

SIVE, PAGET & RIESEL P.C.

Adam Stolorow
(646) 378-7256
astolorow@sprlaw.com

July 21, 2017

VIA MAIL AND E-MAIL

Kelly Lewandowski
Chief, Site Control Section
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7020

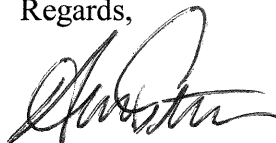
Re: **Site Name: 19 Patchen Avenue**
Site No.: C224232
Location: 19 Patchen Avenue, Kings County, Brooklyn, New York

Dear Ms. Lewandowski:

Please see the enclosed Brownfield Cleanup Agreement Amendment application for 19 Patchen Avenue, Brownfield Cleanup Program site C224232, regarding the plan for two new related entities (19 Patchen GP LLC and Hudson BEC II LLC) to assume responsibility for the remedial work. We are requesting that the BCA be revised to reflect the change in remedial parties.

Please do not hesitate to contact me with any questions regarding the enclosed documents, either by email or at the phone number listed above.

Regards,



Adam Stolorow

Encl.



Department of
Environmental
Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☒ Amendment to [check one or more boxes below]

- ☐ Add
- ☒ Substitute
- ☐ Remove
- ☐ Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☒ Yes ☐ No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

☐ Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

☐ Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

☐ **Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

☐ Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

This amendment seeks to substitute 19 Patchen GP LLC and Hudson BEC II LLC to the Brownfield Cleanup Agreement and to remove 19 Patchen LLC, the current owner of the site. Ownership of the site is being transferred to BEC Continuum Housing Development Fund Company, Inc. Remediation of the site will be undertaken by 19 Patchen GP LLC and Hudson BEC II LLC.

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Application Information			
BCP SITE NAME: 19 Patchen Avenue		BCP SITE NUMBER: C224232	
NAME OF CURRENT APPLICANT(S): 19 Patchen LLC			
INDEX NUMBER OF EXISTING AGREEMENT: C224232-05		DATE OF EXISTING AGREEMENT: 09/07/20	
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME 19 Patchen GP LLC			
ADDRESS 826 Broadway, 11th Floor			
CITY/TOWN New York, NY		ZIP CODE 10003	
PHONE (212) 710-6023	FAX (212) 777-9500	E-MAIL mzarin@hudsoninc.com	
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE Max Zarin			
ADDRESS 826 Broadway, 11th Floor			
CITY/TOWN New York, NY		ZIP CODE 10003	
PHONE (212) 710-6023	FAX (212) 777-9500	E-MAIL mzarin@hudsoninc.com	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Matthew Carroll, PE			
ADDRESS 121 West 27th Street, Suite 303			
CITY/TOWN New York		ZIP CODE 10001	
PHONE (646) 606-2332	FAX (646) 606-2379	E-MAIL mcarroll@tenen-env.com	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) David Yudelson - Sive, Paget & Riesel P.C.			
ADDRESS 560 Lexington Avenue, 15th Floor			
CITY/TOWN New York		ZIP CODE 10022	
PHONE (212) 421-2150	FAX (212) 421-1891	E-MAIL dyudelson@sprlaw.com	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant: After transfer of title from 19 Patchen LLC to BEC Continuum Housing Development Fund Company, Inc., 19 Patchen GP LLC will be the beneficial owner of the site and remedial party.			

Section I. Existing Application Information			
BCP SITE NAME: 19 Patchen Avenue		BCP SITE NUMBER: C224232	
NAME OF CURRENT APPLICANT(S): 19 Patchen LLC			
INDEX NUMBER OF EXISTING AGREEMENT: C224232-05		DATE OF EXISTING AGREEMENT: 09/07/20	
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME Hudson BEC II LLC			
ADDRESS 826 Broadway, 11th Floor			
CITY/TOWN New York, NY		ZIP CODE 10003	
PHONE (212) 710-6023	FAX (212) 777-9500	E-MAIL mzarin@hudsoninc.com	
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE Max Zarin			
ADDRESS 826 Broadway, 11th Floor			
CITY/TOWN New York, NY		ZIP CODE 10003	
PHONE (212) 710-6023	FAX (212) 777-9500	E-MAIL mzarin@hudsoninc.com	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Matthew Carroll, PE			
ADDRESS 121 West 27th Street, Suite 303			
CITY/TOWN New York		ZIP CODE 10001	
PHONE (646) 606-2332	FAX (646) 606-2379	E-MAIL mcarroll@tenen-env.com	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) David Yudelson - Sive, Paget & Riesel P.C.			
ADDRESS 560 Lexington Avenue, 15th Floor			
CITY/TOWN New York		ZIP CODE 10022	
PHONE (212) 421-2150	FAX (212) 421-1891	E-MAIL dyudelson@sprlaw.com	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant:			
After transfer of title from 19 Patchen LLC to BEC Continuum Housing Development Fund Company, Inc., 19 Patchen GP LLC will be the beneficial owner of the site and remedial party. Hudson BEC II LLC is the managing member of 19 Patchen GP LLC.			

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☒ No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? ☐ Yes ☒ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☒ No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
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, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
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 of contaminants? ☐ Yes ☒ No
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? ☐ Yes ☒ No
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? ☐ Yes ☒ No
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? ☐ Yes ☒ No
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? ☐ Yes ☒ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☒ No

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:

☐ 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.

☒ 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 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 he/she has 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 whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

☐ Prior Owner ☐ Current Owner ☐ Potential /Future Purchaser ☒ Other remedial party

If 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 signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? ☒ Yes ☐ No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

Check appropriate boxes below:

☐

Changes to metes and bounds description or TBL correction

☐

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

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

☐

Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. 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 type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<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>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<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' households 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 home owners 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>	

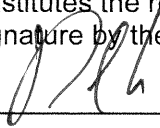
PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 19 Patchen Avenue	BCP SITE NUMBER: C224232
NAME OF CURRENT APPLICANT(S): 19 Patchen LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224232-05-16	
EFFECTIVE DATE OF EXISTING AGREEMENT: 09/07/2016	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures 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 any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)
(Individual) I hereby affirm 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. 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 (title <u>Authorized Signatory</u>) of (entity <u>19 Patchen GP LLC</u>); 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. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department. Date: <u>6.15.17</u> Signature:  Print Name: <u>David Kramer</u>

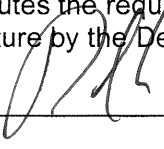
PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 19 Patchen Avenue	BCP SITE NUMBER: C224232
NAME OF CURRENT APPLICANT(S): 19 Patchen LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224232-05-16	
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Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures 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 any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)
<p>(Individual)</p> <p>I hereby affirm 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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>
<p>(Entity)</p> <p>I hereby affirm that I am (title <u>Authorized Signatory</u>) of (entity <u>Hudson BEC II LLC</u>); 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.</p> <p>_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: <u>6.15.17</u> Signature: </p> <p>Print Name: <u>David Kramer</u></p>

Statement of Certification and Signatures. Existing Applicant(s) (an authorized representative of each applicant must sign)

(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 Authorized Signatory (title) of 19 Patchen LLC (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. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8-7-17 Signature: 

Print Name: Aaron Koffman

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

☐

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.

☐

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.

Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

Robert W. Schick, P.E., Director
Division of Environmental Remediation

SUBMITTAL INFORMATION:

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:

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

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE:_____ **LEAD OFFICE:**_____

PROJECT MANAGER:_____

ATTACHMENT A
SECTION II – NEW REQUESTOR INFORMATION

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through May 26, 2017.

Selected Entity Name: 19 PATCHEN GP LLC

Selected Entity Status Information

Current Entity Name: 19 PATCHEN GP LLC

DOS ID #: 5030914

Initial DOS Filing Date: OCTOBER 31, 2016

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C/O THE HUDSON COMPANIES, INC.

826 BROADWAY, 11TH FLOOR

NEW YORK, NEW YORK, 10003

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares Type of Stock \$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date Name Type Entity Name

OCT 31, 2016 Actual 19 PATCHEN GP LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through May 26, 2017.

Selected Entity Name: HUDSON BEC II LLC

Selected Entity Status Information

Current Entity Name: HUDSON BEC II LLC

DOS ID #: 4835314

Initial DOS Filing Date: OCTOBER 16, 2015

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

THE LIMITED LIABILITY COMPANY

826 BROADWAY, 11TH FLOOR

NEW YORK, NEW YORK, 10003

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares Type of Stock \$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date Name Type Entity Name

OCT 16, 2015 Actual HUDSON BEC II LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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RESOLUTION

19 Patchen GP LLC, a New York limited liability company (the "LLC") does hereby consent to and adopt the following resolutions:

WHEREAS, the LLC is the beneficial owner of the property located at 19 Patchen Avenue, Brooklyn, New York (Block 1618, Lot 8 on the Tax Map of Kings County (the "Property"));

WHEREAS, the Property has been accepted into the New York State Department of Environmental Conservation Brownfields Cleanup Program (the "BCP");

WHEREAS, the LLC desires to enter into an amended Brownfield Site Cleanup Agreement with the New York State Department of Environmental Conservation (the "Agreement") to evidence the LLC's status as an additional requestor for the Property.

WHEREAS, the LLC deems it advisable and in the best interests of the LLC to authorize, approve and ratify the execution, delivery and performance of the Environmental Easement by the LLC.

NOW, THEREFORE, BE IT RESOLVED, that the LLC hereby authorizes and directs David Kramer, as Manager of Hudson BEC II LLC and authorized signatory (the "Authorized Signatory") to acknowledge, execute and deliver for and on behalf of the LLC, any and all agreements, resolutions, documents, certificates, easements, and authorizations which may be necessary, convenient or advisable to effect the inclusion of the Property in the BCP, including but not limited to, the Agreement, and to take such additional actions as he deems desirable and appropriate to carry out the intent and to accomplish the purposes of these resolutions;

RESOLVED FURTHER, that any and all lawful action taken in good faith by the Authorized Signatory prior to the date hereof on behalf of the LLC and in furtherance of the transactions contemplated by the foregoing resolution are in all respects ratified, confirmed and approved by the LLC as its own acts and deeds, and shall conclusively be deemed to be the acts and deeds of the LLC for all purposes.

IN WITNESS WHEREOF, the undersigned has executed this Written Consent in the capacity noted below as of this 15th day of June 2017.

19 PATCHEN GP LLC

By: **HUDSON BEC II LLC**
Managing Member



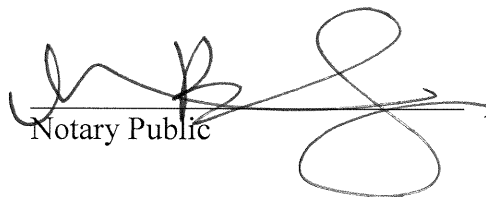
David Kramer
Manager

ACKNOWLEDGMENT

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

On this 15th day of June, 2017, before me, the undersigned, personally appeared David Kramer, personally known to me or proved to me on the basis of satisfactory evidence to 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, or the person upon behalf of which the individual acted, executed the instrument.




Notary Public

RESOLUTION

Hudson BEC II LLC, a New York limited liability company (the "LLC") does hereby consent to and adopt the following resolutions:

WHEREAS, the LLC is the Managing Member of 19 Patchen GP LLC, which is the beneficial owner of the property located at 19 Patchen Avenue, Brooklyn, New York (Block 1618, Lot 8 on the Tax Map of Kings County (the "Property"));

WHEREAS, the Property has been accepted into the New York State Department of Environmental Conservation Brownfields Cleanup Program (the "BCP");

WHEREAS, the LLC desires to enter into an amended Brownfield Site Cleanup Agreement with the New York State Department of Environmental Conservation (the "Agreement") to evidence the LLC's status as an additional requestor for the Property.

WHEREAS, the LLC deems it advisable and in the best interests of the LLC to authorize, approve and ratify the execution, delivery and performance of the Environmental Easement by the LLC.

NOW, THEREFORE, BE IT RESOLVED, that the LLC hereby authorizes and directs David Kramer, as Manager and authorized signatory (the "Authorized Signatory") to acknowledge, execute and deliver for and on behalf of the LLC, any and all agreements, resolutions, documents, certificates, easements, and authorizations which may be necessary, convenient or advisable to effect the inclusion of the Property in the BCP, including but not limited to, the Agreement, and to take such additional actions as he deems desirable and appropriate to carry out the intent and to accomplish the purposes of these resolutions;

RESOLVED FURTHER, that any and all lawful action taken in good faith by the Authorized Signatory prior to the date hereof on behalf of the LLC and in furtherance of the transactions contemplated by the foregoing resolution are in all respects ratified, confirmed and approved by the LLC as its own acts and deeds, and shall conclusively be deemed to be the acts and deeds of the LLC for all purposes.

IN WITNESS WHEREOF, the undersigned has executed this Written Consent in the capacity noted below as of this 15th day of June 2017.

HUDSON BEC II LLC

By:



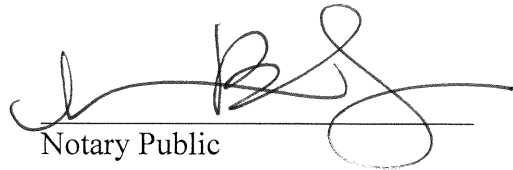
David Kramer
Manager

ACKNOWLEDGMENT

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

On this 15th day of June, 2017, before me, the undersigned, personally appeared David Kramer, personally known to me or proved to me on the basis of satisfactory evidence to 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, or the person upon behalf of which the individual acted, executed the instrument.




Notary Public

19 PATCHEN GP LLC OPERATING AGREEMENT

This **OPERATING AGREEMENT** (“**Agreement**”) of **19 Patchen GP LLC** (the “**Company**”) dated as of June 30, 2017 by and among **Hudson BEC II LLC**, a New York limited liability company having an address at 826 Broadway, 11th Floor, New York, New York 10003 (the “**Hudson Member**”) and **BEC 19 Patchen Inc.**, a New York not-for-profit corporation having an address at 67 Hanson Place, Brooklyn, New York 11217 (the “**BEC Member**” and together with the Hudson Member, collectively the “**Members**”).

W I T N E S S E T H:

WHEREAS, the Company is formed as of October 31, 2016 by the filing of Articles of Organization with the Secretary of State of the State of New York; and

WHEREAS, pursuant to and in accordance with the Act, this Agreement intends to establish the operating rules by which the Company is to be governed.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Hudson Member and BEC Member agree as follows:

ARTICLE ONE

DEFINITIONS

The defined terms used in this Agreement shall, unless the context otherwise requires, have the meanings specified in this Article One.

“**19 Patchen Site**” shall mean that certain premises known as 19 Patchen Avenue (a/k/a 522 Van Buren Street), Brooklyn, New York (Tax Block 1618, Tax Lot 8, Kings County).

“**Act**” shall mean the New York Limited Liability Company Law, Chapter 34 of the consolidated Laws of the State of New York, Section 101, *et. seq.* (McKinney 2001), as it may be amended from time to time, and any successor to said Law.

“**Adjusted Capital Account Deficit**” shall have the meaning set forth in Section 6.2.1.

“**Affiliate**” shall mean with respect to any Member, a Person that directly or indirectly, through one or more intermediaries, has control of, is controlled by, or is under common control with, such Member. For these purposes, control means the possession, directly or indirectly, of the power to direct or cause the direction of the management of any Person whether through the ownership of voting securities, by contract or otherwise.

“Approved Scope of Remediation Work” shall mean the plans of the work to be performed in connection with the New York State Brownfield Cleanup Agreement entered into by and between the Company, Manager and the New York State Department of Environmental Coordination, which plans shall be subject to the approval of the Manager in consultation with the BEC Member.

“Approved Scope of Work” shall mean the plans of the work to be performed in connection with the Construction, which plans shall be subject to the approval of the Manager in consultation with the BEC NC HDFC.

“Articles of Organization” shall mean the Company’s Articles of Organization as filed with the Secretary of State, as it may be amended, supplemented or restated from time to time.

“BCA” shall mean the New York State Brownfield Cleanup Agreement entered into by and between the Company, Manager and DEC.

“BEC NC HDFC” shall mean BEC New Communities Housing Development Fund Company, Inc.

“Brownfield Program” shall mean the New York State Brownfield Cleanup Program.

“BTC Proceeds” shall mean the aggregate amount of the components described in section 21 of the New York Tax Law, as amended from time to time, to the extent allowed, based on the allowed amount of site preparation costs and on-site groundwater remediation costs paid or incurred by claimant and on the cost or other basis allowed for federal income tax purposes of qualified tangible property placed in service by the claimant, as such terms are defined in Section 21 of the New York Tax Law.

“BTC Loan” shall have the meaning set forth in Section 2.8.20.

“Capital Account” shall have the meaning set forth in Section 3.2.

“Capital Contribution” shall mean the amount of cash and the fair market value of any property (other than cash) that a Member contributes or is deemed to have contributed to the Company pursuant to Section 3.1.

“Cash Flow Percentage Interest” shall mean the percentage of Net Cash Flow or Net Profit, which shall be attributed to each Member in accordance with Schedule “A” attached hereto and made a part hereof as it may from time to time be amended.

“Consent” or **“Consent of the Members”** shall mean the unanimous vote of the Manager or Members, as applicable, then entitled to vote on such matter, without regard to Percentage Interests.

“Construction” shall mean the construction of the Project to be performed in accordance with the Approved Scope of Work.

“Construction Loan” shall mean the rehabilitation and construction loan(s) to be made to the Company to finance a portion of the cost of the rehabilitation of the Project.

“Continuum Manager” shall have the meaning set forth in Section 2.6.

“DEC” shall mean the New York State Department of Environmental Coordination.

“Depreciation” shall mean, with respect to each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to a Company asset for such year or other period, except that, if the Gross Asset Value of an asset differs from its adjusted basis for Federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the Federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the Federal income tax depreciation, amortization, or other cost recovery deduction for such asset for such year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Managers.

“Development Budget” shall mean that certain development budget adopted by the LLC in its amended and restated operating agreement as of the date of as Construction Loan closing.

“Distributive Rights” shall mean a Member’s right to receive distributions under this Agreement.

“Gross Asset Value” shall mean the adjusted basis for Federal income tax purposes of each item of Company property, except that the Gross Asset Value of each such item shall be adjusted to equal its gross fair value at the time of any of the events described in Section 3.2.3. Following any such adjustment, the Gross Asset Value of such item shall be reduced by Depreciation with respect to such item.

“HDFC” shall be BEC Continuum Housing Development Fund Company, Inc., a New York not-for-profit corporation formed under the New York State Private Housing Finance Law, which shall be the titleholder to the Project, as nominee for LLC (as defined in Section 2.6(a)), and which shall be managed by a Board of Directors comprised of three (3) directors: one (1) directors shall be appointed by the Hudson Member and two (2) directors shall be appointed by the BEC NC HDFC. No director shall be removed, except for cause, and any removed director shall be replaced by the applicable Member. If the applicable Member desires to replace their director-appointee, then neither Manager’s nor the non-appointing Member’s consent shall be required,

“HPD” shall mean the City of New York’s Department of Housing Preservation and Development.

“Indemnified Person” shall have the meaning set forth in Section 4.3.

“Initial Contributions” shall have the meaning set forth in Section 3.1.1.

“Manager” or **“Managers”** shall have the meaning set forth in Section 2.8.1.

“Member Loans” shall have the meaning set forth in Section 3.3.

“Members” shall have the meaning set forth in Section 2.7.1.

“Membership Interest” or **“Membership Interests”** shall have the meaning set forth in Section 2.7.1.

“Net BTC Proceeds” shall mean (i) the aggregate amount of the components described in section 21 of the New York Tax Law, as amended from time to time, to the extent allowed, based on the allowed amount of site preparation costs and on-site groundwater remediation costs paid or incurred by claimant and on the cost or other basis allowed for federal income tax purposes of qualified tangible property placed in service by the claimant, as such terms are defined in New York Tax Law section 21, less (ii) full repayment of the BTC Loan, including any interest accrued thereon, (iii) repayment of any other capital or Member Loans contributed to Patchen LLC for remediation costs.

“Net Cash Flow” shall mean the gross receipts on a cash basis derived from the operation and leasing of the Project, BTC Proceeds, funds available to the Company as a result of mortgage financing or refinancing, the sale of a portion or the whole of the Project (including the principal and interest received in payment of any note received as consideration for any such sale), an award in partial condemnation, or proceeds of insurance, arising by reason of a taking, or damage to, or destruction of part of the Project not applied to the costs of restoration thereof, interest or other income from reserves or from any source including without limitation the Company, other than the capital contributions of the Members, plus any reductions in the amount of the reserve previously established pursuant to subparagraph (iii) hereof, less (i) cash expenses incurred in the operation of the business of the Company, including interest and principal repayments on obligations to third parties, if any, taxes, insurance and payments of all other operating expenses, (ii) cash expenditures for capital expenses, improvements and replacements, to the extent not funded by borrowing, capital contributions, or similar means, and (iii) a reasonable reserve, if any, which is required by any lender and/or investor.

“Net Income” or **“Net Loss”** shall mean with respect to each fiscal year or other period, an amount equal to the Company’s Taxable Income or Tax Loss, as the case may be, for such year or period, together with the following adjustments:

(a) any income of the Company that is exempt from Federal income tax and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition shall be added to such Taxable Income or Tax Loss;

(b) any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations §1.704-1(b)(2)(iv)(i)

and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition shall be subtracted from such Taxable Income or Tax Loss;

(c) in the event the Gross Asset Value of any Company property is adjusted pursuant to Section 3.2.3, (A) the amount of such adjustment shall be taken into account as a gain or loss on disposition of such property for purposes of computing Net Income and Net Loss, and (B) in lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with the definition of Depreciation herein;

(d) gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for Federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property may differ from its Gross Asset Value; and

(e) notwithstanding any other provision of this definition of Net Income and Net Loss, any items comprising the Company's Net Income or Net Loss that are allocated pursuant to Section 6.2 shall not be taken into account in computing Net Income or Net Loss.

Notwithstanding the above, the Manager shall be the right, in its sole discretion, to allocate Net Losses in accordance with Schedule "A".

"Ownership Change" shall have the meaning set forth in Section 6.3.2.

"Percentage Interest" shall mean the percentage interest of each Member as set forth on Schedule "A".

"Permanent Loan Conversion" shall mean the conversion of the acquisition and rehabilitation mortgage loan financing for the Project to its permanent phase.

"Person" shall mean any individual, partnership, corporation, limited liability company, unincorporated organization or association, trust or other entity.

"Prime Rate" shall mean a rate per annum equal to the annual rate of interest publicly announced from time to time by the Wall Street Journal as the prime rate in effect at the time.

"Premises" shall mean the properties more specifically set forth in Exhibit 2, located in the County of Kings, City and State of New York.

"Proceeding" shall have the meaning set forth in Section 4.3.

"Project" shall mean the five hundred fifty (550) residential units (inclusive of eleven (11) superintendent's units) of affordable housing and 12,546 square feet of commercial space located at the Premises, together with all other income-producing leases, licenses or other agreements (cell phone towers, signage, etc), if any, related to the Premises.

“Remediation Project” shall mean the Approved Scope of Remediation Work as required to remediate 19 Patchen Site pursuant to BCA in order to secure the brownfield tax credits pursuant to the Brownfield Program.

“Remediation Budget” shall mean those certain line items the Development Budget that relate to the remediation costs, contingency of such remediation costs, and other costs necessary to secure a certificate of completion for the remediation of 19 Patchen Site.

“Secretary of State” shall mean the New York Secretary of State.

“Substitute Member” shall mean any Person who or which is admitted to the Company as a Substitute Member pursuant to Section 7.2.

“Taxable Income” or **“Tax Loss”** shall mean with respect to each fiscal or other period, an amount equal to the Company’s taxable income or loss for such year or period determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be separately stated pursuant to Code Section 703(a)(1) shall be included in such taxable income or loss).

“Tax Matters Member” shall have the meaning set forth in Section 10.6.

“Transfer” shall mean any sale, transfer, gift, assignment, pledge or grant of a security interest, by operation of law or otherwise, in or of an interest in the Company or of rights under this Agreement, excluding, however, any grant of such a security interest in favor of the Company.

ARTICLE TWO

ORGANIZATION

2.1 **Formation.** The Members have organized the Company as a New York limited liability company pursuant to the provisions of the Act and this Agreement. The Members hereby ratify the execution and filing of the Articles of Organization of the Company, as filed with the Secretary of State on October 31, 2016.

2.2 **Name.** The name of the Company is **“19 PATCHEN GP LLC”**.

2.3 **Purposes.** The purposes for which the Company is formed are as follows: (i) to directly or indirectly, acquire, finance, own, maintain, improve, operate, develop, construct, rehabilitate, manage, lease and if appropriate or desirable, sell or otherwise dispose of all or any portion of the Project; (ii) to engage in any and all manner of business incidental to the foregoing activities; to engage in any lawful act or activity for which limited liability companies may be organized pursuant to the laws of the State of New York. The Company shall have the power to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for furtherance and accomplishment of its purposes.

2.4 Principal Office. The location of the principal office of the Company shall be c/o The Hudson Companies Incorporated, 826 Broadway, 11th Floor, New York, New York 10003, or shall be at such other locations as the Manager may, from time to time, designate.

2.5 Duration. The term of the Company commenced on the date that the Articles of Organization were filed by the Secretary of State and shall continue in full force and effect in perpetuity, unless earlier terminated in accordance with the provisions of this Agreement.

2.6 Project Development Plan. BEC Continuum Owner LLC, a New York limited liability company (the "LLC") and HDFC intend to acquire the Premises to refinance, rehabilitate and operate as one multi-family residential and mixed-use rental project to be commonly known as BEC Portfolio II (the "Project").

- (a) The beneficial owner of the Project is the LLC. BEC GP LLC, a New York limited liability company ("BEC GP") is the sole managing member of the LLC. BEC GP has two members, each with a 50% membership interest: (i) BEC Continuum Manager LLC, a New York limited liability company (the "Continuum Manager"); and (ii) BEC Continuum Housing Development Fund Company, Inc., a New York not-for-profit corporation (the "HDFC"), of which the BEC NC HDFC is the sole member.

The Project will be financed through: (i) a mortgage loan funded by tax exempt bonds issued by the New York City Housing Development Corporation ("HDC") in the approximate principal amount of \$46,565,000.00, which will be secured by a letter of credit by Citibank, N.A. ("Citibank") in favor of HDC (the "HDC Construction Loan"); (ii) a mortgage loan from The City of New York, acting by and through its Department of Housing Preservation and Development ("HPD") in the approximate principal amount of \$11,184,835.00; (iii) the sale of a 99.99% membership interest in the LLC to USA Institutional BEC II LLC, its affiliates, successors and/or assigns ("Investor Member") in exchange for an equity investment in the Project in the approximate amount of \$31,598,713.00 (the "Equity Investment"); (iv) the assumption of existing debt payable to HPD in the approximate amount of \$24,099,878.00; (v) the assumption of existing debt payable to New York State Division of Housing and Community Renewal ("HCR") in the approximate amount of \$1,176,232.00; (vi) a grant of Resolution A funds from the Office of the Brooklyn Borough President in the approximate amount of \$500,000.00; and (vii) such other loans and/or grants deemed necessary or convenient by the Members (items (i) through (vii), collectively the "Financing").

- (b) After the completion of rehabilitation work, all or a portion of the construction loan(s) will be converted into one or more permanent loans with one or more permanent lenders (the "Permanent Lenders"), with the balance of the construction loan(s), if any, to be paid with proceeds from the Equity Investment.

- (c) The tax credit applicable fraction for each building will be established based on an assessment of the eligibility of current tenants under Section 42 of the Internal Revenue Code ("IRC") and financing considerations including whether qualified basis in the Project needs to be maximized. The existing community rooms in the Premises will continue to be used as community rooms for tenants in the buildings and will be included in eligible basis. The LLC will lease, pursuant to a triple net lease, the commercial space located on the ground floor and the 14th floor conference room of 67 Hanson Place (the "BEC Space") to BEC NC HDFC for One and 001/00 Dollar (\$1.00) annually for a term of the Project's regulatory period, which shall be no less than thirty (30) years, provided that BEC NC HDFC pay all costs and expenses relating to the maintenance, repair and operation thereof, including, without limitation, utility costs for the commercial spaces and any real estate taxes related to the two spaces provided that the lease(s) shall limit the uses of such spaces to those uses that meet the criteria for community service facility space to make the spaces eligible for low income housing tax credits under Section 42 of the IRC and 420-c of the Real Property Tax Law. The members of Continuum Manager may mutually agree to either: a) master lease the commercial space or b) establish a condominium regime to own the commercial space in a separate condominium unit. The BEC NC HDFC shall make best efforts to fully occupy the BEC Space no later than two (2) years following the closing of acquisition and construction financing, and such space shall be used only for BEC NC HDFC activities within the limitations set forth above. In the event the BEC Space is leased to an entity not affiliated with the BEC NC HDFC, any excess cash flow received by the BEC NC HDFC under the lease after payment of all reasonable expenses related to the BEC Space (and upon request by Hudson Member, BEC Member shall provide an accounting of such expenses to Hudson Member), shall be treated as income to the Members and distributed to the Members in accordance with Section 5.2 hereof.
- (d) The Members shall ensure that the Project will be eligible for a full 420-c real estate tax exemption for all portions of the buildings other than commercial spaces for the term of HPD and HDC regulatory agreement to be entered into on the closing date for the acquisition and Construction Loan closing (the "Regulatory Agreement"). BEC NC HDFC has received a determination that it is a 501(c)(3) tax exempt organization and it will keep such status in effect for the duration of 420-c tax exemption, which shall be for the term of the Regulatory Agreement and shall remain in effect if the Company pursues an extension of the Regulatory Agreement. Alternatively, in lieu of a 420-c exemption, the Members may mutually agree to pursue an Article XI real estate tax exemption.
- (e) With respect to 19 Patchen Site, the HDFC shall enter into a nominee agreement ("Patchen Nominee Agreement") that grants beneficial and equitable interest to the Company, which shall be controlled by Hudson Member. The HDFC shall execute any documents necessary to effectuate the dual nominee structure (including sales tax exemption applications, mortgage recording exemption affidavits, mortgages, notes, land disposition agreements and any other documents required to be executed by any project funders). Upon the 19 Patchen Site being placed in service, as such term is defined in New York Tax Law Section 21, the Company shall terminate the Patchen

Nominee Agreement, and simultaneously therewith, the LLC and HDFC shall execute a first amendment to the Portfolio Nominee Agreement transfer equitable and beneficial interest to 19 Patchen Site to LLC in order that Equity Investor can take low income housing tax credits and losses generated by 19 Patchen Site (the "Amended Nominee Agreement"). Any and all costs associated with the transfer of beneficial interest to 19 Patchen Site and the Amended Nominee Agreement shall be paid by the LLC.

2.7 Members and Membership Interests.

2.7.1 The Members of the Company and their percentage membership interests (individually the "**Membership Interest**" or collectively the "**Membership Interests**") are listed on Schedule "A" attached hereto. A Member's Membership Interest or Membership Interests is his, her or its interest in the Company's assets, liabilities and capital, subject to the provisions of and except as otherwise described in this Agreement and the Act. The Membership Interest or Membership Interests shall be personal property for all purposes.

2.7.2 Additional Members may be admitted into the Company as provided for in this Agreement. Unless named in this Agreement, or unless admitted to the Company as a Substitute Member as provided herein, no Person shall be considered a Member, and the Company need deal only with the Members so named and so admitted. The Company shall not be required to deal with any other Person by reason of an assignment by a Member or by reason of the dissolution, death or bankruptcy of a Member, except as otherwise provided in this Agreement.

2.7.3 No Member shall be entitled to any fees, commissions or other compensation from the Company for any services rendered to or performed for the Company, except as provided in this Agreement. The Manager shall not be entitled to any fee or salary for the performance of their duties and obligations hereunder but shall be entitled to reimbursement of costs as set forth in Section 2.8.15 hereof.

2.7.4 Except as otherwise provided herein, no Member shall give any consent on any matter or take any action as a Member acting on behalf of or binding the Company, unless such matter shall first have been approved or consented to by the Manager. Except as otherwise provided in this Agreement or as required by the Act it is the intention of the Members that, to the fullest extent permissible under the Act and except as otherwise provided herein, all matters shall be determined and all action taken by the Manager, rather than the Members. The Company shall not be required to hold annual or other meetings of the Members. Subject to the foregoing, a meeting of the Members may be called at any time by the Manager. If called, meetings of Members shall be held at the Company's principal place of business or such other location selected by the Manager. Not less than five (5) days or more than thirty (30) days before each meeting, the Manager shall give written notice of the meeting to each Member. The notice shall state the time, place and purpose of the meeting. Notwithstanding the foregoing provisions, each Member who is entitled to notice waives notice if before or after the meeting the Member signs a waiver of notice which is filed with the records of Members' meetings, or is present at the meeting in person or by proxy. At a meeting of Members, the presence in person or by proxy of Members holding not less than three-quarters (3/4) of the Membership Interests shall constitute a quorum. A Member may vote either in person or by written proxy signed by

the Member or by its duly authorized attorney in fact. Members may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can speak to and hear each other. Such participation shall constitute presence in person at the meeting. Whenever the Members are required or permitted to take any action by vote, such action may, upon the consent of the requisite number of Members setting forth the actions so taken and signed by the Members (or the required number thereof), be taken without a meeting. It is the Manager's intent to work closely with BEC Member for the effective management, repositioning and operation of the Project, as applicable, and Remediation Project. As such, good, frequent and open communication among the Members is desired to align the common goals of the Members and the Company's overall success.

2.7.5 Each of the parties hereto shall be entitled to engage in and/or possess any interest in other businesses and investment ventures or transactions, of any nature or description, independently or with others, whether existing as of the date hereof or hereafter coming into existence, and whether or not directly or indirectly competitive with the business of the Company and no party shall be obligated to present any investment or business opportunity to the Company, even if such opportunity involves a business similar to the Company's. The parties further acknowledge that neither they nor the Company, as such, shall have any rights in or to any such independent ventures or the income or profits derived therefrom, by reason of any such party's respective participation in the Company.

2.8 Management and Project Information.

2.8.1 The business, operations and affairs of the Company shall be managed by the manager (the "**Manager**"). The Members hereby irrevocably agree to vote and do hereby vote their interests to elect the Hudson Member as the sole Manager of the Company. Prior to the Permanent Loan conversion and except in the case of Manager's gross negligence or willful misconduct, the Manager shall not be removed or replaced without the consent of the Hudson Member. The Manager may appoint such officers of the Company as it deems advisable. The officers of the Company, if so appointed, shall be responsible for the day-to-day business, operations and affairs of the Company, shall have such powers as are usually exercised by comparable designated officers of a New York corporation and shall have the authority to bind the Company through the exercise of such powers subject to, and to the extent consistent with, the terms hereof. The officers of the Company shall (i) be appointed and be subject to removal by the Manager, and (ii) operate as an autonomous management group, accountable only to the Manager.

2.8.2 Except as specifically provided in Section 2.8.4, all decisions and actions by or on behalf of the Company, including all decisions and actions concerning the financing, development and operation of all or any portion of the Project, shall be made by the Manager, in consultation with the BEC Member. The Manager, in addition to (and not in limitation of) all other powers held by them, shall have the power and authority to:

- (a) Make any non-material changes to all or any portion of the Project's Development Budget, subject to the approval of HPD, HDC, HCR and

Citibank (collectively, the “Lenders”), and approve construction change orders less than \$100,000;

- (b) Make any non-material change to the Approved Scope of Remediation Work, provided that any change to the Approved Scope of Remediation Work within the financial limitation set forth in item (a) above shall be deemed a non-material change; and
- (c) Enter into or modify any agreement or contract binding on the Company.

2.8.3 The Manager, upon prior written notice to the Members, may designate one or more of its employees, officers or directors to act on its behalf as Manager hereunder.

2.8.4 Notwithstanding anything to the contrary in this Agreement, the following shall be “**Major Decisions**” and the Manager shall not undertake any of the following actions without the Consent of the Members, which consent shall not be unreasonably withheld, conditioned or delayed:

- (a) Amend this Agreement;
- (b) Remove or replace the Manager;
- (c) Admit any additional participants in the Remediation Project as a partner or co-member other than the Equity Investor as provided for in this Agreement;
- (d) Change or amend any material provision of this Agreement or causing any change in the LLC operating agreement related to ownership, control or decision making structure of the Remediation Project, distribution of cash flow, developer fees splits, incentive management fees or any other fees paid to the Continuum Manager, guaranties or other material business terms that is not consistent with the terms of this Agreement;
- (e) Deviate from any of the purposes of the Company as set forth in Section 2.3 or otherwise do any act in contravention of this Agreement;
- (f) Cause the Company to guarantee the obligations of any Person other than the Company;
- (g) Resign or otherwise withdraw from the Company, except as otherwise provided in this Agreement;
- (h) Sell or transfer 19 Patchen Site or any material part thereof;
- (i) Merge, combine, or consolidate the Company with any other Person;

- (j) Enter into any loan or any refinancing of any existing loan for the Remediation Project after Permanent Loan Conversion;
- (k) Hire (other than those set forth in Section 2.8.9 hereof who have been approved by the Members) or terminate the Remediation Project professionals, including, but not limited to the accountant, attorneys, architect, property management company and general contractor;
- (l) Make any Member Loans, excluding: (i) reasonable predevelopment expenditures, (ii) Member Loans required to be made, as determined by the Manager in its reasonable discretion and subject to Section 2.8.14, in order to avoid the incurring of any liability of a Member or the affiliate of any Member under a guaranty, and (iii) Member Loans required to (a) correct a condition that if not corrected would endanger imminently the preservation or safety of the Remediation Project or the or the safety of tenants, customers, invitees or other persons at or using the Remediation Project, (b) avoid the imminent suspension of construction or any necessary service in or to the Remediation Project, the loss of a building permit or certificate of occupancy, (c) prevent the Company or any of the Members from being subjected imminently to criminal or substantial civil penalties or damage or (d) make payments whether or not of a recurring nature that are deemed by Manager in its reasonable discretion to be necessary for the Company in respect of liens, payments of principal, interest and any other amounts required pursuant to any loan documents, payments of mechanics' liens, insurance payments, real estate tax payments, utility costs, repair and maintenance costs, costs of compliance with federal, state and local laws, codes, rules or regulations, and any other operating expenses or capital expenses of a similar nature which, if not paid would, or could reasonably be expected to, result in physical or financial harm or loss of value for the Remediation Project, the Company, or the Members ((ii) and (iii) above, collectively, "Emergency Costs"); and
- (m) Adopt the Remediation Project's Development Budget and Approved Scope of Remediation Work.

Notwithstanding the foregoing, if the Manager determines that it is necessary that such a decision be made and that it believes that a Member has unreasonably withheld, conditioned or delayed its consent to such decision, the Members shall jointly appoint a third party decision maker within five (5) business days of notification thereof from the Manager to determine whether the Member has unreasonably withheld, conditioned or delayed its consent, and, if so, what the outcome of any such decision shall be ("Reasonable Consent Determination"). If the Members cannot agree on a third party decision maker within such five (5) business day period then, within three (3) business days thereafter, each Member will each select a third party and the two selected third parties shall select another third party decision maker to make the Reasonable Consent Determination. In the event either Member fails to so appoint a third party

within such three (3) business day period, time being of the essence, such Reasonable Consent Determination shall be made solely by the other Member, which determination shall be final and binding on all the parties.

2.8.5 Prior to the Construction Closing, the Hudson Member will have reasonable access to the Premises to perform due diligence at the cost of the Company. Such due diligence shall include such structural and environmental testing and a review of all records, documents and correspondences related to the Premises in each case as Manager shall deem necessary.

2.8.6 Intentionally Omitted.

2.8.7 Intentionally Omitted.

2.8.8 At the Construction Loan closing for the Project, the Company may assign the Contracts for Sale to the HDFC and title to the Project shall be transferred directly to the HDFC. A nominee agreement shall simultaneously provide that the LLC shall retain beneficial interest in the Project (excluding 19 Patchen Site) (the “**Portfolio Nominee Agreement**”). With respect to 19 Patchen Site, the HDFC shall enter into a nominee agreement (“**Patchen Nominee Agreement**”) that grants beneficial and equitable interest to the Company. The HDFC shall execute any documents necessary to effectuate the dual nominee structure (including sales tax exemption applications, mortgage recording exemption affidavits, mortgages, notes, land disposition agreements and any other documents required to be executed by any project funders).

2.8.9 The Members agree that, subject to the approval of Project’s lenders, the Company shall hire (i) Lisa Management, Inc. to serve as the management agent for 19 Patchen Site (“**Management Agent**”) pursuant to a Management Agreement to be entered into between the Management Agent and the Company (the “**Management Agreement**”) for a monthly fee of not more than six percent (6%) of net residential collections of all items of income from residential rental operations as received (the “**Management Fee**”); (ii) between Broadway Builders and Notias Construction as the general contractors; (iii) Aufgang Architects as architect; (iv) Goldstein Hall PLLC as Project co-counsel and BEC Member counsel; and (v) Hirschen Singer & Epstein LLP as Project co-counsel and counsel to Hudson Member.

2.8.10 The Management Agent will provide all managerial support. It is the intent the Members to transfer the property management services, for all properties in Exhibit 2, prior to the issuance of a funding commitment letter by HPD.

2.8.11 The BEC Member shall (i) participate with and, if requested by the Hudson Member, coordinate with the Hudson Member and the Management Agent in the marketing and leasing of the residential rental units comprising the Project; and (ii) participate with and, if requested by the Hudson Member, coordinate with the Hudson Member in formulating a method of tenant selection in conformance with all governmental requirements.

2.8.12 The LLC may hire a third party company approved by the Equity Investor to provide the tenant income certification file review.

2.8.13 The LLC will enter into agreements (collectively, the “**Regulatory Agreement**”) with the governmental entities regulating the Project to rent units to “low income” persons at the levels mandated by such governmental entities and to satisfy all other programmatic requirements of such governmental entities.

2.8.14 BEC NC HDFC shall be solely responsible for filing for, procuring and maintaining New York State sales tax exemption for the HDFC. BEC NC HDFC also agrees that it shall use its federal tax-exempt status to qualify for any applicable property transfer tax exemptions.

2.8.15 The Manager shall arrange debt financing for the Project. It is contemplated that the financing will consist of construction and permanent mortgage loans by New York City Housing Development Corporation (“**HDC**”), Citibank, N.A. (“**Citibank**”), The City of New York, acting by and through its Department of Housing Preservation and Development (“**HPD**”), and such other loans and/or grants deemed necessary or convenient by the officers of the Corporation. Except as otherwise set forth herein, Whitfarm Realty, LLC, a New York limited liability company, and David Kramer, an individual (“collectively, the “**Guarantors**”), shall be the guarantors of all obligations as required by the construction and permanent loans and any other guarantee required by lender and/or investor in connection with the construction and/or permanent loans including, but not limited to, completion and financing shortfall guaranties, repurchase guaranty, downward credit adjuster guaranties (late delivery, basis shortfall, etc.), operating deficit guaranties. Any payments required by either Member or its affiliates under any Project guaranties (“**Guaranty Payments**”) shall be treated as Member Loans in accordance with Section 3.3.3 hereof, except any Guaranty Payments required due to Hudson Member’s negligence or willful misconduct shall not be treated as a Member Loan nor reimbursed by the Company. The non-recourse carveout guaranty and environmental indemnities shall be provided by both the BEC Member and the Hudson Member, and each party shall be responsible for 100% of any liability under the non-recourse carveout guaranty which is attributable to the acts of such party. The BEC Member and any of its Affiliates, officers, employees and directors, shall not be required to provide any other guaranties on the construction and permanent loans, except for standard environmental and carve-out (“bad acts”) guaranties. Any cash equity paid by the Hudson Member shall be repaid as a Member Loan as set forth in Sections 3.3 and 5.2 below. If HPD allows the payment of a Developer Fee, such payment shall be paid to the Members proportionate to their Cash Flow Percentage Interest as set forth in Schedule “A”. Except as aforesaid, the BEC Member shall not be required to provide any guaranties to the Lenders or the Equity Investor.

2.8.16 Intentionally Omitted

2.8.17 All decisions made for and on behalf of the Company by the Manager shall be binding upon the Company. No Person dealing with the Manager shall be required to determine its authority to enter into any undertaking on behalf of the Company, nor to determine any fact or circumstance bearing on the existence of such authority; provided, however, that nothing herein contained shall extinguish, limit or condition the liability of the Manager to the Members to discharge its obligations in accordance with this Agreement and the Act. The Manager can execute, on behalf of the Company, contracts, agreements, instruments, leases, notes or bonds,

mortgages on Company assets securing indebtedness and any and all other documents incidental thereto.

2.8.18 LLC and the Company shall enter into a master lease (the “**Master Lease**”) encompassing all the commercial units in the Project with Continuum Manager. The Guarantors shall guaranty payments under the Master Lease, if required by the Project’s Lenders, on terms and conditions reasonably acceptable to the Members, and any payment thereunder shall be Guaranty Payments in accordance with Section 2.8.15. Any payments required under the Master Lease shall be treated as a Project operating expense. Any surplus income derived through the Master Lease (i.e., the difference between the Master Lease payments under the Master Lease and the actual income received from the commercial tenants) shall be allocated in accordance with the Members’ Cash Flow Percentage Interest, as set forth in Schedule “A”.

2.8.19 The Members agree that if required by HPD or any Project lender, an Owner’s Representative will be engaged to monitor the rehabilitation of the properties, to supplement the services provided by the architect and engineer, whose cost shall be included in the Project budget. The Members will use all commercially reasonable efforts to have the site observation reports prepared for the lender to be released to both Members.

2.8.20 Hudson Member, through its control as Manager of Company, shall remediate the 19 Patchen Site consistent with the Approved Scope of Remediation Work for 19 Patchen Site and the Development Budget, in order to receive BTC Proceeds. A portion of the cost of remediation in the amount of \$225,000 shall be loaned by Hudson Member to the Continuum Manager as a Member Loan, which shall then be loaned to the Company and LLC with an interest rate of six percent (the “**BTC Loan**”). The BTC Loan shall be repaid from earlier of (i) distributions from Net Cash Flow of the Company, and (ii) BTC proceeds. The members of Hudson Member shall cooperate with the Company with respect to providing accounting and tax information necessary to determine Net BTC Proceeds, after repayment of the BTC Loan, to be allocated between the members of Patchen LLC pursuant to its operating agreement. Pursuant to the HDC Commitment dated as of the Construction Loan closing (the “**HDC Commitment**”), BEC NC HDFC and Hudson Member shall cooperate to comply with the obligation of LLC and the Company to contribute fifty percent (50%) of Additional Equity (as defined in the HDC Commitment) to the LLC’s Project Operating Reserve as a one-time contribution, and establish a mutually agreeable funding mechanism for such contribution.

2.8.21 Upon the 19 Patchen Site being placed in service, as such term is defined in New York Tax Law Section 21, the Company shall terminate the Patchen Nominee Agreement, and simultaneously therewith, the LLC and HDFC shall execute a first amendment to the Portfolio Nominee Agreement transfer equitable and beneficial interest to 19 Patchen Site to LLC in order that Equity Investor can take low income housing tax credits and losses generated by 19 Patchen Site (the “**Amended Nominee Agreement**”). Any and all costs associated with the transfer of beneficial interest to 19 Patchen Site and the Amended Nominee Agreement shall be paid by the LLC.

2.9 LLC Operating Agreement.

2.9.1 Upon the Construction Loan closing for the Project (i) the LLC shall admit the Equity Investor as the investor member of the LLC and (ii) the LLC shall amend and restate its operating agreement to include terms and provisions usually and customarily included in operating agreements for tax credit syndication project, subject to the terms of this Agreement:

(a) The amended and restated operating agreement for the LLC shall, to the extent permitted by the Lenders and Equity Investor, provide that cash flow from operations or capital proceeds shall be distributed in the following order of priority subject to the approval of the Equity Investor: (1) obligations to Equity Investor; (2) BEC GP Loan(s) (as hereinafter defined in Section 2.9.1(c)) and accrued interest thereon; (3) deferred Development Fee (as hereinafter defined) and accrued interest thereon; (4) Partnership Administration Fee (as hereinafter defined in Section 5.4); and (5) Incentive Management Fee (as hereinafter defined in Section 5.4).

(b) The amended and restated operating agreement for the LLC shall provide that subject to any requirements of the Lenders or Equity Investor that capital proceeds not spent on the development and/or construction of the Project shall be used to repay BEC GP Loan(s) prior to being used to pay Development Fee.

(c) In the event that additional funds are required by the LLC to (i) pay expenditures in excess of the proceeds of the construction or permanent loans, investment from an Equity Investor, and/or other sources, (ii) repay any Predevelopment Loan that is not repaid at the closing of the construction financing, or (iii) pay any operating deficits required to be paid under any operating deficit or similar guaranty given to the Equity Investor, BEC GP shall to the extent of operating funds on hand and available for such purpose, loan such funds to the LLC as are needed (“**BEC GP Loan(s)**”). To the extent BEC GP does not have adequate funds available for such purpose, Hudson Member or a principal of Hudson Member may in its discretion loan to BEC GP, as a Member Loan (as defined in Section 3.3), which BEC GP shall then loan to the LLC as a BEC GP Loan. BEC GP Loan(s) shall earn interest at a rate equal to six and one half percent (6.5%) per year (the “**Interest Rate**”) and shall be repaid by the LLC to BEC GP or Guarantors from Net Cash Flow in the priority set forth in Section 5.2 hereof. BEC GP shall in turn repay the person that funded the BEC GP Loan(s) within ten (10) days of receipt of the funds. In the event that more than one BEC GP Loan(s) is made, the BEC GP Loan(s) shall be repaid in the order in which they were made (i.e. the first BEC GP Loan(s) shall be repaid in full before payment is made on any subsequent BEC GP Loan(s)).

ARTICLE THREE

CAPITAL; CAPITAL ACCOUNTS; AND LOANS

3.1 Capital Contributions.

3.1.1 Each Member has made the initial Capital Contributions (the “**Initial Contributions**”) as set forth opposite his or her name on Schedule “A” hereto. Each Member has

made the initial Capital Contributions (the “**Initial Contributions**”) as set forth opposite his or her name on Schedule “A” hereto.

3.1.2 Except as provided in Section 3.1.1, no Member shall be required to make any other contribution of capital to the Company, in cash or any other property.

3.1.3 No Member shall be entitled to withdraw any part of its Capital Contribution from the Company or to receive any distribution from the Company, except as expressly provided in this Agreement. No Member shall be entitled to demand or receive any property from the Company other than cash as expressly provided herein.

3.1.4 No Member shall be paid interest on any Capital Contribution.

3.2 Capital Accounts. An individual capital account (the “**Capital Account**”) shall be maintained for each Member in accordance with the following provisions:

3.2.1 Each Member's initial Capital Account balance is as set forth on Schedule “A” hereto. Following the date hereof, each Member’s Capital Account shall be credited with (1) the amount of additional contributions made by such Member to the Company; and (2) the amount of such Member’s allocable share of Net Income and any items of Company income and gain that are specially allocated to such Member pursuant to Article Six hereof.

3.2.2 Each Member’s Capital Account shall be charged with (1) the amount of cash distributed to such Member by the Company (other than cash distributed in repayment of any loan by such Member to the Company or as payment of interest thereon); (2) the amount of such Member’s allocable share of Net Loss and any items of Company loss and deduction that are specially allocated to such Member pursuant to Article Six hereof; (3) the Gross Asset Value of any property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code Section 752); and (4) the amount of any expenditures described in Code Section 705(a)(2)(B) allocated to such Member.

3.2.3 In the event of (1) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution, (2) the distribution by the Company to a Member of more than a de minimis amount of the assets of the Company as consideration for an interest in the Company, (3) the liquidation of the Company for federal income tax purposes pursuant to Regulation §1.704-1(b)(2)(ii)(g), or (4) in connection with an election under Sections 734(b) or 743(b), but only as provided in Regulation §1.704-1(b)(2)(iv)(m), the Gross Asset Values of the Company’s assets shall be adjusted (limited, in the case of the events described in clauses (1) and (2), to adjustments which the Managers determine are necessary or appropriate to reflect the relative economic interests of the Members) to equal their then fair market values (as determined by the Managers), and the Capital Accounts of each Member shall be credited or charged with such Member’s share (as determined under Article Six hereof) of the Net Income or Net Loss resulting from such revaluation of Company assets.

3.2.4 In the event that any Membership Interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest.

3.2.5 The foregoing provisions and the other provisions of the Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulation §1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulation.

3.3 Member Loans. In the event that the Manager reasonably determines that additional funds are required in connection with the operation of the Company, the Company may borrow such funds, in whole or in part, from the Hudson Member and/or any Affiliate of the Hudson Member and such shall constitute Member loans, as more specifically described below in Section 3.3.3.

3.3.1 Until Construction Loan closing, the Hudson Member or an affiliate thereof has lent and will lend to the Company all amounts deemed necessary by the Hudson Member to pay certain predevelopment expenses (such past and future advances from the Hudson Member or its affiliate, the “**Predevelopment Loan**”), including but not limited to appraisal, environmental reports, legal fees, architectural and engineering fees, bank fees, legal fees, prior opinion fees and application fees (collectively the “**Predevelopment Expenses**”) incurred by the Members and approved by Hudson Member in connection with the Project; such amounts shall be deemed advances to the Members, or alternatively, Hudson Member may secure third party predevelopment financing for such Predevelopment Expenses, provided that in no event may such third party financing be secured by the Premises or be recourse to BEC NC HDHC or its affiliates. The Predevelopment Loan shall not earn interest. The Predevelopment Loan shall be repaid by the LLC at the closing of the construction financing for the Project. To the extent that any portion of the Predevelopment Loan shall not be repaid at the closing of the construction financing such loan shall be paid from the first Development Fee paid pursuant to the Development Agreement until repaid in full (it being agreed that such payment shall not count towards Hudson Member’s share of the Development Fee in accordance with Section 5.5).

3.3.2 Intentionally deleted.

3.3.3 In the event that the Manager determines that, other than Predevelopment Expenses as provided in 3.3.1 above, funds are required in connection with the operation of the Company to (i) pay Project capital expenditures in excess of the proceeds of the construction or permanent loans, and/or other sources, (ii) pay Project operating expenses or required reserves, (iii) pay any Company obligation and related guarantees, or (iv) repay any Predevelopment Loan that is not repaid at the closing of the construction financing, the Hudson Member may, but shall not be obligated to, loan the proceeds to the Company as are needed (“**Member Loan(s)**”). Member Loan(s) shall earn interest at the Interest Rate. In the event that more than one Member Loan is made, the Member Loan(s) shall be repaid to the Member in the order in which they were made (i.e. the first Member Loan shall be repaid in full before payment is made on any subsequent Member Loan(s)).

ARTICLE FOUR

LIABILITY OF MEMBERS

4.1 Members Not Liable for Company Losses. Except as expressly provided under the Act, neither the Manager nor the Members shall have personal liability for the losses, debts, claims, expenses or encumbrances of or against the Company or its property.

4.2 Liability of Members and Managers to other Members and the Company. Neither the Members nor the Manager shall be liable, responsible, or accountable in damages or otherwise to the Company or any of its Members for any failure to take any action or the taking of any action within the scope of authority conferred on them by this Agreement made in good faith. The Manager shall not be liable to the Members because any taxing authorities disallow or adjust any deductions or credits in the Company's income tax returns or for the return of all or any portion of the capital contributions of the Members. Either Member and/or the Manager shall be liable, responsible and accountable in damages to the Company and the Members only for any acts performed by such Member or Manager arising out of or resulting from the fraud, criminal action, gross negligence or willful misconduct of such Member or Manager. Nothing in this paragraph shall be deemed to make the Members or Managers liable, responsible or accountable to persons other than the Company or the Members.

4.3 Right to Indemnification. Subject to the limitations and conditions provided for in this Article and the Act, each Person (an "**Indemnified Person**") who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitratative or investigative (a "**Proceeding**"), or any appeal in such a Proceeding, by reason of the fact that he or she was or is a Member, a Manager or an officer of the Company or he or she was or is the legal representative of, or a member, manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of, a Member or Manager, or arising out of any actions taken by any of them in such capacity, shall be indemnified by the Company against judgments and penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) actually incurred by such Indemnified Person in connection with such Proceeding if the Manager determines that such Indemnified Person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company and, with respect to any criminal Proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceedings, that the Indemnified Person had reasonable cause to believe such conduct was unlawful.

4.4 Derivative Claims. Subject to the limitations and conditions provided for in this Article and the Act, the Company shall and does hereby indemnify any Person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that

such Person is or was a Member, Manager or an officer of the Company, the legal representative of a Member, Manager or officer, or a member, manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of a Member or Manager, or arising out of any actions taken by any of them in such capacity, against costs and expenses (including reasonable attorneys' fees) actually and reasonably incurred by such Person in connection with the defense or settlement of such action or suit, if such Person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company, provided that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his or her duties to the Company unless, and only to the extent that, the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

4.5 Reimbursement of Expenses. The right to indemnification shall include the right to be paid or reimbursed by the Company for the reasonable expenses incurred in advance of the final disposition of a proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred in advance of the final disposition of a proceeding shall be made only upon delivery to the Company of a written affirmation by such Person of its good faith belief that it has met the standard of conduct necessary for indemnification under this Section and a written undertaking, by or on behalf of such Person to repay all amounts so advanced if it shall ultimately be determined that such Person is not entitled to be indemnified under this Section.

4.6 Determinations. Any indemnification under this Article (unless ordered by a court) shall be made by the Company only as authorized in the specific case, upon a determination that indemnification is proper in the circumstances because such Person has met the applicable standard of conduct set forth therein. Such determination shall be made (i) by the Manager or by the holders of two-thirds (2/3) of the Membership Interests who were not parties to such Proceedings; or (ii) if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested Members so directs, by the Company's independent legal counsel in a written opinion.

4.7 Survival. Indemnification under this Article shall continue as to a Person who has ceased to serve in the capacity, which initially entitled such Person to indemnity hereunder. The rights granted pursuant to this Article shall be deemed contract rights, and no amendment, modification or repeal of this Article shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification or repeal.

4.8 Advance Payment. The right to indemnification conferred by this Article shall include the right to be paid or reimbursed by the Company for the reasonable expenses incurred in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred in advance of the final disposition of a Proceeding shall be made only upon

delivery to the Company of a written affirmation by such Person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined that such Person is not entitled to be indemnified under this Article or otherwise.

4.9 Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred by this Article shall not be exclusive of any other right which a Person may have or hereafter acquire under any law (common or statutory), any provision of the Articles of Organization or this Agreement, any vote of the Members or otherwise.

4.10 Insurance. The Company may purchase and maintain insurance, at its expense, to protect itself and any Indemnified Person against any expense, liability or loss, whether or not the Company would have the power to indemnify such Person against such expense, liability or loss under this Article.

4.11 Savings Clause. If this Article or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Indemnified Person as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any Proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE FIVE

DISTRIBUTIONS

5.1 Distributions Generally.

5.1.1 Except as otherwise provided in this Section 5.1, the time and amount of any distributions of Net Cash Flow of the Company shall be determined by the Manager acting in its sole discretion; provided, however, that distributions of Net Cash Flow shall be made no less frequently than annually within 90 days following the end of each fiscal year of the Company.

5.1.2 The Company shall retain funds necessary to cover its reasonable business needs, which shall include reserves against possible losses and the payment and making provision for the payment, when due, of obligations of the Company, and may retain funds for any other Company purposes. The amounts of all such reserves and the purposes for which all such reserves are made shall be determined by the Manager.

5.2 Application and Distribution of Net Cash Flow. Except as provided in Section 8.2, the Net Cash Flow of the Company for each year (including any year in which the Company is liquidated) shall be distributed as follows:

- (i) first to the repayment of the BTC Loan (as defined in Section 2.8.20) and accrued interest thereon, until the BTC Loan is repaid;
- (ii) second to the repayment of any other Member Loans, and accrued interest thereon, to be paid in the order such Member Loans were contributed; and
- (iii) third pursuant to the percentages as set forth in Schedule "A" under "Cash Flow Percentage Interest".

This provision shall apply to distributions of cash flow from operations, proceeds from a sale of the Project and/or refinancing proceeds, whether distributed directly to the Members or distributed to BEC GP, then by BEC GP to the Company, and then by the Company to the Members. It is anticipated that all distributions will be made in the month of May, following completion of Project's financial statements in April.

5.3 Intentionally Omitted.

5.4 Partnership Administration/Incentive Management Agreement. The LLC shall enter into an agreement (the "**Partnership Administration Agreement**") with BEC GP pursuant to which BEC GP will administer the affairs of the LLC in exchange for the maximum amount permitted by the Equity Investor and the governmental entities regulating the Project (the "**Partnership Administration Fee**"). The amended and restated operating agreement of the LLC shall also specify that a minimum of eighty percent (80%) of the LLC's available cash flow after payment of all reserves and operating expenses (including Equity Investor fees, Loan(s) to BEC GP plus accrued interest, deferred Development Fee plus accrued interest, and Partnership Administration Fee) shall be paid to BEC GP first as an additional incentive fee (the "**Incentive Management Fee**") to the extent permitted by the Equity Investor and then as a cash distribution.

5.5 Development Services Agreement.

5.5.1 The LLC shall enter into an agreement with Continuum Manager, pursuant to which the Continuum Manager shall develop the Project and provide development services to the LLC for the maximum fee allowed by the Project's Lenders and supported by the Project underwriting (the "**Development Fee**").

5.5.2 Application and Distribution of Development Fee. Except as provided in Section 8.2, the Development Fee to Continuum Manager shall be distributed as follows:

- (i) first to the repayment of any other Continuum Manager's Member Loans, and accrued interest thereon, to be paid in the order they are made, provided that the payment to Continuum Manager's Member Loans shall not exceed \$100,000;
- (ii) second pursuant to the percentages as set forth in Schedule "A" under "Cash Flow Percentage Interest" of Continuum Manager.

5.5.3 The Development Fee will be paid in installments from the Equity Investor upon the occurrence of negotiated benchmarks; however, payment of a portion of the Development

Fee will be deferred. The deferred portion may, to the extent supported by the Project underwriting as determined by Hudson Member in its reasonable discretion, accrue interest at the highest rate supported by the underwriting and permitted by the Lenders and Equity Investor and will be paid from any unused Project contingency or other development proceeds to the extent available, then from available cash flow, and lastly from residual receipts in connection with the refinancing or a sale of the Project. Any portion of the deferred Development Fee which is unpaid after 15 years from the date of placement in service of the Project, or such earlier date as required by the Lenders or Equity Investor, will be loaned by BEC NC HDFC to the BEC GP and from the BEC GP to the LLC as a BEC GP Loan and then paid by the LLC to the BEC NC HDFC.

ARTICLE SIX

ALLOCATIONS

6.1 Allocations of Net Income and Net Loss. After making the allocations (if any) required by Section 6.2 hereof, Net Income and Net Loss shall be allocated (subject to any allocations otherwise mandated by this Section 6.1) as follows:

(a) Net Income attributable to operation and leasing of the Project (or for any reason other than a sale, exchange or other disposition of the Project, as described in subparagraphs (b) and (c) below) shall be allocated in accordance with the Member's Cash Flow Percentage Interests, except as stated below.

(b) Net Income recognized by the Company upon the sale, exchange or other disposition of the Project shall be allocated as follows: (i) first, that portion of gain (including any gain treated as ordinary income for federal income tax purposes) which is equal in amount to the Members' negative Capital Accounts shall be allocated to the Members with negative Capital Account balances, in proportion to such negative balances and (ii) second, gain in excess of the amount allocated under clause (i) shall be allocated to the Members in an amount necessary to increase their Capital Accounts as nearly as possible to the amount of cash each Member would receive under Section 5.2 solely in its capacity as a Member if the aggregate balance of all Capital Accounts were cash available for distribution under Section 5.2.

(c) Net Loss recognized by the Company upon the sale, exchange or other disposition of the Project shall be allocated (i) first, to the extent and in such proportions as shall be necessary such that, after giving effect thereto, the respective balances in all Members' Capital Accounts are proportionate to the Members' economic interests in the Company; (ii) second, to the Members until each Member's Capital Account equals its Capital Contribution to the Company not previously returned to it; (iii) third, to the Members to the extent of and in proportion to each Member's Capital Account (after the adjustment in clause (ii)) until all Capital Accounts are reduced to zero; and (iv) fourth, any remaining loss to the Members in accordance with the manner in which they bear the economic risk of loss.

(d) Any portion of the gains treated as ordinary income for federal income tax purposes under Code Sections 1245 and 1250 shall be allocated on a dollar-for-dollar basis to

those Members to whom the items of Company deduction or loss giving rise to the amount so treated as ordinary income under Code Section 1245 or 1250 had been previously allocated.

(e) Net Losses for any fiscal year of the Company or other period shall be specially allocated as indicated in Schedule "A" hereto, so long that such allocation is not found inconsistent with the relevant provisions in the Code.

(f) In the event the deduction of all or a portion of any fee paid or accrued to a Member or an Affiliate of a Member is disallowed for Federal income tax purposes by the IRS with respect to a taxable year of the Company, the Company shall then allocate to such Member an amount of gross income of the Company for such year equal to the amount of such fee with respect to which the deduction is disallowed.

6.2 Regulatory Allocations.

6.2.1 Notwithstanding any other provision of this Agreement, Net Loss (or items of deduction as computed for book purposes) shall not be allocated to a Member to the extent that the Member has or would have, as a result of such allocation, an Adjusted Capital Account Deficit. As used herein, a Member's "**Adjusted Capital Account Deficit**" shall mean and refer to such Member's Capital Account, increased by any amounts which such Member is obligated to restore pursuant to the terms of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulation §1.704-2(g)(1) and §1.704-2(i)(5), and reduced by any adjustments, allocations or distributions described in Regulation §1.704-1(b)(2)(ii)(d)(4), (5) or (6). Any Loss (or items of deduction as computed for book purposes) which otherwise would be allocated to a Member, but which cannot be allocated to such Member because of the application of the immediately preceding sentence, shall instead be allocated to the other Members, in accordance with their respective Percentage Interests, subject to the limitation imposed by the immediately preceding sentence.

6.2.2 In order to comply with the "qualified income offset" requirement of the Regulations under Code Section 704(b), and notwithstanding any other provision of this Agreement to the contrary, except Section 6.2.3, in the event a Member for any reason (whether or not expected) has an Adjusted Capital Account Deficit, items of Net Income (consisting of a pro rata portion of the items thereof) shall be allocated to such Member in an amount and manner sufficient to eliminate as quickly as possible the Adjusted Capital Account Deficit.

6.2.3 In order to comply with the "minimum gain chargeback" requirements of Regulation §1.704-2(f)(1) and §1.704-2(i)(4), and notwithstanding any other provision of this Agreement to the contrary, in the event there is a net decrease in a Member's share of Company minimum gain (as defined in Regulation §1.704-2(d)(1)) and/or Member nonrecourse debt minimum gain (as defined in Regulation §1.704-2(i)(2)) during a Company taxable year, such Member shall be allocated items of income and gain for that year (and if necessary, for other years) as required by and in accordance with Regulation §1.704-2(f)(1) and §1.704-2(i)(4) before any other allocation is made.

6.2.4 Notwithstanding any other provision of this Agreement, all items of deduction and loss that, pursuant to Regulation §1.704-2(i), are attributable to a nonrecourse debt for which

a Member (or a Person related to such Member under Regulation §1.752-4(b)) bears the economic risk of loss (within the meaning of Regulation §1.752-2), shall be allocated to the Hudson Member, unless such allocation does not comply with the Code and by Regulation §1.704-2(c).

6.3 Other Allocation Rules.

6.3.1 Each separate item of income, deduction, gain and loss of the Company shall be allocated among the Members in the same proportion as the portion of the total Net Income or Net Loss for the period which is credited or charged to the Capital Account of each Member bears to the total Net Income or Net Loss for such period.

6.3.2 If the Percentage Interests of the Members change during a year, then, unless otherwise determined by the Manager, Net Income or Net Loss for such year shall be allocated among the Members for the periods before and after the date on which the change in Percentage Interests (hereinafter called an “**Ownership Change**”) became effective, based on an interim closing of the books. This Section 6.3.2 shall apply both for purposes of computing a Member's Capital Account and for allocation purposes.

6.3.3 Income, gain, loss and deductions of the Company shall, solely for income tax purposes, be allocated among the Members in accordance with Code Section 704(c), so as to take account of any difference between the adjusted basis of the assets of the Company for Federal income tax purposes and their respective Gross Asset Values, and otherwise shall be allocated in the same manner as the related book items were allocated under Sections 6.1 and 6.2 hereof. Except as otherwise determined by Consent of the Managers, any allocations required by Code Section 704(c) shall be effectuated using the traditional method described in Regulation §1.704-3(b)(1).

ARTICLE SEVEN

TRANSFERS OF MEMBERSHIP INTERESTS; ADMISSION OF ADDITIONAL MEMBERS

7.1 Transfers of Membership Interests. Except as specifically provided in this Agreement, no Member shall have the right to Transfer or otherwise dispose of all or any portion of its Membership Interest in the Company, without the Consent of the Members and no transfer shall be made if such transfer would cause the Company to be in default under and financing or regulatory agreement with respect to the Project.

7.2 Substitute Members. Subject to the provisions of Section 7.1 above, and notwithstanding anything to the contrary contained in this Agreement, the assignee of a Membership Interest shall have the right to become a substitute member in the Company only if (1) the consent referred to in Section 7.1 has been obtained; (2) the assignor so provides in an instrument of assignment; (3) the assignee agrees in writing to be bound by the terms of this Agreement and the Articles of Organization in the form of joinder attached hereto as Exhibit 1;

and (4) the assignee pays the reasonable costs incurred by the Company in preparing and recording any necessary amendments to this Agreement and the Articles of Organization, unless waived by the Manager.

ARTICLE EIGHT

DISSOLUTION, LIQUIDATION AND TERMINATION

8.1 Dissolution.

8.1.1 The Company shall dissolve upon, but not before, the first to occur of the following:

- (a) By the unanimous vote of the Members;
- (b) The disposition of substantially all of the assets of the Company in a transaction other than a sale-leaseback, or an installment sale transaction;
- (c) The dissolution, bankruptcy, death, resignation, expulsion or incompetency of any Member unless the holders of three-quarters (3/4) of the remaining Membership Interests consent to continue the business of the Company; and
- (d) Any other event, which, under the Act, would cause the dissolution of a limited liability company unless the holders of three-quarters (3/4) of the remaining Membership Interests consent to continue the business of the Company.

8.1.3 Upon dissolution of the Company, the Company shall immediately commence to wind up its affairs and the Manager shall proceed with reasonable promptness to liquidate the business of the Company.

8.1.4 During the period of the winding up of the affairs of the Company, the rights and obligations of the Members shall continue.

8.2 Liquidation. The Company shall terminate after its affairs have been wound up and its assets fully distributed in liquidation as follows:

- (a) first, to the payment of the debts and liabilities of the Company (other than loans made by a Member or an Affiliate of a Member to the Company pursuant to Section 3.3) and the expenses of liquidation;
- (b) next, to the setting up of any reserves which the Manager by Consent may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company provided that any reserves not necessary to satisfy such liabilities or obligations are distributed as soon as practicable;

(c) next, to the Members or an Affiliate of a Member, to the extent such Persons have made loans to the Company pursuant to Section 3.3, an amount equal to any unpaid accrued interest on, and then the principal balance of, such loans; provided, however, that in the event the liquidation proceeds shall be insufficient to pay all such interest and principal, payment first shall be made of interest on such loans in the order in which such loans were made and then repayment of the principal shall be made in the order in which such loans were made;

(d) next, to the Members to repay any Capital Contributions made by them, *pari passu*, in proportion to their respective Capital Contributions; and

(e) thereafter, to the Members, in proportion to their positive Capital Account balances (after taking into account all adjustments to Capital Accounts as provided in this Agreement for all periods including such fiscal year).

8.3 Cancellation of Certificate of the Company. Upon the completion of the liquidation of Company's property, the Manager shall cause the cancellation of the Articles of Organization and all qualifications of the Company as a foreign limited liability company in jurisdictions other than the State of New York.

ARTICLE NINE

COMPANY PROPERTY

9.1 Company Property. The Company's property shall consist of all Company assets and all Company funds. Title to the property and assets of the Company may be taken and held only in the name of the Company or in such other name or names as shall be determined by the Manager. All property now or hereafter owned by the Company shall be deemed owned by the Company as an entity and no Member, individually, shall have any ownership of such property. Title to the assets and properties, real and personal, now or hereafter owned by or leased to the Company, shall be held in the name of the Company or in such other name or names as the Manager shall determine; provided, however, that if title is held other than in the name of the Company, the Person or Persons who hold title shall certify by instrument duly executed and acknowledged, in form for recording or filing, that title is held as nominee and/or trustee for the benefit of the Company pursuant to the terms of this Agreement and an executed copy of such instrument shall be delivered to each Member.

9.2 Prohibition Against Partition. Each Member hereby permanently waives and relinquishes any and all rights he or she may have to cause all or any part of the property of the Company to be partitioned, it being the intention of the Members to prohibit any Member from bringing a suit for partition against the other Members, or any one of them.

ARTICLE TEN

RECORDS AND ACCOUNTING; FISCAL AFFAIRS

10.1 Fiscal Year. The fiscal year of the Company shall be the calendar year.

10.2 Bank Accounts. All funds of the Company shall be deposited in such bank or savings and loan account or accounts as shall be designated by the Manager. Withdrawals from any such bank account shall be made upon such signatures as the Manager may designate, and shall be made only for the purposes of the Company.

10.3 Books and Records. The Manager shall, at the Company's cost and expense, maintain full and accurate books of the Company, in accordance with the Company's accounting policies consistently applied, at the principal place of business of the Company, showing all receipts and expenditures, assets and liabilities, Net Income or Net Loss, and all other records necessary for recording the Company's business and affairs, including those sufficient to record the allocations and distributions provided for in this Agreement. The books and records shall, upon reasonable prior notice to the Company, be open for inspection and copying by any Member or his or her duly authorized representatives during regular business hours at such principal place of business. Any expense for any inspection or examination shall be borne by the Member causing such inspection or review to be conducted. Any information obtained by a Member with respect to the affairs of the Company shall, except as may be required by law, be kept strictly confidential.

10.4 Tax Status. Each of the Members hereby recognizes that the Company will be treated as a partnership for Federal, state and local income tax purposes and will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code.

10.5 Tax Returns; Elections.

10.5.1 The Tax Matter Member shall cause all income tax and information returns for the Company to be prepared by the Company's accountant and shall cause such tax returns to be timely filed with the appropriate authorities. The Company shall be a cash basis taxpayer. All decisions regarding tax elections shall be made by Consent of the Managers with the consent of the Tax Matters Member. Copies of such tax and information returns shall be kept at the principal office of the Company or at such other place as the Tax Matters Member shall determine and shall be available for inspection by the Members or their representatives during normal business hours. The Managers shall furnish each Member within ninety (90) days after the end of each fiscal year with such information as may be necessary to enable each Member to file his Federal income tax return and any required state income tax return. The Managers shall cause the Company to pay, out of available cash flow and other assets of the Company, any taxes payable by the Company.

10.5.2 The Company may, but is not required to, make an election for Federal income tax purposes to the extent permitted by applicable law and regulations, as follows:

(1) in case of a transfer of all or part of any Member's Membership Interest, the Company may elect in a timely manner pursuant to Code Section 754 and pursuant to corresponding provisions of applicable state and local tax laws to adjust the bases of the assets of the Company pursuant to Code Sections 734 and 743; and

(2) all other elections required or permitted to be made by the Company shall be made in such a manner as the Managers, in consultation with the Company's attorneys or the Company's accountant, determine by Consent to be most favorable to the Members.

10.5.3 Each Member agrees to report, on his own income tax returns each year, each item of income, gain, loss, deduction and credit as reported by the Company to such Member on the Schedule K-1 (or other similar tax report) issued by the Company to such Member for such year. Except as otherwise required by law, no Member shall take any tax reporting position that is inconsistent in any respect with any tax reporting positions taken by the Company or any entity in which the Company owns any equity interest, and, in the event of a breach by such Member of the provisions of this Section 10.5.3, shall be liable to the Company and the Members for any costs, liabilities and damages (including, without limitation, consequential damages) incurred by any of them on account of such breach.

10.6 Tax Matters Member. Pursuant to Code Section 6231(a)(7)(A) (and any comparable provision of applicable state and local tax laws), the Hudson Member is hereby designated as the "**Tax Matters Member**" of the Company for all purposes of the Code and for the corresponding provision of any state or local statute. All of the Members hereby consent to such designations and agree to take any such further action as may be required by regulations or otherwise to effectuate and maintain such designations.

10.7 Company's Accountants. The Company shall retain Stuart Koch as its independent certified public accountant, or other accountant selected by Consent of the Members.

ARTICLE ELEVEN

MISCELLANEOUS

11.1 Notice. All notices, requests, demands and other communications hereunder shall be made in writing and shall be deemed to have been given if delivered by hand, by reputable overnight courier or by facsimile with (if sent by facsimile) a confirmation copy mailed first class, registered mail, return receipt requested, postage and registry fees prepaid to the Members at the addresses set forth in the preamble. Any address may be changed by notice given to the Members, as aforesaid, by the party whose address for notice is to be changed.

11.2 Separability. The invalidity or unenforceability of any provision in this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

11.3 Interpretation. This Agreement shall be interpreted and construed in accordance with the laws of the State of New York. The Members hereby consent to personal jurisdiction and venue in the State of New York, County of Kings, with respect to any action or proceeding brought in connection with this Agreement. All pronouns and any variations thereof shall be

deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the Person or Persons referred to may require. The captions of sections of this Agreement have been inserted as a matter of convenience only and shall not control or affect the meaning or construction of any of the terms or provisions hereof.

11.4 Entire Agreement. The parties hereto agree that all understandings and agreements heretofore made between them are merged in this Agreement, which alone fully and completely expresses their agreement with respect to the subject matter hereof. There are no promises, agreements, conditions, understandings, warranties, or representations, oral or written, express or implied, among the parties hereto, other than as set forth in this Agreement, and the Articles of Organization. All prior agreements among the parties are superseded by this Agreement, which integrates all promises, agreements, conditions, and understandings among the parties with respect to the Company and its property.

11.5 Any dispute regarding this Agreement or the Project, other than with respect to Major Decisions, shall be resolved by arbitration before three (3) arbitrators in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrators may be entered in any court having jurisdiction thereof. The arbitrators shall award to the prevailing party reasonable attorney's fees.

11.6 Termination, Revocation, Waiver, Modification or Amendment. No termination, revocation, waiver, modification or amendment of this Agreement shall be binding unless consented to in writing and executed by all the Members.

11.7 Counterparts; Effective Date. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. The signatures of any party to a counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart. Facsimile or scanned signatures shall have the same force and effect as original signatures. This Agreement is dated and shall be effective among the parties as of the date first above written.

11.8 Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors, permitted assigns, heirs, executors, administrators and legal representatives.

11.9 Further Assurances. Each of the parties hereto agrees to execute, acknowledge, deliver, file, record and publish such further certificates, instruments, agreements and other documents, and to take all such further action as may be required by law or deemed by the Members to be necessary or useful in furtherance of the Company's purposes and the objectives and intentions underlying this Agreement and not inconsistent with the terms hereof.

11.10 Waiver. No consent or waiver, express or implied, by any Member or Manager to or of any breach or default by any other Member or Manager in the performance by any other Member or Manager of his or her obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other Member or Manager of the same or any other obligation of such Member hereunder. Failure on the part of a Member or Manager to complain of any act or failure to act of any other Member or Manager or

to declare such other Member or Manager in default, irrespective of how long such failure continues, shall not constitute a waiver by such Member or Manager of his or her rights hereunder.

11.11 Additional Remedies. The rights and remedies of any Member or Manager hereunder shall not be mutually exclusive. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy, but nothing herein contained is intended to, nor shall it limit or affect, any other rights in equity or any rights at law or by statute or otherwise of any party aggrieved as against the other for breach or threatened breach of any provision hereof, it being the intention of this paragraph to make clear the agreement of the parties hereto that their respective rights and obligations hereunder shall be enforceable in equity as well as at law or otherwise.

11.12 No Reliance by Third Parties. The provisions of this Agreement are not for the benefit of any creditor or other Person other than a Member to whom any losses, debts, claims, expenses or encumbrances are owed by, or who otherwise has any claim against, the Company or any Member, and no creditor or other Person shall obtain any rights under this paragraph or by reason of this paragraph, or shall be able to make any claim in respect of any debts, liabilities, or obligations against the Company or any Member.

11.13 Environmental. The Members are fully aware of the environmental condition currently affecting the property at 19 Patchen Avenue, a/k/a 522 Van Buren Street (Block 1618. Lot 8), in the County of Kings, City and State of New York. In coordination with BEC Member and the Lenders, Hudson Member agrees to take the lead to coordinate the Remediation Project.

11.14 Approval. This Agreement is subject to the approval of the Board of Directors of BEC Member and all the Members of Hudson Member. The Members agree to seek such approvals no later than thirty (30) days from the date of this Agreement.


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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first above written.

Hudson BEC II LLC, a New York limited liability company

By: 
Name: David Kramer
Title: Manager

BEC 19 Patchen Inc., a New York corporation

By: 
Name: Daniel T. Matthew
Title: President

SCHEDULE "A"

**BEC CONTINUUM MANAGER LLC
OPERATING AGREEMENT PERCENTAGE INTERESTS**

Members	Membership Interest	Cash Flow Percentage Interest	Allocation of Net Losses	Initial Capital Account
BEC Member	70%	45%	45%	\$45.00
Hudson Member	30%	55%	55%	\$55.00

EXHIBIT 1
Form of Joinder Agreement

The undersigned, a proposed transferee (the “**Transferee**”) of the Membership Interest of _____ (the “**Membership Interest**”), in _____ a New York Limited Liability Company (the “**Company**”), from _____ (the “**Transferor**”), hereby agrees to be bound by all of the provisions of the Articles of Organization of _____ and the Operating Agreement effective as of the ____ day of _____, 201_, between *[name and address of Member]*, *[name and address of Member]*, *[name and address of Member]*, *[name and address of Member]* and *[name and address of Member]* which is applicable to the Transferor at the time of transfer of the Membership Interest.

Dated as of _____, __, _____

[Transferee]

EXHIBIT 2

List of Project Properties

OWNERSHIP ENTITY	BUILDING ADDRESS	UNIT TOTAL	Block	Lot
736 Willoughby Ave HDFC	340 St. John's Place	29	1176	9
736 Willoughby Ave HDFC	736 Willoughby Ave	35	1591	17
736 Willoughby Ave HDFC	22 1/2 Patchen Ave	7	1612	49
736 Willoughby Ave HDFC	285 Lincoln Place	29		
Fenimore Commons	118 Fenimore Street	11	5042	35
Franklin E. St. Marks	782 Franklin Ave	7	1178	51
Franklin E. St. Marks	718 St. Marks Ave	18	1227	14
Franklin E. St. Marks	1347 Eastern Pkway	11	1393	58
Hanson Place Assoc	67 Hanson Place	100	2114	1
Hanson Place Assoc	75 Hanson Place	8	2114	33
Hanson Place Assoc	77 Hanson Place		2114	33
Lincoln N. Van Buren	1234 Lincoln Place	16	1389	20
Lincoln N. Van Buren	171 Van Buren Street	16	1609	79
Lincoln N. Van Buren	165 Van Buren Street	13	1609	1
Myrtle V. Willoughby Assoc	974 Myrtle Ave	3	1757	18
Myrtle V. Willoughby Assoc	643 Willoughby Ave	4	1760	51
Myrtle V. Willoughby Assoc	258A Vernon Ave	3	1761	31
Myrtle V. Willoughby Assoc	264 Vernon Ave	3	1761	34
Myrtle V. Willoughby Assoc	685 Willoughby Ave	3	1761	56
Myrtle V. Willoughby Assoc	155 Hart St	3	1768	73
Myrtle V. Willoughby Assoc	145 Hart St	2	1768	78
Myrtle V. Willoughby Assoc	171 Tompkins Ave	6	1772	10
P. BERGEN KINGSTON, LP	555 49th Street	8	775	63
P. BERGEN KINGSTON, LP	122 Kingston Avenue	6	1222	41
P. BERGEN KINGSTON, LP	723 Park Place	8	1232	1
P. BERGEN KINGSTON, LP	1439 Bedford Avenue	5	1232	6
P. BERGEN KINGSTON, LP	981-985 Park Place	25	1235	50
P. BERGEN KINGSTON, LP	1458 Bedford	8	1238	40
P. BERGEN KINGSTON, LP	1455 Bedford Avenue	6	1239	13
P. BERGEN KINGSTON, LP	1453 Bedford Avenue	3	1239	14
P. BERGEN KINGSTON, LP	738 St. John's Place	8	1253	17
ST JOHN'S HAVEN ASSOCIATES, LP	261 Buffalo Avenue	36	1387	7
Sunset Heights Assoc	354 41st Street	16	718	30
Sunset Heights Assoc	358 41st Street	16	718	32
Vernon Buffalo	19 Patchen	7	1618	8
Weeksville Commons Assoc	634 Franklin Ave	4	1149	52

Weeksville Commons Assoc	264 St. Marks Ave	12	1152	27
Weeksville Commons Assoc	262 ST MARKS AVENUE	0	1152	25
Weeksville Commons Assoc	581 Prospect Place	4	1156	67
Weeksville Commons Assoc	581A FRANKLIN AVENUE	0	1156	152
Weeksville Commons Assoc	637 Park Place	6	1163	54
Weeksville Commons Assoc	1057 Bergen St	12	1212	63
Weeksville Commons Assoc	645 Franklin Ave	8	1217	7
Weeksville Commons Assoc	164 Albany Ave	12	1223	47
Weeksville Commons Assoc	152 Albany Ave	10	1223	42
Weeksville Commons Assoc	162 Albany Ave	0	1223	46
Weeksville Commons Assoc	162A Albany Ave	0	1223	49
Weeksville Commons Assoc	683 Franklin Ave	3	1224	2

GRAND TOTAL UNITS	550		
GRAND TOTAL BUILDINGS	43		

OPERATING AGREEMENT

OF

HUDSON BEC II LLC

THIS OPERATING AGREEMENT (this “**Agreement**”) of HUDSON BEC II LLC, a New York limited liability company (the “**Company**”), is entered into as of October 16, 2015 (the “**Effective Date**”) by and among the Company, the Members executing this Agreement as of the date hereof and each other Person who after the date hereof becomes a Member of the Company and becomes a party to this Agreement.

PREAMBLE

1. The Company was formed by filing Articles of Organization with the Secretary of State of the State of New York on October 16, 2015.
2. The parties hereto desire to enter into this Agreement in order to set forth and establish their respective rights, duties and obligations in respect of the business and operation of the Company.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto do hereby covenant and agree as follows:

ARTICLE 1 ORGANIZATIONAL MATTERS

The meaning of certain capitalized terms as used in this agreement is set forth following the first use of such terms or in the Schedule of Definitions attached hereto.

Section 1.1 Name. The name of the Company is HUDSON BEC II LLC.

Section 1.2 Formation. The Members have formed the Company under the New York Limited Liability Company Act (the “**Act**”) by filing Articles of Organization with the Secretary of State of the State of New York on October 16, 2015 (the “**Articles**”).

Section 1.3 Organization. The Members shall cause to be filed such certificates and documents as are necessary to comply with the applicable requirements of the laws of the State of New York and of any other jurisdiction in which the Company shall conduct business.

Section 1.4 Principal Office. The address of the principal office of the Company in the State of New York shall be 826 Broadway, 11th floor, New York, NY 10003, or such other address in New York City as may be designated from time to time by the Manager.

Section 1.5 Purpose. The single purpose of the Company shall be to directly or indirectly acquire an membership interest in BEC Continuum Owner LLC, which shall, directly or through a nominee, acquire, own, hold, sell, transfer, service, convey, safekeep, dispose of, pledge, mortgage, assign, borrow money against, finance, refinance, develop, redevelop, manage, lease, maintain, operate, improve, renovate, expand, originate or otherwise deal with the Properties. The Company shall not engage in any other business or activity.

Section 1.6 Powers. The Company is empowered to do any and all acts and things which a limited liability company is permitted to do under the Act or other applicable law which is necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Company. No Member, on the basis of being a Member, has the authority to bind the Company, except with the authority of the Manager.

Section 1.7 Term. The “Term” of the Company commenced upon the filing of the Articles and shall continue unless and until the Company is dissolved pursuant to the provisions of this Agreement or as otherwise provided by law.

Section 1.8 Title to Company Assets. Title to Company assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Company, and no Member, individually or collectively, shall have any ownership interest in any Company assets or any portion thereof. Title to any or all of the Company assets may be held in the name of the Company, or one or more nominees or subsidiaries of the Company, all as the Manager may determine. All Company assets shall be recorded as the property of the Company in its books and records, irrespective of the name in which legal title to such Company assets is held.

Section 1.9 Admission of Members.

A. Each Person that has executed this Agreement and whose name is listed on **Schedule A**, as the same may be amended from time to time, is hereby admitted as a Member.

B. Additional Members may be admitted as Members, from time to time, at the discretion of the Manager and subject to the provisions hereof.

Section 1.10 Names, Contact and Other Information of the Members. Set forth below the name of each Member on **Schedule A** shall be appropriate contact information for such Member (including such Member’s mailing address, telephone number, and facsimile number as well as, in the case of a Member that is an entity, the name or title of an individual to whom notices and other correspondence should be

directed). Each Member shall promptly provide the Company with the information required to be set forth for such Member on **Schedule A** and shall thereafter promptly notify the Company of any change to such information.

Section 1.11 Additional Documents.

A. The Manager shall cause to be executed, filed, recorded, published, or amended any documents, as the Manager in its reasonable discretion determines to be necessary or advisable: **(i)** in connection with the formation, operation, dissolution, winding-up, or termination of the Company pursuant to applicable law; or **(ii)** to otherwise give effect to the terms of this Agreement. The terms and provisions of each document described in the preceding sentence shall be initially established and shall be amended as necessary to cause such terms and provisions to be consistent with the terms and provisions of this Agreement.

B. Each Member hereby grants to the Manager a special power of attorney (with full rights of assignment) irrevocably appointing the Manager as the granting Member's attorney-in-fact with power and authority to execute or acknowledge, in the granting Member's name and on its behalf, any document described in this **Section 1.11** insofar as any such document relates to a matter, action or transaction previously approved by the Members in accordance with this Agreement. Each special power of attorney granted under this **Section 1.11** is coupled with an interest and shall not be revoked by the bankruptcy, death, disability or other event of legal incapacity of the granting Member.

Section 1.12 Incorporation by Reference. The Exhibits and Schedules attached hereto are incorporated herein and made a part of this Agreement.

ARTICLE 2 CAPITALIZATION

Section 2.1 Capital Accounts.

A. Maintenance of Capital Accounts. A separate Capital Account shall be established on the books of the Company for each Member, including any Additional Members, and each Capital Account shall be maintained and adjusted as provided in this **Article 2**. The Capital Account of each Member shall be:

(i) credited with: **(a)** all cash capital contributions made to the Company by such Member on account of Capital Contributions, **(b)** the lesser of the agreed upon fair market value or the book value of any property contributed by such Member to the Company (net of any liabilities secured by such property that the Company is considered to assume or take subject to Section 752 of the Code) on account of Capital Contributions, and **(c)** any amount credited to such Member pursuant to **Sections 6.1 and 6.2**;

(ii) debited with: (a) the amount of any distributions to such Member pursuant to **Sections 5.1**, (b) the fair value of any asset distributed in kind to such Member pursuant to **Section 5.1** (net of any liabilities secured by such asset that such Member is considered to assume or take subject to Section 752 of the Code), and (c) any amount debited to such Member pursuant to **Sections 6.1** and **6.2**; and

(iii) adjusted simultaneously with the making of any adjustment to the book value of the Company's assets, to reflect the aggregate net adjustments to such book value as if the Company recognized Profit or Loss equal to the respective amount of such aggregate net adjustments immediately before the event causing such adjustments.

B. Compliance with Treasury Regulations. The provisions of this **Section 2.1** relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b)(2)(iv) or such regulations as are applicable thereto and shall be interpreted and applied in a manner consistent with such Treasury Regulations. The Capital Account of each Member also shall be adjusted appropriately to reflect any other adjustment required pursuant to Treasury Regulations Section 1.704-1 or 1.704-2, or in the discretion of the Manager, pursuant to **Section 6.2** hereof. Upon the occurrence of any event specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), the Manager may cause the Capital Accounts of the Member to be adjusted to reflect the fair value of the Company's assets at such time (as determined by the Manager in its sole discretion) in accordance with such Regulations. If the Manager determines that it is necessary or prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Treasury Regulations, including any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(q) or such regulations as are applicable thereto, the Manager may make such modification; provided, that, notwithstanding any other provision in this Agreement, such modification will not have more than a de minimis effect on the amounts distributable to any Member without such Member's prior written consent.

Section 2.2 Capital Contributions.

A. Each Contributing Member shall make an initial Capital Contribution to the Company upon becoming a Member (an "**Initial Capital Contribution**"). Each Contributing Member shall make any additional Capital Contributions to the Company pursuant to a Capital Call issued by the Manager (the "**Additional Capital Contributions**"). Unless otherwise consented to by the Manager, all Capital Contributions shall be in cash.

B. In the event that in the discretion of the Manager additional funds are needed to fund the Company, the Manager may make a capital call ("**Capital Call**") for Additional Capital Contributions from the Contributing Members. A Capital Call shall be issued to each Contributing Member, stating (i) the aggregate amount requested of all Contributing Members (the "**Aggregate Capital Call Amount**"), (ii) the specific

amount requested of such Contributing Member (the “**Member’s Capital Call Amount**”), and (iii) the time the Additional Capital Contribution is due to be made to the Company; provided, however, that all Capital Calls shall provide not less than ten (10) days’ prior notice to the Contributing Members. For any Capital Call, a Member’s Capital Call Amount shall equal the Aggregate Capital Call Amount multiplied by such Contributing Member’s Contribution Percentage.

C. Notwithstanding anything to the contrary contained herein, upon the final disposition of the Property, including but not limited to a sale (including the last sale of a condominium or cooperative unit in the Property), foreclosure, deed in lieu of foreclosure, eminent domain, or other conveyance of the entire Property, each Non-Contributing Member shall pay to each Contributing Member an amount equal to the product of the Non-Contributing Member’s Percentage Interest and the Contributing Member’s Unreturned Capital Contributions, if any. Such payment will be deemed a Capital Contribution by the Non-Contributing Member.

Section 2.3 Failure to Fund Capital Contributions.

A. In the event that a Contributing Member fails to make all or any portion of a Capital Contribution as required in accordance with **Section 2.2** and such default continues for ten (10) Business Days, then such Contributing Member (a “**Defaulting Member**”) shall be deemed to be in default hereunder. In such event, any non-defaulting Contributing Member (a “**Non-Defaulting Member**”) may, in its discretion, elect to make a loan (a “**Member Default Loan**”) to the Defaulting Member in the amount of all or any portion of such Defaulting Member’s required Capital Contribution. The Member Default Loan shall then be contributed to the Company on behalf of the Defaulting Member as a Capital Contribution. Each Member Default Loan shall be a demand loan, bear interest at the rate of ten per cent (10%) per annum from the date funded until the date repaid in full and shall be secured by all distributions payable to the Defaulting Member. Each Contributing Member authorizes the Company to pay to the maker of a Member Default Loan (a “**Loan Maker**”) all distributions payable to the Defaulting Member up to the balance due on the Member Default Loan.

B. In the event that a Member Default Loan is not repaid in full together with all interest within one (1) year of when made, the Loan Maker may, in his discretion, elect to convert the remaining balance (including any interest accrued but unpaid to date) of the Member Default Loan (the “**Loan Balance**”) to equity. In such event, the following shall occur:

(i) the Capital Account of the Defaulting Member shall be reduced by the Loan Balance; provided, that such Capital Account balance shall not be reduced below zero;

(ii) the Capital Account of the Loan Maker shall be increased by the Loan Balance;

(iii) the Percentage Interest of the Defaulting Member shall be reduced by the Reallocated Percentage Interest; and

(iv) the Percentage Interest of the Loan Maker shall be increased by the Reallocated Percentage Interest.

C. The “**Reallocated Percentage Interest**” shall equal the product of the Defaulting Member’s Percentage Interest prior to conversion of the debt to equity, multiplied by one and one-half times (1½ X) a fraction expressed as a percentage, rounded to the nearest whole number, the numerator of which is the Loan Balance and the denominator of which is the aggregate Capital Contributions of the Defaulting Member through the date of conversion.

Section 2.4 Return of Capital. Except to the extent of distributions made pursuant to this Agreement, no Member shall be entitled to the withdrawal or return of his Capital Contributions, nor may any Member withdraw from the Company or otherwise have any right to demand or receive the return of his Capital Contributions to the Company. Except as otherwise expressly provided in this Agreement and for repayment of Member Loans, no Member shall have priority over any other Member, either as to the return of Capital Contributions or as to Profits, Losses or distributions. No Member shall be liable for the return of any portion of the Capital Contribution of any other Member, and the return, if any, of any Member’s Capital Contributions shall be made solely from the Company’s assets.

Section 2.5 Guarantees. The Contributing Members agree to provide all guarantees that are required by lenders or other Properties participants and that have been unanimously approved by the Contributing Members (the “**Guarantees**”). If the Contributing Members have not unanimously approved a guarantee, no Contributing Member shall have any obligation with respect to such guarantee. William Fowler’s obligation to provide such Guarantees shall be made by Whitfarm Realty LLC, an entity wholly owned by him. All payments made under any Guaranty shall be treated as Additional Capital Contributions for purposes of determining adjustments to Capital Accounts. In the event that a Contributing Member is permitted to withdraw from the Company or Transfer his Interest, the Manager shall make a best efforts attempt to have such Contributing Member released from any obligations under any Guarantee. With respect to each Guaranty, the Contributing Members shall execute and deliver to each other a Contribution Agreement in the form annexed hereto as Exhibit B.

ARTICLE 3 MANAGEMENT AND OPERATIONS

Section 3.1. Management. The business and affairs of the Company shall be managed by David Kramer (the “**Manager**”), who, in accordance with and subject to the terms of this Agreement, shall have the authority to exercise all of the powers and privileges granted by the Act, any other law or this Agreement, together with any powers incidental thereto, and to take any other action not prohibited under the Act or other applicable law, so far as such powers or actions are necessary or convenient or related to the conduct, promotion or attainment of the business, purposes or activities of

the Company. Decisions of the Manager consistent with the terms of this Agreement shall be presumed to be within its scope of authority and shall be binding upon the Company and each Member. In the event that Manager becomes incapacitated, dies or withdraws as Manager, a new Manager will be selected by the unanimous consent of the Contributing Members. No Member, in his/her individual capacity, shall have the power or authority legally to bind the Company.

Section 3.2. Rights, Powers and Duties of the Manager/Officers.

A. Subject to the limitations set forth in this Agreement, including without limitation **Section 3.3**, and to the requirements of applicable law, the Manager shall have full, exclusive, and complete discretion, power and authority to manage, control, administer, and operate the business and affairs of the Company for the purposes herein stated, and to make all decisions affecting such business and affairs, to execute and deliver, for and on behalf of the Company, any and all documents and instruments which may be necessary or desirable to carry on the business of the Company.

B. Except as otherwise expressly provided herein, the Manager shall not be paid any compensation solely for serving as the Manager of the Company; provided, that the Manager shall be reimbursed by the Company for all reasonable out-of-pocket costs and expenses (including legal and accounting fees) incurred by the Manager acting as Manager of the Company in connection with the business of the Company, in accordance with this Agreement.

C. The Manager may contract, on behalf of the Company, with any qualified Person, including any of the Members, or any firm or corporation in which the Members may have an interest (a “**Related Party**”), at competitive rates of compensation, commission or remuneration, for the performance of any and all services which, in the Manager’s discretion, may at any time be necessary, proper, convenient or advisable to carry on the business of the Company; provided, however, that the Manager must receive the prior written consent of the Contributing Members prior to entering into any agreement or relationship, directly or indirectly, involving a Member or a Related Party, which consent shall not be unreasonably withheld or delayed.

D. At the discretion of the Manager, the Officers of the Company may consist of a President, one or more Vice-presidents, a Secretary, one or more Assistant Secretaries, a Treasurer and one or more Assistant Treasurers. The Company also may have, at the discretion of the Manager, such other Officers as may be appointed in accordance with the provisions of this Section 3.2 (D). Any number of offices may be held by the same Person. Officers shall have the power to bind the Company and enter into contracts and other agreements on behalf of the Company, subject to the limitations on the Manager set forth in this Agreement.

Subject to the approval of Contributing Members holding a majority of the Percentage Interests of the Contributing Members (“Majority”), the Officers of the

Company shall be chosen by the Manager, and each shall serve at the pleasure of the Manager. The initial officers of the Company shall be:

David Kramer – President
William Fowler – Vice President
Alison Novak –Treasurer
Aaron Koffman - Secretary

- i. Subject to the approval of a Majority, the Manager may appoint such additional Officers as the business of the Company may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in this Agreement or as provided for by the Manager.
- ii. Any Officer may be removed, with or without cause, by the Manager or by a Majority. Any Officer or may resign at any time by giving written notice to the Manager. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice, and unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the Officer is a party.
- iii. A vacancy in any office because of death, resignation, removal, disqualification or other cause shall be filled by the Manager, subject to the approval of a Majority. The Manager or the President may make temporary appointments to a vacant office pending action by the Manager.

Section 3.3. Limitations on Actions of the Manager. Notwithstanding anything to the contrary contained in this Agreement, the Manager shall not, directly or indirectly, either in his capacity as Manager of the Company or on behalf of the Company in its capacity as manager (directly or indirectly) of the Properties Owner, do any of the following without the specific prior unanimous written consent of the Contributing Members until the first to occur of either (1) the fifth (5th) anniversary of the date of acquisition of the Property by the Properties Owner or (2) the date on which all payment, operating deficit, construction costs, completion or similar guarantees made by any of the Contributing Members or his Affiliates shall no longer be in effect, and, thereafter, without the prior written consent of Members holding at least sixty percent (60%) of the Percentage Interests:

- A. Adopt a development plan for the Properties or amend such development plan in any material respect;
- B. Adopt a budget for the development of the Properties or amend such Properties development budget in any manner which would increase the total development cost;
- C. Adopt an operating plan for the Properties or amend such operating plan in any material respect;

D. Adopt a budget for operation of the Properties or amend such operating budget in any manner which would increase the total operating cost;

E. Commence any federal, state or foreign bankruptcy, insolvency, reorganization, arrangement or liquidation proceeding (any of the foregoing, a “**Bankruptcy Proceeding**”), or consent to the institution of any Bankruptcy Proceeding or the appointment of a receiver, liquidator, assignee, trustee, conservator or sequester (or other similar official) or of all or a substantial part of its assets;

F. Amend or modify this Agreement or the Articles, or take any action that is inconsistent with the terms and provisions of this Agreement;

G. Admit any Additional Member or substitute Member;

H. Voluntarily dissolve, terminate or liquidate, or consolidate or merge with or into any Person;

I. Commence (including the filing of a counterclaim) or settle any litigation or arbitration to which the Company is, or may be, a party, or by which the Company is or may be affected unless the amount in dispute or controversy, as reasonably determined by the Manager, and which is not covered by insurance, would not exceed one hundred thousand dollars (\$100,000);

J. Sell, lease (other than residential tenant leases in the ordinary course of operating the Properties), transfer or otherwise dispose of, directly or indirectly, all or any portion of the Properties;

K. Subject all or any portion of the Properties or any other property of the Company to any mortgage, deed of trust, lien or other encumbrance;

L. Borrow money or execute any promissory note, evidence of indebtedness, guaranty or the like;

M. Settle any insurance or indemnity claims for sums exceeding one hundred thousand dollars (\$100,000) with respect to any claim;

N. Make any material tax election or tax filing on behalf of the Company;

O. Grant any general power of attorney to any Person on behalf of the Company;

P. Consent to any zoning change, variance, landmarking or other land use restriction;

Q. Enter into, execute, modify in any material respect or terminate

any agreement which is not terminable without penalty upon thirty (30) days' or less notice and which involves a sum in excess of one thousand dollars (\$1,000), except if due to the default of the other party to such agreement;

R. Enter into any agreement for services with any accountant or legal counsel or engage any accountants to prepare the tax returns of the Company or audit the Company's financial statements (the parties agree that Grodsky, Caporrino & Kaufman, CPA's, PC is approved as the Company's initial accountant and auditor);

S. Settle any eminent domain proceedings by any Person having the power of eminent domain; or

T. Appoint or remove any officer.

Section 3.4 Indemnification.

A. Extent.

(i) To the fullest extent permitted by applicable law, the Company shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including, without limitation, attorneys' fees and other legal fees and expenses), judgments, fines, settlements, and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Company as set forth in this Agreement, in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise; provided, however, that indemnification shall not be paid hereunder with respect to any matter as to which any Indemnitee shall have been finally adjudicated in any such action, suit or other proceeding, or otherwise by a court of competent jurisdiction, to have committed willful malfeasance, gross negligence, bad faith, deliberate dishonesty or fraud in the conduct of its or their office. Without limitation, the foregoing indemnity shall extend to any liability or other obligations of any Indemnitee pursuant to a loan guaranty or otherwise for any indebtedness of the Company (including, without limitation, any indebtedness which the Company has assumed or taken subject to). The Manager is hereby authorized and empowered, on behalf of the Company, to enter into one or more indemnity agreements consistent with the provisions of this **Section 3.4** in favor of any Indemnitee having or potentially having liability for any such indebtedness.

(ii) The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in **Section 3.4A.(i)** The termination of any proceeding by conviction or upon a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, shall create a rebuttable presumption that the Indemnitee acted in a manner contrary to that required for indemnification under **Section 3.4A.(i)** with respect to the subject matter of such proceeding.

(iii) Any indemnification pursuant to this **Section 3.4** shall be made only out of the assets of the Company and any insurance proceeds from any

insurance policies covering any Indemnitee, and no Member shall have any obligation to contribute to the capital of the Company, or otherwise provide funds, to enable the Company to meet its obligations under this **Section 3.4**.

B. Reimbursement of Expenses. The right to indemnification conferred by this **Section 3.4** shall include the right to be paid or reimbursed by the Company for the reasonable expenses incurred in advance of the final disposition of a proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred in advance of the final disposition of a proceeding shall be made only upon delivery to the Company of a written affirmation by such Person of its good faith belief that it has met the standard of conduct necessary for indemnification under this **Section 3.4** and a written undertaking, by or on behalf of such Person which the Manager shall determine is from a creditworthy Person, to repay all amounts so advanced if it shall ultimately be determined that such Person is not entitled to be indemnified under this **Section 3.4** or otherwise.

C. Indemnification Nonexclusive. The indemnification provided by this **Section 3.4** shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement or as a matter of law or equity or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity unless otherwise provided in a written agreement pursuant to which such Indemnitee is indemnified.

D. Insurance. The Company may, but shall not be obligated to, purchase and maintain insurance with customary terms and limits, at its expense, on behalf of the Indemnitee and such other employees of the Company as the Manager shall determine, against any liability that may be asserted against or expenses that may be incurred by such Indemnitee or employee in connection with the Company's activities, regardless of whether the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement. If the Company elects to purchase insurance for one Member that is not required by contract or law, it shall be required to purchase insurance of equal value for all of the Contributing Members. In the event a Member is required by contract or law to have insurance in order to perform its duties to the Company, the Company shall purchase such insurance.

E. Duty to Indemnitees. The provisions of this **Section 3.4** are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this **Section 3.4** or any provision of this Agreement shall be prospective only and shall not in any way affect the Company's liability to any Indemnitee under this **Section 3.4** as in effect immediately prior to such amendment, modification, or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

F. Provisions Not Invalidated Shall Apply. If any provision of this **Section 3.4** or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Indemnitee as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this **Section 3.4** that shall not have been invalidated and to the fullest extent permitted by applicable law.

G. Interest in Transactions No Bar. An Indemnitee shall not be denied indemnification in whole or in part under this **Section 3.4** solely because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

ARTICLE 4 FISCAL MATTERS

Section 4.1 Records and Accounting. The Company shall keep or cause to be kept at the principal office of the Company those records and documents required to be maintained by the Act and such other books and records deemed by the Company to be appropriate with respect to the Company's business, including, without limitation, all books and records necessary to provide to the Members any information, lists and copies of documents required to be provided pursuant to **Section 4.3**.

Section 4.2 Fiscal Year. Except as otherwise required under the Code, the fiscal year ("**Fiscal Year**") of the Company shall be the calendar year.

Section 4.3 Reports.

A. Annual Reports. As soon as practicable, but in no event later than ninety (90) days after the end of each Fiscal Year, the Company shall cause to be provided to each Member as of the end of such Fiscal Year, annual financial statements of the Company for such Fiscal Year, prepared in accordance with GAAP, consistently applied or such other format as the Manager shall specify.

B. Other Information. The Company shall, from time to time, deliver to the Members such other information in addition to that set forth in this **Section 4.3** as may be required by applicable law or regulation, and other information as may be reasonably requested by a Member.

Section 4.4 Bank Accounts; Company Funds. Bank accounts and/or other accounts of the Company shall be maintained in such banking and/or other financial institution(s) as shall be selected by the Manager, and withdrawals shall be made and other activity conducted on one signature. The funds of the Company shall not be commingled with the funds or other assets of any other Person. The Company shall, on a monthly basis, prepare a monthly statement, detailing the current balance, all withdrawals, and other activity that has taken place during the previous one-month period. Such monthly statement shall be distributed to each Member within 15 days after

the end of the month. Each Contributing Member shall be entitled to access and review all monthly bank statements of the Company upon reasonable notice and at reasonable times.

Section 4.5 Insurance. The Company shall maintain at all times general liability insurance as shall be customary for the type of property and activity on the type of properties from time to time owned by the Company.

Section 4.6 Additional Information; Audit Rights.

A. Access to Information. In addition to the other rights specifically set forth in this Agreement, upon reasonable notice, each Contributing Member shall be entitled to access to the books and records, and all other information and documentation of the Company.

B. Audit. Each Member, at any time, upon reasonable notice and at reasonable times, shall be entitled to audit, at such Member's cost and expense unless otherwise agreed by the Manager, the books and records of the Company at the offices of the Company.

**ARTICLE 5
DISTRIBUTIONS**

Section 5.1 Distributions.

Available Cash shall be distributed to the Members (or, if a Member Loan is outstanding, to the Loan Maker on behalf of the Defaulting Member) from time to time, as and when reasonably practicable as determined by the Manager, but no less frequently than annually, in the following order and priority:

A. First, to each of the Contributing Members, pro rata in proportion to their Contribution Percentages, until each Contributing Member has received an amount equal to such Member's Unreturned Capital Contribution;

B. Second, to each of the Contributing Members, pro rata in proportion to their Contribution Percentages, until each Contributing Member has received an amount equal to such Contributing Member's Unpaid Preferred Return; and

C. Third, to the Members pro rata in proportion to their Percentage Interests;

provided, however, by unanimous approval of the Contributing Members in their absolute and sole discretion, the foregoing payment priority may be changed from time to time (for example, to provide for distributions to all Members in proportion to their Percentage Interest prior to payment of all Unreturned Capital Contributions or Unpaid

Preferred Returns); provided further, however, to the extent that profits are allocated to Non-Contributing Members in excess of losses previously allocated to them, Available Cash shall be distributed first to them in proportion to their Percentage Interests sufficient to pay the tax cost of such allocation as estimated by the Manager in his sole and absolute discretion.

ARTICLE 6

ALLOCATIONS OF PROFITS AND LOSSES

Section 6.1 Profits and Losses.

A. **Profits.** Except as otherwise provided in this **Article 6**, Profits for each fiscal year shall be allocated as follows:

- i. First, to the Members in proportion to the Losses previously allocated to them under **Section 6.1(B)**, until the cumulative Profits allocated to each Member pursuant to this **Section 6.1(A)(i)** are equal to the cumulative Losses allocated to such Member under **Section 6.1(B)**;
- ii. The balance, if any, to the Members in accordance with their Percentage Interests.

B. **Losses.** Except as otherwise provided in this **Article 6**, Losses for each fiscal year shall be allocated to the Members as follows:

- i. First, in proportion to the Profits allocated to the Members under **Section 6.1(A)(ii)**, but only to the extent no distributions under such **Section 6.1(A)(ii)** equal to such Profits have been made since the allocation of such Profits to the Members;
- ii. Next, to the Contributing Members in proportion to their Unreturned Capital Contributions until all Members have a capital account equal to zero;
- iii. The balance, if any, to the Members in accordance with their Percentage Interests.

Section 6.2 Special Allocations and Other Tax Matters.

A. **Special Allocations.** Except as otherwise provided in this Agreement, the following special allocations will be made in the following order and priority:

(i) **Partnership Minimum Gain Chargeback.** Notwithstanding any provision to the contrary in this **Article 6**, if there is a net decrease in Minimum Gain during any Fiscal Year or other period for which allocations are made, the Members will

be specially allocated items of Company income and gain for that period (and, if necessary, subsequent periods) in an amount equal to such Member's share of the net decrease in Minimum Gain during such Fiscal Year or other period determined in accordance with Treasury Regulations Section 1.704-2(g)(2). Allocations pursuant to the preceding sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2)(i). This **Section 6.2.A.(i)** is intended to comply with the minimum gain chargeback requirements set forth in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith, including the exceptions to the minimum gain chargeback requirement set forth in Treasury Regulations Sections 1.704-2(f)(2) and (3).

(ii) Partner Nonrecourse Debt Minimum Gain Chargeback.

Notwithstanding any other provision of this **Article 6** (other than **Section 6.2.A.(i)** which shall be applied before this **Section 6.2.A.(ii)**), if there is a net decrease in Partner Nonrecourse Debt Minimum Gain during any Fiscal Year or other period for which allocations are made, each Member with a share of Partner Nonrecourse Debt Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i)(5) shall be specially allocated items of Company income and gain for that period (and, if necessary, subsequent periods) in an amount equal to the Member's share of the net decrease in the Partner Nonrecourse Debt Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii). This **Section 6.2.A.(ii)** is intended to comply with the partner nonrecourse debt minimum gain chargeback requirements of Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith, including the exceptions set forth in Treasury Regulations Section 1.704-2(f)(2) and (3) to the extent such exception apply to Treasury Regulations Section 1.704-2(i)(4).

(iii) Qualified Income Offset. A Member who unexpectedly receives any adjustment, allocation or distribution that causes or increases a deficit balance in such Member's Adjusted Capital Account, taking into account the rules of Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), respectively, will be specially allocated items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for the relevant Fiscal Year) in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of Member as quickly as possible, provided that an allocation pursuant to this **Section 6.2.A.(iii)** shall be made only to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in **Section 6.2.A.** have been made in the first instance without regard to this **Section 6.2.A.(iii)**.

(iv) Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year or other period shall be allocated among the Members in proportion to each Member's Membership Interest. Solely for purposes of determining each Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the

meaning of Treasury Regulations Section 1.752-3(a)(3), each Member's interest in Company Profits shall be equal to its Membership Interest in the Company. The items of Losses, deductions and Code Section 705(a)(2)(B) expenditures to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(j)(1)(ii).

(v) **Partner Nonrecourse Deductions.** Notwithstanding anything to the contrary provided in this Agreement, any Partner Nonrecourse Deductions for any taxable year or other period for which allocations are made will be allocated to the Member who bears the economic risk of loss with respect to the liability to which the Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(vi) **Code Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Company asset under Code Section 734(b) or 743(b) is required to be taken into account in determining Capital Accounts under Treasury Regulations Section 1.704-1(b)(2)(iv)(m), the amount of the adjustment to the Capital Accounts will be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset), and the gain or loss will be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted under Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

(vii) **Depreciation Recapture.** In the event there is any recapture of Depreciation or item of tax credit, the allocation thereof shall be made among the Members in the same proportion as the deduction for such Depreciation or item of tax credit was allocated.

B. Curative Allocations. The allocations set forth in **Sections 6.2.A.(i) through (v)** (the “**Regulatory Allocations**”) are intended to comply with certain requirements of Treasury Regulations Sections 1.704-1(b) and 1.704-2. The Regulatory Allocations may not be consistent with the manner in which the Members intend to divide Company distributions. Accordingly, the Members are authorized to further allocate Profits, Losses, and other items among the Members in a reasonable manner so as to prevent the Regulatory Allocations from distorting the manner in which Company distributions would be divided among the Members pursuant to **Section 5.1**, but for application of the Regulatory Allocations. In general, such reallocation will be accomplished by specially allocating other Profits, Losses and items of Income, gain, loss and deduction, to the extent they exist, among Members so that the net amount of the Regulatory Allocations and the special allocations to each Member is zero. The Company shall accomplish this result in any reasonable manner that is consistent with Code Section 704 and the related Treasury Regulations.

C. Tax Allocations - Code Section 704(c).

(i) Notwithstanding any provision to the contrary in this Agreement, depreciation, gain or loss, and deduction with respect to any Company property (including, but not limited to, the Property) that is subject to Code Section 704(c), the Treasury Regulations thereunder and/or Treasury Regulations Section 1.704-

1(b)(2)(iv)(f) shall be determined and allocated among Members, and the Capital Accounts of Members shall be determined, in accordance with Section 704(c) of the Code and the Treasury Regulations thereunder and/or Treasury Regulations Section 1.704-1(b)(2)(iv)(f), as the case may be.

(ii) In the event the book value of any Company asset is adjusted pursuant to the other provisions of this Agreement (not including herein the initial booking of any asset contributed to the Company), subsequent allocations of taxable income, gain, loss and deduction with respect to such asset shall be determined and allocated among Members, and the Capital Accounts of Members shall be determined, so as to account for any Book-Tax Disparity arising from such adjustment in the same manner as would occur as to an asset contributed to the Company under Code Section 704(c) and the Treasury Regulations thereunder.

D. Regulatory Compliance. The foregoing provisions of **Section 6.2.A and B** relating to the allocation of Profits, Losses and other items for federal income tax purposes are intended to comply with Treasury Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

ARTICLE 7

RIGHTS, LIABILITIES AND OBLIGATIONS OF MEMBERS

Section 7.1 Rights and Obligations of the Members. The rights and obligations of the Members shall be determined pursuant to the Act and this Agreement. To the extent the rights or obligations of any Member are different by reason of any provision of this Agreement than they would be under the Act in the absence of any such provision, or if this Agreement is inconsistent with the Act, this Agreement shall control except to the extent that the Act at the time in question prohibits any particular provision of the Act to be waived or modified by the Members, in which event any contrary provisions herein shall be valid to the extent permitted under the Act, except where such partial validity is clearly inconsistent with the intent of the Members, in which event the entire contrary provision shall be invalid.

Section 7.2 Limitation of Liability. Except as expressly provided in this Agreement, no Member shall have any liability under this Agreement to contribute capital or make loans to the Company or other Members. Except as required under the Act or as expressly provided in this Agreement, no Member in its capacity as a Member shall be personally liable for any debt, obligation, liability or losses of the Company, whether that liability or obligation arises in contract, tort, or otherwise.

Section 7.3 Representation and Warranties. Each Member (including, without limitation, each Member as a condition to becoming a Member) represents and warrants to the Company and each other Member that this Agreement and all transactions contemplated by this Agreement to be performed by such Member have been duly

authorized by all necessary corporate or other action, and this Agreement and the performance by such Member of its covenants and obligations under this Agreement will not result in a breach or violation of, or a default under, its partnership or operating agreement, trust agreement, charter or by-laws, as the case may be, any material agreement by which such Member or any of such Member's properties, is or are bound, or any statute, regulation, order or other law to which such Member is or are subject.

Section 7.4 Outside Activities of Members. Any Member and any partner, member, shareholder, equity holder, officer, director, employee, agent, trustee, or Affiliate of any Member shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Company, including business interests and activities that are in direct competition with the Company or that are directly enhanced by the activities of the Company, including development of any other real property; provided, that such competing activities having a material impact on the Company or its assets must be disclosed to, and receive the written consent of, the Manager and the Contributing Members. Neither the Company, nor any Member, nor any Affiliate of any Member, nor any other Person, shall have any rights, by virtue of this Agreement or the relationship to the Company established hereby, in any other business ventures of any other Member or any of their Affiliates. No Member shall have any obligation pursuant to this Agreement to offer any interest in any other business ventures to the Company, any Member or any of their Affiliates, even if such opportunity is of a character which, if presented to the Company, any Member or any of their Affiliates, could be undertaken by such Person.

Section 7.5 Meeting and Voting of Members. A meeting of the Members may be called at any time by any Contributing Member. Meetings shall be held at the Company's principal place of business. Not less than five (5) nor more than thirty (30) days before each meeting, the Contributing Member calling the meeting shall give written notice of the meeting to the other Members. In lieu of holding a meeting, the Members may vote or otherwise take action by a written instrument indicating the consent of the requisite percentage of Members.

Section 7.6 Related Transactions. The Company may employ, enter into agreements with or otherwise engage for compensation a Member or a Related Party; provided, however, that the Manager must receive the prior written consent of the Contributing Members prior to entering into any agreement or relationship, directly or indirectly, involving a Member or a Related Party.

ARTICLE 8 INTENTIONALLY DELETED

ARTICLE 9 TAX MATTERS

Section 9.1 Preparation of Tax Returns. The Company shall arrange for the preparation and timely (including valid extensions) filing of all federal, state and local tax returns and shall use all reasonable efforts to furnish, within ninety (90) days of the close

of each Fiscal Year, the tax information required to be furnished to Members for federal, state and local income tax reporting purposes.

Section 9.2 Tax Matters Member. William Fowler shall be the "tax matters partner" of the Company for federal income tax purposes. Pursuant to Section 6230(e) of the Code, upon receipt of notice from the IRS of the beginning of an administrative proceeding with respect to the Company, the tax matters partner shall furnish the IRS with the name, address, taxpayer identification number, and profit interest of each of the Members and the Assignees; provided, however, that such information is provided to the Company by the Members and the assignees. Notwithstanding anything herein to the contrary, the tax matters partner shall, upon receipt of notice from the IRS, give notice of an administrative proceeding with respect to the Company to all Members in accordance with, and as if each such Member were a "notice partner" pursuant to Section 6231(a)(8) of the Code.

Section 9.3 Tax Accountant and Consistency of Reporting. The selection of the accountant preparing the Company's tax reports shall be made by a decision of the Manager. Each Member shall report in its tax returns on a basis consistent with the position taken by the Company in its own reports.

ARTICLE 10 TRANSFERS AND WITHDRAWALS

Section 10.1 Transfers. No Member shall have the right to sell, transfer, assign or otherwise convey, or mortgage, pledge, hypothecate or encumber all or any portion of his/her Interest, or any direct or indirect ownership or economic interest in any such Member (any of the foregoing, a "**Transfer**"), without the express written consent of the Contributing Members. Each Member hereby acknowledges the reasonableness of this prohibition in view of the purposes of the Company and the relationship of the Members. The voluntary Transfer of any Interests, in violation of the prohibition contained in this **Section 10.1** shall be deemed invalid, null and void, and of no force or effect. Any Person to whom any such Interests are attempted to be transferred in violation of this **Section 10.1** shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, nor receive distributions from the Company. Notwithstanding the foregoing, such an Interest, may be Transferred in whole or in part, to an Affiliate of a Member or to any immediate family member of a Member, or family trust, family partnership or other similar estate-planning vehicle of a Member, or, upon the death of a Member, to such Member's heirs and distributees. Any Person who acquires in any manner whatsoever any such Interest (or any part thereof), whether or not such Person has accepted and assumed in writing the terms and provisions of this Agreement, shall be deemed, by acceptance of the acquisition of any such Interest, to have agreed to be subject to and bound by, and shall be deemed to have assumed all of the obligations of this Agreement with respect to, such Interest and shall be subject to the provisions of this Agreement.

Section 10.2 Purchase Option. David Kramer shall have the right to purchase a percentage (the “Applicable Percentage”) of the Interest of a Non-Contributing Member (the “Option Interest”) at any time after the Non-Contributing Member shall no longer be employed (voluntarily or involuntarily) by The Hudson Companies Incorporated or any of its Affiliates, until a permanent or temporary Certificate of Occupancy is issued for the Properties, equal to:

1. 65% upon the date of execution of this Agreement;
2. 30% upon the date of the construction loan closing for any phase of the Properties; and
3. 15% upon the date of the requisition of 50% of the construction lender’s budget for any phase of the Properties.

The purchase price for the Option Interest shall equal the book value of the Non-Contributing Member’s Capital Account as of the date (the “Exercise Date”) of exercise of the option, as determined by the Company’s accountants, multiplied by the Applicable Percentage. Upon the exercise of such option, David Kramer and the Non-Contributing Member shall execute and deliver to each other such documents as are reasonably necessary to confirm the transfer of the Non-Contributing Member’s Interest as of the Exercise Date; provided, however, no such documents shall be necessary for the effective transfer of the Option Interest

Section 10.3 Withdrawals. A Contributing Member may not voluntarily withdraw from the Company prior to the dissolution and winding up of the Company. Any such attempted withdrawal shall be null and void but the Company shall be entitled to relief for the damages caused by any attempts to withdraw.

Section 10.4 Other Transfer Issues.

A. Non-Complying Transfers Void. Any Transfer in contravention of any of the provisions of this **Article 10** and this Agreement shall be null and void and ineffective to Transfer any Interest, and shall not bind, or be recognized by, or be reflected on the books of, the Company.

B. Remedies. In the event any Member shall at any time Transfer an Interest in contravention of any of the provisions of this Agreement, then the Company and each other Member, in addition to any other rights set forth herein, and all other rights and remedies at law and equity, shall be entitled to a decree or order restraining and enjoining such transaction, and the offending Member shall not plead in defense thereto that there would be an adequate remedy at law; it being expressly hereby acknowledged and agreed that damages at law would be an inadequate remedy for a breach or threatened breach of the violation of the provisions concerning such Transfer.

C. No Dissolution. The death, legal disability, bankruptcy or dissolution of a Member or the Transfer by any Member of all or any part of its Interest (whether or not in compliance with the terms of this Agreement) shall not cause dissolution of the Company.

ARTICLE 11

DISSOLUTION, LIQUIDATION AND TERMINATION

Section 11.1 Dissolution. The Company shall dissolve, and its affairs shall be wound up, only upon the first to occur of any of the following (each, a “**Liquidating Event**”):

A. an election to dissolve the Company upon the written consent of the Contributing Members; or

B. entry of a decree of judicial dissolution of the Company pursuant to the provisions of the Act.

Section 11.2 Winding Up.

A. Procedure.

(i) Upon the occurrence of a Liquidating Event, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members. No Member shall take any action that is inconsistent with or not necessary to or appropriate for, the winding up of the Company's business and affairs. The Manager or a person selected by it (being referred to herein as the “**Liquidator**”), shall be responsible for overseeing the winding up and dissolution of the Company and shall take full account of the Company's liabilities. The Company's property shall be liquidated as promptly as is consistent with obtaining the fair value therefor, and the proceeds therefrom shall be applied and distributed in the following order:

First, to the payment and discharge of or reserves for all of the Company's debts and liabilities to creditors other than Members;

Second, the balance, if any, to the Members pursuant to **Section 5.1**.

(ii) Reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to this **Section 11.2** in order to minimize any losses otherwise attendant upon such winding up and the provisions of this Agreement shall remain in effect during the period of liquidation.

B. No Obligations to Restore Deficits. If any Member has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all Fiscal Years, including the year during which such liquidation occurs), such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt

owed to the Company, to any Member, or to any other Person for any purpose whatsoever.

Section 11.3 Termination of Company and Cancellation of Certificate of the Company. Upon the completion of the liquidation of the Company's assets, as provided in this **Article 11**, the Members shall file a certificate of cancellation.

ARTICLE 12 GENERAL PROVISIONS

Section 12.1 Addresses and Notice: Time Computation.

A. Notices. All notices, notifications, elections, offers, acceptances, demands, consents, reports and other communications (collectively, “**Notices**”) given hereunder shall be in writing and shall be given to the Company at the address set forth in this **Section 12.1.A.**, to the Members at their respective addresses set forth in **Schedule A**, or at such other address as the Company or a Member may hereafter designate.

If to the Company:

826 Broadway
New York, NY 10003

B. Method of Delivery. All Notices or other communications shall be (i) mailed to the correct address by United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office, or (ii) sent by any reputable overnight courier service (with all fees prepaid). All Notices shall be deemed to have been given (and to be effective) (a) on the third business day following the date of such mailing to the correct address, or (b) if sent by courier, on the date of delivery or refusal, at the correct address, or the date tendered for delivery if on a Business Day. Notices may also be delivered by hand, in which case they shall be deemed to have been given (and to be effective) on the date of delivery, or refusal, to the correct address.

D. Computation. In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is not a Business Day, in which event the period shall run until the next Business Day.

Section 12.2 Titles and Captions. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions of this Agreement. Except as specifically provided otherwise, references to “**Articles**” and “**Sections**” are to Articles and Sections of this Agreement.

Section 12.3 No Construction Against Drafter. No provision of this Agreement shall be interpreted in favor of, or against, any of the parties hereto by reason of the extent to which either such party or its counsel participated in the drafting thereof or by reason of the extent to which any such provision is inconsistent with any prior draft of this Agreement or thereof.

Section 12.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, legal representatives and permitted assigns. This Agreement shall only be binding on parties who have executed this Agreement.

Section 12.5 No Third Party Rights. The provisions of this Agreement are for the benefit of the Company and the Members, and with respect to **Article 3**, the Indemnitees, and no other Person, including creditors of the Company, shall have any right or claim against the Company, or any Member by reason of this Agreement or any provision hereof or be entitled to enforce any provision of this Agreement.

Section 12.6 Waiver. The failure of either of the Members to at any time enforce any of the provisions of this Agreement, or any agreement or instrument delivered herewith, or to give any notice of default thereunder, shall not be deemed or construed to be a waiver of any such provision, nor to in any way affect the validity of this Agreement, or any agreement or instrument delivered herewith, or any provision hereof or the right of either of the Members to thereafter enforce each and every provision of this Agreement, and each agreement and instrument delivered herewith. No waiver of any breach of any of the provisions of this Agreement, or any agreement or instrument delivered herewith, shall be effective unless set forth in a written instrument executed by Member against which enforcement of such waiver is sought; and no waiver of any such breach shall be construed or deemed to be a waiver of any other or subsequent breach.

Section 12.7 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all of the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party hereto shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 12.8 Applicable Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of New York, without regard to the principles of conflicts of law.

Section 12.9 Invalidity of Provisions. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 12.10 Entire Agreement. This Agreement, together with any agreements and instruments delivered herewith, contains all of the understandings and agreements of whatsoever kind and nature existing between the parties hereto with

respect to the matters dealt with in this Agreement and the rights, interests, understandings, agreements and obligations of the respective parties pertaining to the Company. Any and all other prior agreements between the parties except those noted with respect to such subject matter are hereby superseded.

Section 12.11 Affirmative Covenant. Subject to Article 10, no Member, or member of a Member, shall encumber, mortgage, pledge, assign or otherwise Transfer any interest in the Member, the Company, or the Property.

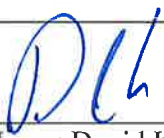
Section 12.13 Amendment. This Agreement may not be amended, terminated or modified orally but only in writing signed by all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the date first set forth above.

Each person who shall sign a Member Signature Page in the form attached hereto and who shall be accepted by the Manager to the Company as a Member.

**OPERATING AGREEMENT
OF
HUDSON BEC II LLC
MEMBER SIGNATURE PAGE**

By its signature below, the undersigned hereby agrees that effective as of the date of its admission to HUDSON BEC II LLC as a Member, the undersigned shall (i) be bound by each and every term and provision of the Operating Agreement, dated as of October 16, 2015, of HUDSON BEC II LLC, as the same may be duly amended from time to time in accordance with the provisions thereof.

<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: David Kramer	90%	30%

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

On the 1st day of Nov, in the year 2016 before me, the undersigned, a notary public in and for said state, personally appeared DAVID KRAMER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

Accepted and Agreed to
as of this 1st day of Nov, 20 16.


HUDSON BEC II LLC

By: 
David Kramer, Manager

ELIZABETH CLARKE
Notary Public - State of New York
No. 01CL6173833
Qualified in New York County
My Commission Expires September 4, 2019

**OPERATING AGREEMENT
OF
HUDSON BEC II LLC
MEMBER SIGNATURE PAGE**

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<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: William Fowler	10%	10%

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

On the 11th day of NOV, in the year 2016, before me, the undersigned, a notary public in and for said state, personally appeared WILLIAM FOWLER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

Accepted and Agreed to
as of this 11th day of NOV, 20 16.


HUDSON BEC II LLC

By: 
David Kramer, Manager

ELIZABETH CLARKE
Notary Public - State of New York
No. 01CL6173833
Qualified In New York County
My Commission Expires September 4, 2019

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OF
HUDSON BEC II LLC
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<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: Alan Hajtler	0%	3%

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

On the 11th day of NOV, in the year 2016 before me, the undersigned, a notary public in and for said state, personally appeared ALAN HAJTLER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public

ELIZABETH CLARKE
Notary Public - State of New York
No. 01CL6173833
Qualified in New York County
My Commission Expires September 4, 2019


Accepted and Agreed to
as of this 11th day of NOV, 2016.

HUDSON BEC II LLC

By: 
David Kramer, Manager

**OPERATING AGREEMENT
OF
HUDSON BEC II LLC
MEMBER SIGNATURE PAGE**

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<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: Sally Gilliland	0 %	11.03%

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

On the 11th day of Nov, in the year 2016, before me, the undersigned, a notary public in and for said state, personally appeared SALLY GILLILAND, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

Accepted and Agreed to
as of this 11th day of Nov, 20 16


HUDSON BEC II LLC

By: 
David Kramer, Manager

ELIZABETH CLARKE
Notary Public - State of New York
No. 01CL6173833
Qualified in New York County
My Commission Expires September 4, 2019

**OPERATING AGREEMENT
OF
HUDSON BEC II LLC
MEMBER SIGNATURE PAGE**

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<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: Aaron Koffman	0%	18.39%

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

On the 1st day of NOV, in the year 2016 before me, the undersigned, a notary public in and for said state, personally appeared AARON KOFFMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

ELIZABETH CLARKE

Notary Public - State of New York

No. 01CL6173833

Qualified in New York County

My Commission Expires September 4, 2019


Accepted and Agreed to
as of this 1st day of Nov, 20 16

HUDSON BEC II LLC

By: 
David Kramer, Manager

**OPERATING AGREEMENT
OF
HUDSON BEC II LLC
MEMBER SIGNATURE PAGE**

By its signature below, the undersigned hereby agrees that effective as of the date of its admission to HUDSON BEC II LLC as a Member, the undersigned shall (i) be bound by each and every term and provision of the Operating Agreement, dated as of October 16, 2015, of HUDSON BEC II LLC, as the same may be duly amended from time to time in accordance with the provisions thereof.

<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: Alison Novak	0%	18.39%

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

On the 1st day of NOV, in the year 2016 before me, the undersigned, a notary public in and for said state, personally appeared ALISON NOVAK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

ELIZABETH CLARKE
Notary Public - State of New York
No. 01CL6173833
Qualified in New York County
My Commission Expires September 4, 2019

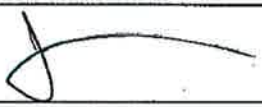
Accepted and Agreed to
as of this 1st day of NOV, 20 16

HUDSON BEC II LLC

By: 
David Kramer, Manager

**OPERATING AGREEMENT
OF
HUDSON BECII LLC
MEMBER SIGNATURE PAGE**

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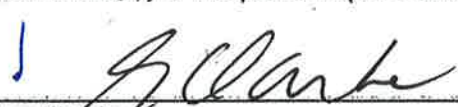
<u>MEMBER</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
 Name: Joseph Koh Riggs	0%	9.19%

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

On the 11th day of NOV, in the year 2016, before me, the undersigned, a Notary and for said state, personally appeared JOSEPH KOHLRIGGS personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

ELIZABETH CLARKE

Notary Public - State of New York

No. 01CL6173833

Qualified in New York County

My Commission Expires September 4, 2019

Accepted and Agreed to
as of this 11th day of NOV, 2016

HUDSON BECII LLC

By: 
David Kramer, Manager

EXHIBIT A

TO OPERATING AGREEMENT FOR HUDSON BEC II LLC

SCHEDULE OF DEFINITIONS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

“**Accountants**” means the firm of independent certified public accountants designated by the Manager and retained by the Members on behalf of the Company at any relevant time to conduct the audits and perform the other functions as designated by the Members under this Agreement, but if there shall be no such firm at such time, the firm that shall have so prepared the Company's most recent statements and reports, if any.

“**Act**” means the New York Limited Liability Law.

“**Adjusted Capital Account**” means, with respect to any Member, such Member's Capital Account maintained in accordance with **Section 2** hereof, as of the end of the relevant Fiscal Year of the Company, after giving effect to the following adjustments:

A. Credit to such Capital Account that portion of any deficit Capital Account balance that such Member is obligated to restore under the terms of this Agreement, of any other document or under the Act, such Member's share of Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(g)(1), and such Member's share of Partner Nonrecourse Debt Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i)(5).

B. Debit to such Capital Account the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of “**Adjusted Capital Account**” is intended to comply with the provisions of Treasury Regulations Sections 1.704-1(b)(2) and 1.704-2, and shall be interpreted consistently therewith.

“**Adjusted Capital Account Deficit**” means, with respect to any Member, the deficit balance, if any, in that Member's Adjusted Capital Account as of the end of the relevant Fiscal Year of the Company.

“**Additional Members**” mean the Members listed on Schedule A other than the original Members, William Fowler and David Kramer.

“**Affiliate**” means, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such Person; (ii) any

Person beneficially, directly or indirectly, owning or controlling more than fifty percent (50%) or more of the outstanding voting interests of such Person; **(iii)** any Person of which such Person beneficially, directly or indirectly, owns or controls more than fifty percent (50%) or more of the voting interests; or **(iv)** any officer, director, member, manager, partner or trustee in such Person or in any Person referred to in **clauses (i), (ii), and (iii)** above. For purposes of this definition, “control”, as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“**Agreement**” means this limited liability operating agreement.

“**Available Cash**” means, with respect to any period for which such calculation is being made and determined (and distributed):

A. all cash revenues and funds received by the Company from whatever source, including all Capital Transaction Proceeds, but excluding the proceeds of any Capital Contribution, plus the amount of any reduction (including, without limitation, a reduction resulting because the Members determine such amounts are no longer necessary) in reserves of the Company, which reserves are referred to in **clause B (iii)** below;

B. less the sum of the following (except to the extent made with the proceeds of any Capital Contribution and except to the extent taken into account in determining Capital Transaction Proceeds):

(i) all interest, principal and other debt payments made during such period by the Company,

(ii) all cash costs, expenses and expenditures (including capital expenditures with respect to tangible and intangible assets) made by the Company during such period, including general overhead,

(iii) the amount of any reserves established during such period which the Members determine are necessary or appropriate, and

(iv) all distributions previously made by the Company to any of its Members with respect to such period.

“**Bankruptcy Code**” means the Bankruptcy Reform Act of 1978, as it may from time to time be amended, and as codified in title 11 United States Code 101 et seq.

“**Book-Tax Disparity**” means, with respect to each of the Properties or any other property contributed to the Company, as of the date of determination, the difference between the book value of such property and the adjusted basis of such property for federal income tax purposes, as such differential may change from time to time pursuant to the provisions of this Agreement.

“Business Day” means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“Capital Account” means a capital account maintained and adjusted for each Member in accordance with the Code and the Treasury Regulations, including, without limitation, the Treasury Regulations under Sections 704(b) and (c) of the Code.

“Capital Contribution” means, with respect to any Contributing Member, the aggregate amount of cash and property which such Contributing Member contributes or is deemed to contribute to the Company pursuant to **Article 2**. Capital Contributions shall include Initial Capital Contributions and Additional Capital Contributions.

“Capital Transaction Proceeds” means the net cash proceeds of a sale, financing, transfer or other disposition of all or any portion of the assets of the Company (other than sales of non-material portions of any individual properties or any other non-material assets of the Company), after deducting all expenses incurred in connection therewith and after application of any proceeds, as determined by the Manager, toward the payment of any indebtedness of the Company secured by the property that is the subject of a Capital Transaction or any other indebtedness of the Company, or for capital expenditures or the purchase of any improvements or an expansion of any Company property or the acquisition of additional assets by the Company, or the establishment of reserves for any of the above or otherwise deemed necessary or appropriate by the Manager.

“Code” means the Internal Revenue Code of 1986, as amended and in effect from time to time, as interpreted by the applicable regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

“Contributing Members” means David Kramer and William Fowler.

“Contribution Percentage” shall be as set forth on Schedule A; provided, however, in the event that a Capital Contribution is required and arises out of the wrongful act of one of the Contributing Members, the Contribution Percentage shall be 100% for the perpetrator of such wrongful act and 0% for the other Contributing Members. The term “wrongful act” shall mean any of the following:

1. fraud or material misrepresentation;
2. gross negligence or willful misconduct;
3. physical waste; or
4. the misapplication or conversion of (i) any insurance proceeds paid by reason of any loss, damage or destruction to any property, (ii) any awards or other

amounts received in connection with the condemnation of all or a portion of any property, (iii) any rents, and (iv) any loan proceeds.

“Depreciation” means, for each Fiscal Year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period for federal income tax purposes; provided, however, that, if an asset has a Book-Tax Disparity at the beginning of such year or other period (as a result of property contributions or adjustments to such values), Depreciation shall be adjusted as necessary so as to be an amount which bears the same ratio to such beginning book value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to the beginning adjusted tax basis; provided, further, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period is zero, Depreciation for such year or other period shall be determined with reference to such beginning book value using any reasonable method.

“Indemnitee” means any Person made a party to a proceeding by reason of its status or the status of an Affiliate or Affiliates of such Person (i) as a Member, or (ii) as a director, trustee or officer of the Company, or (iii) with respect to any Member, its liabilities, pursuant to a loan guarantee or otherwise, for any indebtedness of the Company (including, without limitation, any indebtedness which the Company has assumed or taken assets subject to); or (iv) such other Persons (including Affiliates of a Member or the Company) as the Manager may designate from time to time (whether before or after the event giving rise to potential liability) in his reasonable discretion.

“Interest” with respect to a Member means such Member's ownership interest in the Company and includes any and all legal and economic benefits and other attributes to which such Member may be entitled as provided in this Agreement, together with all obligations of such Member to comply with the terms and provisions of this Agreement.

“Manager” shall have the meaning provided in Section 1.1C.

“Member” shall mean each of the members from time to time admitted to the Company as a Member of the Company, or the successors of a Member permitted by this Agreement. Members shall include Contributing Members and the Manager.

“Non-Contributing Member” means each person who shall sign a Member Signature Page in the form attached hereto and who shall be accepted by the Manager to the Company as a Member and who is not a Contributing Member.

“Percentage Interest” means, for each Member, as of the date of determination, such Member's pro rata Interest in the Company. The Percentage Interest for each Member shall be specified on Schedule A, which shall be amended by the Manager from time to time in accordance with the terms of this Agreement. The sum of the Percentage Interests shall equal one hundred percent (100%).

“Person” means a natural person, a natural person together with members of his or her immediate family, or a corporation, partnership (general or limited), limited liability company, trust, unincorporated organization, association or other entity.

“Preferred Return” shall mean a return, calculated for any period based on a 360-day year times the actual number of days elapsed in such period, on a Contributing Member's Unreturned Capital Contribution determined by multiplying such Contributing Member's Unreturned Capital Contribution by the Preferred Return Rate over the period beginning on the date that the Unreturned Capital Contribution was contributed to the Company and ending on the date of determination.

“Preferred Return Rate” means a per annum simple rate of return equal to ten percent (10%).

“Profits and Losses” means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss (as the case may be) for such year or period, determined in accordance with Code Section 703(a) (for this period, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

A. Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;

B. Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition, shall be subtracted from such taxable income or loss (including amounts paid or incurred to organize the Company (unless an election is made pursuant to Code Section 709(b)) or to promote the sale of Interests and by treating deductions for any losses incurred in connection with the sale or exchange of Company property disallowed pursuant to Section 267(a)(1) or Section 707(b) of the Code as expenditures described in Section 705(a)(2)(B) of the Code);

C. Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the book value of the property disposed of notwithstanding that the adjusted tax basis of such property differs from such book value;

D. In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period, computed in accordance with the definition of “Depreciation” herein;

E. In the event that any item of income, gain, loss or deduction that has been included in the initial computation of Profit or Losses is subject to the special allocation rules of **Section 6.2** hereof, Profit or Losses shall be re-computed without regard to such item; and

F. In the event of an adjustment of the book value of any Company asset which requires that the Capital Accounts of the Company be adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(e), (f) and (m), the amount of such adjustment is to be taken into account as additional Profits or Losses pursuant to **Section 6.2** hereof.

If the Company's taxable income or loss for such Fiscal Year, as adjusted in the manner provided above, is a positive amount, such amount shall be the Company's Profits for such Fiscal Year; and if negative, such amount shall be the Company's Losses for such Fiscal Year.

"Properties" means the properties listed on Schedule B hereto.

"Transfer" means a transaction in which a Member assigns, absolutely or conditionally, as security or otherwise, all or any part of its Interest to another Person, and includes any direct or indirect transfer, sale, assignment, grant, conveyance, gift (outright or in trust), pledge, mortgage, exchange, hypothecation, encumbrance or other disposition or act of alienation whether voluntary or involuntary or, occurring by operation of law (such as, but not limited to, a statutory merger) or otherwise.

"Unpaid Preferred Return" shall mean the amount by which the Preferred Return of a Contributing Member for the current year and all prior years, calculated with respect only to such Contributing Member's Capital Contributions exceeds the aggregate amount of distributions made to such Member in the current year and all prior years.

"Unreturned Capital Contribution" shall mean, as of any date of determination, the Capital Contributions of a Member, reduced by any distributions to such Member.

EXHIBIT B

TO OPERATING AGREEMENT FOR HUDSON BEC II LLC

FORM OF CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT, made as of the _____ day of _____, _____, between WHITFARM REALTY LLC, and DAVID KRAMER, both having an address c/o The Hudson Companies Incorporated, 826 Broadway, New York, NY 10003 (individually, a "Guarantor" and, together, the "Guarantors").

WITNESSETH:

WHEREAS, [recite source of guaranty requirement];

WHEREAS, in order to induce Lender, and as a condition for Lender, to make the Loan, the Guarantors executed and delivered to Lender [recite guarantees delivered] (individually, a "Guaranty" and, collectively, the "Guarantees");

WHEREAS, all the parties hereto derive an indirect benefit of the Loan;

WHEREAS, the parties hereto desire to set forth their rights and obligations in the event any payment is required to be made under any Guaranty.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Each of the Guarantors shall be responsible for his applicable percentage (the "Contribution Percentage") of any and all payments made under the Guarantees. The Contribution Percentages are as follows:

Whitfarm Realty LLC	10%
David Kramer	90%

2. Notwithstanding anything else to the contrary contained in this Agreement, to the extent any portion of the payments required to be made under any Guaranty shall be payable as a result of any breach of any representation or warranty made by a Guarantor under such Guaranty with respect to his financial condition or any other personal matter or any wrongful act of such Guarantor, then such Guarantor's share of such portion of the payments required to be made under such Guaranty shall be one hundred percent (100%) ("wrongful act" under this Agreement is any act which would constitute a "Non-Recourse Exclusion" under the Carve-Out Indemnity).
3. If any Guarantor shall pay any sum (the "Payment") on account of any Guaranty, the Guarantor who shall have paid such Payment (the "Paying Party") shall provide the other parties (the "Underpaying Parties") with a written notice

specifying the amount of the Payment made by the Paying Party. Evidence of the payment by the Paying Party shall be included with such notice. Each of the Underpaying Parties shall pay to the Paying Party his Applicable Percentage of the Payment, with interest thereon at the rate of ten percent (10%) per annum from the date of payment by the Paying Party to the date of reimbursement by the Underpaying Party, within ten (10) days after receipt of such written notice.

4. This Agreement is for the benefit only of the parties hereto and is not intended to be for the benefit of any third party, creditor or other person to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) any party hereto; and no such third party, creditor or other person shall obtain any right under this Agreement against any party hereto by reason of any debt, liability or obligation (or otherwise).
5. All notices hereunder shall be in writing and shall be personally delivered against a signed receipt or sent by Federal Express or Express Mail to a party at such party's addresses set forth herein (or to such other place and person as such party may designate in writing). All notices and other communication shall be deemed to have been duly given on the date of delivery (or refusal to accept delivery). Any party may change its address for purposes hereof by notice to the other parties hereto.
6. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof. This Agreement may not be changed, terminated or modified orally or in any manner other than by a writing signed by the party to be charged.
7. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
8. This Agreement may be executed in counterparts, each of which shall be an original, and all of which taken together shall be deemed to be one original agreement.

SCHEDULE A

TO OPERATING AGREEMENT FOR HUDSON BEC II LLC

MEMBER INFORMATION

<u>MEMBER and ADDRESS</u>	<u>INITIAL CAPITAL CONTRIBUTION</u>	<u>CONTRIBUTION PERCENTAGE</u>	<u>PERCENTAGE INTEREST</u>
David Kramer	\$100	90%	30%
William Fowler	\$100	10%	10%
Alan Hajtler	\$100	0%	3%
Sally Gilliland	\$100	0%	11.03%
Aaron Koffman	\$100	0%	18.39%
Alison Novak	\$100	0%	18.39%
Joseph Kohl-Riggs	\$100	0%	9.19%

SCHEDULE B

SCHEDULE OF PROPERTIES

LIST OF PROPERTIES

718 St. Marks Avenue (Block 1227, Lot 14)
782 Franklin Avenue (Block 1178, Lot 51)
1347 Eastern Parkway (Block 1393, Lot 58)
634 Franklin Avenue (Block 1149, Lot 52)
645 Franklin Avenue (Block 1217, Lot 7)
683 Franklin Avenue (Block 1224, Lot 2)
1057 Bergen Street (Block 1212, Lot 63)
162 Albany Avenue (Block 1223, Lot 46)
581 Prospect Place (Block 1156, Lot 67)
637/639 Park Place A/K/A 698/712 Franklin Avenue (Block 1163, Lot 54)
262 St. Marks Avenue (Block 1152, Lot 25)
264 St. Marks Avenue (Block 1152, Lot 27)
152 Albany Avenue (Block 1223, Lot 42)
164 Albany Avenue (Block 1223, Lot 47)
Albany Avenue (Block 1223, Lot 49)
674 Rear Franklin Avenue (Block 1156, Lot 152)
736/742 Willoughby Avenue (Block 1591, Lot 17)
332/348 St. John's Place/285 Lincoln Place (Block 1176, Lot 9)
22 1/2/22A Patchen Avenue (Block 1612, Lot 49)
257/261 Buffalo Avenue (Block 1387, Lot 7)
1230/1236 Lincoln Place (Block 1389 Lot 20)
165/167 Van Buren Street A/K/A 219 Marcus Garvey Boulevard (Block 1609, Lot 1)
171/175 Van Buren Street (Block 1609, Lot 79)
63/71 Hanson Place A/K/A 123-127 South Elliot Place (Block 2114, Lot 1)
75/77 Hanson Place (Block 2114, Lot 33) 354/356 41st Street (Block 718, Lot 30)
358 41st Street (Block 718, Lot 32)
981/995 Park Place A/K/A 194/196 Brooklyn Avenue (Block 1235, Lot 50)
1447 Bedford Avenue A/K/A 723/729 Park Place (Block 1232, Lot 1)
738 St. John's Place (Block 1253, Lot 17)
555 49th Street (Block 775, Lot 63)
1439 Bedford Avenue (Block 1232, Lot 6)
1453 Bedford Avenue (Block 1239, Lot 14)
1455 Bedford Avenue (Block 1239, Lot 13)
1458 Bedford Avenue (Block 1238, Lot 40)
122 Kingston Avenue (Block 1222, Lot 41)
118 Fenimore Street (Block 5042, Lot 35)
974 Myrtle Avenue (Block 1757, Lot 18)
643 Willoughby Avenue (Block 1760, Lot 51)
264 Vernon Avenue (Block 1761, Lot 34)
685 Willoughby Avenue (Block 1761, Lot 56)
155 Hart Street (Block 1768, Lot 73)
145 Hart Street (Block 1768, Lot 78)
171 Tompkins Avenue A/K/A 142/148 Hart Street (Block 1772, Lot 10)
258A Vernon Avenue (Block 1761, Lot 31)
19 Patchen Avenue A/K/A 522 Van Buren Street (Block 1618, Lot 8)

all located in the Borough of Brooklyn, City and State of New York

ATTACHMENT B
SECTION IV – ELIGIBILITY INFORMATION FOR NEW REQUESTORS

ATTACHMENT B

SECTION IV: REQUESTOR ELIGIBILITY INFORMATION

Volunteer Status of Requestors

Requestors 19 Patchen GP LLC and Hudson BEC II LLC meet the eligibility requirements of ECL 27-1407. In addition to the information provided in Section IV of the Brownfield Cleanup Agreement amendment application, 19 Patchen GP LLC and Hudson BEC II LLC are recently formed LLCs with no legal title to the site. The original applicant and site owner since 2015, 19 Patchen LLC, was accepted as a Participant because it subsumed the previous owner of the site. Since acquiring the property, 19 Patchen LLC has been continuously engaged in the process of site investigation/remediation under the Brownfield Cleanup Program, including the use of appropriate site controls and litigation brought against the operator of an onsite dry cleaning business. 19 Patchen GP LLC will continue the remedial process begun by 19 Patchen LLC.

BROWNFIELD CLEANUP PROGRAM
SITE ACCESS AGREEMENT

This Site Access Agreement ("Agreement") is made and entered into on this ____ day of June 2017, by and between **19 PATCHEN LLC** ("Owner"), **19 PATCHEN GP LLC**, and **HUDSON BEC II LLC** (collectively, "Requestors").

WHEREAS, Owner owns real property located at 19 Patchen Avenue, Brooklyn, New York, 11221, Block 1618, Lot 8 (the "Property"), which is the subject of a New York State Brownfield Cleanup Program application, in which 19 Patchen LLC, 19 Patchen GP LLC, and Hudson BEC II LLC are the requestors;

Therefore, for \$10 good and adequate consideration, which is deemed received; it is therefore agreed as follows:

1. **Access Agreement.** Owner hereby authorizes Requestors and their environmental and engineering consultants (together with their subcontractors) to enter the Property and undertake any and all remedial investigation and remedial action work required to fulfill the terms of the Brownfield Cleanup Program Agreement, submitted herewith, and any associated Brownfield Cleanup Program Agreement work plans approved by the New York State Department of Environmental Conservation.
2. **Entire Agreement.** This Agreement constitutes the Parties' entire agreement on this subject. There are no written or oral representations or understandings that are not fully expressed in this Agreement. No change, waiver, or discharge is valid unless in writing and signed by the party against whom it is sought to be enforced.
3. **Statement of Agreement.** This Agreement is not and shall not be construed as an admission of any issue of fact or law, or as an admission or adjudication of any liability, or as a modification or waiver of any claim or defense or right or remedy, and shall not be admissible in any other suit or proceeding, except a suit or proceeding to enforce the terms contained herein.
4. **Headings & Section References.** The headings and section references used in this Agreement are inserted for reference solely as a matter of convenience and do not affect the scope or intent of any section or provision of this Agreement.
5. **Enforceability.** If any part of this Agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.
6. **Waiver.** The waiver of any breach of any term or condition of this Agreement does not waive any other breach of that term or condition or of any other term or condition.
7. **Governing Law.** This Agreement must be construed, and its performance enforced, under New York law.
8. **Effective Date.** This Agreement, executed in duplicate originals, shall be effective on the date written above.

9. **Signatories.** This Agreement may be executed in one or more counterparts and by facsimile signatures, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument.

10. **Agreement Execution Authority.** Each person executing this Agreement represents that the Party on whose behalf the person is executing this Agreement has duly authorized the execution of this Agreement and that such person is authorized to execute the Agreement on behalf of such Party.

IN WITNESS WHEREOF, the Parties hereto are authorized and have executed this Agreement on the day and year written above.

19 PATCHEN LLC

Date

By: _____

Name: _____

Title: _____

19 PATCHEN GP LLC

6.15.17
Date

By: _____

Name: David Kramer

Title: Manager

HUDSON BEC II LLC

6.15.17
Date

By: _____

Name: David Kramer

Title: Manager

9. **Signatories.** This Agreement may be executed in one or more counterparts and by facsimile signatures, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument.

10. **Agreement Execution Authority.** Each person executing this Agreement represents that the Party on whose behalf the person is executing this Agreement has duly authorized the execution of this Agreement and that such person is authorized to execute the Agreement on behalf of such Party.

IN WITNESS WHEREOF, the Parties hereto are authorized and have executed this Agreement on the day and year written above.

19 PATCHEN LLC

Date

By: _____

Name: _____

Title: _____

6/15/17

Date

19 PATCHEN LLC
~~19 PATCHEN GP LLC~~

By:  _____

Name: DANIEL T. MATHEW

Title: GM/CEO

HUDSON BEC II LLC

Date

By: _____

Name: _____

Title: _____

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: 19 Patchen Avenue **DEC Site ID No.** C224232

II. Contact Information of Person Submitting Notification:

Name: Adam Stolorow - Sive, Paget & Riesel P.C.
Address1: 560 Lexington Avenue, 15th Floor
Address2: New York, NY 10022
Phone: (212) 421-2150 E-mail: astolorow@sprlaw.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): 07/01/2017


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

Title for the property will be transferred from 19 Patchen LLC to BEC Continuum Housing Development
Fund Company, Inc. Remedial work will be performed by 19 Patchen GP LLC and Hudson BEC II LLC.

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).

- 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:  Jun 15, 2017
(Signature) (Date)

Daniel T. Matthew
(Print Name)

Address1: 826 Broadway, 11th Floor
Address2: New York, NY 10003
Phone: (212) 777-9500 E-mail: dm.becnc@gmail.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: 19 Patchen GP LLC
Address1: 826 Broadway, 11th Floor
Address2: New York, NY 10003
Phone: (212) 710-6023 E-mail: mzarin@hudsoninc.com

Certifying Party Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

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)

Jun 15, 2017
(Date)

Daniel T. Matthew
(Print Name)

Address1: 826 Broadway, 11th Floor

Address2: New York, NY 10003

Phone: (212) 777-9500

E-mail: dm.becnc@gmail.com

Continuation Sheet

☐ Prospective Owner/Holder ☒ Prospective Remedial Party ☐ Prospective Owner Representative
Name: Hudson BEC II LLC
Address1: 826 Broadway, 11th Floor
Address2: New York, NY 10003
Phone: (212) 777-9500 E-mail: mzarin@hudsoninc.com

☐ 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: _____