



Department of
Environmental
Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

Please refer to the attached instructions for guidance on completing this application.

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment seeks to add or subtract more than an insignificant acreage of property to the BCA, applicants are encouraged to consult with the DEC project team prior to submitting this application.

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification(s) requested:

<input checked="" type="checkbox"/>	Amendment to modify the existing BCA (check one or more boxes below):
<input checked="" type="checkbox"/>	Add applicant(s)
<input type="checkbox"/>	Substitute applicant(s)
<input checked="" type="checkbox"/>	Remove applicant(s)
<input type="checkbox"/>	Change in name of applicant(s)
<input checked="" type="checkbox"/>	Amendment to reflect a transfer of title to all or part of the brownfield site:
	<p>a. A copy of the recorded deed must be provided. Is this attached? Yes <input checked="" type="radio"/> No <input type="radio"/></p> <p>b. <input checked="" type="checkbox"/> Change in ownership <input type="checkbox"/> Additional owner (such as a beneficial owner)</p> <p>c. Pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been submitted prior to a transfer of ownership. If this has not yet been submitted, include the form with this application. Is this form attached? Yes <input checked="" type="radio"/> No <input type="radio"/> Submitted on: 12/6/2024</p>
<input type="checkbox"/>	Amendment to modify description of the property(ies) listed in the existing BCA
<input type="checkbox"/>	Amendment to expand or reduce property boundaries of the property(ies) listed in the existing BCA
<input checked="" type="checkbox"/>	Sites in Bronx, Kings, New York, Queens or Richmond Counties ONLY: amendment to request determination that the site is eligible for tangible property credit component of the brownfield redevelopment tax credit.
<input checked="" type="checkbox"/>	Other (explain in detail below)

2. REQUIRED: Please provide a brief narrative describing the specific requests included in this amendment: The real property located at 350 Grand Concourse, Bronx, NY, was transferred by 350 Rising LLC to 350 GC Property Owner LLC on December 12, 2024, which will assume responsibility for the remediation. As part of this amendment, 350 Rising LLC is being removed as an applicant, and 350 GC Property Owner LLC is being added as the new applicant. Additionally, a Transfer of Participation and Compliance (TPC) determination has been made to ensure that 350 GC Property Owner LLC meets the necessary program requirements and is eligible to assume the obligations under the Brownfield Cleanup Agreement.

SECTION I: CURRENT AGREEMENT INFORMATION*This section must be completed in full. Attach additional pages as necessary.*

BCP SITE NAME: 350 Rising	BCP SITE CODE: C203153
NAME OF CURRENT APPLICANT(S): Peter Fine	
INDEX NUMBER OF AGREEMENT: C203153-04-22	DATE OF ORIGINAL AGREEMENT: May 4, 2022

SECTION II: NEW REQUESTOR INFORMATION*Complete this section only if adding new requestor(s) or the name of an existing requestor has changed.*

NAME: 350 GC Property Owner LLC			
ADDRESS: 292 Madison Avenue, 24th Floor			
CITY/TOWN: New York, NY			ZIP CODE: 10017
PHONE: 212-335-2310	EMAIL: san@shorewoodgrp.com		
REQUESTOR CONTACT: Spencer An			
ADDRESS: 292 Madison Avenue, 24th Floor			
CITY/TOWN: New York, NY			ZIP CODE: 10017
PHONE: 212-335-2310	EMAIL: san@shorewoodgrp.com		
REQUESTOR'S CONSULTANT: AKRF		CONTACT: Marc Godick and Ken Wiles	
ADDRESS: 440 Park Ave S 7th Floor			
CITY/TOWN: New York, NY			ZIP CODE: 10016
PHONE: 646-388-9528	EMAIL: kwiles@akrf.com ; mgodick@akrf.com		
REQUESTOR'S ATTORNEY: Greenberg Traurig, LLP		CONTACT: Steven C. Russo	
ADDRESS: One Vanderbilt Avenue			
CITY/TOWN: NY, NY			ZIP CODE: 10017
PHONE: 212.805.9455	EMAIL: Steven.Russo@gtlaw.com		
			Y
			N
1. Is the requestor authorized to conduct business in New York State?			<input checked="" type="radio"/>
2. If the requestor is a corporation, LLC, LLP, or other entity requiring authorization from the NYS Department of State (NYSDOS) to conduct business in NYS, the requestor's name must appear exactly as given above in the NYSDOS Corporation & Business Entity Database. A print-out of entity information from the NYSDOS database must be submitted with this application. Is this print-out attached?			<input checked="" type="radio"/>
3. Requestor must submit proof that the party signing this application and amendment has the authority to bind the requestor. This would be documentation showing the authority to bind the requestor in the form of corporate organizational papers, a Corporate Resolution or an Operating Agreement or Resolution for an LLC. Is this proof attached?			<input checked="" type="radio"/>
4. If the requestor is an LLC, the names of the members/owners must be provided. Is this information attached?			<input checked="" type="radio"/>
5. Describe the new requestor's relationship to all existing applicants: No relationship except parties to arms-length commercial transaction.			<input checked="" type="radio"/>

SECTION III: CURRENT PROPERTY OWNER/OPERATOR INFORMATION*Complete this section only if a transfer of ownership has taken place. Attach additional pages if necessary.*

Owner listed below is: <input checked="" type="checkbox"/> Existing Applicant		<input type="checkbox"/> New Applicant		<input type="checkbox"/> Non-Applciant	
OWNER'S NAME: Peter Fine			CONTACT: Atlantic Development Group		
ADDRESS: 450 W 14th Street					
CITY/TOWN: New York, NY			ZIP CODE: 10014		
PHONE: (212) 620-0500		EMAIL: pfine@atlanticdevelopment.com			
OPERATOR:			CONTACT:		
ADDRESS:					
CITY/TOWN:			ZIP CODE:		
PHONE:		EMAIL:			

SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION*Complete this section only if adding new requestor(s). Attach additional pages if necessary.*

If answering "yes" to any of the following questions, please provide additional information as an attachment. Please refer to ECL § 27-1407 for details.

	Y	N
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="radio"/>	<input checked="" type="radio"/>
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?	<input type="radio"/>	<input checked="" type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for the site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="radio"/>	<input checked="" type="radio"/>
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of (i) any provision of the subject law; (ii) any order or determination; (iii) any regulation implementing ECL Article 27 Title 14; or (iv) any similar statute or regulation of the state or federal government? If so, provide additional information as an attachment.	<input type="radio"/>	<input checked="" type="radio"/>
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as site name, address, DEC site number, reason for denial, and any other relevant information.	<input type="radio"/>	<input checked="" type="radio"/>
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting or contaminants?	<input type="radio"/>	<input checked="" type="radio"/>
7. Has the requestor been convicted of a criminal offense (i) involving the handling, storing, treating, disposing or transporting of contaminants; or (ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?	<input type="radio"/>	<input checked="" type="radio"/>
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?	<input type="radio"/>	<input checked="" type="radio"/>

SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION (continued)		Y	N
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?		<input type="radio"/>	<input checked="" type="radio"/>
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?		<input type="radio"/>	<input checked="" type="radio"/>
11. Are there any unregistered bulk storage tanks on-site which require registration?		<input type="radio"/>	<input checked="" type="radio"/>
12. THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL § 27-1405(1) BY CHECKING ONE OF THE BOXES BELOW:			
<input type="checkbox"/> PARTICIPANT A requestor who either (1) was the owner of the site at the time of the disposal of contamination or (2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of contamination.		<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of a hazardous waste or discharge of petroleum. NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that they have exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: (i) stop any continuing discharge; (ii) prevent any threatened future release; (iii) prevent or limit human, environmental or natural resource exposure to any previously released hazardous waste. If a requestor's liability arises solely as a result of ownership, operation of or involvement with the site, they must submit a statement describing why they should be considered a volunteer – be specific as to the appropriate care taken.	
13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?		N/A <input type="radio"/>	Y <input checked="" type="radio"/> N <input type="radio"/>
14. Requestor's relationship to the property (check all that apply): <input type="checkbox"/> Prior Owner <input checked="" type="checkbox"/> Current Owner <input type="checkbox"/> Potential/Future Purchaser <input type="checkbox"/> Other: _____			
15. If the requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before being added to the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached?		N/A <input checked="" type="radio"/>	Y <input type="radio"/> N <input type="radio"/>

SECTION V: PROPERTY DESCRIPTION AND REQUESTED CHANGES

Complete this section only if property is being added to or removed from the site, a lot merger or other change to site SBL(s) has occurred, or if modifying the site address for any reason.

1. Property information on current agreement (as modified by any previous amendments, if applicable):

ADDRESS:

CITY/TOWN

ZIP CODE:

CURRENT PROPERTY INFORMATION

TOTAL ACREAGE OF CURRENT SITE:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

2. Requested change (check appropriate boxes below):

☐

a. Addition of property (may require additional citizen participation depending on the nature of the expansion – see instructions)

PARCELS ADDED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

TOTAL ACREAGE TO BE ADDED: _____

☐

b. Reduction of property

PARCELS REMOVED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

TOTAL ACREAGE TO BE REMOVED: _____

☐

c. Change to SBL (e.g., lot merge, subdivision, address change)

NEW PROPERTY INFORMATION:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

3. TOTAL REVISED SITE ACREAGE: _____

4. For all changes requested in this section, documentation must be provided. Required attachments are listed in the application instructions. Is the required documentation attached?

Y

N

☐

**APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT SUPPLEMENT
QUESTIONS FOR SITE SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY**

Complete this section only if the site is located within the five counties comprising New York City and the requestor is seeking a determination of eligibility for tangible property credits. Provide supporting documentation as required. Refer to the application instructions for additional information.

	Y	N
1. Is the site located in Bronx, Kings, New York, Queens or Richmond County?	<input checked="" type="radio"/>	<input type="radio"/>
2. Is the requestor seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit?	<input checked="" type="radio"/>	<input type="radio"/>
3. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input checked="" type="radio"/>	<input type="radio"/>
4. Is the property upside down as defined below?	<input type="radio"/>	<input checked="" type="radio"/>
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>		
5. Is the project and affordable housing project as defined below?	<input checked="" type="radio"/>	<input type="radio"/>
<p>From 6 NYCRR 375-3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty-seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' household's annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for homeowners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States Department of Housing and Urban Development, or its successor, for a family of four, as adjusted for family size.</p>		

APPLICATION SUPPLEMENT FOR NYC SITES (continued)	Y	N
<p>6. Is the project a planned renewable energy facility site as defined below?</p> <p>From ECL 27-1405(33) as of April 9, 2022:</p> <p>"Renewable energy facility site" shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system.</p> <p>From Public Service Law Article 4 Section 66-p as of April 23, 2021:</p> <p>(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.</p>	<input type="radio"/>	<input checked="" type="radio"/>
<p>7. Is the site located within a disadvantaged community, within a designated Brownfield Opportunity Area, and meets the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?</p> <p>From ECL 75-0111 as of April 9, 2022:</p> <p>(5) "Disadvantaged communities" means communities that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.</p>	<input type="radio"/>	<input checked="" type="radio"/>

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**EXISTING AGREEMENT INFORMATION**

BCP SITE NAME: 350 Rising

BCP SITE CODE: C203153

NAME OF CURRENT APPLICANT(S): 350 Rising

INDEX NUMBER OF AGREEMENT: C203153-04-22

DATE OF ORIGINAL AGREEMENT 5/4/2022

Declaration of Amendment:

By the requestor(s) and/or applicant(s) signature(s) below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from obligations held under the Agreement or those same laws.

STATEMENT OF CERTIFICATION AND SIGNATURES: NEW REQUESTOR

Complete the appropriate section (individual or entity) below only if this Amendment adds a new requestor. Attach additional pages as needed.

(Individual)

I hereby affirm that the information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Authorized Signatory of **350 GC PROPERTY OWNER LLC**; that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Spencer signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/12/2024 Signature: Print Name: SPENCER AN

STATEMENT OF CERTIFICATION AND SIGNATURES: EXISTING APPLICANT(S)

An authorized representative of each applicant must complete and sign the appropriate section (individual or entity) below. Attach additional pages as needed.

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Owner (title) of 350 RISING (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. PETER FINE signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/10/2024 Signature: Print Name: Peter Fine**PLEASE SEE THE FOLLOWING PAGE FOR SUBMITTAL INSTRUCTIONS****REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

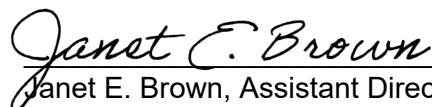
<input type="checkbox"/> PARTICIPANT A requestor who either (1) was the owner of the site at the time of the disposal of contamination or (2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: _____

Signature by the Department:

DATED: 2/12/25NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



Janet E. Brown, Assistant Director
Division of Environmental Remediation

Required Attachments for Section II:

1. NYSDOS Information: A print-out of entity information from the NYSDOS database to document that the applicant is authorized to do business in NYS. The requestor's name must appear throughout the application exactly as it does in the database.
2. LLC Organization: If the requestor is an LLC, provide a list of the names of the members/owners of the LLC.
3. Authority to Bind: Proof must be included that shows that the party signing this application and amendment is authorized to do so on behalf of the requestor. This documentation may be in the form of corporate organizational papers, a Corporate Resolution or Operating Agreement or Resolution.

An official website of New York State.
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Department of State

Division of Corporations

Entity Information

Return to Results

Return to Search

Entity Details



ENTITY NAME: 350 GC PROPERTY OWNER LLC
DOS ID: 7443124
FOREIGN LEGAL NAME:
FICTITIOUS NAME:
ENTITY TYPE: DOMESTIC LIMITED LIABILITY COMPANY
DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTIONOF LAW: LIMITED LIABILITY COMPANY LAW - 203 LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY COMPANY LAW
ENTITY STATUS: ACTIVE
DATE OF INITIAL DOS FILING: 10/15/2024
REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 10/15/2024
INACTIVE DATE:
FOREIGN FORMATION DATE:
STATEMENT STATUS: CURRENT
COUNTY: NEW YORK
NEXT STATEMENT DUE DATE: 10/31/2026
JURISDICTION: NEW YORK, UNITED STATES
NFP CATEGORY:

- ENTITY DISPLAY
- NAME HISTORY
- FILING HISTORY
- MERGER HISTORY
- ASSUMED NAME HISTORY

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: C/O C T CORPORATION SYSTEM
Address: 28 LIBERTY STREET, NEW YORK, NY, UNITED STATES, 10005

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name:
Address:

Principal Executive Office Address

Address:

Registered Agent Name and Address

Name: C T CORPORATION SYSTEM

Address: 28 LIBERTY STREET, NEW YORK, NY, 10005

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share

Section II – Item 4:

NAMES OF THE MEMBERS/OWNERS:

Spencer An for BG Grand Concourse Realty
Edward Suh for Grand Concourse Star LLC
S. Lawrence Davis for SW GC Investment LLC

LIMITED LIABILITY COMPANY AGREEMENT
of
350 GC PROPERTY OWNER LLC

This Limited Liability Company Agreement (together with the schedules attached hereto, this “**Agreement**”) of **350 GC PROPERTY OWNER LLC**, a New York limited liability company, having an address c/o Bogopa Service Corp., 33-02 Skillman Avenue, Fifth Floor, Long Island City, New York 11101 (the “**Company**”), is dated as of December 12, 2024, by **350 GC MEZZ LLC**, a Delaware limited liability company, having an address c/o Bogopa Service Corp., 33-02 Skillman Avenue, Fifth Floor, Long Island City, New York 11101, as the sole member (the “**Member**”). Capitalized terms used and not otherwise defined herein have the meanings set forth on Schedule A hereto.

A. The Company was originally formed as a limited liability company pursuant to the provisions of the New York Limited Liability Company Act, as amended from time to time (the “**Act**”), pursuant to the filing of the Certificate of Formation with the Secretary of State of the State of New York on October 15, 2024.

B. The Member now desires to enter into this Agreement in order to, among other things, adopt the Special Purpose Provisions in connection with the Loan, and otherwise adopt provisions to manage the business and affairs of the Company, all as set forth herein.

Section 1. Name.

The name of the limited liability company is **350 GC PROPERTY OWNER LLC**.

Section 2. Principal Business Office.

The principal business office of the Company shall be located at c/o Bogopa Service Corp., 33-02 Skillman Avenue, Fifth Floor, Long Island City, New York 11101 or such other location as may hereafter be determined by the Member.

Section 3. Registered Office.

The address of the registered office of the Company in the State of New York is c/o Bogopa Service Corp., 33-02 Skillman Avenue, Fifth Floor, Long Island City, New York 11101 or such other place in the State of New York as the Member may from time to time determine.

Section 4. Registered Agent.

The name and address of the registered agent of the Company for service of process on the Company in the State of New York is C T Corporation System, 28 Liberty Street, New York, NY 10005, or such other place in the State of New York as the Member may from time to time determine.

Section 5. Member.

(a) The mailing address of the Member is set forth on Schedule B attached hereto. The Member hereby agrees to be a member of the Company upon its execution of a counterpart signature page to this Agreement.

(b) Subject to Section 9(d), the Member may act by written consent.

Section 6. Certificates.

Spencer An is hereby designated as an "authorized person" within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of New York, and all such acts are hereby acknowledged, adopted, ratified and confirmed. Upon the filing of the Certificate of Formation with the Secretary of State of the State of New York, his powers as an "authorized person" ceased, and the Member thereupon became the designated "authorized person" and shall continue as the designated "authorized person" within the meaning of the Act. The Member or an Officer shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in New York and in any other jurisdiction in which the Company may wish to conduct business.

The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

Section 7. Purpose.

(a) The purpose to be conducted or promoted by the Company is to engage in the following activities:

(i) to acquire, own, hold, lease, operate, manage, maintain, develop and improve that certain real property located at 350 Grand Concourse, Bronx, New York (collectively, the "**Property**"), and to incur any indebtedness outstanding with respect thereto;

(ii) to sell, transfer, service, convey, dispose of, pledge, assign, borrow money against, finance, refinance, or otherwise deal with the Property;

(iii) to enter into the Lease;

(iv) to execute, deliver and perform its obligations under the Loan Documents;
and

(iv) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of the State of New York that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above mentioned purposes.

(b) The Company is hereby authorized to execute, deliver and perform, and the Member or any Officer is hereby authorized on behalf of the Company to execute and deliver, and to cause the Company to enter into and perform, the Loan Documents and all documents, agreements, certificates, or financing statements contemplated thereby or related thereto, all without any further act, vote or approval of the Member or any Officer or other Person notwithstanding any other provision of this Agreement, the Act or applicable law, rule or regulation. The foregoing authorization shall not be deemed a restriction on the powers of the Member or any Officer to enter into other agreements on behalf of the Company. Notwithstanding any other provision of this Agreement (including any provision that would purport to govern over this provision), the Company's execution and delivery of, and performance of its obligations under, the Loan Documents do not and shall not be deemed to violate this Agreement, including any provision, restriction or covenant contained herein.

Section 8. Powers.

Subject to Section 9(d), the Company, and the Member and the Officers on behalf of the Company, (i) shall have and exercise all powers necessary, convenient or incidental to accomplish its purposes as set forth in Section 7 and (ii) shall have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the Act.

Section 9. Management.

(a) Subject to Section 9(d), the business and affairs of the Company shall be managed by or under the direction of the Member.

(b) Powers. Subject to Section 9(d), the Member shall have the power to do any and all acts necessary, convenient or incidental to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise. Subject to Sections 7 and 9, the Member has the authority to bind the Company. Notwithstanding the foregoing, the Member shall not have the authority to bind the Company in a manner that causes the Company to violate the terms of this Agreement. The Member, as Manager may, from time to time as it deems advisable, appoint officers or managers of the Company, and the assignment of such title shall constitute the delegation to such person of the administrative duties that are normally associated with that office. Spencer An is hereby appointed as a "manager" of the Company to serve in such capacity. Any appointment or delegation pursuant to this Section 9(b) may be revoked at any time by the Member; however, a third party who has relied on the actions of any officer or "manager" in good faith and without knowledge of the revocation of the appointment shall not be prejudiced. For avoidance of doubt, the appointment of Spencer An as a "manager" hereunder is only in the limited capacity as a "manager" or "officer" of the company, authorized to act at the direction of the Member, as Manager. The Member is the sole Manager of the Company, with all powers ascribed to such Manager in this agreement and pursuant to the Act.

(c) Member as Agent. To the extent of its powers set forth in this Agreement and subject to Section 9(d), the Member is an agent of the Company for the purpose of the Company's business, and the actions of the Member taken in accordance with such powers set forth in this Agreement shall bind the Company.

(d) Limitations on the Company's Activities.

(i) This Section 9(d) is being adopted in order to comply with certain provisions required in order to qualify the Company as a "special purpose" entity and shall only apply for so long as the Obligations are outstanding. Capitalized terms used in this Section 9(d) and not otherwise defined in this Agreement shall have the meanings ascribed to such terms in the Loan Documents.

(ii) Notwithstanding any other provision of this Agreement or any other document governing the formation, management or operation of the Company and notwithstanding any provision of law that otherwise so empowers the Company, the Member shall not, and neither shall the Company, for so long as the Obligations are outstanding, amend, alter, change or repeal Sections 1, 6, 7, 8, 9, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, or 31, or Schedule A of this Agreement (to the extent that the terms defined in Schedule A are used in any of the foregoing sections) (the "**Special Purpose Provisions**"), or any other provision of this or any other document governing the formation, management or operation of the Company in a manner that is inconsistent with any of the Special Purpose Provisions, unless Lender consents in writing. Subject to this Section 9(d), the Member reserves the right to amend, alter, change or repeal any provisions contained in this Agreement in accordance with Section 28. In

the event of any conflict between any of the Special Purpose Provisions and any other provisions of this or any other document governing the formation, management or operation of the Company, the Special Purpose Provisions shall control.

(iii) So long as the Obligations are outstanding, the Member and each Officer shall cause the Company to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises. Notwithstanding anything in this Agreement to the contrary, so long as the Obligations are outstanding, the Member shall not and no Officer shall cause the Company to (the compliance with the following requirements maintains the Company's status as a "**Special Purpose Entity**"):

(A) fail to be organized solely for the purpose of (i) owning the Property, (ii) entering into the Loan Documents to which it is a party, and (iii) engaging in any activity that is incidental, necessary or appropriate to accomplish the foregoing;

(B) engage in any business or activity other than the ownership of the Property, and activities incidental thereto;

(C) own any material assets other than (i) the Property, and (ii) such incidental personal property as may be necessary for the operation of the Property;

(D) merge into or consolidate with any Person, to the fullest extent permitted by law, dissolve, terminate, wind up or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;

(E) fail to preserve its existence as an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or formation, and, with respect to the Company, qualification to do business in the state where the Property is located, or without the prior written consent of Lender, amend, modify, terminate or fail to comply with the Special Purpose Provisions;

(F) own, form or acquire any subsidiary or make any investment in, any Person;

(G) commingle its assets with the assets of any of its equitable or beneficial owners, Affiliates, principals or of any other Person nor fail to hold all of its assets in its own name;

(H) incur any indebtedness other than the Permitted Indebtedness that is paid when due;

(I) fail to intend to remain solvent or fail to pay its debts and liabilities from its assets as the same shall become due; provided, however, the foregoing shall not require any owner of the Company to make any additional capital contributions;

(J) fail to maintain its records, books of account and bank accounts separate and apart from those of the equitable or beneficial owners, principals and Affiliates of the Company, the Affiliates of an equitable or beneficial owner or principal of the Company, and any other Person or fail to maintain such books and records in the ordinary course of its business;

(K) except with respect to any contract or agreement expressly identified in the operating agreement of the Company, enter into any contract or agreement with any equitable or beneficial owner, principal or Affiliate of the Company, any Guarantor, or any

equitable or beneficial owner, principal or Affiliate thereof, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arms-length basis with third parties other than any equitable or beneficial owner, principal or Affiliate of the Company, any Guarantor or any equitable or beneficial owner, principal or Affiliate thereof;

(L) to the fullest extent permitted by law, seek the dissolution or winding up in whole, or in part, of the Company;

(M) fail to correct any known misunderstandings regarding the separate identity of the Company from any equitable or beneficial owner, principal or Affiliate of the Company or any other Person;

(N) guaranty or become obligated for the debts of any other Person or hold out its credit as being able to satisfy the debts of another Person; make any loans or advances to any third party, including any equitable or beneficial owner, principal or Affiliate of the Company, or any equitable or beneficial owner, principal or Affiliate thereof, nor buy or hold evidence of indebtedness issued by any other Person (other than cash or investment grade securities);

(O) fail to pay any taxes required to be paid by it under applicable law; nor fail to file its own tax returns, nor file a consolidated federal income tax return with any other entity, except to the extent that the Company is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under any applicable law;

(P) fail to hold itself out to the public as a legal entity separate and distinct from any other Person, including, without limitation, sharing any common logo;

(Q) fail to conduct its business solely in its own name, mislead others as to the identity with which such other party is transacting business, or suggest that the Company is responsible for the debts of any third party (including any equitable or beneficial owner, principal or Affiliate of the Company, or any equitable or beneficial owner, principal or Affiliate thereof);

(R) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; provided, however, the foregoing shall not require any owner of the Company to make any additional capital contributions;

(S) hold itself out as or be considered as a department or division of (i) any equitable or beneficial owner, principal, or Affiliate of the Company, (ii) any Affiliate of an equitable or beneficial owner or principal of the Company, or (iii) any other Person;

(T) fail to maintain separate financial statements and accounting records, showing its assets and liabilities separate and apart from those of any other Person (except that the Company may be included in consolidated financial statements of another Person, so long as (i) its separate assets shall be clearly indicated as such on such statement and such statements will indicate that the Company's assets and credit are not available to satisfy the debts and other obligations of any other Person, and (ii) such assets shall also be listed on the Company's own separate balance sheet);

(U) fail to observe in all material respects all limited liability company formalities;

(V) provided there exists sufficient cash flow from the Property to do so and Lender permits such cash flow to be applied, fail to pay its own liabilities, including but not limited to the salaries of its own employees (if any are required), from its own funds; provided that this Section 9(d)(iii)(V) shall not require any equity owner to make capital contributions or loans to the Company;

(W) provided there exists sufficient cash flow from the Property to do so and Lender permits such cash flow to be applied, fail to maintain a sufficient number of employees (if any are required) in light of its contemplated business operations; provided that this Section 9(d)(iii)(W) shall not require any equity owner to make capital contributions or loans to the Company;

(X) fail to allocate fairly and reasonably any overhead expenses that are shared with an Affiliate, including paying for office space and services performed by any employee of an Affiliate;

(Y) fail to use separate stationery, invoices and checks bearing its own name;

(Z) pledge its assets for the benefit of any other Person, other than in connection with the Loan;

(AA) acquire the obligations or securities of any equitable or beneficial owner, principal or Affiliate of the Company, any Guarantor or any equitable or beneficial owner, principal or Affiliate thereof;

(BB) fail to maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other entity;

(CC) have any obligation to indemnify its equitable or beneficial owners, officers, directors or Affiliates, as the case may be, or have such an obligation only if it is fully subordinated to the Loan and will not constitute a claim against it in the event that cash flow in excess of the amount required to pay the Loan is insufficient to pay such obligation;

(DD) fail, to the fullest extent permitted by law, to consider the interests of its creditors in connection with all actions;

(EE) have any of its obligations guaranteed by any equitable or beneficial owner, principal or Affiliate of the Company except Guarantor and the Member (pursuant to the Loan Documents;

(FF) take for itself any of the following actions without the prior unanimous written consent of the Member (such consent to require the prior unanimous written consent of its Member (as defined in the Member Agreement) and the Independent Manager) (i) file or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; institute any proceedings under any applicable insolvency law; file an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (ii) seek, consent to or acquiesce to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for itself or any other entity, (iii) make an assignment of its assets for the benefit of its creditors or an assignment of the assets of another entity for the benefit of such entity's creditors, or (iv) take any action in furtherance of the foregoing; and

(GG) fail to be formed and organized as a limited liability company under the laws of the State of New York.

(iv) Notwithstanding any other provision of this Agreement or any other document governing the formation, management or operation of the Company and notwithstanding any provision of law that otherwise so empowers the Company, the Member, or any Officer or other Person, so long as the Obligations are outstanding, neither the Member nor any Officer nor any other Person shall be authorized or empowered on behalf of the Company to, nor shall they permit the Company to, and the Company shall not, without the prior unanimous written consent of the Member (such consent to require the prior unanimous written consent of its Member (as defined in the Member Agreement) and the Independent Manager), take any Material Action, provided, however, that, so long as the Obligations are outstanding, the Member may not vote on or authorize the taking of any Material Action, unless there is at least one (1) Independent Manager then serving on the Member and such Independent Manager of the Member has consented to such action in writing.

(e) Independent Manager of the Member. To the fullest extent permitted by law, and notwithstanding any duty otherwise existing at law or in equity, the Independent Manager of the Member shall consider only the interests of the Company, including its creditors, in acting or otherwise voting on the matters referred to in Section 9(d)(iii)(FF) and Section 9(iv). To the fullest extent permitted by law, except for duties to the Company as set forth in the immediately preceding sentence and duties to the Member as set forth in the Member Agreement, such Independent Manager of the Member shall not owe any duties (including fiduciary duties) to, the Company, the Member, any partner, shareholder, other equity holder, or other party in interest of the Member, or any other Person bound by this Agreement; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. To the fullest extent permitted by law, an Independent Manager of the Member shall not be liable to the Company, the Member, any partner, shareholder, other equity holder, or other party in interest of the Member or any other Person bound by this Agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Manager of the Member acted in bad faith or engaged in intentional misconduct or a knowing violation of law or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled to. All right, power and authority of the Independent Manager of the Member shall be limited to the extent necessary to exercise those rights and perform those duties specifically set forth in this Agreement and the Member Agreement and the Independent Manager of the Member shall otherwise have no authority to bind the Company.

Section 10. Officers.

The Member may, from time to time as it deems advisable, appoint officers of the Company (the "**Officers**") and assign in writing titles (including, without limitation, President, Vice President, Secretary, and Treasurer) to any such person. Unless the Member decides otherwise, if the title is one commonly used for officers of a business corporation formed under the New York Business Corporation Law, the assignment of such title shall constitute the delegation to such person of the authorities and duties that are normally associated with that office. Any delegation pursuant to this Section 10 may be revoked at any time by the Member. The initial Officers are listed on Schedule C attached hereto. The Member may revise Schedule C in its sole discretion at any time.

Section 11. Limited Liability.

Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and

liabilities solely of the Company, and Member and the Independent Manager of the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member of the Company or the Independent Manager of the Member.

Section 12. Capital Contributions.

The Member has contributed to the Company property of an agreed value as listed on Schedule B attached hereto.

Section 13. Additional Contributions.

The Member is not required to make any additional capital contribution to the Company. However, the Member may make additional capital contributions to the Company at any time. To the extent that the Member makes an additional capital contribution to the Company, the Member shall revise Schedule B of this Agreement. The provisions of this Agreement, including this Section 13, are intended to benefit the Member and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (other than a Covered Person) (and no such creditor of the Company shall be a third-party beneficiary of this Agreement) and the Member shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

Section 14. Allocation of Profits and Losses.

The Company's profits and losses shall be allocated to the Member.

Section 15. Distributions.

Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to the Member on account of its interest in the Company if such distribution would violate the Act or any other applicable law or any Loan Document, or if such distribution would render the Company inadequately capitalized to carry out its obligations or pay its debts as they become due.

Section 16. Books and Records.

The Member shall keep or cause to be kept complete and accurate books of account and records with respect to the Company's business. The Member and its duly authorized representatives shall have the right to examine the Company books, records and documents during normal business hours. The Company's books of account shall be kept using the method of accounting determined by the Member. The Company's independent auditor, if any, shall be an independent public accounting firm selected by the Member.

Section 17. Other Business.

Notwithstanding any duty otherwise existing at law or in equity, any Affiliate of the Member (but not the Member itself), the Independent Manager of the Member, and any Affiliate of the Independent Manager of the Member may engage in or possess an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others. The Company and Member shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

Section 18. Exculpation and Indemnification.

(a) To the fullest extent permitted by applicable law, neither the Member nor any Officer nor the Independent Manager of the Member nor any officer, director, employee, agent or Affiliate of the foregoing (collectively, the "**Covered Persons**") shall be liable to the Company or any other Person who is a party to or is otherwise bound by this Agreement for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence (or, in the case of the Independent Manager of the Member or her respective Affiliates, bad faith) or willful misconduct.

(b) To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence (or, in the case of the Independent Manager of the Member or her respective Affiliates, bad faith) or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 18 by the Company shall be provided out of and to the extent of Company assets only, and the Member shall not have personal liability on account thereof; and provided further, that so long as the Obligations are outstanding, no indemnity payment from funds of the Company (as distinct from funds from other sources, such as insurance) of any indemnity under this Section 18 shall be payable from amounts allocable to any other Person pursuant to the Loan Documents.

(c) To the fullest extent permitted by applicable law, expenses (including reasonable legal fees) incurred by a Covered Person defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in this Section 18.

(d) A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including, without limitation, information, opinions, reports or statements as to the value and amount of the assets, liabilities, or any other facts pertinent to the existence and amount of assets from which distributions to the Member might properly be paid.

(e) The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities of a Covered Person to the Company or its members otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Covered Person.

(f) The foregoing provisions of this Section 18 shall survive any termination of this Agreement.

(g) Notwithstanding the foregoing provisions, any indemnification set forth herein shall be fully subordinate to the Obligations and, to the fullest extent permitted by law, shall not constitute a claim against the Company in the event that the Company's cash flow is insufficient to pay all its obligations to creditors.

Section 19. Assignments.

Subject to any transfer restrictions contained in the Loan Documents, the Member may assign in whole or in part its limited liability company interest in the Company. The transferee of a limited liability company interest in the Company shall be admitted to the Company as a member of the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. If the Member transfers all of its limited liability company interest in the Company pursuant to this Section 19, such admission shall be deemed effective immediately prior to the transfer and, immediately following such admission, the transferor Member shall cease to be a member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by merger, consolidation or division in compliance with the Loan Documents shall, without further act, be the Member hereunder, and such merger, consolidation or division shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution or division. Notwithstanding anything to the contrary in this Agreement, the Company shall always have one and only one Member.

Section 20. Resignation.

So long as the Obligations are outstanding, the Member may not resign, except as permitted under the Loan Documents. If the Member is permitted to resign pursuant to this Section 20, an additional member of the Company shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company.

Section 21. Dissolution.

(a) The Company shall be dissolved, and its affairs shall be wound up only upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company is continued without dissolution or division in a manner permitted by this Agreement or the Act, or (ii) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act. Upon the occurrence of any event that causes the last remaining member of the Company to cease to be a member of the Company or that causes the Member to cease to be a member of the Company (other than upon continuation of the Company without dissolution or division upon (A) an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to Section 20, or (B) the resignation of the Member and the admission of an additional member of the Company pursuant to Section 19), to the fullest extent permitted by law, the personal representative of such member is hereby authorized to, and shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of such member in the Company, agree in writing (y) to continue the Company and (z) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of such member in the Company.

(b) Notwithstanding any other provision of this Agreement, the bankruptcy of the Member shall not cause the Member to cease to be a member of the Company and upon the occurrence of any such event, the business of the Company shall continue without dissolution or division.

(c) Notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, the Member irrevocably waives any right or power that it might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable Legal Requirements or to file a complaint or to institute any proceeding at law or in equity to cause the division, dissolution, liquidation, winding up or termination of the Company.

(d) In the event of dissolution of the Company, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 704 of the Act.

(e) The Company shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company shall have been distributed to the Member in the manner provided for in this Agreement, and (ii) the Certificate of Formation shall have been canceled in the manner required by the Act.

Section 22. Waiver of Partition; Nature of Interest.

Except as otherwise expressly provided in this Agreement, to the fullest extent permitted by law, the Member hereby irrevocably waives any right or power that such Person might have to cause the Company or any of its assets or properties to be partitioned, to cause the appointment of a receiver for all or any portion of the assets or properties of the Company, to compel any sale of all or any portion of the assets or properties of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the division, dissolution, liquidation, winding up or termination of the Company. The Member shall not have any interest in any specific assets of the Company, and the Member shall not have the status of a creditor with respect to any distribution pursuant to Section 15 hereof. The interest of the Member in the Company is personal property.

Section 23. Benefits of Agreement; No Third-Party Rights.

Except for Lender with respect to the Special Purpose Provisions (and only for so long as the Obligations are outstanding), none of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company or by any creditor of the Member. Nothing in this Agreement shall be deemed to create any right in any Person (other than Covered Persons) not a party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any third Person (other than Covered Persons).

Section 24. Severability of Provisions.

Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

Section 25. Entire Agreement.

This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

Section 26. Binding Agreement.

Notwithstanding any other provision of this Agreement, the Member agrees that this Agreement constitutes a legal, valid and binding agreement of the Member.

Section 27. Governing Law.

This Agreement shall be governed by and construed under the laws of the State of New York (without regard to conflict of laws principles), all rights and remedies being governed by said laws.

Section 28. Amendments.

Subject to Section 9(d), this Agreement may be modified, altered, supplemented or amended pursuant to a written agreement executed and delivered by the Member.

Section 29. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

Section 30. Notices.

Any notices required to be delivered hereunder shall be in writing and personally delivered or mailed and shall be deemed to have been duly given upon receipt (a) in the case of the Company, to the Company at its address in Section 2, (b) in the case of the Member, to the Member at its address as listed on Schedule B attached hereto and (c) in the case of either of the foregoing, at such other address as may be designated by written notice to the other party.

Section 31. Limited Liability Company Certificates.

(a) The limited liability company interests in the Company shall be evidenced by certificates in the form attached hereto as Schedule D (a "**Certificate**"), and each such Certificate shall be executed by the Member on behalf of the Company. On the date hereof, a certificate is being issued to Member evidencing one hundred percent (100%) of the limited liability company interests in the Company. Each limited liability company interest in the Company shall constitute a "security" within the meaning of, and governed by, (a) Article 8 of the New York Uniform Commercial Code (including Sections 8-102(a)(15) and 8-103 thereof) as in effect from time to time in the State of New York (the "**UCC**"), and (b) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions thereto as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995, and the Company hereby "opts-in" to such provisions for the purposes of the UCC and the Uniform Commercial Code of any other application jurisdiction. The Company shall maintain books for the purpose of registering the transfer of limited liability company interests. A transfer of limited liability company interests requires delivery of an endorsed certificate. Notwithstanding any provision of this Agreement to the contrary, to the extent that any provision of this Agreement is inconsistent with any non-waivable provision of the UCC, such provision of the UCC shall control.

(b) Without any further act, vote or approval of any Member, Officer or any Person, the Company shall issue a new Certificate in place of any Certificate previously issued if the holder of the limited liability company interests in the Company represented by such Certificate, as reflected on the books and records of the Company:

(i) makes proof by affidavit, in form and substance satisfactory to the Company, that such previously issued Certificate has been lost, stolen or destroyed;

(ii) requests the issuance of a new Certificate before the Company has notice that such previously issued Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim;

(iii) if requested by the Company, delivers to the Company a bond, in form and substance satisfactory to the Company, with such surety or sureties as the Company may direct, to indemnify the Company against any claim that may be made on account of the alleged loss, destruction or theft of the previously issued Certificate; and

(iv) satisfies any other reasonable requirements imposed by the Company.


(c) Upon a Member's transfer in accordance with the provisions of this Agreement of any or all limited liability company interests in the Company represented by a Certificate, the transferee of such limited liability company interests in the Company shall deliver such Certificate to the Company for cancellation (executed by such transferee on the reverse side thereof), and the Company shall thereupon issue a new Certificate to such transferee for the percentage of limited liability company interests in the Company being transferred and, if applicable, cause to be issued to such Member a new Certificate for that percentage of limited liability company interests in the Company that were represented by the canceled Certificate and that are not being transferred.

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The undersigned have executed and delivered this Limited Liability Company Agreement of **350 GC PROPERTY OWNER LLC** to be effective as of the date first above written.

MEMBER:

350 GC MEZZ LLC, a Delaware limited liability company

By: 
Name: Spencer An
Title: Manager

COMPANY:

350 GC PROPERTY OWNER LLC,
a New York limited liability company

By: 
Name: Spencer An
Title: Manager

SCHEDULE A

Definitions

Definitions

When used in this Agreement, the following terms not otherwise defined herein have the following meanings:

"Act" has the meaning set forth in the preamble to this Agreement.

"Affiliate" means, as to any Person, any other Person that (a) directly or indirectly owns twenty percent (20%) or more of the ownership interests in such Person, and/or (b) is in Control of, is Controlled by or is under common Control with such Person, and/or (c) is a director, partner, officer or employee of such Person or of an Affiliate of such Person, and/or (d) is the spouse, issue, or parent of such Person or an Affiliate of such Person.

"Agreement" means this Limited Liability Company Agreement of the Company, together with the schedules attached hereto, as amended, restated or supplemented or otherwise modified from time to time.

"Business Day" means any day other than a Saturday, Sunday or any other day on which national banks in New York, New York, are not open for business.

"Certificate of Formation" means the Certificate of Formation of the Company filed with the Secretary of State of the State of New York on October 15, 2024, as may be amended or amended and restated from time to time.

"Company" means **350 GC PROPERTY OWNER LLC**, a New York limited liability company.

"Control" shall mean, with respect to any Person, either (i) ownership directly or indirectly of forty-nine percent (49%) or more of the outstanding voting securities or voting equity of such Person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise. The terms "Controlled," "Controlling" and "Common Control" shall have correlative meanings. **"Debt"** shall mean, without duplication, all present and future indebtedness, whether direct or contingent, funded or unfunded, evidenced by or arising under the Loan Agreement with respect to the Loan, or under any other Loan Document, together with interest thereon and all other sums due to any Lender in respect of the Loan under any Loan Document (including, without limitation, sums added to the Principal in accordance with the terms of any Loan Document, all Protective Advances, Prepayment Premiums, Late Payment Charges, the Exit Fee, Loan Expenses and all other charges, fees, costs and expenses payable pursuant to any Loan Document (as those terms are defined in the Loan Agreement)).

"Governmental Authority" shall mean any court, board, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, commonwealth, county, district, municipal, city or otherwise) now or hereafter in existence.

"Guarantor" has the meaning assigned to that term in the Loan Agreement.

"Improvements" has the meaning assigned to that term in the Security Instrument.

"Independent Manager" has the meaning assigned to that term in the Member Agreement.

"Lease" shall mean that certain Triple Net Lease dated as of December 14, 2024, between Bogopa Grand Concourse Inc., as tenant, and the Company, as landlord.

"Legal Requirements" shall mean all statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities (including those regarding fire, health, handicapped access, sanitation, ecological, historic, zoning, environmental protection, wetlands and building laws and the Americans with Disabilities Act of 1990, Pub. L. No. 89-670, 104 Stat. 327 (1990), as amended, and all regulations promulgated pursuant thereto) affecting the Company, any Loan Document or all or part of the Property or the construction, ownership, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in the BCA, BCP Amendment, or any other instrument (as those terms are defined in the Loan Agreement), either of record or known to the Company, at any time in force affecting the Company or all or part of the Property, including, without limitation, any which may (i) require repairs, modifications or alterations in or to the Property or any part thereof, or (ii) in any way limit the use and enjoyment thereof.

"Lender" or, collectively, **"Lenders"** means the Lender(s) initially party to the Loan Agreement and each and every successor or assign of such Lender(s) that becomes a Lender thereunder.

"Loan" has the meaning assigned to that term in the Loan Agreement.

"Loan Agreement" means that certain Loan Agreement dated on or about the date hereof by and among the Company and the Lenders from time to time party thereto, as the same may be amended, modified, extended, consolidated or supplemented from time to time.

"Loan Documents" shall mean the Loan Agreement and all other documents, agreements and instruments now or hereafter evidencing, securing or governing the Loan, including the following: (i) the Note, (ii) the Security Instrument, (iii) the Assignment of Leases and Rents, (iv) the Assignment of Agreements, (v) each Guaranty, (vi) the Environmental Indemnity, and (vii) the Subordination of Pre-Development Agreement (as those terms are defined in the Loan Agreement); as each of the foregoing may be (and each of the foregoing defined terms shall refer to such documents as they may be) amended, restated, replaced, severed, split, supplemented or otherwise modified from time to time (including pursuant to Section 9.2 of the Loan Agreement).

"Material Action" has the meaning assigned to that term in the Member Agreement.

"Member" means **350 GC MEZZ LLC**, a Delaware limited liability company, as the initial member of the Company, and includes any Person admitted as a substitute member of the Company pursuant to the provisions of this Agreement, each in its capacity as a member of the Company.

"Member Agreement" means the Limited Liability Company Agreement of the Member, as such may be amended, restated, or revised from time to time.

"Note" or **"Notes"** shall mean any promissory note or notes, in form and substance satisfactory to Lender in its sole discretion, executed and delivered by the Company and payable to the order of the Lender, in an aggregate principal amount equal to the stated principal amount of the Loan, as the same may be amended, restated, extended, supplemented, replaced or split from time to time.

"Obligations" means, collectively, the Company's obligations for the payment of the Debt and the performance of all obligations of the Company contained in the Loan Documents.

"Officer" means an officer of the Company as described in Section 10.

"Permitted Indebtedness" means (i) the Debt, and (ii) unsecured trade payables incurred in the ordinary course of business relating to the ownership, development and operation of the Property, which in the case of such unsecured trade payables (A) are not evidenced by a note and (B) do not exceed in the aggregate, at any time, two percent (2%) of the sum of the Loan and are paid within sixty (60) days of the date incurred.

"Person" shall mean any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, bank, any other person or entity, and any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Property" shall mean the parcel(s) of real property and Improvements thereon owned by the Company and encumbered by the Security Instrument; together with all rights pertaining to such real property and Improvements, and all other collateral for the Loan as more particularly described in the Security Instrument and referred to therein as the "Mortgaged Property". The Property is located in The Bronx, Bronx County, New York, and is further described on Exhibit A attached hereto.

"Security Instrument" shall mean that certain Consolidated, Amended and Restated Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, made by the Company to Lender, dated on or about the date hereof, as the same may be amended, restated or supplemented from time to time.

"Special Purpose Entity" has the meaning assigned to that term in Section 9(d)(iii).

"Special Purpose Provisions" has the meaning assigned to that term in Section 9(d)(ii).

"Transfer" has the meaning assigned to that term in the Loan Agreement.

Rules of Construction

Definitions in this Agreement apply equally to both the singular and plural forms of the defined terms. The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section, paragraph or subdivision. The Section titles appear as a matter of convenience only and shall not affect the interpretation of this Agreement. All Section, paragraph, clause or Schedule references not attributed to a particular document shall be references to such parts of this Agreement.

SCHEDULE B

Member

Name	Mailing Address	Capital Contribution	LLC Interest
350 GC MEZZ LLC , a Delaware limited liability company	c/o Bogopa Service Corp. 33-02 Skillman Avenue Fifth Floor Long Island City, New York 11101 Attention: Spencer An	\$1,000.00	100%

SCHEDULE C

Officers

Name	Title
Spencer An	Manager

SCHEDULE D

Form of Certificate

CERTIFICATE *for* LIMITED LIABILITY COMPANY INTEREST *in*
350 GC PROPERTY OWNER LLC

THIS CERTIFICATE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES OR BLUE SKY LAWS OF ANY STATE. THE HOLDER OF THIS CERTIFICATE, BY ITS ACCEPTANCE HEREOF, REPRESENTS THAT IT IS ACQUIRING THIS SECURITY FOR INVESTMENT AND NOT WITH A VIEW TO ANY SALE OR DISTRIBUTION HEREOF. ANY TRANSFER OF THIS CERTIFICATE OR ANY LIMITED LIABILITY COMPANY INTEREST REPRESENTED HEREBY IS SUBJECT TO THE TERMS, RESTRICTIONS AND CONDITIONS OF THE LLC AGREEMENT (AS DEFINED BELOW).

Certificate Number 001

100% Percentage Interest

350 GC PROPERTY OWNER LLC, a New York limited liability company (the "**Company**"), hereby certifies that **350 GC MEZZ LLC**, a Delaware limited liability company (the "**Holder**"), is the registered owner of one hundred percent (100%) of the limited liability company interests in the Company. The rights, powers, preferences, restrictions and limitations of the limited liability company interests in the Company are set forth in, and this Certificate and the limited liability company interests in the Company represented hereby are issued and shall in all respects be subject to the terms and provisions of, the Limited Liability Company Agreement of the Company, dated as of December 12, 2024, as the same may be amended or restated from time to time (the "**LLC Agreement**"). By acceptance of this Certificate, and as a condition to being entitled to any rights and/or benefits with respect to the limited liability company interests evidenced hereby, the Holder is deemed to have agreed to comply with and be bound by all of the terms and conditions of the LLC Agreement. The Company will furnish a copy of the LLC Agreement to the Holder without charge upon written request to the Company at its principal place of business. Transfer of any or all of the limited liability company interests in the Company evidenced by this Certificate is subject to certain restrictions in the LLC Agreement and can be effected only after compliance with all of those restrictions and the presentation to the Company of this Certificate, accompanied by an assignment in the form appearing on the reverse side of this Certificate, duly completed and executed by and on behalf of the transferor in such Transfer.

EACH LIMITED LIABILITY COMPANY INTEREST IN THE COMPANY CONSTITUTES A "SECURITY" WITHIN THE MEANING OF, AND GOVERNED BY, (I) ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE (INCLUDING SECTIONS 8-102(A)(15) AND 8-103 THEREOF) AS IN EFFECT FROM TIME TO TIME IN THE STATE OF NEW YORK AND (II) ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE OF ANY OTHER APPLICABLE JURISDICTION THAT NOW OR HEREAFTER SUBSTANTIALLY INCLUDES THE 1994 REVISIONS THERETO AS ADOPTED BY THE AMERICAN LAW INSTITUTE AND THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND APPROVED BY THE AMERICAN BAR ASSOCIATION ON FEBRUARY 14, 1995 (AND EACH LIMITED LIABILITY COMPANY INTEREST IN THE COMPANY SHALL BE TREATED AS SUCH A "SECURITY" FOR ALL PURPOSES, INCLUDING, WITHOUT LIMITATION, PERFECTION OF THE SECURITY INTEREST THEREIN UNDER ARTICLE 8 OF EACH APPLICABLE UNIFORM COMMERCIAL CODE AS THE COMPANY HAS "OPTED-IN" TO SUCH PROVISIONS).

The limited liability company interests evidenced hereby are subject to an irrevocable proxy agreement (a copy of which may be obtained from the Company) and by accepting any interest in such limited liability company interest in the Company, the Person holding such interest shall be deemed to agree to and shall become bound by all the provisions of said agreement.

This Certificate and the limited liability company interests evidenced hereby shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the Company has caused this Certificate to be executed as of the date set forth below.

Dated: December 12, 2024.

350 GC PROPERTY OWNER LLC,
a New York limited liability company

By: _____
Name: Spencer An
Title: Manager

**(REVERSE SIDE of CERTIFICATE)
ASSIGNMENT of INTERESTS**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ (print or typewrite name of transferee), _____ (insert Social Security or other taxpayer identification number of transferee), the following specified percentage of limited liability company interests in the Company: _____ (identify the percentage interest being transferred), and irrevocably constitutes and appoints _____ and its authorized officers, as attorney-in-fact, to transfer the same on the books and records of the Company, with full power of substitution in the premises.

Date: _____, 20__

350 GC MEZZ LLC,
a Delaware limited liability company

Address: c/o Bogopa Service
Corp., 33-02 Skillman Avenue,
Fifth Floor, Long Island City, New
York 11101 Attn: Spencer An

By: _____
Name: Spencer An
Title: Manager

APPLICATION for TRANSFER of INTERESTS

The undersigned applicant (the "**Applicant**") hereby (a) applies for a transfer of the percentage of limited liability company interests in the Company described above (the "**Transfer**") and applies to be admitted to the Company as a substitute member of the Company, (b) agrees to comply with and be bound by all of the terms and provisions of the LLC Agreement, and (c) agrees to execute and acknowledge such instruments (including, without limitation, a counterpart of the LLC Agreement), in form and substance satisfactory to the Company, as the Company reasonably deems necessary or desirable to effect the Applicant's admission to the Company as a substitute member of the Company and to confirm the agreement of the Applicant to be bound by all the terms and provisions of the LLC Agreement with respect to the limited liability company interests in the Company described above. Initially capitalized terms used herein and not otherwise defined herein are used as defined in the LLC Agreement.

The Applicant directs that the foregoing Transfer shall be effective as of _____, 20__.

Name of Transferee (Print): _____

Dated: _____, 20__

Signature: _____
(Transferee)

Address: _____

The Company has determined (a) that the Transfer described above is permitted by the LLC Agreement, (b) hereby agrees to effect such Transfer effective as of the date and time directed above, and (c) agrees to record, as promptly as possible, in the books and records of the Company the admission of the Applicant as a substitute member.

350 GC PROPERTY OWNER LLC,
a New York limited liability company

By: _____
Name: Spencer An
Title: Manager

EXHIBIT A

Legal Description of the Property

Address: 350 Grand Concourse, Bronx, New York 10451

Block: 2341

Lot: 42

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Bronx, City and State of New York, being bounded and described as follows:

BEGINNING at a point on the easterly side of Grand Concourse (formerly Mott Avenue), distant 119.90 feet southerly from the corner formed by the intersection of the easterly side of Grand Concourse with the southerly side of East 144th Street;

RUNNING THENCE North 77 degrees 22 minutes 10 seconds East, a distance of 100.00 feet to a point;

THENCE South 12 degrees 37 minutes 50 seconds East, a distance of 111.95 feet to a point;

THENCE North 72 degrees 15 minutes 19 seconds East, a distance of 5.00 feet to a point;

THENCE South 05 degrees 06 minutes 51 seconds West, a distance of 52.50 feet to a point;

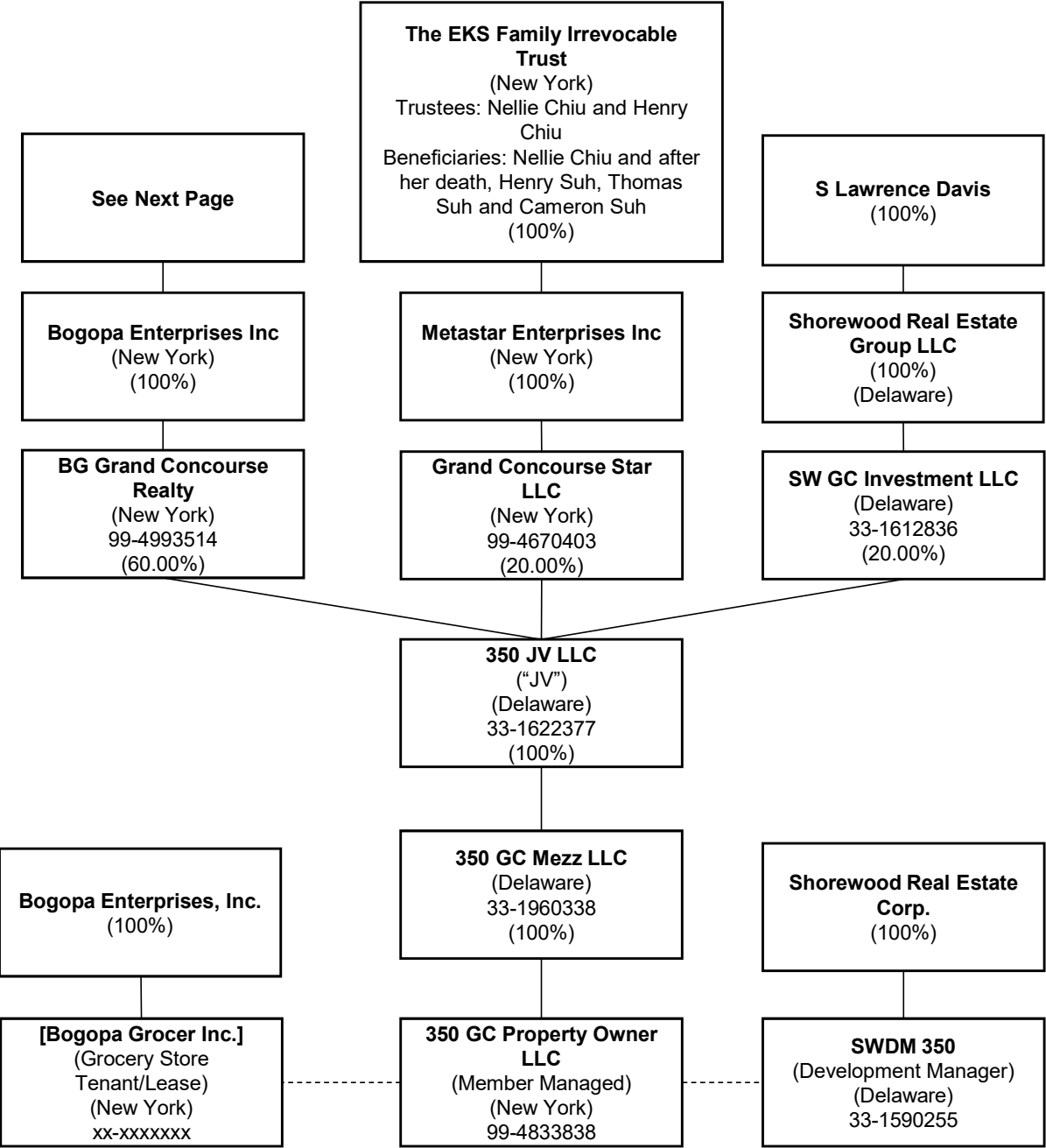
THENCE North 72 degrees 15 minutes 19 seconds East, a distance of 11.00 feet to a point;

THENCE South 12 degrees 37 minutes 50 seconds East, a distance of 150.00 feet to a point;

THENCE South 77 degrees 22 minutes 10 seconds West, a distance of 100.00 feet to a point on the easterly side of Grand Concourse;

THENCE North 12 degrees 37 minutes 50 seconds West along the easterly side of Grand Concourse, a distance of 311.95 feet to the point or place of BEGINNING.

350 Grand Concourse
Bronx NY 10451
Org Chart



**Bogopa Enterprises,
Inc.**

Spencer An
(1.63%)

The Spencer An Grantor Trust
(27.41%)
New York
Trustees:
Richard Park
Philip An
Beneficiary:
Spencer An
Children of Spencer An (after
Spencer's death)
Grantor: Spencer An

**The Hwee III An Grantor
Trust**
(67.53%)
(New Jersey)
Trustees:
Spencer An
Philip An
Beneficiary:
Spencer An
Jeannie An (after Spencer's
death)
Julie Lee (After Jeannie's
Death)
Grantor: Hwee III An

**The Francis An Bogopa
Trust**
(2.43%)
(New York)
Trustees:
Philip An
Spencer An
Richard Park
Beneficiary:
Spencer An
Grantor: Hwee III An

**EDWARD K. SUH
IRREVOCABLE TRUST**
(1.00%)
(New York)
Grantor: Edward K. Suh
Trustees: Nellie Chiu,
Henry Chiu
Beneficiaries: Nellie Chiu
and after her death: Henry
Suh, Thomas Suh,
Cameron Suh

**Bogopa Enterprises,
Inc.**
(100%)
(New York)

**Board of Directors of
Bogopa Enterprises, Inc.:**
Spencer An
Edward Suh

Required Attachments for Section III:

- 1. Copy of deed as proof of ownership.**
- 2. Ownership/Nominee Agreement, if applicable.**
- 3. Change of Use form, if not previously submitted to the Department.**

Bargain and Sale Deed, without Covenant against Grantor's Acts--Ind. or Corp.

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT--THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made as of this 12th day of December, 2024,

BETWEEN

350 RISING LLC, a New York limited liability company, having an address of 450 West 14th Street, 8th Floor, New York, New York 10014,

collectively referred to as the "party of the first part", and

350 GC PROPERTY OWNER LLC, a Delaware limited liability, having an address at c/o Shorewood Real Estate Group, 2922 Madison Avenue, 24th Floor, New York, New York 10017,

party of the second part.

Tax Map
Designation:

WITNESSETH, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

Block: 2341
Lot(s): 42
Section: 9

ALL, that certain plot, piece or parcel of land and all buildings and improvements thereon erected situated, lying and being more particularly described in Schedule "A" annexed hereto and forming a part hereof.

Address:
350 Grand
Concourse,
Bronx, NY

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and highways abutting the above-described premises to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

By accepting this Indenture, the party of the second part shall not have any claim against party of the first part or its parent companies, affiliates, corporate or organizational predecessors, successors, assigns, subsidiary companies or their respective past, present and future officers, trustees, employees, agents and/or representatives (collectively, the "Grantor Released Parties"), based upon, related to or arising out of the presence of any hazardous materials on the above-described premises and party of the second part acknowledges and agrees that the Grantor Released Parties are hereby forever released from any and all such claims including, but not limited to, any and all common law claims, or causes of action under any applicable environmental law.

The Premises herein described are the same and are intended to be the same as the premises described in the Deed dated November 17, 2021, 350 Concourse Realty LLC, as successor by merger to 350 Concourse Realty Corp., and 370 Concourse Realty LLC, as successor by merger to 131 Realty Corp., to the party of the first part herein and recorded December 9, 2021 in the Office of the City Register of the City of New York of the County of Bronx in CRFN 2021000484197.

[End of Text; Signature Page to Follow]

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Bronx, City and State of New York, being bounded and described as follows: BEGINNING at a point on the easterly side of Grand Concourse (formerly Mott Avenue), distant 119.90 feet southerly from the corner formed by the intersection of the easterly side of Grand Concourse with the southerly side of East 144th Street;

RUNNING THENCE North 77 degrees 22 minutes 10 seconds East, a distance of 100.00 feet to a point;

THENCE South 12 degrees 37 minutes 50 seconds East, a distance of 111.95 feet to a point;

THENCE North 72 degrees 15 minutes 19 seconds East, a distance of 5.00 feet to a point;

THENCE South 05 degrees 06 minutes 51 seconds West, a distance of 52.50 feet to a point;

THENCE North 72 degrees 15 minutes 19 seconds East, a distance of 11.00 feet to a point;

THENCE South 12 degrees 37 minutes 50 seconds East, a distance of 150.00 feet to a point;

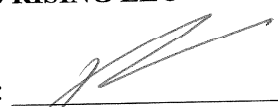
THENCE South 77 degrees 22 minutes 10 seconds West, a distance of 100.00 feet to a point on the easterly side of Grand Concourse;

THENCE North 12 degrees 37 minutes 50 seconds West along the easterly side of Grand Concourse, a distance of 311.95 feet to the point or place of BEGINNING

[Signature Page to Deed 350 Grand Concourse]

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.


350 RISING LLC

By: 
Name: Peter Fine
Title: Manager

UNIFORM FORM CERTIFICATE OF ACKNOWLEDGMENT
(Within New York State)

State of New York)
 :ss.:
County of New York)

On the 10TH day of December, in the year 2024, before me, the undersigned, personally appeared Peter Fine 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 person upon behalf of which the individual acted, executed the instrument.


(Signature and Office of individual taking acknowledgment)

ROSEMARIE KANELOS
Notary Public, State of New York
No. 01KA6021860
Qualified in Queens County
Commission Expires March 22, 2027

**Bargain and Sale Deed
Without Covenant Against Grantor's Acts**

350 RISING LLC

TO

350 GC PROPERTY OWNER LLC

BLOCK: 2341
LOT: 42
COUNTY: BRONX

RETURN BY MAIL TO:

Shorewood Real Estate Group
2922 Madison Avenue, 24th Floor
New York, New York 10017

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



**60-Day Advance Notification of Site Change of Use, Transfer of
Certificate of Completion, and/or Ownership**
Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation, 625 Broadway
Albany NY 12233-7020

I. **Site Name:** 350 Rising **DEC Site ID No.** C203153

II. **Contact Information of Person Submitting Notification:**

Name: Peter Fine
Address1: c/o Atlantic Development Group
Address2: 450 W. 14th Street, New York, New York 10014
Phone: 212-620-0500 E-mail: pfine@atlanticdevelopment.com

III. **Type of Change and Date:** Indicate the Type of Change(s) (check all that apply):

- ☒ Change in Ownership or Change in Remedial Party(ies)
☐ Transfer of Certificate of Completion (CoC)
☐ Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): 12/06/2024

IV. **Description:** Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

The real property located at 350 Grand Concourse, Bronx, NY will be transferred by 350 Rising LLC to 350 GC Property Owner LLC, which will assume responsibility for the remediation

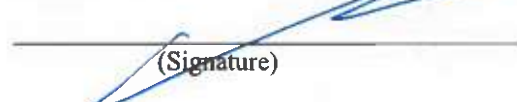
If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

N/A

- V. **Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name:


(Signature)
Peter Fine
(Print Name)

9/17/2024

(Date)

Address1: c/o Atlantic Development

Address2: 450 W. 14th Street, New York, New York 10014

Phone: 212-620-0500 E-mail: pfine@atlanticdevelopment.com

- VI. **Contact Information for New Owner, Remedial Party, or CoC Holder:** If the site will be sold or there will be a new remedial party, identify the prospective owner(s) or party(ies) along with contact information. If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/ECs), indicate who will be the certifying party (attach additional sheets if needed).

☒ Prospective Owner ☐ Prospective Remedial Party ☐ Prospective Owner Representative

Name: 350 GC Property Owner LLC

Address1: c/o Shorewood Real Estate Group

Address2: 292 Madison Avenue, 24th Floor, New York, New York 10017

Phone: 212-335-2310 E-mail: ldavis@shorewoodgrp.com

Certifying Party Name: S. Lawrence Davis

Address1: c/o Shorewood Real Estate Group

Address2: 292 Madison Avenue, 24th Floor, New York, New York 10017

Phone: 212-335-2310 E-mail: ldavis@shorewoodgrp.com

VII. Agreement to Notify DEC after Transfer: If Section VI applies, and all or part of the site will be sold, a letter to notify the DEC of the completion of the transfer must be provided. If the current owner is also the holder of the CoC for the site, the CoC should be transferred to the new owner using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>. This form has its own filing requirements (see 6NYCRR Part 375-1.9(f)).

Signing below indicates that these notices will be provided to the DEC within the specified time frames. If the sale of the site also includes the transfer of a CoC, the DEC agrees to accept the notice given in VII.3 below in satisfaction of the notice required by VII.1 below (which normally must be submitted within 15 days of the sale of the site).

Within 30 days of the sale of the site, I agree to submit to the DEC:

1. the name and contact information for the new owner(s) (see §375-1.11(d)(3)(ii));
2. the name and contact information for any owner representative; and
3. a notice of transfer using the DEC's form found at <http://www.dec.ny.gov/chemical/54736.html> (see §375-1.9(f)).

Name: _____

(Signature)

09/17/2024

(Date)

Peter Fine

(Print Name)

Address1: 450 W. 14th Street, 8th Fl

Address2: New York, NY 10014

Phone: 212-260-0500

E-mail: pfine@atlanticdevelopment.com

Continuation Sheet

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative
Name: _____

Address1: _____

Address2: _____

Phone: _____ E-mail: _____

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative
Name: _____

Address1: _____

Address2: _____

Phone: _____ E-mail: _____

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative
Name: _____

Address1: _____

Address2: _____

Phone: _____ E-mail: _____

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative
Name: _____

Address1: _____

Address2: _____

Phone: _____ E-mail: _____

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative
Name: _____

Address1: _____

Address2: _____

Phone: _____ E-mail: _____

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative
Name: _____

Address1: _____

Address2: _____

Phone: _____ E-mail: _____



Instructions for Completing the 60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion (CoC), and/or Ownership Form

Submit to: Chief, Site Control Section, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany NY 12233-7020

Section I	Description
Site Name	Official DEC site name. (see http://www.dec.ny.gov/cfm/external/index.cfm?pageid=3)
DEC Site ID No.	DEC site identification number.
Section II	Contact Information of Person Submitting Notification
Name	Name of person submitting notification of site change of use, transfer of certificate of completion and/or ownership form.
Address1	Street address or P.O. box number of the person submitting notification.
Address2	City, state and zip code of the person submitting notification.
Phone	Phone number of the person submitting notification.
E-mail	E-mail address of the person submitting notification.
Section III	Type of Change and Date
Check Boxes	Check the appropriate box(s) for the type(s) of change about which you are notifying the Department. Check all that apply.
Proposed Date of Change	Date on which the change in ownership or remedial party, transfer of CoC, or other change is expected to occur.
Section IV	Description
Description	For each change checked in Section III, describe the proposed change. Provide all applicable maps, drawings, and/or parcel information. If "Other" is checked in Section III, explain how the change may affect the site's proposed, ongoing, or completed remedial program at the site. Please attach additional sheets, if needed.

Section V Certification Statement

This section must be filled out if the change of use results in a change of ownership or responsibility for the proposed, ongoing, or completed remedial program for the site. When completed, it provides DEC with a certification that the prospective purchaser has been provided a copy of any order, agreement, or State assistance contract as well as a copy of all approved remedial work plans and reports.

Name The owner of the site property or their designated representative must sign and date the certification statement. Print owner or designated representative's name on the line provided below the signature.

Address1 Owner or designated representative's street address or P.O. Box number.

Address2 Owner or designated representative's city, state and zip code.

Phone Owner or designated representative's phone number.

E-Mail Owner or designated representative's E-mail.

Section VI Contact Information for New Owner, Remedial Party, and CoC Holder (if a CoC was issued)

Fill out this section only if the site is to be sold or there will be a new remedial party. Check the appropriate box to indicate whether the information being provided is for a Prospective Owner, CoC Holder (if site was ever issued a COC), Prospective Remedial Party, or Prospective Owner Representative. Identify the prospective owner or party and include contact information. A Continuation Sheet is provided at the end of this form for additional owner/party information.

Name Name of Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

Address1 Street address or P.O. Box number for the Prospective Owner, Prospective Remedial Party, or Prospective Owner Representative.

Address2 City, state and zip code for the Prospective Owner, Prospective Remedial Party, or Prospective Owner Representative.

Phone Phone number for the Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

E-Mail E-mail address of the Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/EC), indicate who will be the certifying party(ies). Attach additional sheets, if needed.

Certifying Party Name	Name of Certifying Party.
Address1	Certifying Party's street address or P.O. Box number.
Address2	Certifying Party's city, state and zip code.
Phone	Certifying Party's Phone number.
E-Mail	Certifying Party's E-mail address.

Section VII Agreement to Notify DEC After Property Transfer/Sale

This section must be filled out for all property transfers of all or part of the site. If the site also has a CoC, then the CoC shall be transferred using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>

Filling out and signing this section of the form indicates you will comply with the post transfer notifications within the required timeframes specified on the form. If a CoC has been issued for the site, the DEC will allow 30 days for the post transfer notification so that the "Notice of CoC Transfer Form" and proof of it's filing can be included. Normally the required post transfer notification must be submitted within 15 day (per 375-1.11(d)(3)(ii)) when no CoC is involved.

Name	Current property owner must sign and date the form on the designated lines. Print owner's name on the line provided.
Address1	Current owner's street address.
Address2	Current owner's city, state and zip code.

Required Attachments for Section IV:

- 1. Detailed information regarding any questions answered in the affirmation, if applicable.**
- 2. Statement describing why the requestor should be considered a volunteer, if applicable.**
- 3. Site access agreement, as described above, if applicable.**

Statement of Basis for Volunteer Status

350 GC Property Owner LLC (the "New Requestor") should be admitted to the New York State Department of Environmental Conservation's ("NYSDEC") Brownfield Cleanup Program ("BCP") as a Volunteer with respect to the property located at 350-370 Grand Concourse, Bronx, NY 10451 (the "Covered Location"). The basis for Volunteer status is as follows:

On December 12, 2024, the New Requestor acquired the Covered Location from 350 Rising LLC (the "Seller"). The Covered Location has a Site Code of C203153 and is currently a vacant lot with no structures, comprising approximately 0.07 acres. Environmental investigations and some remedial activities under an Interim Remedial Measure Work Plan have been conducted at the site under NYSDEC oversight through the BCP.

The New Requestor has no prior ownership or operational history at the Covered Location. Its involvement with the site began solely with the recent purchase agreement. The contamination present at the site stems from historical operations as a gasoline and automotive service station, dating back to 1944. The New Requestor played no role in these past activities and bears no responsibility for the hazardous waste disposal or petroleum discharge that resulted from them.

Additionally, the New Requestor has no legal or business connections to any of the former owners or operators who contributed to the site's contamination. The acquisition of the site is intended purely for redevelopment and remediation purposes. Demonstrating a commitment to the necessary remedial activities, the New Requestor plans to redevelop the site into a 40,000-square-foot grocery supermarket with approximately 300 residential multifamily units above the retail space.

The New Requestor will engage qualified environmental consultants and is fully prepared to carry out the required remedial actions under NYSDEC oversight to achieve regulatory closure. Throughout this process, the New Requestor will exercise due care to avoid worsening the site's condition or introducing new contaminants.

Based on the foregoing, 350 GC Property Owner LLC qualifies as a Volunteer under the BCP, as defined by 6 NYCRR Part 375-3.2(a)(1), because it did not contribute to the contamination, has no liability for historic pollution, and is committed to undertaking the required remedial activities in compliance with NYSDEC requirements.

350 GC Property Owner LLC respectfully requests that NYSDEC recognize its status as a Volunteer for the Covered Location.

Required Attachments for NYC Site Supplement:

1. For sites located all or partially in an En-zone: provide a map with the site boundary clearly identified and the En-zone overlay showing that all or a portion of the site is located within an En-zone. This map must also indicate the census tract number in which the site is located. See DEC's website for additional information.



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January 6, 2025

Department of Environmental Conservation
Chief, Site Control Section
Division of Environmental Remediation
625 Broadway, 11th Floor.
Albany, NY 12233-7020

**Re: Reply to Notice of Incomplete BCA Amendment Application No. 1 - Add Applicant;
Change in Ownership - C203153 - 350 Rising**

Dear Ms. Hathaway,

Please find attached a revised Brownfield Cleanup Program (BCP) Amendment application for 350 Grand Concourse, Bronx, NY 10451 (Site Code: C203153). The original application was submitted on December 18, 2024. We appreciate your detailed feedback and have made the necessary revisions to address the identified deficiencies. Below is a summary of the updates made:

1. **Application Form Locking:**
 - The application form has been locked from editing, as requested, without applying password protection.
2. **Combined Application File:**
 - All sections of the application have been included as a single, unbroken document, with supporting documentation placed at the end.
3. **Part 1 – Narrative:**
 - The narrative has been revised to include the full scope of the amendment. This now addresses the removal of 350 Rising LLC as an applicant and the details of the Transfer of Participation and Compliance (TPC) determination.
4. **Section II, Item 4:**
 - A response has been provided for this question, as required.
5. **Section IV:**
 - Items 1 through 13 have been completed and the document saved in a new format to ensure sections remain marked.
6. **Section V:**

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January 6, 2025

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- The response to Item 4 has been removed, as instructed.
- 7. **Tangible Property Credits (TPCs):**
 - All questions in this section have been completed.
- 8. **Existing Applicant Signature Page:**
 - This section has been updated to reflect the current entity, 350 Rising, with the required signature.
- 9. **New Requestor Signature Page:**
 - The new entity, 350 GC Property Owner LLC, has been added with the required signature.

We hope these revisions address all noted deficiencies. Should you have any additional questions or require further clarification, please do not hesitate to contact us.

Thank you for your time and assistance.

Best regards,

Steven C. Russo

Steven C. Russo
Co-Chair, Global Environmental Practice

SCR:jr