMBER :** 100001163283

<b>TOTAL FEES:</b>	<b>\$85.00</b>	<b>TOTAL PAYMENTS RECEIVED:</b>	<b>\$85.00</b>
<hr/>			
<b>FILING FEE:</b>	<b>\$60.00</b>	<b>CASH:</b>	<b>\$0.00</b>
<b>CERTIFICATE OF STATUS:</b>	<b>\$0.00</b>	<b>CHECK/MONEY ORDER:</b>	<b>\$0.00</b>
<b>CERTIFIED COPY:</b>	<b>\$0.00</b>	<b>CREDIT CARD:</b>	<b>\$0.00</b>
<b>COPY REQUEST:</b>	<b>\$0.00</b>	<b>DRAWDOWN ACCOUNT:</b>	<b>\$85.00</b>
<b>EXPEDITED HANDLING:</b>	<b>\$25.00</b>	<b>REFUND DUE:</b>	<b>\$0.00</b>



**Division of Corporations,  
State Records and  
Uniform Commercial Code**

Department of State  
DIVISION OF CORPORATIONS,  
STATE RECORDS AND  
UNIFORM COMMERCIAL CODE  
One Commerce Plaza  
99 Washington Ave.  
Albany, NY 12231-0001  
www.dos.ny.gov

**CERTIFICATE OF MERGER  
OF**

135 Glen Cove Ave. Corp.

*(Insert Name of Domestic Entity)*

**AND**

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

**INTO**

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

Under Section 1003 of the Limited Liability Company Law

**FIRST:** The name (and if the name has been changed, the name under which it was formed) and jurisdiction of formation or organization of each domestic limited liability company or other domestic business entity that is to merge is:

135 Glen Cove Ave. Corp. - New York  
Glen Cove Villa LLC - New York

**SECOND:** For each domestic limited liability company and domestic other business entity, the date when its initial articles of organization or formation document was filed with Department of State is:

135 Glen Cove Ave. Corp. - October 24, 2005  
Glen Cove Villa LLC - February 1, 2022

**THIRD:** The name of the surviving domestic limited liability company is:

Glen Cove Villa LLC

**FOURTH:** The agreement of merger has been approved and executed by each of the domestic limited liability companies or domestic other business entities that is a party thereto.

**FIFTH:** The effective date of merger, if it is not to be effective upon the filing of the certificate of merger, is: March 1, 2022. (A future effective date may not exceed 30 days from the date of filing.)

**SIXTH:** The Secretary of State is designated as agent of the surviving limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

162-20 77th Road, Flushing, NY 11366


SEVENTH: The agreement of merger is on file at the following place of business of the surviving domestic limited liability company:

162-20 77th Road, Flushing, NY 11366

EIGHTH: A copy of the agreement of merger will be furnished by the surviving domestic limited liability company on request and without cost to any member of any domestic limited liability company or to any person holding an interest in any other business entity that is to merge pursuant to such agreement.

135 Glen Cove Ave. Corp.

*(Name of Domestic Entity)*

X   
*(Signature)*

Daniel Livingston


*(Type or Print Name)*

President

*(Capacity of Signer)*

Glen Cove Villa LLC

*(Name of Domestic Limited Liability Company)*

X   
*(Signature)*

Daniel Livingston

*(Type or Print Name)*

Managing Member

*(Capacity of Signer)*

CERTIFICATE OF MERGER  
OF

135 Glen Cove Ave. Corp.

*(Insert Name of Domestic Entity)*

AND

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

INTO

Glen Cove Villa LLC

*(Insert Name of Domestic Limited Liability Company)*

Under Section 1003 of the Limited Liability Company Law

Filer's Name and Mailing Address:

Service Inc.

*Name:*

*Company, if Applicable:*

PO Box 871

*Mailing Address:*

Albany, NY 12201

*City, State and Zip Code:*

**NOTES:**

1. The name of the limited liability company or other business entity and the date(s) of filing the articles of organization or formation document must exactly match the records of the Department of State. This information should be verified on the Department of State's website at [www.dos.ny.gov](http://www.dos.ny.gov).
2. This sample form was prepared by the New York State Department of State for filing a certificate of merger with a domestic business entity into a domestic limited liability company survivor. The certificate must be signed on behalf of each entity. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal supply stores.
3. The Department of State recommends that legal documents be prepared under the guidance of an attorney.
4. The certificate must be submitted with a \$60 filing fee made payable to the Department of State.

*(For office use only)*





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/16/2023

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

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

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 30 Century Hill Drive Suite 200 Latham NY 12110	CONTACT NAME: Susan Marlette	
	PHONE (A/C No, Ext): 518-556-3130	FAX (A/C, No): 518-869-3580
E-MAIL ADDRESS: Susan_Marlette@ajg.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Allied World Surplus Lines Insurance Company	24319	
INSURER B : Evanston Insurance Company	35378	
INSURER C : Navigators Insurance Company	42307	
INSURER D :		
INSURER E :		
INSURER F :		

License#: BR-724491  
LIVIGLE-02INSURED  
Glen Cove Villa LLC  
162-20 77th Road  
Flushing NY 11366

## COVERAGES

CERTIFICATE NUMBER: 436822733

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	Y	Y	6004-1193	4/18/2022	4/18/2025	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input checked="" type="checkbox"/> \$25,000 Ded						MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 2,000,000
	OTHER:						PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input type="checkbox"/> AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY		<input type="checkbox"/> SCHEDULED AUTOS				'BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY		<input type="checkbox"/> NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident) \$
							\$
B C	<input checked="" type="checkbox"/> UMBRELLA LIAB	Y	Y	MKLV7EUL102753 NY22EXCZ0B1JFIV	4/18/2022	4/18/2025	EACH OCCURRENCE \$ 10,000,000*
	<input checked="" type="checkbox"/> EXCESS LIAB						AGGREGATE \$ 10,000,000*
	DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						*Total Limit \$ Available
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

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

Glen Cove Industrial Development Agency is named additional insured in regards to General and Excess Liability when required by written contract. 30 Day Notice of Cancellation to the IDA applies.

## CERTIFICATE HOLDER

## CANCELLATION

Glen Cove Industrial Development Agency  
9-13 Glen Street  
Glen Cove NY 11542

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

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.







FORCHELLI  
DEEGAN  
TERRANA

September 29, 2023

Glen Cove Industrial Development Agency  
City Hall  
9-13 Glen Street  
Glen Cove, New York 11542

**Re: Glen Cove Industrial Development Agency and Glen Cove Villa LLC,  
successor by merger to 135 Glen Cove Ave. Corp.**

Ladies and Gentlemen:

We have acted as counsel to Glen Cove Villa LLC, a limited liability company formed and validly existing under the laws of the State of New York (the "**Company**"), successor by merger to 135 Glen Cove Ave. Corp., and Manoj Narang ("**Guarantor**"), in connection with the preparation of:

- (i) Amendment No. 1 to Sublease Agreement dated as of September 29, 2023 between the Company and the Glen Cove Industrial Development Agency (the "**Agency**") (the "**Sublease Amendment**");
- (ii) a Ratification and Reaffirmation Agreement (PILOT Mortgage) dated as of September 29, 2023 made by the Company in favor of the City of Glen Cove (the "**PILOT Reaffirmation**");
- (iii) Environmental Compliance and Indemnification Agreement dated as of September 29, 2023 from the Company and the Guarantor to the Agency (the "**Environmental Compliance Agreement**");
- (iv) a Guaranty dated as of September 29, 2023 from the Guarantor to the Agency (the "**Guaranty**");
- (v) UCC-1 Financing Statements (to be filed in the State of New York and Nassau County) (the "**Financing Statements**");
- (vi) Company General Certificate of the Company from the Company to the Agency dated as of the date hereof (the "**Company Certificate**");

all with respect to the Agency's 2021 Villas at Glen Cove Project Facility.

We have examined the resolutions and consents of the members and the manager of the Company and counterparts of the Sublease Amendment, PILOT Reaffirmation, Environmental Compliance Agreement and Company Certificate (collectively, the “**Company Documents**”) executed by the Company. We have also examined counterparts of the Guaranty and the Environmental Compliance Agreement executed by Guarantor (collectively, the “**Guarantor Documents**”).

We have also examined copies, certified or otherwise identified to our satisfaction, of such documents and records of the Company and Guarantor and of such other documents and matters as we have considered necessary or appropriate under the circumstances to render the following opinions and have relied on certifications provided by our clients as to factual matters.

Based on the foregoing, it is our opinion that:

1. The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, and has full power and authority and, to our knowledge, possesses all licenses, permits and approvals necessary to own its property and assets, to conduct its business and to execute and deliver the Company Documents and perform its obligations thereunder. There is no restriction under federal or state law which would prohibit the Company from executing and delivering the Company Documents or owning, operating or leasing the Project Facility (as such term is defined in the Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021, as amended, between the Agency and the Company).

2. (A) The Company has the power and authority to execute and deliver the Company Documents and the Company Documents have each been duly authorized, executed and delivered by the Company and are each the legal, valid and enforceable obligations of the Company in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors’ rights generally, and subject to general principles of equity. No other approval, authorization or other action is required in connection with the execution and delivery by the Company of the Company Documents for the Company to be bound.

(B) The Guarantor Documents have each been duly authorized, executed and delivered by the Guarantor and are each the legal, valid and enforceable obligations of the Guarantor in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors’ rights generally, and subject to general principles of equity. No other approval, authorization or other action is required in connection with the execution and delivery by the Guarantor of the Guarantor Documents for the Guarantor to be bound.

3. (A) Neither the execution or the delivery of any of the Company Documents nor the consummation of the transactions on the part of the Company therein contemplated nor compliance with the terms, conditions or provisions thereof contravenes the Articles of Organization or Amended and Restated Operating Agreement of the Company, nor contravenes any provision of applicable law or regulations or, to our knowledge, any order, decree, writ or

September 29, 2023

injunction, or, to our knowledge requires consent under, or will result in a material breach of or constitute (with due notice and/or lapse of time) a material default under, any credit agreement, indenture, purchase agreement, guaranty or other instrument to which the Company is a party or by which the Company is bound or affected.

(B) Neither the execution or the delivery of any of the Guarantor Documents nor the consummation of the transactions on the part of the Guarantor therein contemplated nor compliance with the terms, conditions or provisions thereof contravenes any provision of applicable law or regulations or, to our knowledge, any order, decree, writ or injunction, or, to our knowledge requires consent under, or will result in a material breach of or constitute (with due notice and/or lapse of time) a material default under, any credit agreement, indenture, purchase agreement, guaranty or other instrument to which the Guarantor is a party or by which the Guarantor is bound or affected.

4. (A) To our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, which calls into question the creation, organization or existence of the Company, the validity of any of the Company Documents or the authority of the Company to execute, deliver or perform any of the Company Documents, nor is the Company in default with respect to any order or of any court, governmental authority, arbitration board or tribunal.

(B) To our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, which calls into question the validity of any of the Guarantor Documents or the authority of the Guarantor to execute, deliver or perform any of the Guarantor Documents, nor is the Guarantor in default with respect to any order or of any court, governmental authority, arbitration board or tribunal.

For the purpose of this opinion, we have assumed the accuracy of all information furnished to us, the genuineness of all documents submitted to us, whether as an original document or certified or other copy of a document, and the genuineness of all signatures on all documents (other than those on behalf of the Company and Guarantor).

We express no opinion as to (a) the state of title to personal property and fixtures described in any financing statement, (b) the accuracy or legal sufficiency of the description of such personal property and fixtures contained in the financing statements or (c) zoning or land use matters. We have not made any investigation of, and do not express any opinion as to, any matter of title.

Any opinion concerning the validity, binding effect or enforceability of any document (A) means that (1) such document constitutes an effective contract under applicable law, (2) such document is not invalid in its entirety under applicable law because of a statutory prohibition or public policy, and is not subject in its entirety to a contractual defense under applicable law and (3) subject to the following sentence, an effective remedy is available under applicable law if the person concerning whom such opinion is given is in material default under such document, but (B) does not mean that (1) any particular remedy is available under applicable law upon such material default or (2) every provision of such document will be upheld or enforced in any or each circumstance by a court applying applicable law. Furthermore, the validity, binding effect or

September 29, 2023

enforceability of any document may be limited to or otherwise affected by (a) any applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar statute, rule, regulation or other law affecting the enforcement of creditors' rights and remedies generally or (b) the unavailability of, or any limitation on the availability of, any particular right or remedy (whether in a proceeding in equity or law) because of the discretion of a court or because of any equitable principle or requirement as to commercial reasonableness, conscionability or good faith.

The foregoing opinions (this "Opinion") are subject to the qualifications that:

(a) we undertake no obligation to advise you of facts or changes in law occurring after the date of this Opinion which might affect the opinions expressed herein;

(b) this Opinion is limited to the matters expressly set forth herein, and no opinion is to be implied or may be inferred beyond the matters expressly so stated herein;

(c) except as set forth below, this Opinion is furnished to you and your counsel and is solely for your benefit as herein expressly provided, and may not be relied upon by, nor copies delivered to, any other person without our prior written consent, except that a copy may be included in the Agency's Transcript of Proceedings;

(d) we express no opinion herein as to the applicability or effect of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, any state securities laws, the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974 or any amendment to any of them or regulations promulgated pursuant to any of them to the transactions contemplated herein;

(e) This Opinion is limited to laws of the State of New York and to the Federal laws of the United States of America, as currently in effect, and we have made no investigation as to, and we express no opinion concerning, the applicability or effect of any law of any other jurisdiction, nor do we express any opinion concerning state or federal securities laws.

(f) notwithstanding anything contained to the contrary, as used herein, the phrase "to our knowledge", with respect to the existence or absence of facts is intended to signify that, while we have made no specific inquiry or other independent examination or investigation to determine the existence or absence of such facts other than as expressly set forth herein, we have obtained no actual knowledge to the contrary in our representation of the Company and/or Guarantor in connection with the transaction.

(g) We have assumed that the Company Documents and the Guarantor Documents constitute the legal, valid and binding obligations of all parties thereto (other than the Company and/or Guarantor), enforceable against such parties (other than the Company and/or the Guarantor) in accordance with the Company Documents' and/or Guarantor Documents' respective terms.

September 29, 2023

(h) We do not express any opinion as to the perfection or priority of any conveyance, lien, assignment or security interest contemplated by any of Company Documents and/or Guarantor Documents.

(i) We have not conducted an examination of the public or any other records regarding the status of title to any real or personal property that may be transferred, pledged or encumbered under any of the Company Documents and/or Guarantor Documents. Accordingly, we do not express any opinion, expressly or by implication, as to ownership or other status of title as to any real or personal property or the accuracy or legal sufficiency of the description of the personal property in any financing statement.

(j) We have assumed that each party to each of the Company Documents and/or Guarantor Documents, other than the Company and Guarantor, is duly formed or organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation, has all requisite power and all material governmental licenses, authorizations, consents and approvals necessary to own and operate its property and perform its obligations under the Company Documents and/or Guarantor Documents and has the full trust, corporate or partnership, as the case may be, power and authority to execute, deliver and perform its obligations under, and engage in the transactions contemplated by, such Company Documents and/or Guarantor Documents and that all persons executing such the Company Documents and/or Guarantor Documents, other than on behalf of the Company and/or Guarantor, will have full authority and capacity to do so; and

(k) We have assumed that each of the Company Documents and the Guarantor Documents has been authorized by each party thereto, other than the Company and/or Guarantor, and will be duly executed, acknowledged (where appropriate) and delivered by each party thereto, other than the Company and/or Guarantor.

The opinions contained herein are being rendered to you in connection with the execution and delivery by the Company of the Company Documents and the Guarantor of the Guarantor Documents and the transactions contemplated therein and may not be relied upon for any other purpose or by any other party except by Transaction Counsel and Agency Counsel.

Very truly yours,

*Forchelli Keegan Teriana LLP*





# IDA Appointment of Project Operator or Agent For Sales Tax Purposes

# ST-60

(1/18)

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

**For IDA use only**

### IDA information

Name of IDA GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY			IDA project number (use OSC numbering system for projects after 1998) 2801-21-03
Street address 9-13 Glen Street			Telephone number (516 ) 676-1625
City Glen Cove	State NY	ZIP code 11542	Email address (optional)

### Project operator or agent information

Name of IDA project operator or agent GLEN COVE VILLA LLC		Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	Employer identification or Social Security number 16-1740487
Street address 162-20 77th Road		Telephone number ( 718 ) 969-2700	Primary operator or agent? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
City Flushing	State NY	ZIP code 11366	Email address (optional)

### Project information

Name of project 2021 Villas at Glen Cove Project			
Street address of project site			
City	State	ZIP code	Email address (optional)
Purpose of project Other: Housing			
<p>** This ST-60 form is issued solely to reflect the new name of the IDA Project Operator/Agent by virtue of a merger pursuant to which 135 Glen Cove Ave. Corp. merged with and into Glen Cove Villa LLC, and to reflect the new employer identification number of Glen Cove Villa LLC.</p>			

Description of goods and services intended to be exempted from New York State and local sales and use taxes			
Date project operator or agent appointed (mmdyy)	Date project operator or agent status ends (mmdyy)	Mark an X in the box if this is an extension to an original project: <input checked="" type="checkbox"/>	
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:		Estimated value of New York State and local sales and use tax exemption provided:	

**Certification:** I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Ann S. Fangmann		Print title Executive Director	
Signature 	Date 10/12/23	Telephone number ( 516 ) 676-1625	





**Phillips Lytle** LLP

October 18, 2023

New York State Tax Department  
IDA Unit  
W.A. Harriman Campus  
Albany, NY 12227

Re: Glen Cove Industrial Development Agency (the "Agency") Project with 135 Glen Cove Ave. Corp.; Project No. 2801-21-03

Dear Ladies and Gentlemen:

At the request and direction of the Agency, enclosed herewith is an Amendment to IDA Appointment of Project Operator or Agent Form (Form ST-60) with respect to the above-referenced project. The purpose of the amendment is to reflect that the Project Operator has merged with and into Glen Cove Villa LLC.

Please call us if you have any questions.

Very truly yours,

Phillips Lytle LLP

By 

Paul V. O'Brien

Encl.

cc: Ann S. Fangmann (w/ encl. by e-mail)

ATTORNEYS AT LAW



**GLEN COVE INDUSTRIAL  
DEVELOPMENT AGENCY**

City Hall, 9-13 Glen Street  
Glen Cove, NY 11542

October 19, 2023

**BY CERTIFIED MAIL**

Office of the Nassau County Tax Assessor  
240 Old Country Road  
Mineola, NY 11501

Office of the City of Glen Cove Tax Assessor  
9 Glen Street  
Glen Cove, NY 11542

Re: 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133,  
135 & 145 Glen Cove Avenue  
City of Glen Cove, Nassau County, New York  
(See Exhibit A for Tax Map Identification Numbers)

Ladies and Gentlemen:

On or about December 16, 2021, the Glen Cove Industrial Development Agency (the "Agency") acquired an interest in the above-captioned realty, which is further described in Exhibit A attached hereto (the "Land"), pursuant to the provisions of the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, Chapter 1030 of the 1969 Laws of New York), as amended, and Chapter 374 of the 1974 Laws of New York, as amended (collectively, the "Act") and such realty is currently leased to the Agency pursuant to a Company Lease Agreement, dated as of December 1, 2021 (the "Company Lease Agreement"), between 135 Glen Cove Ave. Corp. (the "Applicant"), as lessor, and the Agency, as lessee, a memorandum of which was recorded in the Office of the County Clerk of Nassau County, New York (the "Clerk's Office"). Pursuant to a Sublease Agreement, dated as of December 1, 2021 (the "Original Sublease Agreement"), between the Agency, as sublessor, and the Applicant, as sublessee, a memorandum of which was recorded in the Clerk's Office, the Agency subleased its interest in said realty to the Applicant.

The Applicant has merged with and into Glen Cove Villa LLC, a New York limited liability company (the "Company"), and the Agency and the Company have entered into an Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) (the "Sublease Amendment") to reflect such merger and to amend the Original Sublease Agreement accordingly. A copy of the Sublease Amendment is attached hereto as Exhibit B.

The sole purpose of this notice is to provide you with a copy of the Amended Application for Real Property Tax Exemption (Form RP-412-a) to reflect the merger and Sublease Amendment.

Thank you for your attention to this matter.

Very truly yours,

GLEN COVE INDUSTRIAL  
DEVELOPMENT AGENCY

By   
Ann S. Fangmann  
Executive Director

**BY CERTIFIED MAIL**

cc: County Clerk  
County Attorney  
City Clerk  
City Attorney

Mayor Pamela Panzenbeck  
City of Glen Cove  
9 Glen Street  
Glen Cove, NY 11542

County Executive Bruce A. Blakeman  
County of Nassau  
1550 Franklin Avenue  
Mineola, NY 11501

Superintendent Maria L. Rianna  
Glen Cove City School District  
Administration Building  
154 Dosoris Lane  
Glen Cove, NY 11542



INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name Glen Cove IDA
Street 9-13 Glen Street
City Glen Cove, NY 11542
Telephone no. Day (910) 676-1625
Evening ( )
Contact Ann S. Fangmann
Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)
(If more than one occupant attach separate listing)

Name GLEN COVE VILLA LLC
Street 162-20 77th Road
City Flushing, NY 11366
Telephone no. Day (718) 969-2700
Evening ( )
Contact Daniel Livingston
Title

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) See attached schedule
b. Street address See attached schedule
c. City, Town or Village Glen Cove
d. School District Glen Cove
e. County Nassau
f. Current assessment
g. Deed to IDA (date recorded; liber and page) Memo of Lease previously recorded

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

- a. Brief description (include property use) Construction of a residential rental facility
b. Type of construction No change
c. Square footage No change
d. Total cost No change
e. Date construction commenced No change
f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) No change

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment

This RP-412-a Form is issued solely to reflect the new name of the Occupant by virtue of merger between 135 Glen Cove Ave. Corp. and Glen Cove Villa LLC

- b. Projected expiration date of agreement No change

c. Municipal corporations to which payments will be made

	Yes	No
County _____	<input checked="" type="checkbox"/>	
Town/City _____	<input checked="" type="checkbox"/>	
Village _____		<input checked="" type="checkbox"/>
School District _____	<input checked="" type="checkbox"/>	

d. Person or entity responsible for payment

Name Manoj Narang  
 Title Manager  
 Address 162-20 77th Road  
Flushing, NY 11366

e. Is the IDA the owner of the property? Yes/No (circle one)  
If "No" identify owner and explain IDA rights or interest in an attached statement. IDA Company Lease

Telephone ( 718 )969-2700

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one)  Yes  No

If yes, list the statutory exemption reference and assessment roll year on which granted:  
exemption GML 874 assessment roll year Current

7. A copy of this application, including all attachments, has been mailed or delivered on this (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

**CERTIFICATION**

I, Ann S. Fangmann, Executive Director of Glen Cove Industrial Development Agency hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

10/12/23  
Date

  
Signature

**FOR USE BY ASSESSOR**

1. Date application filed \_\_\_\_\_
2. Applicable taxable status date \_\_\_\_\_
- 3a. Agreement (or extract) date \_\_\_\_\_
- 3b. Projected exemption expiration (year) \_\_\_\_\_
4. Assessed valuation of parcel in first year of exemption \$ \_\_\_\_\_
5. Special assessments and special as valorem levies for which the parcel is liable:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assessor's signature

EXHIBIT A

THE LAND

Section 21 Block 38 Lots 152, 196, 202 & 203

ALL that certain plot, piece or parcel of land, situate, lying and being in the City of Glen Cove, County of Nassau and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Glen Cove Avenue at the extreme northerly end of the arc of a curve having a radius of 30.00 feet, connecting the easterly side of Glen Cove Avenue and the northerly side of Ralph W. Young Avenue;

RUNNING THENCE along the easterly side of Glen Cove Avenue North 6 degrees 36 minutes 00 seconds East, a distance of 35.28 feet;

THENCE still along the easterly side of Glen Cove Avenue North 3 degrees 28 minutes 00 seconds East, a distance of 139.02 feet to the southerly side of Craft Avenue;

THENCE along the southerly side of Craft Avenue South 86 degrees 32 minutes 00 seconds East, a distance of 175.36 feet;

THENCE still along the southerly side of Craft Avenue South 86 degrees 57 minutes 00 seconds East, a distance of 75.00 feet;

THENCE South 3 degrees 03 minutes 00 seconds West, a distance of 190.83 feet to the northerly side of Ralph W. Young Avenue;

THENCE along the northerly side of Ralph W. Young Avenue South 89 degrees 27 minutes 30 seconds West, a distance of 222.16 feet to the extreme easterly end of the arc connecting the northerly side of Ralph W. Young Avenue and the easterly side of Glen Cove Avenue;

THENCE northwesterly along the arc of said curve and bearing to the right having a radius of 30.00 feet, a distance along said curve 50.86 feet to the point or place of BEGINNING.

Section 21 Block 244 Lots 55, 60, 61 , p/o 67 (Lot 72 and 73)

ALL that certain plot, piece or parcel of land, situate, lying and being in the City of Glen Cove, County of Nassau and State of New York, more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Craft Avenue and the easterly side of Glen Cove Avenue;

RUNNING THENCE along the easterly side of Glen Cove Avenue the following 4 courses and distances:

1. North 3 degrees 28 minutes 00 seconds East, a distance of 42.11 feet;
2. North 3 degrees 19 minutes 00 seconds West, a distance of 46.34 feet;
3. Along the arc of a curve bearing to the left having a radius of 1,040.00 feet, a distance of 226.93 feet;
4. Along the arc of a curve bearing to the right having a radius of 960.00 feet, a distance of 81.95 feet;

THENCE North 87 degrees 36 minutes 16 seconds East, a distance of 163.70 feet;

THENCE North 09 degrees 37 minutes 23 seconds East, a distance of 2.16 feet;

THENCE North 02 degrees 59 minutes 45 seconds West, a distance of 217.04 feet;

THENCE South 77 degrees 43 minutes 00 seconds East, a distance of 34.00 feet;

THENCE North 13 degrees 25 minutes 00 seconds East, a distance of 104.50 feet;

THENCE South 77 degrees 43 minutes 00 seconds East, a distance of 150.00 feet;

THENCE South 13 degrees 25 minutes 00 seconds West, a distance of 298.59 feet;

THENCE South 13 degrees 52 minutes 00 seconds East, a distance of 213.17 feet;

THENCE North 81 degrees 29 minutes 30 seconds West, a distance of 6.89 feet;

THENCE North 86 degrees 44 minutes 30 seconds West, a distance of 54.24 feet;

THENCE South 03 degrees 03 minutes 00 seconds West, a distance of 196.11 feet to the northerly side of Craft Avenue;

THENCE along the northerly side of Craft Avenue North 86 degrees 57 minutes 00 seconds West, a distance of 50.00 feet;



THENCE North 86 degrees 32 minutes 00 seconds West, a distance of 150.00 feet still along the northerly side of Craft Avenue to the point or place of BEGINNING.

EXHIBIT B

SUBLEASE AMENDMENT

See Attached

**AMENDMENT NO. 1 TO SUBLEASE AGREEMENT**

THIS AMENDMENT NO. 1 TO SUBLEASE AGREEMENT (this “Amendment”) dated as of September 1, 2023 (the “Effective Date”), by and between the GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 9 Glen Street, Glen Cove, NY 11542 (the “Agency”), and GLEN COVE VILLA LLC (as successor-by-merger to 135 Glen Cove Ave. Corp.), a limited liability company organized and existing under the laws of the State of New York, having an office at 162-20 77th Road, Flushing, NY 11366 (the “Company”).

**WITNESSETH:**

WHEREAS, 135 Glen Cove Ave. Corp., a corporation organized and existing under the laws of the State of New York (the “Applicant”), on behalf of itself and/or its affiliates or related designees submitted an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Block: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the “Land”), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the “Building”) on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion thereof (collectively, the “Project Facility”), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, on or about December 16, 2021, the Agency entered into a “straight lease” transaction with respect to the Project pursuant to the following: (A) a Company Lease

Agreement dated as of December 1, 2021 between the Applicant and the Agency (the “Company Lease”); (B) a Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 between the Agency and the Applicant (the “Agency Lease”); (C) a Payment in Lieu of Taxes Agreement dated as of December 1, 2021 between the Agency and the Applicant (the “PILOT Agreement”); and (D) certain other documents, instruments and agreements executed and delivered in connection therewith (collectively, the “Transaction Documents”); and

WHEREAS, the Applicant requested that the Agency consent to (A) the merger of the Applicant with and into Glen Cove Villa LLC, or another newly formed limited liability company approved by the Agency (“Villa”), such that Villa would be the surviving entity of such merger; (B) the ownership structure of Villa consisting of Livingston Glen Cove Corp., or another newly formed corporation approved by the Agency (“LGCC”), as to 60% of the membership interests in Villa, and MATT Glen Cove LLC, or another newly formed limited liability company approved by the Agency (“MATT”), as to 40% of the membership interests in Villa; (C) the membership interests in LGCC being owned solely by Daniel Livingston; and (D) the membership interests in MATT being owned equally by: (i) Michael DeSousa, (ii) Anthony DeSousa, (iii) Thomas DeSousa, and (iv) Thomas DeSousa (collectively, the “Merger Transaction”); and

WHEREAS, the Agency consented to the Merger Transaction by resolution adopted by the members of the Agency on January 25, 2022; and

WHEREAS, the merger of the Applicant with and into the Company was effective on or about March 1, 2022; however, the proposed transfer of equity interests described above did not occur as part of the Merger Transaction; and

WHEREAS, by letter dated May 4, 2023, the Company requested that the Agency consent to an alternative transfer of equity in the Company (the “Equity Transfer Transaction”); and

WHEREAS, the Agency consented to the Equity Transfer Transaction by resolution adopted by the members of the Agency on May 9, 2023, subject to, inter alia, the execution and delivery of this Amendment by the parties;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Company and the Agency mutually covenant, warrant and agree as follows:

## SECTION 1. DEFINITIONS.

SECTION 1.1 Interpretation. For purposes of this Amendment, unless otherwise defined herein, all capitalized terms used herein including, but not limited to, those capitalized terms used and/or defined in the recitals hereto, shall have the respective meanings assigned to such terms in the Transaction Documents.

## SECTION 2. AMENDMENTS.

SECTION 2.1 Effective as of the Effective Date, Section 1.1 of the Agency Lease is hereby amended by deleting the definitions of “Environmental Indemnification,” “Guarantor” and “Guaranty” and replacing such definitions with the following:

“‘Environmental Indemnification’ means the Environmental Compliance and Indemnification Agreement dated as of September 1, 2023 from the Company and the Guarantor in favor of the Agency.

‘Guarantor’ means, individually or collectively, as the context may require, Manoj Narang, a natural person.

‘Guaranty’ means the Guaranty dated as of September 1, 2023 from the Guarantor in favor of the Agency.”

SECTION 2.2 Effective as of the Effective Date, Section 2.2(R) of the Agency Lease is hereby deleted in its entirety and replaced with the following:

“(R) The Company is, and shall at all times during the term of this Lease, continue to be (a) managed by Manoj Narang and/or Varander Nayar, who shall have day-to-day operational control of the Company, and (b) solely owned by Glen Cove VM Holdings LLC (“Glen Cove VM”) as to a 90.50% membership interest and Livingston Glen Cove Villa LLC (“Livingston”) as to a 9.50% membership interest, unless otherwise approved in writing by the Agency in advance. Notwithstanding the foregoing, upon at least thirty (30) days prior notice to the Agency in each instance (such notice to include such documents and information as requested by the Agency): (a) Glen Cove VM may transfer its interest in the Company to an entity owned and controlled solely by Varander Nayar, Manoj Narang, Nilesh Patel and/or Derrick Staten, and (b) Livingston may transfer its interest in the Company to an entity owned and controlled solely by Daniel Livingston.”

SECTION 2.3 Section 8.14 of the Agency Lease is hereby amended by adding the following sentence to the end thereof:

“Such financial statement submission shall be accompanied by a certification executed by an Authorized Representative of the Company confirming that the representation contained in Section 2.2(R) of the Agency Lease is true, accurate and complete.”

### SECTION 3. CONDITIONS.

SECTION 3.1 Conditions Precedent. This Amendment shall only become effective upon the fulfillment, prior to or contemporaneously with the delivery hereof, of the following conditions precedent:

(A) the execution and delivery by the Company and the Agency of an original or counterpart originals of this Amendment;

(B) the Company and the Guarantor (as defined herein) shall deliver such other documents, instruments and agreements as the Agency may reasonably require in connection with the transactions contemplated by this Amendment;

(C) all other documents and legal matters in connection with this Amendment and the transactions contemplated by the Agency Lease as amended by this Amendment shall be executed and delivered in form and substance satisfactory to the Agency; and

(D) the Company shall pay the Agency's consent and amendment fee in the amount of \$5,000 and shall pay all reasonable fees and expenses (including reasonable attorneys' fees and expenses) incurred by the Agency in connection with the preparation, execution and delivery of this Amendment and the closing of the transactions contemplated hereby.

### SECTION 4. LIMITED RELEASE.

SECTION 4.1 Limited Release of Prior Guarantor. Effective from and after the Effective Date, the Agency hereby releases 162-20 77<sup>th</sup> Road LLC (“Prior Guarantor”) from all of its obligations, liabilities and duties relating to the Project Facility, including, without limitation, its obligations, liabilities and duties arising under the Agency Lease, the PILOT Agreement and the other Transaction Documents, except that the Prior Guarantor is not hereby released from any obligations, liabilities or duties under the Agency Lease, the PILOT Agreement or any other Transaction Document arising prior to the Effective Date (collectively, the “Prior Obligations”), including, without limiting the generality of the foregoing, the obligations of the Prior Guarantor to indemnify and defend the Agency and to hold the Agency harmless under the Agency Lease, the PILOT Agreement and the other Transaction Documents with respect to the Prior Obligations and irrespective of whether a particular cause of action in

connection with such Prior Obligations was commenced or commences before or after the Effective Date.

## SECTION 5. MISCELLANEOUS.

### SECTION 5.1 Representations and Warranties.

(A) All terms, conditions, covenants, representations and warranties of the Company contained in the Agency Lease and the other Transaction Documents, except as expressly modified hereby, are hereby assumed by the Company (as successor-by-merger to the Applicant) and are hereby ratified, confirmed and reaffirmed by the Company as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Amendment.

(B) The Company represents and warrants to the Agency that it has the necessary power and has taken all necessary action to make this Amendment the valid and enforceable obligation it purports to be, and that this Amendment constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(C) The Company represents and warrants to the Agency that no Event of Default specified in any of the Transaction Documents has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Neither the Company nor any Affiliate of the Company has employed or retained any appointed or elected government official to solicit or secure the Agency's agreement to enter into this Amendment upon an agreement or understanding for a commission or percentage, brokerage or contingent fee.

SECTION 5.2 Additional Matters. All other documents and legal matters in connection with this Amendment and the transactions contemplated by the Agency Lease as amended by this Amendment shall be satisfactory in form and substance to the Agency.

SECTION 5.3 Survival of Representations and Warranties. All representations and warranties made in this Amendment or any other document furnished in connection with this Amendment shall survive the execution and delivery of this Amendment and no investigation by the Agency or any closing shall affect the representations and warranties or the right of the Agency to rely upon them.

SECTION 5.4 Reference to Lease. The Agency Lease, the Transaction Documents and any and all other agreements, documents, or instruments heretofore, now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Agency Lease, as amended hereby, are hereby amended so that any reference in the Agency Lease, the Transaction Documents or such other agreements, documents or instruments executed in connection with the Agency Lease to the "Lease" shall mean a reference to the Agency Lease, as amended hereby.

SECTION 5.5 Governing Law. This Amendment, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

SECTION 5.6 Successors and Assigns. The Company and the Agency, as such terms are used herein, shall include the legal representatives, successors and assigns of those parties.

SECTION 5.7 Counterparts. This Amendment may be executed in any number of counterparts and by the Company and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment. This Amendment may be modified only by a written agreement signed by Authorized Representatives of the Company and the Agency.

SECTION 5.8 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

SECTION 5.9 Conflicting Provisions. In the event of any conflict in the terms and provisions of this Amendment and the terms and provisions of the Agency Lease, the terms and provisions of this Amendment shall govern.

SECTION 5.10 No Waiver. Except as expressly provided herein, this Amendment shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the Agency Lease, the PILOT Agreement, the PILOT Mortgage, any other Transaction Document or any other agreement, document or instrument executed and/or delivered in connection with any of the foregoing, or of any of the Agency's rights thereunder, all of which are and shall remain in full force and effect, nor to result in a loss of priority of the lien of the PILOT Mortgage over the rights of any junior lienor. This Amendment shall not be construed to constitute a consent to other or further action by the Company or to entitle the Company to any other consent.

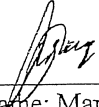


SECTION 5.11 Entire Agreement. This Amendment constitutes the entire agreement and understanding between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Company: GLEN COVE VILLA LLC (successor-by-merger to 135 GLEN COVE AVE. CORP.)

By:   
Name: Manoj Narang  
Title: Manager

Agency: GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Ann Fangmann  
Executive Director

[Signature Page to Amendment No. 1 to Sublease Agreement]

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Company: GLEN COVE VILLA LLC (successor-by-merger to 135 GLEN COVE AVE. CORP.)

By: \_\_\_\_\_  
Name: Manoj Narang  
Title: Manager

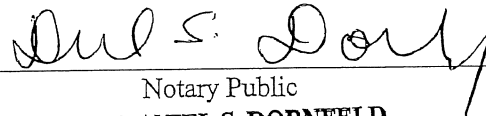
Agency: GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

By:  \_\_\_\_\_  
Ann Fangmann  
Executive Director

[Signature Page to Amendment No. 1 to Sublease Agreement]

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

On the 12<sup>th</sup> day of September, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public  
**DANIEL S. DORNFELD**  
Notary Public, State of New York  
No. 02DO5024564  
Qualified in Suffolk County  
Commission Expires May 9, 2025

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

On the \_\_\_ day of September, 2023, before me, the undersigned, personally appeared Ann Fangmann, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

[Acknowledgment Page to Amendment No. 1 to Sublease Agreement]

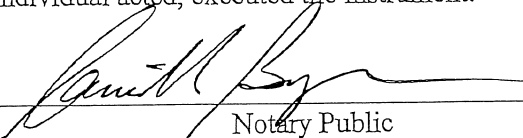
STATE OF NEW YORK    )  
                                  )SS.:  
COUNTY OF            )

On the \_\_\_ day of October, 2023, before me, the undersigned, a Notary Public in and for said state, personally appeared Manoj Narang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
                                  )SS.:  
COUNTY OF NASSAU    )

On the 12 day of October, 2023, before me, the undersigned, personally appeared Ann Fangmann, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

CAMILLE BYRNE  
Notary Public, State of New York  
No. 01BY4729113  
Qualified in Nassau County  
Commission Expires January 31, 2027



**CERTIFICATE REGARDING  
CONFLICTS OF INTEREST**

I, the undersigned Executive Director of the Glen Cove Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY as follows:

1. The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 374 of the 1974 Laws of New York, as amended (collectively, the "Act"), and is a corporate governmental agency constituting a public benefit corporation of the State of New York.

2. In accordance with the Act, the Agency has determined to undertake a project (the "Project") on behalf of 135 Glen Cove Ave. Corp. (the "Applicant"), consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots: 152, 196, 202 and 203; Section 21; Block: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the "Land"), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Equipment") necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the Applicant as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency. Reference is made to that certain Sublease Agreement (Uniform Project Agreement) dated as of December 1, 2021 (the "Original Lease") between the Applicant and the Agency. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Original Lease.

3. The Applicant has merged with and into Glen Cove Villa LLC, a New York limited liability company (the "Company") and the Agency and the Company have entered into an Amendment No. 1 to Sublease Agreement (Uniform Project Agreement) (the "Amendment") to reflect the merger and to amend the Original Lease accordingly.

4. I have made careful inquiry of each member, officer and employee of the Agency having the power or duty to (a) negotiate, prepare, authorize or approve the Amendment or any other Transaction Document or authorize or approve payment thereunder, (b) audit bills or claims under the Amendment or any other Transaction Document, or (c) appoint an officer or employee who has any of the powers or duties as set forth above, as to whether or not such member, officer or employee has an "interest" (as defined pursuant to Article 18 of the General

Municipal Law of the State of New York) in the Amendment or any of the other Transaction Documents. Upon information and belief, as a result of such inquiry, no such member, officer or employee has any such interest in the Amendment or any of the other Transaction Documents, unless otherwise noted below:

(i) No member, officer or employee of the Agency directly or indirectly owns shares of or membership or other equity interests in the Applicant, the Company or in any Affiliate of the Applicant or the Company.

(ii) No member, officer or employee of the Agency is an officer, director, manager or employee of the Applicant, the Company or any affiliate of the Applicant or the Company.

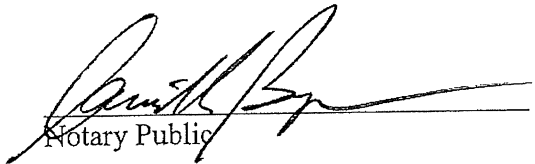
(iii) Any member, officer or employee having a conflict of interest disclosed on Exhibit A has publicly disclosed the nature and extent of such interest in writing to the members of the Agency, such written disclosure has been made a part of and set forth in the official minutes of the Agency, and a true, correct and complete copy of such written disclosure is annexed hereto as Exhibit A.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 10<sup>th</sup> day of October, 2023.



Name: Ann S. Fangmann  
Title: Executive Director

Sworn to before me this  
12 day of October, 2023.

  
Notary Public

CAMILLE BYRNE  
Notary Public, State of New York  
No. 01BY4729113  
Qualified in Nassau County 27  
Commission Expires January 31, 2027

[Agency Certificate re: Conflicts of Interest]