

**ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW § 63(15)
BETWEEN THE ATTORNEY GENERAL OF THE STATE OF NEW YORK, for the
PEOPLE OF THE STATE OF NEW YORK, and FULTON COMMONS CARE
CENTER, INC.; MOSHE KALTER; AARON FOGEL; FRADY KALTER; ESTHER
FOGEL; MINDY STEGER; SHEINDY SAFFER; CHANA KANAREK; DOVID
KALTER; YITZCHOK KALTER; ARYEH KALTER; SHEVA TREFF; CHAYA
LIEBERMAN a/k/a SARA LIEBERMAN; THE NEW FULTON COMMONS COMPANY
LLC; FULTON COMMONS REALTY CO., L.P.; FULTON COMMONS REALTY CO.,
INC.; THE NEW BRIDGE VIEW COMPANY LLC; STEVEN WEISS; and CATHIE
DOYLE**

DATED: February 21, 2024

WHEREAS, the State of New York (the “State”) acting by and through the Medicaid Fraud Control Unit (“MFCU”) of the Attorney General of the State of New York (the “Attorney General”), on behalf of the People of the State of New York, commenced an investigation into the care and treatment of residents at skilled nursing facilities in New York, including Fulton Commons Care Center, Inc. (“Fulton Commons”), pursuant to Executive Law §§ 63(12) and 63-c, the federal Social Security Act, and the New York Public Health Law (“PHL”), against the owners, operators, and affiliated persons responsible for the conditions at the nursing home during the period from 2018 through October 31, 2022 (the “MFCU Investigation”);

WHEREAS, at all times relevant hereto, Respondent Fulton Commons is the business entity holding the New York State Department of Health (“DOH”) license to operate Fulton Commons, a nursing home.

WHEREAS, Fulton Commons Realty Co., L.P. (“Fulton Realty LP”) is the business entity holding title to the real property on which Fulton Commons is located and is owned by Respondents Moshe Kalter (“Kalter”), Aaron Fogel (“Fogel”), and Fulton Commons Realty Co., Inc. (“Fulton Realty Inc.”).

WHEREAS, at all relevant times, Fulton Commons was otherwise owned and/or controlled by Kalter, Fogel, Frady Kalter, Esther Fogel, (“Owner Respondents”) and, for the period from 2018 to October 31, 2022, Mindy Steger, Sheindy Saffer, Chana Kanarek, Dovid Kalter, Yitzchok Kalter, Aryeh Kalter, Sheva Treff, and Chaya Lieberman a/k/a Sara Lieberman, who each owned 1% of the facility (“Prior Owner Respondents”) (hereinafter collectively referred to as “Respondent-owners”);

WHEREAS, Prior Owner Respondents no longer own any percentage of Fulton Commons, any related entities to Fulton Commons, or any other skilled nursing facility;

WHEREAS, at all relevant times, The New Fulton Company LLC (“New Fulton”) and The New Bridge View Company LLC (“New Bridge View”) were related corporate entities involved in the operation of Fulton Commons;

WHEREAS, Fulton Realty LP, Fulton Realty Inc., New Fulton, and New Bridge View are collectively referred to herein as the “Related Entities”;

WHEREAS, for purposes of this Assurance of Discontinuance (“AOD” or “Agreement”), any “existing or future related entities” shall be defined as any entities related to Fulton Commons or the Related Entities by: (1) common ownership or control or the furnishing of services, facilities, or supplies; or (2) an arrangement where there is a family relationship and where services, facilities, or supplies are furnished and in instances of common involvement in any other business;

WHEREAS, Respondent Cathie Doyle is the former administrator of Fulton Commons, and, as such, was responsible for the supervision of Fulton Commons and required to “set an example for all staff members, consultants and others affiliated with the facility which recognize[d] that [Fulton Commons] exists to serve the interests of and needs of the residents,

[and] which emphasize[d] the importance of a resident’s right to independence regarding all aspects of institutional life . . .” (10 NYCRR § 415.26[a][1]);

WHEREAS, at all relevant times prior to November 1, 2022, Respondent Steven Weiss was the controller of Fulton Commons, New Fulton, and New Bridge View, and also served as a liaison between Respondent Doyle and Respondent-owners, and currently serves as an agent of Owner Respondents;

WHEREAS, the Attorney General has found that Respondents Fulton Commons, Kalter, Fogel, Frady Kalter, Esther Fogel, Mindy Steger, Sheindy Saffer, Chana Kanarek, Dovid Kalter, Yitzchok Kalter, Aryeh Kalter, Sheva Treff, Chaya Lieberman a/k/a Sara Lieberman, New Fulton, Fulton Realty LP, Fulton Realty Inc., New Bridge View, Steven Weiss, and Cathie Doyle engaged in the conduct set forth in the Findings of Fact below and as further set forth within the Verified Petition dated December 13, 2022, filed in the Supreme Court of the State of New York, Nassau County, Index #617687/2022 (hereinafter “Special Proceeding”);

WHEREAS, Fulton Commons has been enrolled in the New York State Medical Assistance Program (“Medicaid”) and the federal Medicare Program since as early as 2005, and from January 1, 2018 through December 31, 2021, received \$105,834,966 from those Programs to provide residential health care facility services to its residents;

WHEREAS, the Commissioner of Health, pursuant to PHL § 2801-c, requested that the Attorney General maintain an action and seek injunctive relief as to any violation of Article 28 of the PHL arising from the operations of Fulton Commons;

WHEREAS, Respondent Moshe Kalter represents that he can bind Fulton Commons to all acts required under this AOD.

The Attorney General’s Findings of Fact Pursuant to Executive Law § 63(12)
and Covered Conduct

WHEREAS, the Attorney General made certain Findings of Fact as set forth below and within the Verified Petition that commenced this Special Proceeding.

WHEREAS, the following sets forth the Attorney General’s Findings of Fact between January 1, 2018 through October 31, 2022, from the MFCU Investigation, hereinafter referred to as the “Covered Conduct.”

A. Respondent-owners, Fulton Commons, New Fulton, Fulton Realty LP, Fulton Realty Inc., New Bridge View, and Weiss engaged in and/or facilitated repeated and persistent fraud in the up-front profit taking of millions of dollars in Medicaid and Medicare reimbursement payments to Fulton Commons in violation of Executive Law § 63(12).

B. Respondents Kalter, Fogel, Fulton Commons, New Fulton, Fulton Realty LP, Fulton Realty Inc., New Bridge View, and Weiss engaged in repeated and persistent fraud through the use of a collusive and fraudulent real estate scheme, including through a self-dealing rent payment scheme in violation of Executive Law § 63(12).

C. Respondents Fulton Commons and Kalter engaged in repeated and persistent fraud through the payment of salaries to Prior Owner Respondents for no-show jobs which Kalter falsely certified to DOH were incurred to provide patient care at Fulton Commons.

D. Respondents Fulton Commons and Kalter engaged in repeated and persistent fraud and illegality by making equity withdrawals and transfers from Fulton Commons and making false statements and certifications to DOH regarding equity withdrawals and transfers, cost report information, and annual billing certifications in violation of Executive Law § 63(12).

E. Respondents Fulton Commons, Kalter, Weiss, and Doyle engaged in repeated and persistent fraud by deceiving DOH and current and prospective residents and their families as to the conditions within Fulton Commons and the quality of care delivered in the facility.

F. Respondents Fulton Commons, Kalter, Weiss, and Doyle engaged in repeated and persistent illegality in the operation of Fulton Commons through their failure to deliver adequate care to Fulton Commons' residents, contrary to the laws and regulations set forth in the Verified Petition in this Special Proceeding, in violation of Executive Law § 63(12), by:

1. Failing to deliver adequate care to Fulton Commons' residents, contrary to the following regulations: 10 NYCRR §§ 415.1, 415.3, 415.4, 415.5, 415.11, 415.12, 415.13, 415.14, 415.15, 415.18, 415.19, 415.22, 415.26, 415.27, 415.29, 600.9, and 702.4; 42 CFR §§ 483.10, 483.20, 483.24, 483.25, 483.35, 483.45, 483.55, 483.60, 483.70, 483.75, and 483.80; PHL § 2803-c; and Education Law § 6512;
2. Operating Fulton Commons with insufficient staffing to provide required care pursuant to 10 NYCRR § 415.13 and 42 CFR § 483.35;
3. Continuing admissions of residents to Fulton Commons even though it operated with insufficient staff to provide required care to its residents, in violation of 10 NYCRR § 415.26(i)(1)(ii);
4. Creating poor working conditions at Fulton Commons, which include, without limitation, working conditions within a nursing home in which its staff were regularly or frequently: (i) assigned by the nursing home to perform care duties for too many residents than can be completed at a reasonable pace to provide adequate care within a given shift; (ii) required or asked by the nursing home to work multiple shifts during a 24-hour period; (iii) assigned to work shifts during which

the nursing home provided insufficient RN supervision; (iv) assigned to work without having been provided sufficient training by Fulton Commons to competently execute their duties; and (v) pressured by the nursing home to create false documentation that they or others provided services or care to any residents, or provided or received any training, when in fact said services, care, or training were not provided or received;

5. Violating PHL § 2803-d(7), by failing to provide “timely, consistent, safe, adequate and appropriate services, treatment, and/or care . . . including but not limited to: nutrition, medication, therapies, sanitary clothing and surroundings, and activities of daily living” to residents of Fulton Commons, as required by 10 NYCRR § 81.1(c); and
6. Failing to develop and implement written policies and procedures prohibiting neglect, abuse, and mistreatment of Fulton Commons’ residents, and failing to report all allegations of violations of the same to DOH, as required by 10 NYCRR § 415.4, PHL §§ 12-b and 2803-d, 42 USC § 1320b-25, and 42 CFR § 483.12, resulting in the indictment of Fulton Commons, and the indictment and conviction of its high managerial agent, former Director of Nursing Services Carol Frawley, for Endangering the Welfare of an Incompetent or Physically Disabled Person in the First Degree.

G. All Respondents engaged in and/or facilitated repeated and persistent illegality in the operation of Fulton Commons by failing to refrain from engaging in unacceptable practices and failing to adhere to the laws and regulations set forth in the Verified Petition in this Special Proceeding, all in violation of Executive Law § 63(12).

H. Respondents engaged in repeated and persistent illegality in the operation of Fulton Commons by filing and/or causing to be filed false claims to Medicaid for unfurnished medical care and services; making or causing to be made false statements and/or misrepresentations of material fact in claiming Medicaid payments, converting Medicaid payments to a use or benefit other than for the intended use and benefit; and furnishing medical care, services, or supplies that fail to meet professional recognized standards for healthcare, all in violation 18 NYCRR § 515.2, which sets forth unacceptable practices under the Medicaid Program, and in violation of Executive Law § 63(12).

I. Respondent-owners, Fulton Commons, New Fulton, Fulton Realty LP, Fulton Realty Inc., New Bridge View, and Weiss obtained, received, converted, or disposed of funds, either directly or indirectly, from the Medicaid and Medicare Programs to which they were not entitled, in violation of Executive Law § 63-c.

J. Respondent-owners, Fulton Commons, Fulton Realty LP, and Fulton Realty Inc. were unjustly enriched to the detriment of the Medicaid and Medicare Programs by receiving and retaining payments from said programs for services which were purportedly rendered by Fulton Commons, but which were not performed in conformance with applicable laws and regulations.

WHEREAS, the Respondents neither admit nor deny the Attorney General's Findings of Fact, but in the interests of resolving the MFCU Investigation agree to the remedies set forth in this AOD. Respondents agree that none of the remedies set forth herein violate any statutory or constitutional right of Respondents, and agree that the Attorney General's Findings of Fact and evidence of the Covered Conduct are admissible only in any proceeding by the Attorney General to enforce this AOD and/or to enforce any violation of the law. This AOD shall not be construed

as an admission for purposes of any third-party or federal agency proceeding as well as any other matter where the Attorney General or the Commissioner of Health are not a party.

WHEREAS, the Attorney General, on behalf of the People of the State of New York, has good and sufficient cause to assert claims against all Respondents under Executive Law §§ 63-c and 63(12), PHL § 2801-c, and other provisions of Article 28 of the PHL, the Social Security Act, and other statutes, regulations, and the common law, for restitution, damages, disgorgement, and equitable relief; and

WHEREAS, the Attorney General finds the relief and promises set forth in this Agreement appropriate and in the public interest, in the interests of the current and future residents of Fulton Commons, and in furtherance of Medicaid Program integrity;

WHEREAS, the Attorney General, on behalf of the State of New York, and Respondents wish to enter into this Agreement as of the date set forth above, to resolve the findings from the MFCU Investigation,

NOW THEREFORE, the Respondents and the Attorney General (the “Parties”) enter into this AOD as follows:

Section I:

QUALITY OF CARE REFORMS

Independent Healthcare Monitor

1. Respondent Fulton Commons and Respondent-owners shall retain an Independent Healthcare Monitor (“IHM”) to verify, survey, inspect, and improve the delivery of healthcare at Fulton Commons.

2. No later than thirty (30) calendar days after the execution of this Agreement, Respondent-owners shall propose to MFCU a pool of at least three (3) qualified candidates to serve

as IHM. The IHM candidates or their team members shall have, at a minimum, the following qualifications:

- a. Demonstrated expertise with respect to the delivery of healthcare at nursing homes, including all relevant laws and regulations;
- b. Experience designing and/or reviewing healthcare compliance programs, procedures, and internal controls, including issues relevant to nursing homes;
- c. The ability to access and deploy resources as necessary to discharge the IHM's duties, as described in this section, including through agents and employees; and
- d. Sufficient independence from Respondents, other nursing home operators, and nursing home industry and trade groups, to ensure effective and impartial performance of the IHM's duties as described in this section.

3. The IHM may be a professional firm, and the Attorney General's power of approval shall extend to each employee designated by such firm for assignment to the engagement.

4. If the Attorney General determines, in its sole discretion, that Respondent Fulton Commons and Respondent-owners' delay in proposing IHM candidates or retaining a proposed IHM candidate approved by the Attorney General is negatively impacting implementation of this AOD, the Attorney General shall seek an Order from a court of competent jurisdiction appointing the candidate of the Attorney General's choosing as IHM, and providing that Respondent-owners shall pay for the services of that IHM for the duration of the monitorship; in such circumstances, neither Respondent Fulton Commons nor Respondent-owners shall raise any defense or objection

to the court's jurisdiction or authority over such proceedings. During the time that an approved IHM is not in place, the term of the IHM under this AOD and the AOD itself is tolled.

5. The Attorney General retains the right, in its sole discretion, to approve or disapprove the IHM. To the extent the IHM candidates proposed by Respondents are unacceptable to the Attorney General, the Attorney General will propose two (2) acceptable candidates for the position, and Respondents will select one of same to serve as the IHM. If Respondents fail to notify the Attorney General of its selection of one of these two (2) candidates within five (5) days, then the Attorney General will notify the Respondents which IHM candidate to retain, which Respondents will do promptly.

6. The Attorney General, Respondent Fulton Commons, and Respondent-owners will use their best efforts to complete the selection process within thirty (30) calendar days of the Effective Date of this AOD, as defined in Paragraph 106.

7. If, during the term of the IHM, the IHM becomes unable to perform the obligations as set out herein or if the Attorney General, in its sole discretion, determines that the IHM cannot fulfill such obligations to the Attorney General's satisfaction, which determination and the basis therefore shall be set forth in writing and provided to Respondent-owners and Fulton Commons, the Attorney General shall notify Respondent Fulton Commons and Respondent-owners in writing of replacement candidates for the IHM, to be selected via the same process set forth above in Paragraphs 2–6 above.

8. The IHM's engagement contract will be provided to the Attorney General and to DOH prior to its execution and effective date and is subject to approval by the Attorney General and DOH, which may, in their sole discretion, approve or reject such contract.

9. The IHM, or its designated representatives approved by the Attorney General, shall be on-site at Fulton Commons no less than ten (10) calendar days per month during the first year of the IHM Term (as defined in Paragraph 22), and shall make a recommendation to the Attorney General through MFCU upon the conclusion of the first year of the IHM Term as to a specific visitation plan for subsequent years of the IHM Term. Except as provided in Paragraph 13, Respondent Fulton Commons and Respondent-owners shall implement all recommendations made by the IHM to ensure adequate, appropriate, and timely delivery of care to Fulton Commons' residents.

10. Respondents represent and warrant to the Court and the Attorney General that they will take no action to impede, interfere with, or otherwise circumvent the performance of duties and/or responsibilities of any individual and/or entity pursuant to this AOD, including, but not limited to, the duties and responsibilities of the Respondent-owners, the IHM (as delineated in Section I below), the Independent Financial Monitor ("IFM") (as delineated in Section II below), Fulton Commons' Governing Body (as delineated in Paragraphs 32–35), and the Chief Compliance Officer (as delineated in Paragraphs 36–38).

Responsibilities of the Independent Healthcare Monitor

11. The IHM shall have specific authority to visit and inspect Fulton Commons at any time, to review all documents regarding Fulton Commons, to oversee healthcare operations at Fulton Commons, to ensure that Fulton Commons improves healthcare outcomes for its residents, and to ensure that Fulton Commons complies with the healthcare reforms set forth below.

12. The IHM shall oversee Fulton Commons' healthcare operations and ensure that residents' healthcare outcomes improve, to wit, by making recommendations to:

- a. Ensure that Fulton Commons consistently operates with sufficient staffing (certified nurse aides [“CNAs”], licensed practical nurses [“LPNs”], and registered nurses [“RNs”]) to provide all required care to Fulton Commons’ existing residents and any proposed new admissions, and at minimum meets the requirements of Paragraphs 27 and 28;
- b. Ensure that Fulton Commons has sufficient supervisory nursing staff, including, but not limited to, RNs, to provide all required training, supervision, and support of staff;
- c. Ensure that Fulton Commons has sufficient RN staff to conduct assessments and administer care that LPNs and CNAs cannot administer;
- d. Limit or bar admissions to Fulton Commons when appropriate to maintain sufficient staffing to meet the needs of existing residents and proposed admissions;
- e. Maintain or increase staffing compensation, provided that same not be in violation of any union agreements, such as any collective bargaining agreement with Local 1199 or any other unions;
- f. Ensure that CNAs, LPNs, and RNs maintain adequate documentation of medication and care administered; and
- g. Implement and maintain policies and procedures, including, but not limited to, those relating to infection control.

13. Respondent Fulton Commons, Respondent-owners, and Weiss, as well as Fulton Commons’ Administrator(s), Director(s) of Nursing Services, Medical Director(s), and Consultant(s), shall accept and implement all recommendations made by the IHM, except where the recommendation is:

- a. Prohibited by law and such position is supported by an opinion of counsel, excluding alleged positions based on 10 NYCRR §§ 405.3, 415.26(b)(4), 600.9 or 42 CFR § 483.70(d)(2);
- b. Contradicts documented physician orders and/or documented resident/family wishes for a specific resident;
- c. Medically contraindicated for the resident or residents on that unit, as determined by an RN licensed in New York State or higher-licensed New York State healthcare professional familiar with the specific resident group; or
- d. Where any person or agency asserts that the implementation of a recommendation would require the performance of duties that are non-delegable under 10 NYCRR §§ 405.3 and 600.9, in which case the recommendation must be presented to the Governing Body for vote, and in the event of a vote by the majority of the Governing Body members to adopt a resolution accepting the recommendation, Fulton Commons will promptly implement it, and in the event of a vote by the majority of the Governing Body members to reject the recommendation, the reasons for such decision shall be recorded in the minutes of the meeting of the Governing Body.

14. All IHM recommendations regarding staffing levels, staffing compensation, and resident admissions, shall be made to ensure Fulton Commons has sufficient staffing to provide required care for its existing residents and any prospective admissions.

15. Fulton Commons' Governing Body shall consult with and consider the recommendations of the IHM before hiring any Administrator, Assistant Administrator, Director of Nursing, Assistant Director of Nursing, Medical Director, Director of Admissions, or MDS

Coordinator, and implement the IHM's recommendations absent documented good cause, which shall not include any form of cost-savings or any objection based on decreased gross or net revenue.

16. In the event of a disagreement between the IHM and Respondent-owners or Fulton Commons' Governing Body regarding any IHM recommendation, if Fulton Commons and Respondent-owners fail to adopt the recommendation, the disagreement will be promptly presented to the Attorney General, including Respondents' documented reasons for good cause, which shall not include any form of cost-savings or any objection based on decreased gross or net revenue. No later than three (3) business days after such presentation, the Attorney General will make, in its sole discretion, a determination to accept or reject the IHM's recommendation, and will inform the IHM and Fulton Commons' Governing Body of the Attorney General's determination in writing and setting forth the basis therefore.

17. In the event that Respondent Fulton Commons and/or Respondent-owners fail to implement any recommendation of the IHM within five (5) days, or such reasonable period of time as set by the IHM, including without limitation within five (5) days after notice of a determination by Petitioner to affirm an IHM recommendation, an assessment of five thousand dollars (\$5,000.00) per day shall accrue from the time Respondent Fulton Commons and/or Respondent-owners were: (i) notified of the recommendation by the IHM until the recommendation is implemented; or (ii) in the event the IHM recommendation is challenged under Paragraph 13, notified in writing of Petitioner's affirmance of an IHM recommendation until the affirmed recommendation is implemented, and the penalty for failing to implement the recommendation is paid in full into the Resident Care Fund, as defined in Paragraph 55. Said penalty shall not be waivable by the Attorney General. The assessment shall only be paid by Respondent-owners and

shall not be funded with Medicaid or Medicare payments made to Fulton Commons or Medicaid or Medicare payments made to any other nursing home individually or partly owned by any of the Respondents. No such assessment shall be funded by the Resident Care Fund. Such assessments shall be deposited into the Resident Care Fund only for the benefit of Fulton Commons' residents and shall continue to be deposited notwithstanding the Resident Care Fund Cap defined in Paragraph 55. Prior to imposition of any assessment, there shall be written notice of the grounds upon which such assessments are being determined as well as a five (5) day period to cure same.

18. Fulton Commons' Governing Body shall consider the IHM's recommendations to terminate any employees from the positions listed in Paragraph 15 above, and any other position, unless documented good cause, other than any form of cost-savings, exists to decline to follow the IHM's recommendation. In the event of a vote by the majority of the Governing Body members to reject the recommendation, the reasons for such decision shall be recorded in the minutes of the meeting of the Governing Body.

19. Respondent-owners and Fulton Commons will implement the IHM's staffing and compensation recommendations by hiring full-time employees instead of independent contractors, per diem workers, or temporary workers. Temporary, per diem, or agency staffing may only be deployed as required to ensure compliance with minimum staffing mandates or under criteria promulgated by the IHM in the event of unpredictable or unpreventable need. In the event that temporary, per diem, or agency staffing is utilized to comply with minimum staffing mandates, Respondent-owners and Fulton Commons will thoroughly document the efforts they undertook to hire full-time and/or part-time employees before resorting to utilizing temporary, per diem, or agency staffing.

20. Respondent Fulton Commons and Respondent-owners shall fully and promptly cooperate with the IHM and shall ensure that Fulton Commons' officers, employees, and agents fully and promptly cooperate with the IHM.

21. The IHM and contractually-designated agents will be provided with real-time 24-hour-per-day remote access to all of Fulton Commons' Electronic Medical Records ("EMR") pursuant to a Health Insurance Portability and Accountability Act Business Associate Agreement, including, but not limited to, therapy records and Point of Care systems, and will be granted the highest-level access permissions to such systems in order to enable viewing of all edits made at any time to any records by any user, person, or systems administrator, including, but not limited to, the times of scheduled medication and/or treatment administration, the purported times of medication and/or treatment administration, and the accompanying metadata.

22. Subject to Paragraph 23, the IHM's Term of Engagement ("IHM Term") will be for the earlier of either five (5) years from the Effective Date or three (3) years from the Effective Date upon a favorable report by the IHM assessing that the Respondent Fulton Commons has complied in full with all obligations of the AOD within the purview of the IHM. Respondent-owners will promptly retain a substitute IHM, with prior approval from the Attorney General, in the event the initial IHM is unable to complete the appointment prior to the conclusion of the IHM Term. The IHM Term and the term of this AOD shall be extended in two-year increments, upon occurrence of any of the following:

- a. A finding by DOH of Immediate Jeopardy, Level K and/or L, as to conditions at Fulton Commons, or the designation of Fulton Commons as a candidate for the Special Focus Facility program established by the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (“CMS”), except where such finding was the direct result of a recommendation made by the IHM that was objected to by Fulton Commons in accordance with Paragraphs 13 and 16;

- b. A determination by the IHM, subject to review by the Attorney General, that Respondent Fulton Commons and/or Respondent-owners have materially failed to comply with any obligation hereunder, provided however, that the IHM provided Fulton Commons with written notice of the material failure to comply and that material failure was not cured within fifteen (15) days of such notice;
- c. A determination by the IFM, subject to review by the Attorney General, that Respondent Fulton Commons and/or Respondent-owners have materially failed to comply with any obligation hereunder, provided however, that the IFM provided Fulton Commons with written notice of the material failure to comply and that material failure was not cured within fifteen (15) days of such notice;
- d. A determination by the Attorney General that any Respondent has materially failed to comply with any obligation hereunder, provided however, that the Attorney General provided Respondents with written notice of the material failure to comply and that material failure was not cured within fifteen (15) days of such notice.

23. The Attorney General retains the right to extend the IHM Term, the IFM Term, and the term of this AOD by two additional years from the original five-year term, in accordance with Paragraph 22, without any judicial review. In the event the Attorney General determines any

subsequent two-years extensions are necessary, in accordance with Paragraph 22, Respondents may seek judicial review to confirm such finding. If such judicial review is sought and either: (1) affirmed by the court, or (2) resolved by the Parties, whether by stipulation or otherwise, in the Attorney General's favor, including in the extension of any of the terms of the IHM, IFM, and the AOD for any length of time, then Respondents will promptly make payment to the Attorney General for any fees and costs incurred by the Attorney General in reviewing, analyzing, negotiating, defending and/or otherwise litigating Respondents' request seeking judicial review to confirm such extension, along with a penalty of One Hundred Thousand Dollars and Zero Cents (\$100,000.00), to be paid to the Attorney General.

Objections to Recommendations of Independent Healthcare Monitor

24. No objection to the recommendations of the IHM shall be grounds for failure to comply with such instruction, except for the reasons set forth in Paragraph 13.

25. In all cases of objections raised pursuant to Paragraph 13, Fulton Commons shall proceed with appropriate medical care for the residents provided that same is not contraindicated by the attending physician and/or resident or duly designated representative authorized to make health care decisions, including but not limited to a Health Care Agent, Health Care Surrogate or Guardian. Within twenty-four (24) hours of the determination of the objection, Fulton Commons' Director of Nursing and Administrator shall memorialize the objection in writing addressed to the IHM and, if demanded in the sole discretion of the IHM, such objection shall be attested to be valid on the grounds of the originally posited objection by a physician licensed and practicing in New York State within twenty-four (24) hours of such demand. The Attorney General shall review and approve such objection or confirm the IHM instructions within three (3) business days in writing.

26. Under no circumstances shall the impact on gross or net revenues of carrying out a recommendation of the IHM be a valid basis for an objection to such recommendation.

Staffing and Direct Care Improvements

27. Respondent Fulton Commons and Respondent-owners commit to instituting all direct care improvements and revising all care systems recommended by the IHM in accordance with this AOD, to assure that all caregivers are properly trained and supervised, and that each and every resident of Fulton Commons is treated with dignity and respect; that caregivers provide timely, consistent, safe, appropriate, adequate, and professional services at all times; that there will be improvements in the provision of care as recommended by the IHM; and that the Covered Conduct shall not be repeated. For the same reasons, subject to Paragraph 13, Respondent Fulton Commons and Respondent-owners commit that they will promptly implement all policies recommended by the IHM in accordance with this AOD, as delineated in Paragraph 25, absent documented good cause, unrelated to any cost-savings.

28. Respondent Fulton Commons and Respondent-owners shall cause Fulton Commons to increase staffing (RN, LPN, and CNA) in accordance with the IHM's recommendations, provided, however, that under no circumstances shall Fulton Commons' staffing levels fall below a minimum of 3.5 hours-per-resident-per-day ratio ("HPRD Target") or such quantitative level as deemed necessary by the IHM to meet resident needs, whichever is greater. In so doing, Respondent Fulton Commons and Respondent-owners shall increase and advertise salaries and benefits to such levels recommended by the IHM for Fulton Commons to attract and retain qualified employees to meet the HPRD Target, without regard to alleged industry standards or net revenue. In this regard, Respondent Fulton Commons and Respondent-owners agree that any offer of compensation by Fulton Commons to prospective and existing full-time

employees that is too low, as determined by the IHM or IFM, to attract and retain full-time employees, fails to qualify as any alleged “labor shortage” and will not qualify as a defense for failure to meet this material obligation under this AOD.

29. Respondent Fulton Commons and Respondent-owners will engage staffing recruiters that are not related parties; if recommended by the IHM, retain outside employment consultants not previously engaged by Respondent-owners that are not related parties; make efforts to obtain all requisite regulatory approvals to sponsor CNA training programs for prospective Fulton Commons CNAs and, if approved, offer such programs, at no cost to students; and implement any additional programs recommended by the IHM necessary to promptly achieve the IHM’s staffing recommendations as well as the HPRD Target.

30. Respondent Fulton Commons and Respondent-owners shall, at a minimum, maintain the specific direct care and supervisory staffing improvements at Fulton Commons as directed by the IHM, pursuant to this AOD, for a period of the term of this AOD plus two (2) additional years.

31. The IHM shall provide reports or information, in addition to quarterly reports described below, to the Attorney General at such times and in such manner as the Attorney General designates, concerning all activities under this AOD.

Reform of Governing Body

32. Respondent Fulton Commons and Owner Respondents shall form an official governing body for Fulton Commons that is legally responsible for the overall management and operation of the facility, as required by 10 NYCRR § 415.26(b) (the “Governing Body”), within thirty (30) days of the Effective Date, or after receiving approval from DOH and/or the Public Health and Health Planning Council (“PHHPC”), as required by 10 NYCRR §§ 401.3(b) and 415,

if such approval is required. The Governing Body will be comprised of five (5) members and shall include the IHM, the IFM, and any combination of the Owner Respondents or their designees. In the event that any Owner Respondent designates any agent to be their representative on the Governing Body, it shall not be a defense to any claim or proceeding against any Owner Respondent that said agent did not keep the Owner Respondent informed. No Owner Respondent shall designate as their representative on the Governing Body any agent that is a law firm or compliance consultant.

33. The Governing Body will adopt by-laws at their first meeting, which will take place no later than sixty (60) days from the Effective Date. Such by-laws are subject to the approval of the Attorney General and DOH. To facilitate this, within fifteen (15) days of the Effective Date, Fulton Commons shall send, via email, proposed by-laws to the Attorney General and DOH for approval.

34. The Governing Body shall meet in formal session at least monthly during the term of this AOD but may be adjusted to quarterly upon a favorable report of the IHM. Minutes of the meetings of the Governing Body shall be taken by the IFM or IHM, or their designees, and shall include all of the recommendations made by the IHM, discussion of such recommendations, and the resolutions reflecting approval of the recommendations made by the IHM, and any objections thereto, including any reasons stated. The minutes shall be provided to the Attorney General after ratification by the Governing Body or within thirty-five (35) days of each meeting, whichever time period is shorter. Notwithstanding Paragraph 32, the IHM and IFM shall not be deemed a Director or Member of the entity licensed pursuant to Article 28 of the Public Health Law. Unless invited to make a presentation to the Governing Body by an approved resolution of the Governing Body, counsel representing any member of the Governing Body shall not orally address the Governing

Body or otherwise disrupt any ongoing board meeting. Violation of this provision shall result in the prohibition of said counsel and any lawyers from the same firm from attending, in any form, future board meetings of the Governing Body.

35. Nothing in this AOD shall limit the Governing Body's additional, rights, duties, and obligations under other applicable law, including but not limited to the requirement under 10 NYCRR § 415.27(b)(4), that a member of the Governing Body also be a member of Fulton Commons' Quality Assurance and Performance Improvement Committee.

HEALTHCARE COMPLIANCE REFORMS

Chief Compliance Officer

36. Within thirty (30) days of the retention of the IHM, Respondent Fulton Commons and Owner Respondents will appoint a Chief Compliance Officer who is responsible for ensuring an effective healthcare and regulatory compliance program at Fulton Commons, and who shall periodically report directly to the Governing Body, and shall not report to or be required by Fulton Commons to consult first with its counsel or any alleged compliance consultant before investigating incident and accident reports or other alleged complaints, or before reporting to the Governing Body. The Attorney General shall have the right, in its sole discretion, to approve or reject the Chief Compliance Officer selected by Fulton Commons and Owner Respondents.

37. The Chief Compliance Officer shall be a full-time, salaried employee who assists Fulton Commons with its compliance obligations and whose primary duty shall be ensuring healthcare compliance at Fulton Commons. The Chief Compliance Officer shall have a minimum of one of the following: (i) ten (10) years of healthcare experience as a Skilled Nursing Facility Administrator; (ii) relevant experience that includes serving as a healthcare facility Compliance

Officer; (iii) experience as an attorney whose practice focused primarily on the healthcare industry; (iv) experience as a Director of Nursing Services at a skilled nursing facility; or (v) equivalent relevant experience. Respondent Fulton Commons and Owner Respondents shall consult with the IHM before selecting a Chief Compliance Officer. Any such Chief Compliance Officer shall not be an excluded person under federal and state healthcare programs nor previously subject to any healthcare administrative suspension or sanction in any jurisdiction. Under no circumstances will the Chief Compliance Officer be related by birth or marriage to any of the individual Respondents or hold or acquire any ownership interest in any business enterprise related in any manner to Respondents.

38. The Chief Compliance Officer will maintain a robust compliance program designed to ensure that: a) the improvements as required by the IHM recommendations are fully implemented subject to Paragraph 13; b) that Fulton Commons complies with the PHL, Social Services Law § 363-d, and the corresponding rules and regulations thereunder to avoid violation of healthcare requirements; and c) that Fulton Commons complies with the Social Security Act and related regulations, and the rules and regulations of the Medicaid Program, as well as other state and federal laws, to avoid violation of the requirements for appropriate claims to government insurance programs.

Section II:

FINANCIAL REFORMS

Independent Financial Monitor

39. Respondent Fulton Commons and Owner Respondents shall retain an IFM to verify and audit all financial transactions of Fulton Commons relating to implementation of the IHM's recommendations, the Resident Care Fund, or any determination by Respondents to decline to

implement the IHM's recommendations subject to Paragraphs 13, 16, and 25, and to verify Respondents meet their obligations under this AOD. The term of engagement of the IFM ("IFM Term") shall be consistent with the IHM Term as described in Paragraphs 22 and 23. In the event that funds remain in the Resident Care Fund at the conclusion of the IHM Term, the IFM Term will continue until all such funds are expended.

40. Respondent Fulton Commons and Owner Respondents will nominate at least three (3) qualified candidates for the IFM position to the Attorney General for approval prior to the Effective Date. Such candidates must demonstrate expertise with respect to healthcare fraud investigations and, at a minimum, meet the following requirements:

- a. Be able to access and deploy resources as necessary to discharge the IFM's duties, as described in this section, including through agents and employees; and
- b. Be sufficiently independent from Respondents, other nursing home operators, and nursing home industry and trade groups, to ensure effective and impartial performance of the IFM's duties as described in this section.

41. The Attorney General retains the right, in its sole discretion, to approve or disprove the IFM. To the extent the IFM candidates proposed by Respondents are unacceptable to the Attorney General, the Attorney General will propose two (2) acceptable candidates for the position, and Respondents will select one of same to serve as the IFM. If Respondents fail to notify the Attorney General of its selection of one of these two (2) candidates within five (5) days, then the Attorney General will notify the Respondents which IFM candidate to retain, which Respondents will do promptly.

42. The IFM may be a professional firm, in which case the Attorney General's power of approval shall extend to each staffer designated by such firm for assignment to the project.

43. If the Attorney General determines, in its sole discretion, that Respondent Fulton Commons and Owner Respondents' delay in proposing qualified IFM candidates or retaining a proposed IFM candidate approved by the Attorney General is negatively impacting implementation of this AOD, the Attorney General shall seek an Order from a court of competent jurisdiction appointing the candidate of the Attorney General's choosing as IFM, and providing that Respondent-owners shall pay for the services of that IFM until the later of the end date of the duration of the monitorship or of the duration of time that any funds exist within the Resident Care Fund after Respondents have fulfilled their obligations under this Agreement to fund the Resident Care Fund; in such circumstances, neither Respondent Fulton Commons nor Respondent-owners shall raise any defense or objection to the court's jurisdiction or authority over such proceedings. During the time that an approved IFM is not in place, the term of the IFM under this AOD and the AOD itself is tolled.

44. If, during the IFM Term, the IFM becomes unable to perform the obligations as set out herein, or if the Attorney General, in its sole discretion, determines that the IFM cannot fulfill such obligations to the Attorney General's satisfaction, which determination and the basis therefore shall be set forth in writing and provided to Respondent-owners and Fulton Commons, the Attorney General shall notify Respondent Fulton Commons and Owner Respondents to discharge and replace the IFM in accordance with the provisions for selection of the IFM described in Paragraph 39-44.

45. The IFM will issue reports directly to the Attorney General, with a copy to Respondent Fulton Commons and Owner Respondents, and the activity of the IFM shall not be directed by any of the Parties hereto.

46. The IFM will be retained in order to verify Respondents' compliance with all terms of this AOD that bear, in any respect, on the financial condition of Fulton Commons and the requirements under this AOD, including, but not limited to:

- a. Expenditures required or prohibited by any Respondent under this AOD;
- b. Availability of funds to carry out any transaction required by this AOD;
- c. Compliance with this AOD;
- d. Sufficiency of expenditures to carry out the quality of care reforms under this AOD; and
- e. Review and approve or reject proposed transfers of funds from Fulton Commons and New Fulton or encumbrances or other debts in accordance with Paragraph 67.

47. The IFM will be given all authority necessary for immediate and direct access to all information concerning Fulton Commons, including, but not limited to, direct electronic access to all of Fulton Commons' banking accounts with equal access as any account holder or agent thereof, and all of Fulton Commons' fiscal systems maintained in connection with the financial transactions of Fulton Commons.

48. Respondents shall provide the IFM unconditional access to the books and records of Fulton Commons and New Fulton as well as access to any accountant or accounting firm for Fulton Commons, which, in the IFM's sole discretion, is necessary to carry out the IFM's responsibilities under this AOD.

49. The IFM will receive and review copies of all bank records for Fulton Commons and New Fulton and shall forward copies of such statements to the Attorney General upon request, and on any schedule that the IFM determines necessary to carry out its functions.

50. The IFM shall have the unrestricted power, in its sole discretion, to cause Fulton Commons, directly or through employees of Respondent Fulton Commons to:

- a. Prevent, block, cancel, or reverse any financial transaction relating to the Resident Care Fund;
- b. Prevent, block, cancel, or reverse any financial transaction relating to Fulton Commons in accordance with Paragraph 67;
- c. Instruct or direct financial transactions necessary to carry out the terms of this AOD;
- d. Inquire, verbally and/or in writing, and to receive a response in the form designated by the IFM, as to any matter concerning Fulton Commons or Respondents' obligations under the AOD;
- e. Require the production of copies of any books and records of Fulton Commons.

51. The IFM will have the right to communicate with the Attorney General without notice to, or the consent of, Respondent-owners in relation to this AOD.

52. Owner Respondents shall cause their employees and agents to promptly comply with instruction from the IFM on the same time frame as said employees and agents could carry out the request if made by Respondents. Any objection to such instruction shall be memorialized and conveyed to the IFM and the Attorney General and will be subject to review and correction in the ordinary course of business of the IFM and the Attorney General. Respondents' objection to

any instruction by the IFM shall not be grounds for failure to carry out the instruction absent a determination of good cause by the Attorney General and/or the IFM.

Section III:

MONETARY RELIEF and REFORMS

Payments Relating to Restitution and Resident Care

53. Notwithstanding any other financial obligations under this AOD, Respondent-owners shall pay a sum of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00), representing restitution, in satisfaction of the claims set forth as the Covered Conduct; and Respondent-owners shall pay a sum of Six Thousand Dollars and Zero Cents (\$6,000.00) to DOH representing administrative penalties and sanctions based on DOH's open enforcement action against Fulton Commons from DOH's January 10, 2022, survey of Fulton Commons.

54. Respondent-owners shall be jointly and severally liable to make the payments set forth herein within ten (10) business days of the Effective Date of this AOD.

Resident Care Fund

55. Within five (5) business days of the Effective Date, Respondent-owners shall establish a fund to be used exclusively for the benefit of the residents of Fulton Commons (the "Resident Care Fund") that shall be utilized to fund all IHM recommended improvements in care, subject to Paragraph 13. The Resident Care Fund shall be established at a financial institution licensed in the State of New York, subject to the approval by the Attorney General. The Resident Care Fund shall be subject to a maximum cap notwithstanding anything else to the contrary of Seven Million Dollars and Zero Cents (\$7,000,000.00) ("Resident Care Fund Cap").

56. Proof of payment made by Respondents, other than Fulton Commons or New Fulton, into Fulton Commons' Resident Care Fund shall be provided to the Attorney General within twenty-four (24) hours of payment thereof.

57. Fulton Commons' Resident Care Fund shall be funded with the sum of Six Million Dollars and Zero Cents (\$6,000,000.00), in three (3) annual installments, deposited as follows:

- a. Two Million Dollars and Zero Cents (\$2,000,000.00) within five (5) business days of the Effective Date;
- b. Two Million Dollars and Zero Cents (\$2,000,000.00) on or before February 1, 2025; and
- c. Two Million Dollars and Zero Cents (\$2,000,000.00) on or before February 1, 2026.

58. A sum of an additional One Million Dollars and Zero Cents (\$1,000,000.00) shall be funded to replenish the Resident Care Fund should it have a balance under Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) subject to the total Resident Care Fund Cap of Seven Million Dollars and Zero Cents (\$7,000,000.00). Any such payment shall be made within five (5) business days of Respondents being notified that the Resident Care Fund has a balance under Five Hundred Thousand Dollars and Zero Cents (\$500,000.00).

59. Respondent-owners shall promptly pay the expenses of the monitors appointed hereunder within fifteen (15) days after submission to Respondent Kalter by each monitor of a monthly invoice or such other demand as the respective monitors and Respondent-owners agree. However, at no point shall the payment of the monitors be drawn or otherwise derived from the funds or operating accounts of Fulton Commons or the Resident Care Fund.

60. In the event that the IHM determines that additional funds are necessary to implement necessary quality assurance reforms at Fulton Commons and specifies the basis of said determination, the funds required and the supporting calculations regarding same, Respondent-owners shall make additional payments into the Resident Care Fund to fund such improvements, which may be subject to review and verification by the IFM, subject to the Resident Fund Cap.

61. Upon request by the IHM and consent of the Attorney General, funds remaining in the Resident Care Fund at the conclusion of the term of this AOD shall be used for the benefit of Fulton Commons' residents subject to recommendations of the IHM, to be made prior to the end of the IHM Term, and the continued oversight of the IFM.

62. All funds paid into the Resident Care Fund by Respondents, and/or transferred into Fulton Commons' Resident Care Fund at the direction of Respondents, are additional to and not in limitation of Respondents' obligation, as Medicaid providers, to provide appropriate, adequate, and timely care for the residents of its nursing homes regardless of cost. Accordingly, the Resident Care Fund shall be funded by Respondent-owners and shall not be funded by the Respondent-owners with Medicaid or Medicare payments made to Fulton Commons or Medicaid or Medicare payments made to any other nursing home individually or partly owned by any of the Respondents.

Correction of Cost Reports

63. Respondent Fulton Commons shall correct its cost reports filed with DOH, where applicable, by fully completing all required cost report schedules, by providing new certifications, where required, for said cost reports, and to submit, within ninety (90) days, such revised cost reports in their entirety to the Attorney General and DOH. Notwithstanding Paragraph 92, the New York State Office of the Medicaid Inspector General ("OMIG") retains the right to audit said

corrected cost reports filed by or on behalf of Respondents Fulton Commons and Kalter and preserves all administrative remedies with respect to those filings.

64. No portion of the payments required under this AOD nor any related expense on the part of Fulton Commons shall be claimed as reimbursable costs under the Medicaid Program.

65. No portion of the payments required under this AOD nor any related expense shall be claimed on any government contract or rate application by Owner Respondents unless such payment is mandated by the IHM and the IFM as a necessary and essential capital improvement to the facility.

66. Respondents are prohibited from making any withdrawals from the Resident Care Fund.

67. The Parties recognize that Fulton Commons needs sufficient funds in order to operate in compliance with its many legal duties and obligations, and that the prompt removal and/or transfer of revenue from the facility to the Related Entities or any other “existing or future related entities” prior to ensuring the residents receive requisite care is incompatible with meeting this need. Accordingly, while Fulton Commons is the licensed operator of the facility, Owner Respondents agree not to take any draws or distributions from Fulton Commons unless and until at the end of any calendar year: (1) Fulton Commons’ revenue exceeds its expenses; (2) all Respondents are in compliance with the requirements of this AOD and all applicable laws, rules, and regulations; (3) any such draw or distribution is limited to the amount that Fulton Commons’ revenue exceeds its expenses; and (4) any such draw or distribution is approved by the IFM after consultation with the IHM. While Fulton Commons is the licensed operator of the facility, Fulton Commons and New Fulton shall make no payments to any Related Entities, any other “existing or future related entities,” or any management or consulting entities with which Fulton Commons

does business unless such payments are approved by the IFM pursuant to Paragraph 46. For purposes of this Paragraph, the IFM will only approve such transfers and distributions and encumbrances and other debts after ensuring compliance with all applicable laws, rules, and regulations, including without limitation, those ensuring that: (1) the transfer of any funds from Fulton Commons or New Fulton, including without limitation any purported rent, consulting, or management fee payments, to any Respondent-owner, other owner, any Related Entities, any “existing or future related entities,” or any management or consulting entity is: (i) of an amount that is reasonable and reflects arms-length negotiation rather than self-dealing or collusion, (ii) for services or goods of sufficient quality and value, and (iii) for a legitimate business purpose and in the nursing home’s best interest rather than any form of up-front profit-taking from the nursing home without assurance first that the nursing home is operating in compliance with all applicable laws, rules, and regulations, or (2) the assumption of any debt or other obligation by Fulton Commons is: (i) of an amount that results from arms-length negotiation rather than self-dealing or collusion, (ii) for services or goods of sufficient quality and value, and (iii) for a legitimate business purpose and in the nursing home’s best interest. Subject to Paragraph 46, the IFM will not withhold approval of Fulton Realty LP’s necessary property expenses, including mortgage payments, taxes, and utilities.

68. Respondents shall not make donations, other charitable transfers, or loans from Fulton Commons or New Fulton during the Term of this AOD.

69. Under no circumstances shall funding of the IHM or the IFM, or any contractual or non-contractual litigation costs, be charged directly or indirectly to the Resident Care Fund.

Reimbursement of Costs of Investigation

70. Respondents, other than Fulton Commons or New Fulton, shall pay a sum of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) as reimbursement of the costs of investigation incurred by the Office of the Attorney General (hereinafter “Costs of Investigation”).

71. The Costs of Investigation shall be tendered to the Office of the Attorney General on or before forty-five (45) days from the Effective Date.

No Financial Impact on Other Healthcare Facilities

72. Under no circumstances shall the Respondents cause, permit, or suffer the funding of any reform required by this AOD, including, but not limited to, the costs of the IHM or the IFM, increased staffing, healthcare compliance, or any contractual or non-contractual litigation costs, to be charged directly or indirectly to any other nursing home in New York or elsewhere in the United States.

No Healthcare Impact on Other Healthcare Facilities

73. Under no circumstances shall the Respondents cause, permit, or suffer any reform required by this AOD, including, but not limited to, the costs of the IHM or the IFM, increased staffing, healthcare compliance, or any contractual or non-contractual litigation costs, to cause reduction in the staffing level or quality of care to residents of any other nursing home in New York or elsewhere in the United States owned, operated, managed, or controlled by any of the Respondents.

Section IV:

**PROHIBITION AGAINST VIOLATING NEW YORK LAW AND THIS
ASSURANCE OF DISCONTINUANCE**

74. In operating Fulton Commons and/or any other healthcare business, Respondent-owners shall not directly or indirectly, engage or attempt to engage in violations of the law, including, but not limited to, the New York State Penal Law, Executive Law §§ 63(12) and 63-c, the Social Services Law, the PHL, and the rules and regulations governing New York nursing homes and the New York State Medicaid Program.

75. The Attorney General retains the right, under Executive Law § 63(15), to compel compliance with this AOD. Evidence of a material breach of this AOD shall constitute prima facie proof of violation of the applicable law in any civil action or proceeding thereafter commenced by the Attorney General. Should it be determined that a breach or other violation of this AOD by Respondents has occurred, said breaching party shall pay the Attorney General the cost, if any, of such determination and of enforcing this AOD, including without limitation, reasonable legal fees, expenses, and court costs, including those between the breaching party and the Attorney General.

Section V:

**COOPERATION WITH THE INDEPENDENT HEALTHCARE MONITOR,
INDEPENDENT FINANCIAL MONITOR, AND THE ATTORNEY GENERAL**

76. Respondents will fully cooperate with the IHM and IFM. Such cooperation will include, but not be limited to: i) providing the IHM and IFM with access to all books and records of Respondents Fulton Commons, New Fulton, Fulton Realty LP, Fulton Realty Inc., and New Bridge View as contemplated by the duties of the IHM or IFM [as delineated in Sections I and II above]; ii) providing the IHM and IFM with access to all employees, personal assistants, agents, and/or contractors of Respondents reasonably necessary for the IHM and IFM to carry out their

respective responsibilities under this AOD at a convenient time, place, and manner that the IHM and/or IFM shall direct, and instructing such persons that responding to all inquiries by the IHM and IFM related to the performance of their duties under this AOD is required by Respondents; and iii) advising the IHM and IFM of any significant programmatic or policy changes relating to compliance with the IHM and/or IFM's responsibilities under this AOD prior to implementation of such changes. If the IHM and/or IFM should find that any action taken by Respondents may violate this AOD, the IHM and/or IFM will advise Respondents and the Attorney General of same in writing. The IHM and IFM will provide quarterly reports to the Owner Respondents and to the Attorney General that assess Respondents' compliance with this AOD. The Attorney General may require that the IHM and/or IFM clarify or expand on the matters addressed in such reports, and that Respondent-owners and Fulton Commons respond in writing to the Attorney General, the IHM, and the IFM regarding any aspect of said reports. The IHM, IFM, and the Attorney General shall have access to copies of all reports required to be prepared pursuant to this AOD. The IHM and IFM may report confidentially to the Attorney General.

77. Subject to Paragraphs 22 and 23, in the event that the Attorney General deems any of the Respondents have materially failed to comply with the AOD and such noncompliance is not cured by the Respondents within fifteen (15) days after sending written notice thereof pursuant to Paragraph 100, the Attorney General may elect to require Respondents to extend the term of the IHM and/or IFM for an additional period of up to two (2) years for any such determination, rescind this AOD and reinstate the Special Proceeding, or take any other action authorized by law to remedy the deficiencies identified by the Attorney General. Respondent-owners acknowledge that no alleged "staffing shortages," "industry standard" practices, ongoing COVID-19 pandemic, new pandemic, or other infectious disease emergencies shall constitute any objection to extension of

this AOD, or any reason for its modification in any way. Notwithstanding Paragraphs 92 and 95, OMIG retains the right and discretion to seek exclusion of Respondents based on the Covered Conduct and the pleas and convictions of Fulton Commons and its former Director of Nursing if the Attorney General deems any of the Respondents have materially failed to comply with the AOD and the noncompliance is not cured by the Respondents within fifteen (15) days after the Attorney General sends Respondents written notice thereof pursuant to Paragraph 100. Respondents further agree that, in the event of a determination by the Attorney General of a material breach under this Paragraph, the Covered Conduct and conviction of Fulton Commons under Nassau County Indictment No. 72148-22 sets forth sufficient proof of unacceptable practices, as defined in 18 NYCRR § 515.2 and 18 NYCRR § 515.4, and sufficient grounds for imposition of sanctions under 18 NYCRR § 515.3, and immediate action under 18 NYCRR § 515.7, including but not limited to the sanction of exclusion under 18 NYCRR § 515.3(a)(1), and agree not to plead, argue, or raise any defenses under the theories of statute of limitations, laches, or estoppel, or similar theories in opposition to the imposition of immediate sanctions under 18 NYCRR § 515.7. Respondents acknowledge that under the Penal Law of New York, attempts to commit criminal offenses are criminal offenses.

78. If the Attorney General elects to rescind this Agreement and reinstitute the Special Proceeding, in accordance with Paragraph 77, Respondents agree not to plead, argue, or raise any defenses under the theories of statute of limitations, laches, or estoppel, or similar theories to any civil claims relating to the Covered Conduct except to the extent that such defenses were available as of the date of the commencement of the Special Proceeding.

79. At the end of the IHM and/or IFM's engagement, if the IHM and/or IFM's final report finds that Respondents are in compliance, the Parties will exchange writings to evidence that the IHM and/or IFM's engagement is completed.

Section VI:

ACTION BY REGULATORY AGENCIES and COURTS

80. Because MFCU deems this Agreement to be in the best interests of the residents at Fulton Commons and serves Medicaid Program integrity, provided that the Respondents are in full compliance with the terms of this Agreement, MFCU and the Respondents shall use their best efforts to encourage DOH and OMIG or the United States Department of Health and Human Services Offices of the Inspector General (HHS OIG), or CMS (collectively, the "Regulatory Agencies") to refrain from excluding Fulton Commons as a federal healthcare program provider, pursuant to 18 NYCRR § 515.7(c)(2) or federal counterpart regulations, based on Fulton Common's plea of guilty to Attempted Falsifying Business Records in the First Degree, in violation of Penal Law § 110/175.10, a class A Misdemeanor, during the term of this Agreement.

81. If ownership or operations of Fulton Commons are sold, assigned, conveyed, or transferred for any reason, including but not limited to sale, gift, the termination of Fulton Commons' provider agreement, or the exclusion of Fulton Commons from the Medicaid or Medicare Programs as a result of Fulton Commons' plea of guilty to Attempted Falsifying Business Records in the First Degree, in violation of Penal Law § 110/175.10, a class A Misdemeanor (but not including breach of this Agreement or breach of a condition of forbearance imposed by the Regulatory Agencies), then all terms and conditions of this AOD shall continue in full force and effect on any successor, assignee or transferee. Respondents shall cause this AOD to be adopted in any such transfer agreement. If the Regulatory Agencies require that the

Respondents apply to transfer ownership or operations of Fulton Commons to a successor corporate entity either in order to avoid exclusion from a federal health care program or after the exclusion of the current Fulton Commons corporate entity, Respondents shall use their best efforts to comply with such requirement and submit such application.

Section VI:

LIMITATIONS ON CHANGES IN OPERATION OF FULTON COMMONS

82. Except as expressly set forth herein, Owner Respondents will operate Fulton Commons as a skilled nursing facility solely for an interim period from the execution of this AOD until the effective date of any change of ownership approved by the PHHPC. Any proposed new operators as set forth in any Certificate of Need shall confirm acceptance of this AOD on behalf of the proposed new licensed entity in a writing acceptable to the Attorney General. Thereafter, Respondent-owners shall not operate Fulton Commons for a period of not less than seven (7) years (“Moratorium Period”) from the Effective Date. During the Term of this AOD, Owner Respondents shall not file, nor cause to be filed, any application to close Fulton Commons, nor cause or suffer to be caused, any act or series of acts or omissions to act that would close Fulton Commons or lead to its closure due to financial distress or financial expenditure, decline in patient census, reduction in services, loss of licensure or certifications, or deterioration of physical plant.

83. The Respondents may apply for waiver of the Moratorium Period in writing to the Attorney General on grounds solely limited to circumstances beyond the control of the Respondents. The Moratorium Period will be deemed waived only upon the written consent of the Attorney General. The Attorney General may condition such consent on additional terms in its sole discretion.

84. Respondents shall not offer, accept, propose, or market Fulton Commons for sale, or transfer any ownership interest therein, nor suffer any person to do the same, without causing and requiring the terms of such sale or transfer to include in writing adoption and continuation of all obligations under this AOD to the proposed buyer or transferee, including without limitation those in Paragraph 67. Any such proposed sale or transfer shall be subject to the approval of the Attorney General, DOH, and PHHPC, as applicable.

85. During the Moratorium Period, Prior Owner Respondents agree to refrain from accepting any ownership interest in Fulton Commons during any period in which it is a licensed nursing home or any of Fulton Commons' successor nursing homes or any existing or future nursing homes in the State of New York.

86. During the Moratorium Period, Respondents agree to refrain from accepting any new ownership interest in any enrolled Medicaid or Medicare provider.

Extended Closure Notice

87. Respondent-owners agree that, in the event that the closure or cessation of operations at Fulton Commons is contemplated by Respondent-owners, whether initiated by Respondent-owners or any other person, they shall provide one hundred and twenty (120) days' notice in writing to the Attorney General and DOH (the "Extended Closure Notice Period"). Said time period shall be independent of any other obligation under nursing home regulations as to notice of closure, including, but not limited to, the DOH Office of Health Systems Management Facility Closure Plan Guidelines and 10 NYCRR §§ 401.3(g)–(j), and this obligation shall not supersede or replace any other notice required by law or regulation.

88. Under no circumstances shall Fulton Commons be closed, in whole or in part, during said Extended Closure Notice Period, without the express written consent of DOH and the

Attorney General, for any reason including, but not limited to, financial loss, financial hardship, or lost financial opportunity, to the Respondents.

89. Respondent-owners agree that, in the event that the transfer of any ownership interest of ten percent (10%) or more in Fulton Commons is contemplated by the Respondents, whether initiated by Respondent-owners or any other person, it shall provide ninety (90) days' notice in writing to the Attorney General and DOH. Said time period shall be independent of any other obligation under nursing home regulations as to changes of ownership and this obligation shall not supersede or replace any other notice required by law or regulation.

90. Any notice required to be provided pursuant to Paragraph 89 shall include, to the extent known, the names of all business entities, related individuals, and the full terms of such transactions.

Section VII:

FORBEARANCES AND RELIEF

91. In consideration of the State entering into this AOD, Respondents release and forever discharge the State, including, but not limited to, MFCU DOH, and OMIG and any past or present employee or agent of the State, from any and all claims, debts, sums of money, contracts, agreements, damages, and liability of any kind or nature whatsoever, in law or in equity, which Respondents have had as of the date of this AOD arising out of the Covered Conduct and the MFCU Investigation.

92. Subject to the exceptions set forth in Paragraphs 77 and 95 and conditioned upon Respondents' full compliance with, and successful completion of, all terms and conditions of this AOD, including for the duration of any extended term, the State releases Respondents, together with all of their trustees, servants, employees, and assigns, from any and all civil monetary causes

of action that the State has for the Covered Conduct under Executive Law §§ 63(12) and 63-c; New York Social Services Law § 145-b; the New York False Claims Act, New York State Finance Law §§ 187 *et seq.*; and/or sanctions or penalties under the Public Health Law and/or provisions of Titles 10 and 18 of the New York Codes, Rules and Regulations, or the common law or equitable theories of payment by mistake, disgorgement, unjust enrichment, and breach of contract.

93. Upon full compliance with, and successful completion of, all terms and conditions of this AOD, including for the duration of any extended term, the Attorney General shall not oppose an application by Respondents or any of their affiliates for the purchase of any other healthcare facility on the grounds of the Covered Conduct or this AOD. The Respondents acknowledge that certain licensing applications require approval by the PHHPC, and the Attorney General cannot require PHHPC to approve such applications.

94. Upon execution of the AOD, the Parties shall stipulate to discontinue the Special Proceeding with prejudice and without costs, penalties, or fees, except as provided in this AOD. If, by the Effective Date of the AOD, the Appellate Division, Second Department, has not yet issued a decision under Docket #2022-00408, the Parties to that appeal shall execute and file a stipulation withdrawing the appeal without costs or disbursements and the Attorney General shall forbear from enforcing and withdraw subpoenas H106-2021 and H108-2021 (“Subpoenas”) as issued to Respondents and/or their accountants. Should the Appellate Division, Second Department issue a decision in the Attorney General’s favor prior to the Effective Date of this AOD, and if the Attorney General has not yet enforced the Subpoenas, then upon the Effective Date of this AOD, the Attorney General will forbear from enforcing and withdraw the Subpoenas.

95. Notwithstanding any term of this AOD, the State does not release any person or entity from any of the following liabilities:

- a. Any civil, criminal, or administrative liability arising under state tax laws;
- b. Any federal administrative liability, including mandatory or permissive exclusion from the Medicaid and/or Medicare Programs;
- c. Any state administrative liability for overpayments from rate audits for cost reports;
- d. Any state administrative liability for violations of PHL § 2895-b for the second, third, and fourth quarters of 2022 and PHL § 2828;
- e. Any state sanction for any Board of Examiners of Nursing Home Administrators (BENHA) action regarding any Nursing Home Administrator License of any Respondent;
- f. Any liability to the State of New York (or its agencies) for any conduct other than the Covered Conduct;
- g. Any liability based on the obligations set forth in this AOD.

Persons Not Parties to This AOD

96. Nothing in this AOD shall relieve Respondents' obligations as imposed by any applicable State or federal law, regulation, or other applicable law, except as specifically set forth herein.

97. This AOD shall not confer any rights upon any persons or entities other than the State, the Attorney General, DOH, OMIG, and Respondents. Nothing in this AOD shall be deemed or interpreted to create any third-party beneficiaries or third-party rights of action, or confer any rights to any third parties to enforce the terms of this AOD.

98. Nothing in this AOD shall be construed as limiting the rights or authority of MFCU, DOH, OMIG, or any other state agency to engage in any and all activities to which they are legally entitled.

99. This AOD is binding upon all Parties and upon the assigns, heirs, transferees, purchasers, and any successors-in-interest of the Respondents.

Section VI:

**NOTICE, TERM OF ASSURANCE OF DISCONTINUANCE, AND
OTHER PROVISIONS**

100. Respondents agree that service upon their counsel will be deemed good and sufficient service for purposes of notice and/or the commencement by the Attorney General of any future proceeding in connection with this AOD. Respondents agree to notify the Attorney General of any change in counsel or designated agent for service of process immediately. Any notices pursuant to this AOD shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery or express courier, with a simultaneous delivery by electronic mail, at the addresses designated below:

IF TO THE ATTORNEY GENERAL:

New York State Attorney General
Medicaid Fraud Control Unit
Attn: Amy Held, Director
Medicaid Fraud Control Unit
28 Liberty Street
New York, New York 10005
Tel.: 212-417-5250
Email: MFCUNotices@ag.ny.gov

IF TO RESPONDENTS:

Raul A. Tabora, Jr., Esq.
Attorney for Respondents
Bond Schoeneck & King

22 Corporate Woods
Albany, NY 12211-2503
Tel.: 518-533-3242
Email: taborar@bsk.com

David N. Yaffe, Esq.
Attorney for Respondents
Hamburger & Yaffe, LLP
191 New York Avenue
Huntington, NY 11743
Tel.: 516-695-8590
Email: david@hamburgeryaffe.law

101. In any proceeding or action relating to this AOD, email transmission of a copy of any papers to the persons set forth herein in Paragraph 100, with email confirmation of receipt, shall be deemed good and sufficient service on Respondents.

102. Each Respondent will notify MFCU of any change of such Respondent's residence and business addresses within ten (10) days of such change. Any notice to the Attorney General under this AOD, including any determination subject to approval by the Attorney General, shall be given with sufficient time as expressly set forth in this AOD, to exercise review and consideration of the determination to be made. In no event shall the Attorney General's silence on an issue requiring the Attorney General's consent be deemed consent, waiver, or approval. Notwithstanding the foregoing, the Attorney General shall not unreasonably delay review of the application for any such consent, waiver, or approval.

Explicit Conditions Precedent to Performance by the State

103. The Respondents' obligations under this AOD are explicit conditions precedent to the administrative forbearances and relief granted by the Attorney General, DOH, and OMIG in Paragraphs 92 and 95 above, and, in the event the Respondents violate such conditions, the Attorney General, DOH, and OMIG shall be relieved of the obligations set forth in Paragraph 92, and may pursue all civil, criminal, and administrative remedies otherwise available under the law. Nothing

herein shall be deemed an admission by Respondents that such claim is valid or that the Attorney General, DOH, or OMIG is entitled to any such remedy. Notwithstanding such violations and action by the Attorney General, DOH, or OMIG, Respondents' obligations hereunder shall remain in full force and effect.

Term of this Assurance of Discontinuance

104. The Effective Date of this AOD is the date that the last signatory executes this AOD. The Term of this AOD shall be from the Effective Date through the end of the expiration of the IFM Term and IHM Term, whichever is later.

105. Nothing in this AOD shall relieve Respondents of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

106. This AOD shall be governed by, and construed in accordance with, the laws of the State of New York without regard to choice of law or conflict of laws principles. Any action by the Attorney General to enforce the terms of this AOD and any action of the Respondents in relation to this AOD shall be brought in Supreme Court, Nassau County (the "Court"). The Parties waive any objection that any of them may now have or hereafter may have to this venue, and waive any objections based on personal jurisdiction, whether concerning this AOD or for any related suit, action, or proceeding, and irrevocably consent to the jurisdiction of the Court and shall accept and acknowledge service upon a designated agent in any such suit, action, or proceeding.

107. Respondents consent to the designation of the following attorney as their agent for service of process in any proceeding to enforce this AOD. Such agent may not be changed or revoked except by a written amendment executed by the Attorney General. The designated agent for service of process is counsel identified in Paragraph 100.

108. Any omission or determination by the Attorney General, DOH, or any agency of the State of New York to excuse or fail to act to require the strict performance by Respondents of any of the provisions of this AOD shall not be deemed a waiver of any of the provisions hereof, and the State, DOH, and OMIG notwithstanding such lapse, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this AOD to be performed by Respondents.

109. This AOD contains the entire agreement and understanding of the Parties. There are no additional promises or terms of the AOD other than those contained herein. The terms or provisions of this AOD may not be changed, waived, modified, or varied in any manner whatsoever unless in a writing duly signed by all Parties.

110. The AOD may be executed in one or more counterparts, whether original, or by facsimile or portable document format (.pdf), each of which shall be deemed an original, and all executed counterparts shall be deemed to be one and the same instrument.

111. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

112. Respondents will send the Attorney General inked signature pages, which shall be maintained by the Attorney General.

113. The AOD shall be deemed to have been mutually prepared by the Parties hereto and shall not be construed against any of them solely by reason of authorship.

114. Respondents acknowledge that they have entered this AOD freely and voluntarily and upon due deliberation with the advice of counsel. Respondents agree that the conduct found by the MFCU Investigation exposed Respondents to substantial liability and that the forbearances

and other terms granted by the State are valuable consideration for Respondents' payments and other obligations hereunder.

115. Respondents and their affiliates, officers, directors, agents, trustees, or employees agree not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the AOD or creating the impression that this AOD is without factual basis. Nothing in this Paragraph affects Respondents': (a) testimonial obligations, or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorney General, the Commissioner of Health, or OMIG are not a party.

116. The Attorney General may delegate any power or function hereunder to Deputy Attorneys General, Special Assistant Attorneys General, or other agents appointed pursuant to the Attorney General's authority and may delegate any right or oversight function to a different State agency or officer. Respondents may not transfer or delegate any duty or obligation without written consent of the Attorney General.

117. In the event that one or more of the provisions contained in this AOD shall for any reason be held invalid, illegal, or unenforceable in any respect, Respondents shall not assert that such invalidity, illegality, or unenforceability affect any other provision of this AOD.

This AOD shall remain effective notwithstanding the death or incapacity of any individual, or any appeal, collateral attack, or any challenge to any criminal conviction, plea, or sentencing of any individual, including, but not limited to, the reversal, modification, or dismissal of all or any portion of such conviction and sentence, or the conviction, plea or sentencing of any person.

WHEREFORE, the following signatures are affixed hereto on this ____ day of February of 2024.

LETITIA JAMES
Attorney General of the State of New York

BY: 

AMY HELD
Director
Medicaid Fraud Control Unit

Dated: February 27, 2024

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MOSHE KALTER, individually and on behalf of FULTON COMMONS CARE CENTER, INC.; THE NEW FULTON COMMONS COMPANY LLC; FULTON COMMONS REALTY CO., L.P.; FULTON COMMONS REALTY CO., INC.; THE NEW BRIDGE VIEW COMPANY LLC

By: 
Moshe Kalter

Dated: 2/22/24

STATE OF NEW YORK
COUNTY OF Kings :

On the 22 day of FEBRUARY in the year 2024, before me personally came Moshe Kalter, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

STEVEN WEISS
NOTARY PUBLIC, State of new York
No. 01WE6057566
Qualified in Kings County
Commission Expires April 23, ~~2019~~ 2027


NOTARY PUBLIC

STATE OF NEW YORK
COUNTY OF Kings :

On the 22 day of FEBRUARY, in the year 2024, before me personally came Moshe Kalter, known to me, who being by me duly sworn, did depose and say that he resides in Kings County, New York; that he is the owner of Fulton Commons Care Center, Inc.; The New Fulton Commons Company LLC; Fulton Commons Realty Co., L.P.; Fulton Commons Realty Co., Inc.; and The New Bridge View Company LLC, the entities described herein and which executed the instant instrument; and that by his signature on the instrument, Fulton Commons Care Center, Inc.; The New Fulton Commons Company LLC; Fulton Commons Realty Co., L.P.; Fulton Commons Realty Co., Inc.; and The New Bridge View Company LLC executed the instrument.

STEVEN WEISS
NOTARY PUBLIC, State of new York
No. 01WE6057566
Qualified in Kings County
Commission Expires April 23, ~~2019~~ 2027


NOTARY PUBLIC

AARON FOGEL, individually

By: Aaron Fogel
Aaron Fogel

Dated: Feb 22 2024

STATE OF NEW YORK
COUNTY OF Kings:

On the 22 day of February in the year 2024, before me personally came Aaron Fogel, known to me, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

STEVEN WEISS
NOTARY PUBLIC, State of new York
No. 01WE6057566
Qualified in Kings County
Commission Expires April 23, 2019
2027


NOTARY PUBLIC

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FRADY KALTER, individually

By: Frady Kalter
Frady Kalter

Dated: 2/22/24

STATE OF NEW YORK
COUNTY OF Kings :

On the 22 day of February, in the year 2024, before me personally came Frady Kalter, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.

STEVEN WEISS
NOTARY PUBLIC, State of new York
No. 01WE6057566
Qualified in Kings County
Commission Expires April 23, ~~2019~~
2027



NOTARY PUBLIC

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"A"

ESTHER FOGEL, individually

By: Esther Fogel
Esther Fogel

Dated: 22-02-2024

STATE OF NEW YORK
COUNTY OF _____:

On the 22 day of FEB, in the year 2024, before me personally came Esther Fogel, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.



NOTARY PUBLIC

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Serial: 246/2024

מספר סידורי: 246/2024

Authentication of Signature

אימות חתימה

I, the undersigned, **Yitchak Harpaz**, Notary holding license no. 218293, hereby certify that:

אני הח"מ, **יצחק הרפז**, נטריון בעל רשיון מס. 218293, מאשר כי:

On 02/22/2024 there appeared before me at my office, located at 5 Amos St., Jerusalem, Ms. **FOGEL ESTHER**, whose identity has been proven to me by United-States Passport No. **530763737**, issued on 10/07/2015 .

ביום 22/02/2024 ניצבה לפני במשרדי שבמען עמוס 5 ירושלים, גברת **פוגל אסתר**, שזהותה הוכחה לי על פי דרכון של ארצות-הברית מספר **530763737**, שהונפק ביום 07/10/2015 .

And I was convinced that the person standing before me fully understood the significance of the action and voluntarily signed the attached document, marked "A".

ושוכנעתי כי הניצבת לפני הבינה הבנה מלאה את משמעות הפעולה וחתמה מרצונה החופשי על המסמך המצורף והמסומן "א". לראיה הנני מאמת את חתימתה של גברת פוגל אסתר בחתימת ידי ובחותמי, היום 22/02/2024

In witness whereof I hereby authenticate the signature of Ms. **FOGEL ESTHER** by my own signature and seal, this day, 02/22/2024.

שכר נטריון: 186 ש"ח (לפני מע"מ)

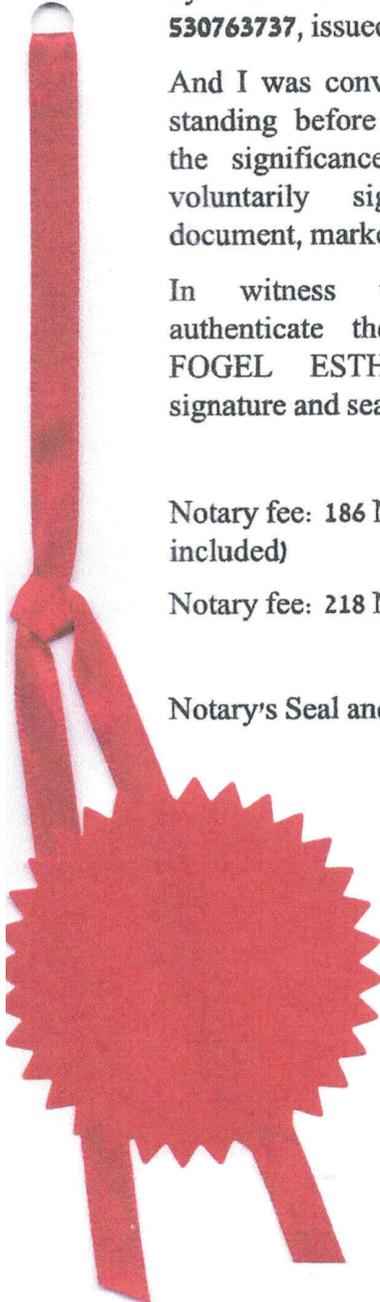
שכר נטריון: 218 ש"ח (כולל מע"מ)

Notary fee: 186 NIS (VAT not included)

חתימה וחותם הנטריון

Notary fee: 218 NIS (VAT included)

Notary's Seal and Signature



MINDY STEGER, individually

By: Mindy Steger
Mindy Steger

Dated: 2/22/24

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

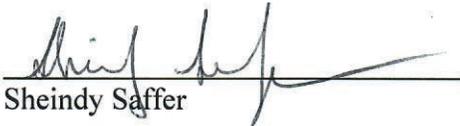
On the 22 day of February in the year 2024, before me personally came Mindy Steger, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.

EPHRAIM STEINBERG
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 11/15/28
COMMISSION # 50094117

[Signature]
NOTARY PUBLIC

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SHEINDY SAFFER, individually

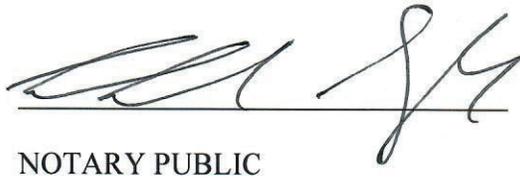
By: 
Sheindy Saffer

Dated: 2/22/24

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

On the 22 day of February, in the year 2024, before me personally came Sheindy Saffer, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.

EPHRAIM STEINBERG
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 11/15/28
COMMISSION # 50094117


NOTARY PUBLIC

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CHANA KANAREK, individually

By: C. Kanarek
Chana Kanarek

Dated: 2/22/24

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean:

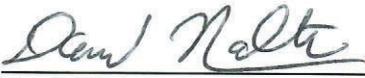
On the 22 day of February, in the year 2024, before me personally came Chana Kanarek, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.



[Signature]
NOTARY PUBLIC

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DOVID KALTER, individually

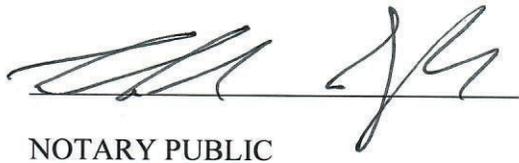
By: 
Dovid Kalter

Dated: Feb 22 2024

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

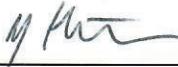
On the 22 day of February, in the year 2024, before me personally came Dovid Kalter, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

EPHRAIM STEINBERG
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 11/15/28
COMMISSION # 50094117


NOTARY PUBLIC

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YITZCHOK KALTER, individually

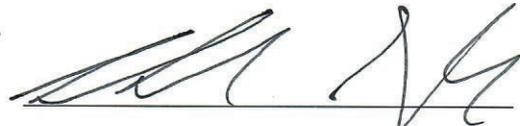
By: 
Yitzchok Kalter

Dated: 02/22/2024

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

On the 22 day of February in the year 2024, before me personally came Yitzchok Kalter, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.




NOTARY PUBLIC

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ARYEH KALTER, individually

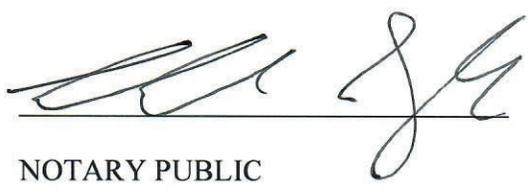
By: 
Aryeh Kalter

Dated: 02/22/2024

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

On the 22 day of February, in the year 2024, before me personally came Aryeh Kalter, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

EPHRAIM STEINBERG
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 11/15/28
COMMISSION # 50094117


NOTARY PUBLIC

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SHEVA TREFF, individually

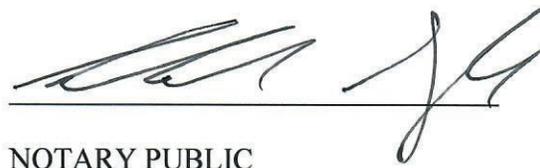
By: Sheva Treff
Sheva Treff

Dated: 2/22/24

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

On the 22 day of February in the year 2024, before me personally came Sheva Treff, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.

EPHRAIM STEINBERG
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 11/15/28
COMMISSION # 50094117


NOTARY PUBLIC

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CHAYA LIEBERMAN A/K/A SARA LIEBERMAN, individually

By: Chaya Lieberman
Chaya Lieberman A/K/A Sara Lieberman

Dated: 02/22/2024

STATE OF NEW ~~YORK~~ Jersey
COUNTY OF Ocean :

On the 22 day of February, in the year 2024, before me personally came Chaya Lieberman A/K/A Sara Lieberman, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.



[Signature]
NOTARY PUBLIC

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STEVEN WEISS, individually

By: 
Steven Weiss

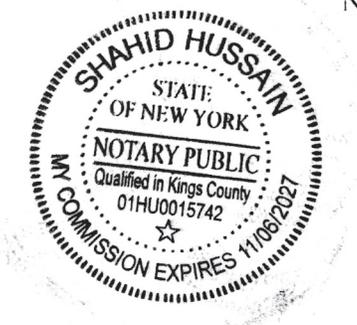
Dated: 2/22/24

STATE OF NEW YORK
COUNTY OF kings :

On the 22nd day of February, in the year 2024, before me personally came Steven Weiss, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

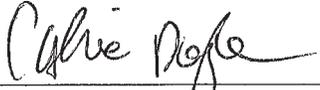
Shahid Hussain

NOTARY PUBLIC



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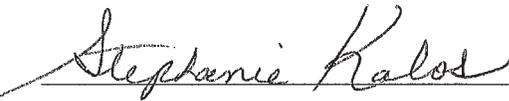
CATHIE DOYLE, individually

By: 
Cathie Doyle

STATE OF NEW YORK
COUNTY OF _____:

Dated: 2/22/24
2/26/24

On the 26th day of February, in the year 2024, before me personally came Cathie Doyle, to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that she executed the same.



NOTARY PUBLIC

STEPHANIE KALOS
Notary Public, State of New York
No. 01KA6166285
Qualified in Nassau County
Commission Expires May 21, 2027

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Approved as to Form

By: 

Raul A. Tabora, Esq.
Counsel for all Respondents

Dated: February 22, 2024

By: 

David Yaffe, Esq.
Counsel for all Respondents

Dated: February 22, 2024