

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director  
625 Broadway, 12th Floor, Albany, New York 12233-7011  
P: (518) 402-9706 | F: (518) 402-9020  
[www.dec.ny.gov](http://www.dec.ny.gov)

Inwood 175, LLC  
Adam Mann  
P.O. Box 234800  
Great Neck, NY 11023

AUG 12 2019

RE: Site Name: 175 Roger Avenue  
Site No.: C130164  
Location of Site: 175 Roger Avenue, Nassau County, Inwood, NY 11096

Dear Mr. Mann:

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the 175 Roger Avenue Site.

If you have any further questions relating to this matter, please contact the project attorney for this site, Leia Schmidt, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 625 Broadway Albany, NY 12233-1500 or by email at [leia.schmidt@dec.ny.gov](mailto:leia.schmidt@dec.ny.gov).

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec: John Sheehan, Project Manager

cc: Leia Schmidt, Esq.  
Jennifer Andaloro, Esq./Lisa Kranick



Department of  
Environmental  
Conservation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
BROWNFIELD CLEANUP PROGRAM  
ECL §27-1401 *et seq.*

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In the Matter of a Remedial Program for

**BROWNFIELD SITE  
CLEANUP AGREEMENT  
Index No. C130164-07-19**

**175 Roger Avenue LLC**

DEC Site No: C130164

Located at: 175 Roger Avenue  
Nassau County  
Inwood, NY 11096

Hereinafter referred to as "Site"

by:

Inwood 175, LLC  
P.O. Box 234800, Great Neck, NY 11023

AJM Capital II, LLC  
P.O. Box 234800, Great Neck, NY 11023

Hereinafter referred to as "Applicant"

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**WHEREAS**, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

**WHEREAS**, the Applicant submitted an application received by the Department on February 19, 2019; and

**WHEREAS**, the Department has determined that the Site and Applicant are eligible to participate in the BCP.

**NOW, THEREFORE**, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

**I. Applicant Status**

The Applicant, Inwood 175, LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

The Applicant, AJM Capital II, LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

**II. Tangible Property Tax Credit Status**

The Site is not located in a City having a population of one million or more. It is therefore presumed that the Site is eligible for tangible property tax credits.

### III. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 4.850 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 40-L.5  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

Tax Map/Parcel No.: 40-L.55  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

Tax Map/Parcel No.: 40-L.56  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

Tax Map/Parcel No.: 40-L.59  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

Tax Map/Parcel No.: 40-L.117  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

Tax Map/Parcel No.: 40-L.2579  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

Tax Map/Parcel No.: 40-L.2585  
Street Number: 175 Roger Avenue, Inwood  
Owner: Nassau County Department of Real Estate

### IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

John Sheehan  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
SUNY at Stony Brook  
50 Circle Road  
Stony Brook, NY 11790-3409  
[john.sheehan@dec.ny.gov](mailto:john.sheehan@dec.ny.gov)

Note: one hard copy (unbound) of work plans and reports is required, as well as one electronic copy.

Christine Vooris (electronic copy only)  
New York State Department of Health  
Bureau of Environmental Exposure Investigation  
Empire State Plaza  
Corning Tower Room 1787  
Albany, NY 12237  
[christine.vooris@health.ny.gov](mailto:christine.vooris@health.ny.gov)

Leia Schmidt, Esq. (correspondence only)  
New York State Department of Environmental Conservation  
Office of General Counsel  
625 Broadway, Albany, NY 12233  
[Leia.schmidt@dec.ny.gov](mailto:Leia.schmidt@dec.ny.gov)

2. Communication from the Department to Applicant shall be sent to:

*Box* *AM*  
Inwood 175, LLC  
Attn: Adam Mann  
P.O. 234800  
Great Neck, NY 11023  
[adam@ajmre.com](mailto:adam@ajmre.com)

AJM Capital II, LLC  
Attn: Adam Mann  
P.O. Box 234800  
Great Neck, NY 11023  
[adam@ajmre.com](mailto:adam@ajmre.com)

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED:

AUG 12 2019

THIS BROWNFIELD CLEANUP AGREEMENT IS  
HEREBY APPROVED, Acting by and Through the  
Department of Environmental Conservation as Designee  
of the Commissioner,

By:



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Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

## CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, and agrees to be bound by this Agreement.

Inwood 175, LLC

By: Adam Moun

Title: Authorized Signatory

Date: 7/15/19

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF Nassau )

On the 15 day of July in the year 2019, before me, the undersigned, personally appeared Adam Moun, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Ryan M. Suddaby  
Signature and Office of individual  
taking acknowledgment

RYAN M. SUDDABY  
Notary Public, State of New York  
Reg. No. 01SU6386096  
Qualified in Nassau County  
Commission Expires 1/22/2023

## CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, and agrees to be bound by this Agreement.

AJM Capital II, LLC

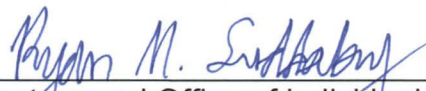
By: 

Title: Authorized Signatory

Date: 7/15/19

STATE OF NEW YORK    )  
  ) ss:  
COUNTY OF Nassau    )

On the 15 day of July in the year 2019, before me, the undersigned, personally appeared Adam Moun, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Signature and Office of individual  
taking acknowledgment

RYAN M. SUDDABY  
Notary Public, State of New York  
Reg. No. 01SU6386096  
Qualified in Nassau County  
Commission Expires 1/22/2023

EXHIBIT A  
SITE MAP



FIGURE 1 - SITE LOCATION



104 East 25<sup>th</sup> Street, 8<sup>th</sup> Floor  
New York, NY 10010-2917  
Phone (212) 353-8280 \* Fax (212) 979-8447

LEGEND:

— Site Boundary



SITE: 175 Roger Avenue  
Inwood, NY  
CLIENT: 175 Roger Avenue LLC  
ATC PROJECT #: 15.75316.0006  
SCALE: Not to Scale

## APPENDIX A

### STANDARD CLAUSES FOR ALL NEW YORK STATE BROWNFIELD SITE CLEANUP AGREEMENTS

The parties to the Brownfield Site Cleanup Agreement (hereinafter "BCA" or "Agreement") agree to be bound by the following clauses which are hereby made a part of the BCA. The word "Applicant" herein refers to any party to the Agreement, other than the New York State Department of Environmental Conservation (herein after "Department").

#### I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Agreement, Applicant shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of Environmental Conservation Law (ECL) § 27-1417 and 6 NYCRR §§ 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Agreement.

#### II. Development, Performance, and Reporting of Work Plans

##### A. Work Plan Requirements

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be prepared and implemented in accordance with the requirements of ECL Article 27, Title 14, 6 NYCRR §§ 375-1.6(a) and 375-3.6, and all applicable laws, rules, regulations, and guidance documents. The Work Plans shall be captioned as follows:

1. "Remedial Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination within the boundaries of the Site and, if the Applicant is a "Participant", the extent of contamination emanating from such Site. If the Applicant is a "Volunteer" it shall perform a qualitative exposure assessment of the contamination emanating from the Site in accordance with ECL § 27-1415(2)(b) and Department guidance;

2. "Remedial Work Plan" if the Work Plan provides for the development and implementation of a Remedial Program for contamination within the boundaries of the Site and, if the Applicant is a "Participant", the contamination that has emanated from such Site;

3. "IRM Work Plan" if the Work Plan provides for an interim remedial measure; or

4. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.

5. "Supplemental" if additional work plans other than those set forth in II.A.1-4 are required to be prepared and implemented.

##### B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted no later than thirty (30) days after the effective date of this Agreement. Thereafter, the Applicant shall submit such other and additional work plans as determined in a schedule to be approved by the Department.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities to be conducted in accordance with current guidance, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. The Department shall use best efforts in accordance with 6 NYCRR § 375-3.6(b) to approve, modify, or reject a proposed Work Plan within forty-five (45) days from its receipt or within fifteen (15) days from the close of the comment period, if applicable, whichever is later.

i. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Agreement and shall be implemented in accordance with the schedule contained therein. All work undertaken as part of a remedial program for a Site must be detailed in a department-approved Work Plan or a submittal approved in form and content by the Department.

ii. If the Department requires modification of a Work Plan, the reason for such modification shall be provided in writing and the

provisions of 6 NYCRR § 375-1.6(d)(3) shall apply.

iii. If the Department disapproves a Work Plan, the reason for such disapproval shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(4) shall apply.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

#### C. Submission of Final Reports

1. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Report for an Investigation Work Plan prepared in accordance with ECL § 27-1411(1) and 6 NYCRR § 375-1.6. If such Final Report concludes that no remediation is necessary, and the Site does not meet the requirements for Track 1, Applicant shall submit an Alternatives Analysis prepared in accordance with ECL § 27-1413 and 6 NYCRR § 375-3.8(f) that supports such determination.

2. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Engineering Report certifying that remediation of the Site has been performed in accordance with the requirements of ECL §§ 27-1419(1) and (2) and 6 NYCRR § 375-1.6. The Department shall review such Report, the submittals made pursuant to this Agreement, and any other relevant information regarding the Site and make a determination as to whether the goals of the remedial program have been or will be achieved in accordance with established timeframes; if so, a written Certificate of Completion will be issued in accordance with ECL § 27-1419, 6 NYCRR §§ 375-1.9 and 375-3.9.

3. Within sixty (60) days of the Department's approval of a Final Report, Applicant shall submit such additional Work Plans as it proposes to implement. In addition, Applicant shall include with every report submitted to the Department a schedule for the submission of any subsequent work plan required to meet the requirements of ECL Article 27 Title 14. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Applicant, result in the termination of this Agreement pursuant to Paragraph XII.

#### D. Review of Submittals other than Work Plans

1. The Department shall timely notify Applicant in writing of its approval or disapproval of each submittal other than a Work Plan in accordance with 6 NYCRR § 375-1.6. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this Subparagraph, it shall specify the reason for its disapproval and may request Applicant to modify or expand the submittal. Within fifteen (15) days after receiving written notice that Applicant's submittal has been disapproved, Applicant shall elect in writing to either (i) modify or expand it within thirty (30) days of receipt of the written notice of disapproval; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Paragraph XII. If Applicant submits a revised submittal and it is disapproved, the Department and Applicant may pursue whatever remedies may be available under this Agreement or under law. All work undertaken as part of a remedial program, including work undertaken pursuant to submittals other than Work Plans, must be approved by the department prior to implementation by the Applicant.

#### E. Department's Determination of Need for Remediation

The Department shall determine upon its approval of each Final Report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed for protection of public health and the environment.

1. If the Department makes a preliminary determination that remediation, or additional remediation, is not needed for protection of public health and the environment, the Department shall notify the public of such determination and seek public comment in accordance with ECL § 27-1417(3)(f). The Department shall provide timely notification to the Applicant of its final determination following the close of the public comment period.

2. If the Department determines that additional remediation is not needed and such determination is based upon use restrictions, Applicant shall cause to be recorded an Environmental Easement in accordance with 6 NYCRR § 375-1.8(h).

3. If the Department determines that remediation, or additional remediation, is needed, Applicant may elect to submit for review and approval a proposed Remedial Work Plan (or modify an existing Work Plan for the Site) for a remedy selected upon due consideration of the factors set forth in ECL § 27-1415(3) and 6 NYCRR § 375-1.8(f). A proposed Remedial Work Plan addressing the Site's remediation will be noticed for public comment in accordance with ECL § 27-1417(3)(f) and the Citizen Participation Plan developed pursuant to this Agreement. If the Department determines following the close of the public comment period that modifications to the proposed Remedial Work Plan are needed, Applicant agrees to negotiate appropriate modifications to such Work Plan. If Applicant elects not to develop a Work Plan under this Subparagraph then this Agreement shall terminate in accordance with Paragraph XII. If the Applicant elects to develop a Work Plan, then it will be reviewed in accordance with Paragraph II.D above.

#### F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Applicant shall submit a written certification in accordance with 6 NYCRR §§ 375-1.8(h)(3) and 375-3.8(h)(2).

### III. Enforcement

Except as provided in Paragraph V, this Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Applicant shall not suffer any penalty except as provided in Paragraph V, or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event as described at 6 NYCRR § 375-1.5(b)(4) provided Applicant complies with the requirements set forth therein.

### IV. Entry upon Site

A. Applicant hereby agrees to provide access to the Site and to all relevant information regarding activities at the Site in accordance with the provisions of ECL § 27-1431. Applicant agrees to provide the Department upon request with proof of access if it is not the owner of the Site.

B. The Department shall have the right to periodically inspect the Site to ensure that the use of the property complies with the terms and conditions of this Agreement. The Department will generally conduct such inspections during business hours, but retains the right to inspect at any time.

C. Failure to provide access as provided for under this Paragraph may result in termination of this Agreement pursuant to Paragraph XII.

### V. Payment of State Costs (Applicable only to Applicants with Participant Status)

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Applicant shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR § 375-1.5(b)(3)(i).

B. Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)(ii). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the "Commissioner of NYSDEC" and shall be sent to:

Director, Bureau of Program Management  
Division of Environmental Remediation  
New York State  
Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7012

D. Each party shall provide written notification to the other within ninety (90) days of any change in the foregoing addresses.

E. If Applicant objects to any invoiced costs under this Agreement, the provisions of 6 NYCRR §§ 375-1.5(b)(3)(v) and (vi) shall apply.

Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with ECL § 27-1409(2) and ECL § 71-4003.

#### VI. Liability Limitation

Subsequent to the issuance of a Certificate of Completion pursuant to this Agreement, Applicant shall be entitled to the Liability Limitation set forth at ECL § 27-1421, subject to the terms and conditions stated therein and to the provisions of 6 NYCRR §§ 375-1.9 and 375-3.9.

#### VII. Reservation of Rights

A. Except as provided in Subparagraph VII.B, Applicant reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Applicant, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Applicant's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Applicant, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

B. Notwithstanding the foregoing, Applicant hereby waives any right it may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site and releases the State and the New York Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that Applicant may have as a result of Applicant's entering into or fulfilling the terms of this Agreement.

#### VIII. Indemnification

Applicant shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Applicant prior to the Termination Date except for those claims, suits, actions, and costs arising from the State's gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. In the event that the Applicant is a Participant, this provision shall also include the Trustee of the State's Natural Resources. The Department shall provide Applicant with written notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

#### IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in ECL § 27-1425, which is proposed for the Site, in accordance with the provisions of 6 NYCRR § 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

#### X. Environmental Easement

A. Within thirty (30) days after the Department's approval of a Remedial Work Plan which relies upon one or more institutional and/or engineering controls, or within sixty (60) days after the Department's determination pursuant to Subparagraph II.E.2 that additional remediation is not needed based upon use restrictions, Applicant shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36 and 6 NYCRR § 375-1.8(h)(2). Applicant shall cause such instrument to be recorded with the recording officer for the county in which the Site is located within thirty (30) days after the Department's approval of such instrument. Applicant shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy within thirty (30) days of such recording (or such longer period of time as may be required to obtain a certified copy

provided Applicant advises the Department of the status of its efforts to obtain same within such thirty (30) day period), which shall be deemed to be incorporated into this Agreement.

B. Applicant or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to this Agreement at such time as it can certify that the Site is protective of public health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer or Qualified Environmental Professional as defined at 6 NYCRR § 375-1.2(ak) approved by the Department. The Department will not unreasonably withhold its consent.

#### XI. Progress Reports

Applicant shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph III.A.1 of the Agreement by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Applicant in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

#### XII. Termination of Agreement

Applicant or the Department may terminate this Agreement consistent with the provisions of 6 NYCRR §§ 375-3.5(b), (c), and (d) by providing written notification to the parties listed in Paragraph IV of the Agreement.

#### XIII. Dispute Resolution

A. In the event disputes arise under this Agreement, Applicant may, within fifteen (15) days after Applicant knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR § 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to Paragraph V of Appendix A of this Agreement, if applicable.

C. Notwithstanding any other rights otherwise authorized in law or equity, any disputes pursuant to this Agreement shall be limited to Departmental decisions on remedial activities. In no event shall such dispute authorize a challenge to the applicable statute or regulation.

#### XIV. Miscellaneous

A. If the information provided and any certifications made by Applicant are not materially accurate and complete, this Agreement, except with respect to Applicant's obligations pursuant to Paragraphs V, if applicable, and VII.B, and VIII, shall be null and void ab initio fifteen (15) days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, unless Applicant submits information within that fifteen (15) day time period indicating that the information provided and the certifications made were materially accurate and complete. In the event this Agreement is rendered null and void, any Certificate of Completion and/or Liability Limitation that may have been issued or may have arisen under this Agreement shall also be null and void ab initio, and the Department shall reserve all rights that it may have under law.

B. By entering into this Agreement, Applicant agrees to comply with and be bound by the provisions of 6 NYCRR §§ 375-1, 375-3 and 375-6; the provisions of such subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Agreement to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Agreement.

C. The Department may exempt Applicant from the requirement to obtain any state or local

permit or other authorization for any activity conducted pursuant to this Agreement in accordance with 6 NYCRR §§ 375-1.12(b), (c), and (d).

D. 1. Applicant shall use "best efforts" to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Applicant's obligations under this Agreement, including all Department-approved Work Plans and the schedules contained therein. If, despite Applicant's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Applicant shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Applicant in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Applicant to modify the Work Plan pursuant to 6 NYCRR § 375-1.6(d)(3) to reflect changes necessitated by Applicant's inability to obtain such interest.

E. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

F. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Applicant concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Applicant of its obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s). Applicant consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Applicant desires that any provision of this Agreement be changed, Applicant shall make timely written application to the Commissioner with copies to the parties in Subparagraph IV.A.1 of the Agreement.

ii. If Applicant seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1 of the Agreement.

iii. Requests for a change to a time frame set forth in this Agreement shall be made in writing to the Department's project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Applicant promptly.

G. 1. If there are multiple parties signing this Agreement, the term "Applicant" shall be read in the plural, the obligations of each such party under this Agreement are joint and several, and the insolvency of or failure by any Applicant to implement any obligations under this Agreement shall not affect the obligations of the remaining Applicant(s) under this Agreement.

2. If Applicant is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Agreement are joint and several and the insolvency or failure of any general partner to implement any obligations under this Agreement shall not affect the obligations of the remaining partner(s) under this Agreement.

3. Notwithstanding the foregoing Subparagraphs XIV.G.1 and 2, if multiple parties sign this Agreement as Applicants but not all of the signing parties elect to implement a Work Plan, all Applicants are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Applicants electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to the activities set forth in such Work Plan(s). Further, only those Applicants electing to implement such additional Work Plan(s) shall be

eligible to receive the Liability Limitation referenced in Paragraph VI.

4. Any change to parties pursuant to this Agreement, including successors and assigns through acquisition of title, is subject to approval by the Department, after submittal of an application acceptable to the Department.

H. Applicant shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL § 27-1421(6) and 6 NYCRR § 375-1.5(b)(5).

I. Applicant shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

J. Applicant and Applicant's agents, grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Applicant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Applicant's responsibilities under this Agreement.

K. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

L. Applicant's obligations under this Agreement shall not be deemed to constitute any type of fine or penalty.

M. In accordance with 6 NYCRR § 375-1.6(a)(4), the Department shall be notified at least 7 days in advance of, and be allowed to attend, any field activities to be conducted under a Department approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; provided, however that the Department may be excluded from portions of meetings where privileged matters are discussed.

N. In accordance with 6 NYCRR § 375-1.11(a), all work plans; reports, including all attachments and appendices, and certifications, submitted by a remedial party shall be submitted in print, as well as in an electronic format acceptable to the Department.

O. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

### WRITTEN CONSENT OF THE MANAGER

The undersigned, being the manager of Inwood 175, LLC, a New York limited liability company (the "Company"), does hereby resolve that:

1. Adam Mann is a representative of the Company and has the full power and authority on behalf of the Company, as an Authorized Signatory, to:
  - a. Execute documents in connection with the application of the Company for participation in the New York State Brownfield Cleanup Program (the "BCP");
  - b. Enter into agreements with the New York State Department of Environmental Conservation (the "DEC") in connection with the Company's participation in the BCP;
  - c. Execute any and all documents in connection with the Company's participation in the BCP, including but not limited to applications, agreements, easements and tax returns;
  - d. Take any action necessary to the furtherance of the Company's participation in the BCP, including but not limited to conducting negotiations on behalf of the Company.
2. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the passage of this consent are hereby approved and ratified. The authority hereby conferred shall continue in full force and effect until the DEC shall have received notice, in writing, of the revocation hereof by a resolution duly adopted by the Manager of the Company. Any such revocation shall be effective only as to actions taken by the Company subsequent to DEC's receipt of such notice.
3. The undersigned hereby represents and warrants that (i) the undersigned is the Manager of the Company; and (ii) the consent of the Manager is sufficient to authorize the Company to take the aforementioned actions.



Adam Mann, Manager

Dated: 7/15/19  
New York, NY

### WRITTEN CONSENT OF THE MANAGER

The undersigned, being the manager of AJM Capital II, LLC, a New York limited liability company (the "Company"), does hereby resolve that:

1. Adam Mann is a representative of the Company and has the full power and authority on behalf of the Company, as an Authorized Signatory, to:
  - a. Execute documents in connection with the application of the Company for participation in the New York State Brownfield Cleanup Program (the "BCP");
  - b. Enter into agreements with the New York State Department of Environmental Conservation (the "DEC") in connection with the Company's participation in the BCP;
  - c. Execute any and all documents in connection with the Company's participation in the BCP, including but not limited to applications, agreements, easements and tax returns;
  - d. Take any action necessary to the furtherance of the Company's participation in the BCP, including but not limited to conducting negotiations on behalf of the Company.
2. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the passage of this consent are hereby approved and ratified. The authority hereby conferred shall continue in full force and effect until the DEC shall have received notice, in writing, of the revocation hereof by a resolution duly adopted by the Manager of the Company. Any such revocation shall be effective only as to actions taken by the Company subsequent to DEC's receipt of such notice.
3. The undersigned hereby represents and warrants that (i) the undersigned is the Manager of the Company; and (ii) the consent of the Manager is sufficient to authorize the Company to take the aforementioned actions.



Adam Mann, Manager

Dated: 7/15/19  
New York, NY

2 Jericho Plaza, Suite 101  
Jericho, New York 11753

**o:** 516.743.9119  
**w:** ajmre.com

July 15, 2019

Via Federal Express & Electronic Mail

Michael Ryan, PE  
Director, Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY12233-7011

**RE: Brownfield Cleanup Program**  
**Tax Map ID No.: 40-L.5, 40-L.55, 40-L.56, 40-L.59, 40-L.117, 40-L.2579, 40-L.2585**  
**Property County: Nassau**  
**Site No.: C130164**

Mr. Ryan:

In connection with the referenced matter, enclosed please find the following:

- Two (2) copies of the Brownfield Cleanup Agreement ("BCA") signed on behalf of AJM Capital II, LLC and Inwood 175, LLC (collectively, the "Requestors"); and
- Proof that the parties executing the BCA are authorized to bind the Requestors.

We are looking forward to working with you on this project.

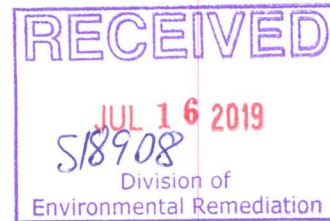
Best regards,



Adam Mann

Enclosures

cc: John Sheehan, PG (via electronic mail)  
Leia Schmidt, Esq. (via electronic mail)  
Jennifer Hathaway (via electronic mail)  
Christine Leas, Esq. (via electronic mail)  
Arnie Fleming, PE (via electronic mail)



ONLINE FILING RECEIPT

ENTITY NAME: INWOOD 175, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM. LLC)

COUNTY: NASS

FILED:10/25/2018 DURATION:\*\*\*\*\* CASH#:181025010592 FILE#:181025010592  
DOS ID:5432717

FILER:

EXIST DATE

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ADAM MANN  
PO BOX 234800  
GREAT NECK, NY 11023

-----  
10/25/2018

ADDRESS FOR PROCESS:

-----  
INWOOD 175, LLC  
PO BOX 234800  
GREAT NECK, NY 11023

REGISTERED AGENT:

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The limited liability company is required to file a Biennial Statement with the Department of State every two years pursuant to Limited Liability Company Law Section 301. Notification that the Biennial Statement is due will only be made via email. Please go to [www.email.ebiennial.dos.ny.gov](http://www.email.ebiennial.dos.ny.gov) to provide an email address to receive an email notification when the Biennial Statement is due.

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SERVICE COMPANY: \*\* NO SERVICE COMPANY \*\*  
SERVICE CODE: 00

FEE:	200.00	PAYMENTS	200.00
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FILING:	200.00	CHARGE	200.00
TAX:	0.00	DRAWDOWN	0.00
PLAIN COPY:	0.00		
CERT COPY:	0.00		
CERT OF EXIST:	0.00		

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DOS-1025 (04/2007)

Authentication Number: 1810250599 To verify the authenticity of this document you may access the Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

# ACKNOWLEDGEMENT COPY

## ARTICLES OF ORGANIZATION OF Inwood 175, 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 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:

**Inwood 175, LLC**

**SECOND:** 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 this state, in which the office of the limited liability company is to be located is NASSAU.

**FOURTH:** The Secretary of State is designated as agent of the 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:

Inwood 175, LLC  
PO Box 234800  
Great Neck, NY 11023

**FIFTH:** The limited liability company is to be managed by: ONE OR MORE MEMBERS.

**SIXTH:** The existence of the limited liability company shall begin upon filing of these Articles of Organization with the Department of State.

**SEVENTH:** The limited liability company shall have a perpetual existence.

**EIGHTH:** 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.

Adam Mann, Authorized Signatory (signature)

---

Adam Mann , ORGANIZER  
PO Box 234800  
Great Neck, NY 11023

**Filed by:**  
Adam Mann  
PO Box 234800  
Great Neck, NY 11023

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**LIMITED LIABILITY COMPANY  
OPERATING AGREEMENT**

**OF**

**INWOOD 175, LLC**

**October 25, 2018**

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## Introduction

**LIMITED LIABILITY COMPANY AGREEMENT** dated as of October 25, 2018 (the “Agreement”) by and between AJM Member, LLC, a New York limited liability company having its principal place of business at 2 Jericho Plaza, Suite 101, Jericho, NY 11753 (the “Sole Member”) and Inwood 175, LLC, a New York limited liability company, with an address at c/o the Sole Member (the “Company”).

## WITNESSETH:

WHEREAS, the Sole Member wishes to enter into the Operating Agreement of the Company.

NOW THEREFORE, in consideration of the foregoing premises and the agreements hereinafter contained, the Sole Member and the Company, intending to be legally bound, hereby agree as follows:

1. **Name.** The name of the Company is “AJM Capital II, LLC”.
2. **Purpose.** The Company has been organized to conduct any lawful act or activity permitted under the New York Limited Liability Company Law (the “Act”).
3. **Term.** The term of the Company began as of the date of filing of the Company’s Articles of Organization with the Secretary of State of the State of New York and shall end on such date as the Sole Member shall determine.
4. **Sole Member.** The name and the address of the Sole Member is as set forth above. The Sole Member shall be the sole Managing Member of the Company.
5. **Management of the Company.** The business and affairs of the Company shall be managed by the Sole Member, who shall have the exclusive power and authority, on behalf of the Company, to take any action of any kind not inconsistent with the provisions of this Agreement and the Act and to do anything and everything it deems necessary or appropriate to carry on the business and purposes of the Company. The Sole Member is, to the extent of its rights and powers set forth in this Agreement and the Act, an agent of the Company for the purpose of the Company's business, and the actions of the Sole Member taken in accordance with such rights and powers shall bind the Company.
6. **Dissolution.** The Company shall be dissolved and its affairs shall be wound up in accordance with the Act upon the earlier to occur of: (a) the written action taken by the Sole Member; (b) the event or action specified in the Certificate, if any; or (c) upon any event or action causing dissolution of the Company specified in the Act.

7. **Initial Capital Contribution.** The Sole Member's initial capital contribution to the Company is described in Section 3.1 of the Second Amended and Restated Operating Agreement of the Sole Member dated as of January 1, 2013 and on Exhibit B attached thereto.

8. **Additional Contributions.** The Sole Member shall not have any obligation to make additional capital contributions to the Company, except as otherwise may be expressly provided in the Second Amended and Restated Operating Agreement of the Sole Member dated as of January 1, 2013, as same may be amended from time to time.

9. **Tax Matters.** The Sole Member intends that the Company be treated as a disregarded entity for Federal income tax purposes. All of the Company's taxable income and tax losses shall be allocated to the Sole Member. The Sole Member is hereby designated to act as the "tax matters partner" within the meaning of Section 6231(a)(7) of the Internal Revenue Code of 1986, as amended.

10. **Title to Property.** Title to any property, real or personal, owned by or leased to the Company shall be held in the name of the Company, or in the name of any nominee the Sole Member may in the Sole Member's discretion designate.

11. **Distributions.** Distributions shall be made to the Sole Member at the times and in the aggregate amounts determined by the Sole Member.

12. **Exculpation.** The Sole Member and any manager shall not have any liability for the obligations or liabilities of the Company except to the extent expressly provided by the Act.

13. **Benefits of Agreement.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company or creditor of the Sole Member.

14. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to conflicts of law principles of such State.

15. **Amendments.** This Agreement may be amended only by written instrument executed by the Sole Member.

[signatures appear on following page]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered, or caused the execution and delivery of, this Limited Liability Company Operating Agreement as of the date first above written.

**SOLE MEMBER:**

AJM MEMBER, LLC

By: 

Name: Adam Mann

Title: Managing Member

**COMPANY:**

INWOOD 175, LLC

By: AJM Member, LLC

By: 

Name: Adam Mann

Title: Managing Member

FILING RECEIPT

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ENTITY NAME: AJM CAPITAL II, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM LLC)

COUNTY: NASS

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FILED:01/24/2011 DURATION:\*\*\*\*\* CASH#:110124000052 FILM #:110124000048

FILER:

EXIST DATE

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ADAM MANN  
526 EAST SHORE ROAD

-----  
01/24/2011

GREAT NECK, NY 11024

ADDRESS FOR PROCESS:

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THE LLC  
POST OFFICE BOX 234800  
GREAT NECK, NY 11023-4800

REGISTERED AGENT:

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SERVICE COMPANY: GERALD WEINBERG, P.C. - 13

SERVICE CODE: 13 \*

FEES            225.00  
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FILING          200.00  
TAX            0.00  
CERT           0.00  
COPIES          0.00  
HANDLING       25.00

PAYMENTS       225.00  
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CASH            0.00  
CHECK           0.00  
CHARGE          0.00  
DRAWDOWN       225.00  
OPAL            0.00  
REFUND          0.00

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DOS-1025 (04/2007)

**ARTICLES OF ORGANIZATION  
OF  
AJM CAPITAL II, LLC**

Filed by:

Adam Mann  
526 East Shore Road  
Great Neck, New York 11024

**ARTICLES OF ORGANIZATION  
OF  
AJM CAPITAL II, LLC**

Under Section 203 of the Limited Liability Company Law.

FIRST: The name of the limited liability company is **AJM CAPITAL II, LLC**.

SECOND: The county within the state in which the office of the limited liability company is to be located is Nassau.

THIRD: The Company does not have a specific date of dissolution in addition to the events of dissolution set forth by law.

FOURTH: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office 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:

Post Office Box 234800  
Great Neck, New York 11023-4800

FIFTH: The effective date of the Articles of Organization shall be the date of filing with the Secretary of State.

SIXTH: The limited liability company is to be managed by 1 or more members.

IN WITNESS WHEREOF, this certificate has been subscribed to this 21st day of January, 2011 by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

*Lawrence A. Kirsch*

---

Lawrence A. Kirsch, Organizer

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**FIRST AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY**

**OPERATING AGREEMENT**

**OF**

**AJM CAPITAL II, LLC**

**January 1, 2013**

---

## Introduction

**LIMITED LIABILITY COMPANY AGREEMENT** dated as of January 1, 2013 (the "Agreement") by and between AJM Member, LLC, a New York limited liability company having its principal place of business at 1 Jericho Plaza, Suite 301, Jericho, NY 11753 (the "Sole Member") and AJM Capital II, LLC, a New York limited liability company, with an address at c/o the Sole Member (the "Company").

## WITNESSETH:

WHEREAS, the Sole Member wishes to amend and restate the Operating Agreement of the Company dated as of January 24, 2011.

NOW THEREFORE, in consideration of the foregoing premises and the agreements hereinafter contained, the Sole Member and the Company, intending to be legally bound, hereby agree as follows:

1. **Name.** The name of the Company is "AJM Capital II, LLC".
2. **Purpose.** The Company has been organized to conduct any lawful act or activity permitted under the New York Limited Liability Company Law (the "Act").
3. **Term.** The term of the Company began as of the date of filing of the Company's Articles of Organization with the Secretary of State of the State of New York and shall end on such date as the Sole Member shall determine.
4. **Sole Member.** The name and the address of the Sole Member is as set forth above. The Sole Member shall be the sole Managing Member of the Company.
5. **Management of the Company.** The business and affairs of the Company shall be managed by the Sole Member, who shall have the exclusive power and authority, on behalf of the Company, to take any action of any kind not inconsistent with the provisions of this Agreement and the Act and to do anything and everything it deems necessary or appropriate to carry on the business and purposes of the Company. The Sole Member is, to the extent of its rights and powers set forth in this Agreement and the Act, an agent of the Company for the purpose of the Company's business, and the actions of the Sole Member taken in accordance with such rights and powers shall bind the Company.
6. **Dissolution.** The Company shall be dissolved and its affairs shall be wound up in accordance with the Act upon the earlier to occur of: (a) the written action taken by the Sole Member; (b) the event or action specified in the Certificate, if any; or (c) upon any event or action causing dissolution of the Company specified in the Act.

7. **Initial Capital Contribution.** The Sole Member's initial capital contribution to the Company is described in Section 3.1 of the Second Amended and Restated Operating Agreement of the Sole Member dated as of January 1, 2013 and on Exhibit B attached thereto.

8. **Additional Contributions.** The Sole Member shall not have any obligation to make additional capital contributions to the Company, except as otherwise may be expressly provided in the Second Amended and Restated Operating Agreement of the Sole Member dated as of January 1, 2013, as same may be amended from time to time.

9. **Tax Matters.** The Sole Member intends that the Company be treated as a disregarded entity for Federal income tax purposes. All of the Company's taxable income and tax losses shall be allocated to the Sole Member. The Sole Member is hereby designated to act as the "tax matters partner" within the meaning of Section 6231(a)(7) of the Internal Revenue Code of 1986, as amended.

10. **Title to Property.** Title to any property, real or personal, owned by or leased to the Company shall be held in the name of the Company, or in the name of any nominee the Sole Member may in the Sole Member's discretion designate.

11. **Distributions.** Distributions shall be made to the Sole Member at the times and in the aggregate amounts determined by the Sole Member.

12. **Exculpation.** The Sole Member and any manager shall not have any liability for the obligations or liabilities of the Company except to the extent expressly provided by the Act.

13. **Benefits of Agreement.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company or creditor of the Sole Member.

14. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to conflicts of law principles of such State.

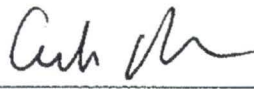
15. **Amendments.** This Agreement may be amended only by written instrument executed by the Sole Member.

[signatures appear on following page]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered, or caused the execution and delivery of, this Limited Liability Company Operating Agreement as of the date first above written.

**SOLE MEMBER:**

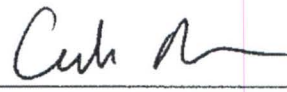
AJM MEMBER, LLC

By:   
Name: Adam Mann  
Title: Managing Member

**COMPANY:**

AJM CAPITAL II, LLC

By: AJM Member, LLC

By:   
Name: Adam Mann  
Title: Managing Member