

LIMITED LIABILITY COMPANY AGREEMENT OF 165 MYERS CORNERS PROPERTY OWNER, LLC

This LIMITED LIABILITY COMPANY AGREEMENT (this “**Agreement**”) of 165 Myers Corners Property Owner, LLC, a Delaware limited liability company (the “**Company**”), is executed as of April 20, 2022 (the “**Effective Date**”), by 165 Myers Parent JV, LLC, a Delaware limited liability company (the “**Member**”).

RECITALS

1. Formation. The Company has been formed by the filing of the Certificate of Formation of the Company with the Secretary of State of Delaware on January 20, 2022.
2. Dissolution. The Company has perpetual existence, except as provided in §18-801 of the Act.
3. Business of the Company. The general character of the business of the Company initially is to engage in any lawful business, trade, purpose or activity permitted by the Act, including, without limitation, to acquire, hold, manage and dispose of the Company’s interest in that certain real property located at 165 Myers Corners Road, Wappingers Falls, New York.
4. Offices. The initial principal office of the Company is located at 430 Park Avenue, 12th Floor, New York, New York 10022. The principal office of the Member is currently located at 430 Park Avenue, 12th Floor, New York, New York 10022.
5. Capital; Percentage Interest. The Member owns one hundred percent of the interest in the Company.
6. Management by Member. The Company is managed by the Member, who has the authority to exercise all of the powers and privileges granted by the Act or any other law. The Member shall have the right, pursuant to §18-407 of the Act, to delegate any of the Member’s rights and powers to act under this Agreement to one (1) or more individuals or entities each an (“**Authorized Signatory**”). Any Authorized Signatory of the Company shall have the authority to do or cause to be done all such acts or things and to sign and deliver all such documents, instruments and certificates in the name of the Company as such Authorized Signatory may deem necessary, advisable or appropriate to effectuate or carry out the day to day operations and business of the Company (including for purposes of obtaining one or more Employer Identification Numbers from the Internal Revenue Service), or as may be directed by the Member. The initial Authorized Signatories of the Company shall be (1) Christopher Schlank, (2) Nicholas Bienstock, and (3) Steve M. Schulman.
7. Distributions. Distributions of cash or other assets of the Company will be made at times and in amounts as the Member may determine.

8. No Separate Entity for Tax Purposes. The Company shall not be treated as a separate entity for federal income tax purposes and, to the extent permitted by law, for state and local tax purposes. The Company shall prepare and file all tax returns and other tax statements in a manner consistent herewith.
9. Limitation on Liability. Except as specifically required by the Act, no Member of the Company shall be obligated personally for any debt, obligation or liability of the Company, whether arising in contract, tort or otherwise, solely by reason of being a Member of the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or the management of its business or affairs under this Agreement or the Act shall not be grounds for making the Member responsible for the liabilities of the Company.
10. Exculpation and Indemnification.
 - (a) The Member shall not have any personal liability whatsoever to the Company on account of the Member's status as a Member or by reason of such Member's acts or omissions in connection with the conduct of the business of the Company.
 - (b) The Company shall indemnify and hold harmless the Member against any and all losses, claims, damages, expenses and liabilities (including, but not limited to, any investigation, legal and other reasonable expenses incurred in connection with, and any amounts paid in settlement of, any action, suit, proceeding or claim) of any kind or nature whatsoever that Member may at any time become subject to or liable for by reason of (a) the formation, operation or termination of the Company, or (b) the Member's acting as a member or manager under this Agreement. This indemnification includes, without limitation, losses, claims, damages, expenses and liabilities arising out of the Member's negligence, gross negligence or breach of duty.
 - (c) The contract rights to indemnification and to the advancement of expenses conferred in this Section 10 shall not be exclusive of any other right that any person may have or hereafter acquire under any statute, agreement, vote of the Member or otherwise.
11. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Delaware. In the event of any conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provision of this Agreement shall control.


[Signature follows.]

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

MEMBER:

165 Myers Parent JV, LLC

By: 165 Myers Corners Road LLC, its
managing member

By: 

Name: Nicholas Bienstock

Title: Authorized Signatory