

AGREEMENT FOR PAYMENT IN LIEU
OF REAL ESTATE TAXES

THIS AGREEMENT FOR PAYMENT IN LIEU OF REAL ESTATE TAXES (this "PILOT Agreement"), dated as of April 11, 2025, is by and between the TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly existing under the laws of the State of New York (the "Agency") and THE GREEN'S LUXURY APARTMENTS LLC, a limited liability company duly formed, validly existing and in good standing under the laws of the State of the New York (the "Company").

RECITALS:

WHEREAS, the Agency is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the "Act"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, the Company submitted an application to the Agency (the "Application") requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition of a leasehold interest in certain property located at 3315-3333 Millersport Highway in Amherst, New York (SBL Nos. 28.17-1-1.112 ("Parcel 1") and 28.17-1-1.111 ("Parcel 2")) (together, the "Premises"); (ii) the construction of five, three-story multi-family apartment buildings consisting of an aggregate of 214,000+/- square feet that will include one hundred sixty-two (162) apartment units (seventy-two of which will be constructed on Parcel 1 and ninety of which will be constructed on Parcel 2) and related site improvements (collectively, the "Improvements"). Twenty percent (20%) of the apartments units on each Parcel will be designated for workforce housing (i.e. twenty percent (20%) of the seventy-two units to be located on Parcel 1 and twenty percent (20%) of the ninety units to be located on Parcel 2) ; and (iii) the acquisition of and installation in and around the Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment"); and

WHEREAS, in order to induce the Company to acquire, renovate, construct and equip the Project, the Agency is willing to accept a leasehold interest in the Project pursuant to the terms and conditions of a certain Company Lease to be dated on or about the date hereof (the "Company Lease") and lease the Project back to the Company pursuant to the terms and conditions of a certain Agency Lease Agreement to be dated on or about the date hereof (the "Agency Lease"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against

real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company wish to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of the County of Erie (the "County"), the Town of Amherst (the "Town") and the Williamsville Central School District (the "School District"), and together with the County and the Town, the "Affected Taxing Jurisdictions"; and

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

Section 1. Definitions.

Unless otherwise defined herein, the terms used in this PILOT Agreement shall have the meanings specified in the Agency Lease.

Section 2. Agency Tax Exemption and Term.

Subject to the completion and filing of an Application for Tax Exemption by the Taxable Status Date and the approval of the Application for Tax Exemption by the Assessor, the Project shall be exempt from Real Estate Taxes commencing with the 2027-2028 tax fiscal year of the School District and the 2028 tax fiscal year of the Town and County. The Company shall provide the Agency with all information required to complete the Application for Tax Exemption and shall provide such additional information and take such actions as are required by the Assessor in order to process and approve the Application. In the event the exemption from Real Estate Taxes is denied for any reason, the Company agrees to pay all Real Estate Taxes levied upon the Project as they become due. To the extent permitted by law, the Company shall have the right to protest such denial subject, however, to the conditions set forth in Section 8.1 of the Agency Lease. The Company hereby waives any claim or cause of action against the Agency and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes. This PILOT Agreement shall have a term of ten (10) years, such that this PILOT Agreement shall terminate on December 31, 2037, unless otherwise terminated as set forth herein.

Section 3. Obligation of the Company to Make Payments in Lieu of Taxes.

Subject to the approval of the Application for Tax Exemption, the Agency shall require and the Company shall make payments in lieu of real estate taxes ("PILOT Payments") to the Affected Taxing Jurisdictions pursuant to the terms of this PILOT Agreement.

Section 4. Taxing Authorities and Amounts.

4.1 Until the commencement of the tax fiscal years set forth in Section 4.4 hereof, the Company shall continue to pay all Affected Taxing Jurisdictions all taxes due as if the Agency did not have an interest in the Project. Thereafter, the Company shall make PILOT

Payments to the Affected Taxing Jurisdictions in accordance with this Section 4 and as provided in Schedule A attached hereto and made a part hereof.

4.2 The total PILOT Payments to be made pursuant to this PILOT Agreement are to be allocated among the Affected Taxing Jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each Affected Taxing Jurisdiction had the Project not been tax exempt due to the status of the Agency.

4.3 The Company shall make payments in lieu of taxes to the Affected Taxing Jurisdictions on the land and buildings constituting the Project (SBL Nos. 28.17-1-1.112 and 28.17-1-1.111), in accordance with this Section 4. For each Affected Taxing Jurisdiction, such PILOT Payment shall have: (i) a land component, which shall be based upon the then current tax rate for the then current tax fiscal year applied against the then current assessed valuation of the non-depreciable portion of all tax parcels comprising the Project (assessed as land) (the "Land Value"); and (ii) a variable component which shall be based upon the then current tax rate applied against the difference between the then current assessed valuation of the depreciable portion of all tax parcels comprising the Project (assessed as buildings or other improvements) (the "Full Assessed Value") and the Land Value.

4.4 For the time periods set forth below, the Company shall make payments in lieu of taxes as follows:

4.4.1 Town of Amherst. Payments in lieu of general levy real estate taxes to the Town for each of the tax fiscal years 2028 through 2037, or until termination of the Agency Lease, whichever date occurs first, shall be in an amount equal to the Town Land PILOT Payment plus the Town Variable PILOT Payment (as such terms are defined below) for each such tax fiscal year.

(a) The "Town Land PILOT Payment" for each tax fiscal year shall mean an amount equal to the Town tax rate then in effect for such tax fiscal year in an amount that would have been paid were there no exemption based on the Agency's leasehold interest in the Project.

(b) The "Town Variable PILOT Payment" for each tax fiscal year shall mean an amount equal to the Town tax rate in effect for such tax fiscal year applied to the product of (i) the difference between the Full Assessed Value and the Land Value, and (ii) the percentage applicable to such tax fiscal year as shown on Schedule A.

Each such payment shall be delivered to the Town through the Agency at 4287 Main Street, Amherst, New York 14226, or such other place as may be designated from time to time. Payments for each tax fiscal year must be made by February 15 of that year (or such later date as may be permitted by the Affected Taxing Jurisdiction), or such payment shall be considered delinquent.

4.4.2 County of Erie. Payments in lieu of general levy real estate taxes to the County for each of the tax fiscal years 2028 through 2037, or until termination of the Agency Lease,

whichever date occurs first, shall be in an amount equal to the County Land PILOT Payment plus the County Variable PILOT Payment (as such terms are defined below) for each such tax fiscal year.

(a) The "County Land PILOT Payment" for each tax fiscal year shall mean an amount equal to the County tax rate then in effect for such tax fiscal year in an amount that would have been paid were there no exemption based on the Agency's leasehold interest in the Project.

(b) The "County Variable PILOT Payment" for each tax fiscal year shall mean an amount equal to the County tax rate in effect for such tax fiscal year, applied to the product of (i) the difference between the Full Assessed Value and the Land Value, and (ii) the percentage applicable to such tax fiscal year as shown on Schedule A.

Each such payment shall be delivered to the County through the Agency at 4287 Main Street, Amherst, New York 14226, or such other place as may be designated from time to time. Payments for each tax fiscal year must be made by February 15 of that year (or such later date as may be permitted by the Affected Taxing Jurisdiction), or such payment shall be considered delinquent.

4.4.3 Williamsville Central School District. Payments in lieu of general levy real estate taxes to the School District for each of the tax fiscal years 2027 - 2028 through 2036 - 2037, or until termination of the Agency Lease, whichever date occurs first, shall be in an amount equal to the School District Land PILOT Payment plus the School District Variable PILOT Payment (as such terms are defined below) for each such tax fiscal year.

(a) The "School District Land PILOT Payment" for each tax fiscal year shall be an amount equal to the School District tax rate then in effect for such tax fiscal year in an amount that would have been paid were there no exemption based on the Agency's leasehold interest in the Project.

(b) The "School District Variable PILOT Payment" for each tax fiscal year shall be an amount equal to the School District tax rate in effect for such tax fiscal year applied to the product of (i) the difference between the Full Assessed Value and the Land Value, and (ii) the percentage applicable to such tax fiscal year as shown on Schedule A.

Each such payment shall be delivered to the School District at Williamsville Central School District, Business Office, 105 Casey Road, PO Box 5000, East Amherst, New York 14051, or such other place as may be designated from time to time. Payments for each tax fiscal year must be made by October 15 of that year (or such later date as may be permitted by the Affected Taxing Jurisdiction), or such payment shall be considered delinquent.

4.5 To the extent that special district charges, special assessments, and special *ad valorem* levies (specifically including but not limited to fire district charges) and pure water charges and sewer charges are levied against the Project shall be paid in full in accordance with normal billing practices as if the Agency did not have an interest in the Project.

4.6 The payments required under Sections 4.3 and 4.4 shall in no event be more than would be otherwise payable as taxes if the Agency did not have an interest in the Project.

4.7 Upon the termination of the periods set forth in Section 4.4 (but subject to Section 4.8 hereof), the Company shall make full payment in lieu of all taxes on the Project as if the Agency did not have an interest in the Project.

4.8 The Company and the Agency assume that the completed Project will be identified as exempt on the tax rolls as of the Taxable Status Date of March 1, 2027. In the event that this assumption is incorrect, then the dates expressed in Section 4.4 and Schedule A will be adjusted accordingly.

4.9 If there shall be a future addition to the Project that has not been described in the Application that is constructed or added in any manner after the date of this PILOT Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Commencing upon commercial operation of any Future Addition, the Company shall become liable for payment of an increase in the total PILOT Payment. The Agency shall notify the Company of any proposed increase in the total PILOT Payment related to such Future Addition following Agency consultation with the assessor. If the Company disagrees with the proposed increase, then and in that event the PILOT Payment attributable to the Future Addition shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased PILOT Payment until a different total PILOT Payment shall be established.

Section 5. Proration.

During the last year of the term of the Agency Lease, the Company may prorate any of its PILOT Payments on the basis of the actual period during which the Agency has an interest in the Project so that there shall exist no period of time for which the Company is obliged to make PILOT Payments in addition to the actual tax payments to which the Project is subject, under current law, at the time the Agency's interest in the Project is terminated.

Section 6. Obligations and Rights of the Company Relating to Tax Assessments and Levies.

6.1 Subject to the provisions of the Agency Lease, the Company in cooperation with the Agency shall:

(a) cause the appropriate real estate tax assessment and tax levy officers to assess the Project and apply tax rates to the respective assessments as if the Agency did not have an interest in the Project; and

(b) cause the appropriate real estate tax officers to submit to the Company, when the respective types of taxes are levied on privately owned property, statements specifying the

respective amounts and due dates of taxes involved in this PILOT Agreement which the Affected Taxing Jurisdictions would receive if the Agency did not have an interest in such property; and

(c) file any accounts or tax returns required with the appropriate officer or officers.

6.2 The payments the Company is required to make under this PILOT Agreement are subject to the Company's rights, hereby granted, (i) to obtain reductions in the assessed valuation of the Project or to obtain exemptions and discounts, if any, which are afforded to the Company as a private owner of the Project, and (ii) to seek to obtain refunds of any such payments made including payments made pursuant to this PILOT Agreement. The Agency, at no expense to the Agency, shall join in any procedure for obtaining relief under this paragraph to the extent that the Agency's consent is required for the Company to undertake such procedure; provided, however, that the Company shall continue to make the PILOT Payments required by this PILOT Agreement adjusted for any reduction as provided above so long as the Agency Lease shall remain in effect.

Section 7. Default in Payment in Lieu of Taxes.

In the event the Company fails to make any such PILOT Payments when due, whether for a full tax fiscal year or years or for a portion of a tax fiscal year pursuant to Sections 4 or 5 hereof, the amount or amounts so in default shall continue as an obligation of the Company until fully paid. In addition, if any payment is not received by the Agency or the Affected Taxing Jurisdiction or jurisdictions when due, the Company shall pay (i) a late payment penalty equal to five percent (5%) of the delinquent amount, and (ii) for each month, or part thereof, that the payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, equal to one percent (1%) per month until the payment is made. The Agency and the Company hereby acknowledge the right of the Town, the County and the School District to recover directly from the Company any amounts so in default pursuant to General Municipal Law §874(6). The Company shall promptly notify the Agency of any action brought, or other measure taken, by an Affected Taxing Jurisdiction to recover such amounts. It is understood that the right of any Affected Taxing Jurisdiction herein acknowledged is in addition to, and shall not impair, the Agency's own rights arising from a breach of this PILOT Agreement. Should the Agency or the Town, the County or the School District commence any action to recover directly from the Company any amounts so in default, such parties shall be entitled to recover from the Company the amount due, the late payment penalty, interest, expenses, costs and disbursements, together with the reasonable attorneys' fees necessary to prosecute such action or proceeding.

Section 8. Effect of Fulfillment of the Requirement.

8.1 Once the Company pays the amounts required by this PILOT Agreement, the Company shall not be required to pay any real estate taxes on the Project for which PILOT Payments have been made. Notwithstanding the foregoing, in the event that the Agency shall reasonably determine (i) that the Company has submitted an application, or documentation in support of an application, which contained a false or intentionally misleading statement as to any fact which is material to the Company's application for benefits or which omitted any

information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, and (ii) that such false or misleading statement or omission was made knowingly and intentionally for the purpose of obtaining financial assistance, then the Company shall forfeit any future tax exemptions or abatements and shall be required to pay to the appropriate Affected Taxing Jurisdiction the amount of any real property exemptions received. The amount of benefits recaptured shall be the difference between the amount of PILOT Payments made and the amount that would have been paid in real estate taxes if the Agency did not have an interest in the Project.

8.2 Notwithstanding anything contained within this PILOT Agreement to the contrary, the Agency and the Company have entered into that certain Project Agreement, dated as of the date hereof (the "Project Agreement"), pursuant to which the Agency has the right to terminate, recapture, and/or modify the Company's real property tax exemption benefits, as identified herein, upon the terms and conditions set forth in the Project Agreement. The Company covenants and agrees that if, at any time, it fails to maintain its covenants and/or the terms and conditions as set forth in the Project Agreement so as to effect an event of recapture as described within the Project Agreement, then the Company may be subject to immediate termination or modification of this PILOT Agreement and/or be required to pay to the Agency an amount equal to any or all of real property tax exemption benefits as prescribed by the terms and conditions of the Project Agreement.

Section 9. Effect of Events of Default.

9.1 The following shall constitute "Event(s) of Default" under this PILOT Agreement:

(a) The Company fails to make any PILOT Payments required hereunder, or fails to perform any other obligation imposed on the Company under this PILOT Agreement.

(b) The occurrence and continuance of any other Event of Default as defined in the Agency Lease or Project Agreement.

9.2 If the Project is not being used in accordance with the Act, the Agency Lease or the Project Agreement, or if an Event of Default occurs, the Company shall make PILOT Payments on the Project in such amounts as would be payable as real estate taxes levied on the Project as if the Agency did not have an interest in the Project. The applicable tax assessment and tax levy rates shall be those in effect in the records of the Affected Taxing Jurisdictions.

9.3 The period for the payments required by Section 9.2 shall commence on the date the Agency determines (i) that the use of the Project under the Act or the Agency Lease is not being complied with, or (ii) that an Event of Default has occurred and is continuing.

9.4 Upon the occurrence of an Event of Default hereunder resulting from the failure of the Company to make any payment required hereunder, the Agency shall have, in addition to all other remedies available to the Agency, the right to terminate the Agency Lease and convey

the Project to the Company, thus subjecting the Project to immediate full taxation pursuant to applicable provisions of the New York Real Property Tax Law.

Section 10. Survival of the Company's Obligations.

The obligations of the Company under this PILOT Agreement shall survive the termination or expiration of the Agency Lease, for whatever reason terminated or expired.

Section 11. Miscellaneous.

11.1 Assignment. No portion of or any interest in this PILOT Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

11.2 Notices. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: Town of Amherst Industrial Development Agency
4287 Main Street
Amherst, New York 14226
Attn: Chairman

With a copy to: Hurwitz Fine P.C.
The Liberty Building
424 Main Street, Suite 1300
Buffalo, New York 14202
Attn: Kevin J. Zanner, Esq.

To the Company: The Green's Luxury Apartments LLC
6465 Transit Road, Suite 100
East Amherst, New York 14051
Attn: Matthew J. Green

With a copy to: Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, New York 14221
Attn: Sean Hopkins, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided by this Section.

11.3 Governing Law; Venue. This PILOT Agreement shall be governed by the laws of the State of New York. The parties hereto hereby agree to submit to the personal jurisdiction

of the state courts located in Erie County, New York and the federal district courts of the Western District of New York.

11.4 Nonrecourse. Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Project and paid to the Agency or the Affected Taxing Jurisdictions, as the case may be, by the Company. No member of the Agency nor any person executing this PILOT Agreement on the Agency's behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officers, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this PILOT Agreement.

11.5 Severability. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this PILOT Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent, and the remainder of this PILOT Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

11.6 No Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this PILOT Agreement, or the waiver by any party of any breach of this PILOT Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

11.7 Amendment. This PILOT Agreement may not be amended, changed, modified or altered except in writing executed by the parties hereto.

11.8 Entire Agreement. This PILOT Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and supersedes all previous written or oral representations, agreements and understandings between the parties, whether expressed or implied.

11.9 Termination. In the event the Company Lease or Agency Lease is terminated for any reason, this Agreement shall be terminated as of the effective date of the termination of such agreements.


11.10 Counterparts. This PILOT Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute

one and same instrument. Delivery of an executed signature page to this PILOT Agreement by facsimile transmission or electronic transmission in portable document format (pdf) shall be as effective as delivery of a manually signed counterpart of this PILOT Agreement.

[remainder of page intentionally left blank. signature pages to follow]


IN WITNESS WHEREOF, the Agency and the Company have caused this PILOT Agreement to be executed as of the date first above written.

TOWN OF AMHERST INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Name: Kevin J. Zanner
Title: Assistant Secretary

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

On the 11th day of April, in the year 2025 before me, the undersigned, personally appeared **KEVIN J. ZANNER**, 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 s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.


Notary Public

KIMBERLY S. ROSE
Notary Public, State of New York
Reg. No. 01RO4876463
Qualified in Erie County
Commission Expires January 14, 2027

[Agency signature and acknowledgement page to PILOT Agreement]

THE GREEN'S LUXURY APARTMENTS LLC

By: TGO Properties LLC
Its sole member

By: Matthew J Green
Name: Matthew J. Green
Title: Authorized Signatory

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

On the 11th day of April, in the year 2025, before me, the undersigned, personally appeared **MATTHEW J. GREEN**, 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 s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Jennifer Hurley
Notary Public

Jennifer Hurley
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 25, 2028
Reg. No. 02HU0022685

[Company signature and acknowledgement page to PILOT Agreement]

SCHEDULE A

Ten Year PILOT Schedule

<u>TAX FISCAL YEAR</u>			<u>APPLICABLE PERCENTAGE</u>
<u>Town</u>	<u>County</u>	<u>School</u>	(based on Agency's standard ten-year PILOT schedule)
2028	2028	2027-2028	5%
2029	2029	2028-2029	10%
2030	2030	2029-2030	15%
2031	2031	2030-2031	15%
2032	2032	2031-2032	20%
2033	2033	2032-2033	20%
2034	2034	2033-2034	25%
2035	2035	2034-2035	25%
2036	2036	2035-2036	30%
2037	2037	2036-2037	35%
2038	2038	2037-2038	full taxes

Lease Expiration Date: December 31, 2037