

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAXES AGREEMENT

THIS FIRST AMENDMENT TO PAYMENT IN LIEU OF TAXES AGREEMENT (this "Agreement"), made as of the 1st day of June, 2014 by and between **NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, having its principal office at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501 (the "Agency"), and **AMSTERDAM HOUSE CONTINUING CARE RETIREMENT COMMUNITY, INC.**, a duly organized and validly existing New York not-for-profit corporation, having an office at 1060 Amsterdam Avenue, New York, NY 10025 (the "Corporation") (capitalized terms used in this Agreement but not defined herein shall have the meanings assigned to such terms in the Sale Agreement referred to below):

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act, as amended from time to time, being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Agency, which has been created and established pursuant to the Act for the benefit of the County of Nassau and its residents, has undertaken the Project described below; and

WHEREAS, on or about December 1, 2007 the Agency on behalf of the Corporation undertook a project which involved: (i) acquisition of fee title to an approximately 8.9 acre parcel of land located on Fairway Drive, Port Washington, Town of North Hempstead, County of Nassau, New York, which parcel of land is more particularly described in Schedule A hereto (the "Land"); (ii) construct certain buildings and other structures on the Land (the "Improvements"); and (iii) acquisition and installation of certain furniture, furnishings and equipment in and around the Improvements (the "Equipment") (the acquisition of the Land, the acquisition, construction and installation of the Improvements and Equipment and the issuance of the Agency's continuing care retirement community revenue bonds to finance a portion of the cost thereof are collectively hereinafter referred to as the "Project"); and

WHEREAS, the Agency became the owner of a fee simple interest in the Land and the Improvements (collectively, the “Facility”); and

WHEREAS, the Agency has undertaken the Project as an authorized project under the Act and sold the interest of the Agency to the Corporation pursuant to an Installment Sale Agreement dated as of December 1, 2007 (as amended, modified, supplemented or restated from time to time, the “Sale Agreement”) between the Agency, as vendor, and the Corporation, as vendee; and

WHEREAS, under the present provisions of the Act and under the present Section 412-a of the Real Property Tax Law of the State of New York (the “RPTL”), the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or under its control; and

WHEREAS, the Agency and the Corporation are parties to a certain Payment in Lieu of Taxes Agreement (the “Original PILOT Agreement”, and as amended hereby, the “PILOT Agreement”) dated as of December 1, 2007; and

WHEREAS, the Corporation has requested that the Agency amend the Original PILOT Agreement and by Resolution of the Agency on June 24, 2014 the Agency approved the requested amendment; and

NOW, THEREFORE, in consideration of the premises and the payments, agreements, and covenants hereinafter contained, the Corporation and the Agency covenant and agree as follows:

Section 1. PILOT Amendments.

Section 2(B)(1) of the Original PILOT Agreement is hereby amended so that the payments due in years 8 through 16 remain as \$275,000. Thus, Section 2(B)(1) of the Original PILOT Agreement shall read as follows:

(1) From the PILOT Commencement Date (as determined in the Original PILOT Agreement) through and including the last day of the twenty-fifth (25th) fiscal tax year thereafter (such date, the “PILOT Expiration Date”), the Corporation shall make payments in lieu of real property taxes and assessments levied and/or assessed by the Taxing Entities against the Facility as follows:

(a) for the fiscal tax year commencing on the PILOT Commencement Date, \$250,000.00;

(b) for the fiscal tax year commencing on the 1st anniversary of the PILOT Commencement Date, \$250,000.00;

- (c) for the fiscal tax year commencing on the 2nd anniversary of the PILOT Commencement Date, \$250,000.00;
- (d) for the fiscal tax year commencing on the 3rd anniversary of the PILOT Commencement Date, \$275,000.00;
- (e) for the fiscal tax year commencing on the 4th anniversary of the PILOT Commencement Date, \$275,000.00;
- (f) for the fiscal tax year commencing on the 5th anniversary of the PILOT Commencement Date, \$275,000.00;
- (g) for the fiscal tax year commencing on the 6th anniversary of the PILOT Commencement Date, \$302,500.00;
- (h) for the fiscal tax year commencing on the 7th anniversary of the PILOT Commencement Date, \$275,000.00;
- (i) for the fiscal tax year commencing on the 8th anniversary of the PILOT Commencement Date, \$275,000.00;
- (j) for the fiscal tax year commencing on the 9th anniversary of the PILOT Commencement Date, \$275,000.00;
- (k) for the fiscal tax year commencing on the 10th anniversary of the PILOT Commencement Date, \$275,000.00;
- (l) for the fiscal tax year commencing on the 11th anniversary of the PILOT Commencement Date, \$275,000.00;
- (m) for the fiscal tax year commencing on the 12th anniversary of the PILOT Commencement Date, \$275,000.00;
- (n) for the fiscal tax year commencing on the 13th anniversary of the PILOT Commencement Date, \$275,000.00;
- (o) for the fiscal tax year commencing on the 14th anniversary of the PILOT Commencement Date, \$275,000.00;
- (p) for the fiscal tax year commencing on the 15th anniversary of the PILOT Commencement Date, \$275,000.00;
- (q) for the fiscal tax year commencing on the 16th anniversary of the PILOT Commencement Date, \$402,627.50 plus the real estate taxes imposed by the Taxing Entities on seven-fifteenths (7/15th) of the estimated increase in assessed value attributable to the

construction of the Improvements contemplated as part of the Project (as such increase is determined by the Nassau County Tax Assessor's Office in the 2017/18 fiscal tax year) ("Year 10 Assessed Value Increase") subject to the applicable tax rates in effect as of the beginning of such seventeenth fiscal tax year;

(r) for the fiscal tax year commencing on the 17th anniversary of the PILOT Commencement Date, \$402,627.50 plus the real estate taxes imposed by the Taxing Entities on eight-fifteenths (8/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such eighteenth fiscal tax year;

(s) for the fiscal tax year commencing on the 18th anniversary of the PILOT Commencement Date, \$442,890.25 plus the real estate taxes imposed by the Taxing Entities on nine-fifteenths (9/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such nineteenth fiscal tax year;

(t) for the fiscal tax year commencing on the 19th anniversary of the PILOT Commencement Date, \$442,890.25 plus the real estate taxes imposed by the Taxing Entities on ten-fifteenths (10/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such twentieth fiscal tax year;

(u) for the fiscal tax year commencing on the 20th anniversary of the PILOT Commencement Date, \$442,890.25 plus the real estate taxes imposed by the Taxing Entities on eleven-fifteenths (11/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such twenty-first fiscal tax year;

(v) for the fiscal tax year commencing on the 21st anniversary of the PILOT Commencement Date, \$487,179.28 plus the real estate taxes imposed by the Taxing Entities on twelve-fifteenths (12/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such twenty-second fiscal tax year;

(w) for the fiscal tax year commencing on the 22nd anniversary of the PILOT Commencement Date, \$487,179.28 plus the real estate taxes imposed by the Taxing Entities on thirteen-fifteenths (13/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such twenty-third fiscal tax year;

(x) for the fiscal tax year commencing on the 23rd anniversary of the PILOT Commencement Date, \$487,179.28 plus the real estate taxes imposed by the Taxing Entities on fourteen-fifteenths (14/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such twenty-fourth fiscal tax year; and

(y) for the fiscal tax year commencing on the 24th anniversary of the PILOT Commencement Date, \$535,897.21 plus the real estate taxes imposed by the Taxing Entities on fifteen-fifteenths (15/15th) of the Year 10 Assessed Value Increase subject to the applicable tax rates in effect as of the beginning of such twenty-fifth fiscal tax year.

Section 2. Ratification. In all other respects, the Original PILOT Agreement is hereby ratified, reaffirmed, approved and confirmed.

Section 3. Assignment of Agreement. This Agreement shall be binding upon the successors and permitted assigns of the Corporation but no assignment shall be effective to relieve the Corporation of any of its obligations hereunder unless expressly authorized and approved in writing by the Agency.

Section 4. Independent Agreement. Notwithstanding any other provision of this Agreement, including the recitals hereof, the parties agree that the Sale Agreement shall be a separate and independent document from this Agreement, and irrespective of whether any provision of this Agreement or the entirety hereof shall be held invalid or unenforceable by any court of competent jurisdiction, the Sale Agreement shall be construed, interpreted, and otherwise regarded separate and apart from this Agreement. The parties hereto specifically note that the considerations and terms provided for in this Agreement and provided for in the Sale Agreement are the only considerations and terms for which the parties thereto have executed this Agreement.

Section 5. Invalidity. If any one or more phrases, sentences, clauses or provisions of this Agreement or the entirety hereof shall be declared invalid or unenforceable by any order, decree or judgment of any court of competent jurisdiction, then such phrase, sentence, clause or provision or the entirety of this Agreement shall be deemed to be reformed in such manner as shall be determined by such court, or in the absence of such a determination then in the reasonable judgment of the Agency, to render such phrase, sentence, clause or provision of this Agreement valid and enforceable under applicable law. The parties hereto agree to enter into such documents, agreements and instruments as the Agency reasonably determines are necessary to effect any such reformation. In the event that any one more of the phrases, sentences, clauses or provisions of this Agreement cannot be reformed to comply with applicable law, then this Agreement shall be construed as if such phrase, sentence, clause or paragraph had not appeared in this Agreement.

Section 6. Amendments. This Agreement may not be modified, amended, supplemented, or changed without the written consent of the Agency and the Corporation.

Section 7. Prior Agreements. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, whether written or oral, among the parties with respect to the subject matter hereof.

Section 8. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9. Service of Process; Consent to Jurisdiction; Forum.

A. The Corporation represents that it is subject to service of process in the State of New York and covenants that it will remain so subject so long as the Sale Agreement shall be in effect. If for any reason the Corporation should cease to be so subject to service of process in the State of New York, the Corporation hereby designates and appoints, without power of revocation, James Davis, and his successor(s) as its agent for service of process, and if such agent shall cease to act or otherwise cease to be subject to service of process in the State of New York, the Secretary of State of the State of New York, as the agents of the Corporation upon whom may be served all process, pleadings, notices or other papers which may be served upon the Corporation as a result of any of its obligations under this Agreement; provided, however, that the serving of such process, pleadings, notices or other papers shall not constitute a condition to the Corporation's obligations hereunder.

B. The Corporation irrevocably and unconditionally (1) agrees that any suit, action or other legal proceeding arising out of this Agreement or the other Transaction Documents may be brought in the courts of record of the State of New York in Nassau County or the courts of the United States, Eastern District of New York; (2) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (3) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts. For such time as the Sale Agreement is in effect, the Corporation's agents designated above shall accept and acknowledge in the Corporation's behalf service of any and all process in any such suit, action or proceeding brought in any such court. The Corporation agrees and consents that any such service of process upon such agents and written notice of such service to the Corporation in the manner set forth in Section 11 hereof shall be taken and held to be valid personal service upon the Corporation whether or not the Corporation shall then be doing, or at any time shall have done, business within the State of New York and that any such service of process shall be of the same force and validity as if service were made upon the Corporation according to the laws governing the validity and requirements of such service in the State of New York, and waives all claim of error by reason of any such service. Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Corporation or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Corporation.

Section 10. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, as the same may be in effect from time to time, without regard to principles of conflicts of laws.

Section 11. Nature of Obligations. This Agreement shall remain in full force and effect until each and every one of the PILOT Obligations shall have been irrevocably paid in full and all other obligations of the Corporation under this Agreement shall have been paid and performed in full.

Section 12. Indemnification. The Corporation agrees to indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency and its officers, members, agents (other than the Corporation), attorneys, servants and employees, past, present and future, against

any liability arising from any default by the Corporation in performing its obligations hereunder or any expense incurred hereunder, including, without limitation, any expenses of the Agency and attorneys' fees and expenses.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Agency and the Corporation have made this Agreement to be executed in their respective names by their duly authorized officers, all on the date first above written.

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Joseph J. Kearney
Executive Director

AMSTERDAM HOUSE CONTINUING CARE
RETIREMENT COMMUNITY, INC.

By: _____
James Davis
President and CEO

Consented and Agreed:

UMB Bank, N.A.,
as Trustee and Custodian

By: Virginia Anne Housum
Name: VIRGINIA ANNE HOUSUM
Title: SUP

STATE OF NEW YORK)
)SS.:
COUNTY OF NASSAU)

On the ____ day of June, 2014 before me, the undersigned, personally appeared Joseph J. Kearney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the ____ day of June, 2014 before me, the undersigned, personally appeared James Davis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the ____ day of June, 2014 before me, the undersigned, personally appeared James Davis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A

Description of the Land

ALL that certain plot, piece or parcel of land, situate, lying and being at Port Washington, Town of North Hempstead, County of Nassau and State of New York, more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of West Shore Road with the northerly line of Spine Road (Fairway Drive);

THENCE along said northerly line of Spine Road the following six (6) courses and distances:

1. South 62 degrees 08 minutes 01 second West, a distance of 112.57 feet to a point;
2. South 27 degrees 28 minutes 16 seconds East, a distance of 52.62 feet to a point;
3. South 62 degrees 31 minutes 44 seconds West, a distance of 159.09 feet to the point of curvature of a curve;
4. Westerly along the arc of said curve bearing to the right having a radius of 800.00 feet and an arc length of 667.14 feet (whose arc subtends a chord bearing of South 86 degrees 25 minutes 08 seconds West and a chord distance of 647.97 feet) to the point of tangency of said curve;
5. North 69 degrees 41 minutes 28 seconds West, a distance of 253.37 feet to the point of curvature of a curve;
6. Northwesterly along the arc of said curve bearing to the left having a radius of 850.00 feet and an arc length of 277.06 feet (whose arc subtends a chord bearing of North 79 degrees 01 minute 44 seconds West and a chord distance of 275.84 feet) to the true point of beginning;

THENCE continuing westerly along Fairway Drive, along the arc of a curve bearing to the left having a radius of 850.00 feet and an arc length of 74.15 feet (whose arc subtends a chord bearing of South 89 degrees 08 minutes 02 seconds West and a chord distance of 74.13 feet) to a point;

THENCE the following four (4) courses and distances:

1. North 9 degrees 44 minutes 26 seconds East, a distance of 173.76 feet to a non-tangent curve;
2. Thence Westerly along the arc of a curve bearing to the left having a radius of 1,020.00 feet and an arc length of 233.82 feet (whose arc subtends a chord bearing of South 82 degrees 16 minutes 54 seconds West and a chord distance of 233.30 feet);
3. North 21 degrees 11 minutes 13 seconds West, a distance of 924.60 feet;
4. North 68 degrees 48 minutes 47 seconds East, a distance of 204.21 feet;

THENCE along said lands now or formerly of the Town of North Hempstead the following two (2) courses and distances:

1. Thence Southeasterly along the arc of said curve bearing to the left having a radius of 1,400.00 feet and an arc length of 438.71 feet (whose arc subtends a chord bearing of South 55 degrees 42 minutes 38 seconds East and a chord distance of 436.92 feet);
2. South 64 degrees 41 minutes 16 seconds East, a distance of 85.15 feet to a point;

THENCE along said lands now or formerly of Town of North Hempstead the following three (3) courses and distances:

1. South 9 degrees 44 minutes 26 seconds West, a distance of 177.02 feet to a point;
2. South 64 degrees 41 minutes 16 seconds East, a distance of 120.42 to a point;
3. South 9 degrees 44 minutes 26 seconds West, a distance of 574.48 feet to the point or place of BEGINNING.

TOGETHER with the benefits and subject to the burdens of the Reciprocal Construction Operation and Easement Agreement dated 10/05/98 as recorded in Liber 10971 page 567.