

**OPERATING AGREEMENT
OF
695 MONROE STREET LLC**

THIS OPERATING AGREEMENT (the "Agreement") is made and entered into as of 7/30/2019, by and among Michael Uhr and Isaac Azaria.

In consideration of the mutual covenants herein contained, the Members hereby enter into this Operating Agreement to control the operations of 695 Monroe Street LLC, a Limited Liability Company formed under and pursuant to the laws of the State of New York (hereinafter sometimes referred to as the "Company") for the purposes and upon the terms, provisions and conditions hereinafter set forth.

This agreement shall supersede any prior agreements.

ARTICLE 1
FORMATION

1. **Name**. The name of the Company shall be 695 Monroe Street LLC.
2. **Place of Business**. The principal place of business of the Company shall be Monroe Street 697 Brooklyn NY 11221, or such other place or places as the Manager may from time to time designate.
3. **Formation; Ratification**. The Company was formed by the filing of a Certificate of Formation with the Secretary of State of New York on or about October 21, 2015. The Members do hereby ratify and authorize any and all actions taken in the name of the Company since the date of formation.
4. **Member's Authority**. Except as otherwise expressly and specifically provided for in this Agreement or in the Certificate of Formation, no Member shall have any authority to act for, or assume any obligations or responsibility on behalf of, the Company or any other Member of the Company.
5. **Member's Prior Obligations**. No Member shall be responsible or liable for any obligation or debt of any other Member incurred before the formation of the Company except as may be set forth herein, and each party indemnifies and agrees to hold all others harmless from such obligations and indebtedness.
6. **Other Business**. Nothing herein shall restrict any Member from conducting any other business or activity whatsoever (including any operation or business or activity which competes with the business of the Company).

ARTICLE 2
PURPOSES

1. **Purposes of the Company**. The purpose of the Company shall be to engage in any business in which a Limited Liability Company may lawfully engage in the State of New York.
2. **Powers of the Company**. The Company shall at any time and from time to time have the power and authority to do or cause to be done any or all of the following:
 - (a) Do all other things necessary or desirable to conduct the business of the Company and to carry out the terms and conditions of this Agreement.

ARTICLE 3
TERM

1. **Term of Company.** The Company shall continue until the earliest to occur of:

- (a) the sale or other disposition of all or substantially all of the property of the Company;
- (b) the incompetence or permanent disability of the sole remaining Member, if applicable;

ARTICLE 4
DEFINITIONS

1. **Certain Definitions.** When used in this Agreement, the following terms shall have the meanings set forth below unless the context clearly requires otherwise.

(a) “Certificate of Formation” shall mean the Certificate of Formation of the Company as filed with the Secretary of State of New York, as the same may be amended from time to time.

(b) “Capital Account” as of any given date shall mean the Capital Contribution to the Company by a Member as adjusted up to the date in question pursuant to the terms hereof.

(c) “Capital Contribution” shall mean any contribution to the capital of the Company in cash or property by a Member whenever made.

(d) “Code” shall mean the Internal Revenue Code of 1986, as amended, or corresponding provisions of subsequent superseding federal revenue laws.

(e) “Manager” shall mean Jonathan Rubin, who shall continue in such capacity until such time as he voluntarily resigns pursuant to the terms hereof. Upon resignation of the foregoing as Manager, the Members shall designate a replacement Manager.

(f) “Member” shall mean each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become Members. To the extent a Manager has purchased a membership interest in the Company, he will have all rights of a Member with respect to such membership interest, and the term “Member” as used in this Agreement shall include a Manager to the extent he has purchased such membership interest in the Company. If a person is a Member immediately before the purchase or other acquisition by such person of interest, that person shall have all the rights of a Member with respect to the purchased or otherwise acquired membership interest.

ARTICLE 5

MEMBERSHIP

1. **Names and Addresses of Members.** The names of the Members, together with their percentage interests in the Company, are as follows:

<u>Name</u>	<u>Percentage</u>
Michael Uhr	42%
9 Engelberg Terrace, Lakewood NJ 08701	
732 567 5936	
Isaac Azaria	58%
2170 Ocean Parkway, Brooklyn NY 11223	
917 451 8585	

2. **Limitation of Liability.** Each Member's liability shall be limited as set forth in this Agreement, the Act, and other applicable law.

3. **Company Debt Liability.** A Member will not be personally liable for any debts or losses of the Company beyond the Member's respective Capital Contributions and any obligation of the Member to make Capital Contributions, except as provided in this Agreement or as otherwise required by law.

4. **List of Members.** Upon written request of any Member, the Manager shall provide a list showing the names, last known addresses, and membership interests of all Members.

5. **Approval of Sale of All Assets.** The Manager shall have the right to approve the sale, exchange, or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

6. **Company Books.** The Manager shall maintain and preserve, during the term of the Company, and for five (5) years thereafter, all accounts, books, and other relevant Company documents. Upon reasonable request, each Member shall have the right, during ordinary business hours, to inspect and copy those Company documents at the requesting Member's expense.

7. **Members Do Not Hold Direct Real Property Interest.** The Members agree that their participation in the Company and the implementation of the provisions hereof shall not vest in any Member any ownership in the property of the Company, and that all ownership interests in the property of the Company shall be vested in the Company. No Member shall have any entitlement to the distribution of any property other than cash earned by the Company and shall not have the right to make any specific demand upon any specific property of the Company based upon the position of the Member as a Member of the Company.

8. **Expenses to be Paid By the Members.** Upon demand by the Manager, each Member agrees to pay its pro rata share (based upon such Member's distributive share of the Company as the same may from time to time be calculated in accordance with the provisions of this Agreement) of all costs, expenses or charges with respect to the ownership, construction, operation, maintenance

and upkeep of the Company to the extent that all of said costs, expenses or charges cannot be paid out of the cash flow (as herein defined) if any, of the Company. The provisions of the paragraph shall be binding upon the Members and the Company, but such provisions shall not inure to the benefit of any other person including any creditors of the Company. Except as may be expressly provided in this Agreement, no Member shall have priority over any other Member, either for the return of Capital Contributions or for net profits, net losses, or distributions; provided that this Section shall not apply to loans (as distinguished from Capital Contributions) which a Member has made to the Company. Any distribution due to a Member who has defaulted in payment of any required Capital Contribution shall be first applied to any reimbursement owed by that defaulting Member to the Company, or to another Member who has made the Capital Contributions on the part of the defaulting Member, before distribution of the remainder, if any, to the defaulting Member.

9. **Estimated Expenses.** The Manager shall, from time to time, but not more often than quarterly, estimate the cash requirements of the Company for an ensuing period of time (not to exceed 6 months), and the Members shall each be responsible to pay their pro rata share of such estimated cash requirements within ten (10) days after receiving a statement therefore.

10. **Option to Assist Defaulting Member.** If any Member shall default in the payment of any sums required to be paid by it to the Company hereunder, another Member may, upon prior approval by the Manager, and without waiving any claims for breach, cure such default for the account of the defaulting Member, and the defaulting Member shall be responsible to repay (solely out of any distribution to which the defaulting Member may be entitled) the amount advanced with interest at the prime interest rate charged by Chase Manhattan Bank, New York, plus two (2%) percent. Until such obligation is repaid in full with interest as herein provided, all distributions which would otherwise have been made to the defaulting Member shall be paid to the Member which cured such default, to be applied to such obligation and the interest accruing thereon.

ARTICLE 6 **MANAGEMENT**

1. **Management.** The management of the Company shall be by a Manager, who shall be the only Member(s) empowered to bind the Company. Except as specifically set forth to the contrary herein, all decisions of a Manager shall be binding upon the Company. Any provision hereof which requires a Member to do something upon the demand of the Manager shall require the unanimous demand of all Managers; all other provisions may be exercised by each individual Manager, on notice to the other Managers, (if any). Any provision hereof which requires a Manager to perform any action, duty or task upon the demand of any Member or Members shall require the unanimous performance of all Managers.

2. **Reserved Powers.** Unless authorized to do so by this Agreement or by the Manager of the Company, no attorney-in-fact, employee, or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable peculiarly for any purpose. No Member shall have any power or authority to bind the Company unless the Member is the Manager or has been authorized by the Manager to act as an agent of the Company in accordance herewith.

3. **Liability for Certain Acts.** The Manager shall perform its duties in good faith, in a manner it reasonably believes to be in the best interest of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. The Manager who so performs the duties of Manager shall not have any liability by reason of being or having

been a Manager of the Company. The Manager does not, in any way, guarantee the return of the Members' Capital Contributions or a profit for the Members from the operations of the Company. A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, willful misconduct, or a wrongful taking by the Manager.

4. **Manager Has No Exclusive Duty to Company.** The Manager shall not be required to manage the Company as its sole and exclusive function and it may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Manager or to the income or proceeds derived therefrom. The Manager shall incur no liability to the Company or to any of the Members as a result of engaging in any other business or venture.

5. **Bank Accounts.** The Manager may from time to time open bank accounts in the name of the Company, and the Manager shall be the sole signatory thereon, unless the Manager determines otherwise.

6. **Removal.** The Manager may not be removed except upon an affirmative vote of Members owning more than three quarters of the Membership interest of the Company.

7. **Vacancies.** Any vacancy occurring for any reason in the office of Manager of the Company may be filled by the affirmative vote of a majority of the Members. A Manager elected to fill a vacancy shall be elected for the unexpired term of the Manager's predecessor in office and shall hold office until the next annual meeting of Members and until a successor shall be elected and shall qualify, or until the Manager's earlier death, resignation, or removal.

8. **Limitations.** Notwithstanding anything contained herein to the contrary, the Manager shall need the unanimous consent of all Members for the following actions:

(a) The requiring of Capital Contributions to the Company by any or all of the Members; and

(b) The making of any decision which will require the expenditure by the Company of more than \$10,000.00.

ARTICLE 7 **MEETINGS**

1. **Annual Meeting.** The annual meeting of the Members shall be held on the first Tuesday in January or at such other time as shall be determined by resolution of the Members, commencing with the year 2018, for the purpose of the transaction of such business as may come before the meeting.

2. **Special Meetings.** Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Manager, or by any Member or Members holding at least 41 per cent of the membership interests.

3. **Place of Meetings.** The Members may designate any place, either within or without the State of New Jersey, as the place of meeting for any meeting of the Members. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal executive office of the Company in the State of New Jersey.

4. **Notice of Meetings.** Except as provided below, written notice stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered no fewer than three (3) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Manager or person calling the meeting, to each Member entitled to vote at the meeting. If mailed, the notice shall be deemed to be delivered three (3) calendar days after being deposited in the United States mail, addressed to the Member at the Member's address as it appears on the books of the Company, with postage thereon prepaid.

5. **Meeting of All Members.** If all of the Members shall meet at any time and place, either within or without of the State of New Jersey, and consent to the holding of a meeting at that time and place, the meeting shall be valid without call or notice, and at the meeting lawful action may be taken.

6. **Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment of the meeting, or Members entitled to receive payment of any distribution, or to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring the distribution is adopted, as the case may be, shall be the date for the determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, the determination shall apply to any adjournment of the meeting.

7. **Quorum.** Members holding at least two-thirds of all interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a majority of the interests so represented may adjourn the meeting from time to time for a period not to exceed 60 days without further notice. However, if the adjournment is for more than 60 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting. At an adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal during the meeting of that number membership interests whose absence would cause less than a quorum.

8. **Manner of Acting.** If a quorum is present, the affirmative vote of Members holding a majority interest shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, by the Certificate of Formation, or by this Agreement. Unless otherwise expressly provided for in this Agreement or required under applicable law, Members who have an interest (economic or otherwise) in the outcome of any particular matter upon which the Members are to vote or consent may vote or consent upon any such matter and their interest, vote or consent, as the case may be, shall be counted in the determination of whether the requisite matter was approved by the Members.

9. **Proxies.** At all meetings of Members a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. The proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy.

10. **Action by Members Without a Meeting.** Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each Member entitled to vote, and delivered

to the Managers of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members entitled to vote have signed the consent, unless the consent specifies a different effective date. The record date for determining Members entitled to take action without a meeting shall be the date the first Member signs a written consent.

11. **Waiver of Notice.** When any notice is required to be given to any Member, a waiver of the notice in writing signed by the person entitled to the notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of the notice.

ARTICLE 8 **CONTRIBUTIONS**

1. **Profits and Losses Based on Interests.** The profits and losses of the Company shall be credited or charged to the Members in accordance with their Membership interests.

2. **Capital Accounts.** Each Member shall have a Capital Account which shall consist of its

- (a) Capital Contributions to the capital of the Company;
- (b) Plus, the amount of profits allocated to it pursuant to Section 8(1);
- (c) Plus, the amount of any additional cash or the fair market value of any additional property contributed to the capital of the Company by such Member;
- (d) Minus, the amount of losses associated to it pursuant to Section 8(1);
- (e)
- (f) Minus, taxes; and
- (g) Minus, depreciation.

3. **Interest on Capital Accounts.** No interest shall be paid or accrued on any Member's Capital Account except as herein provided.

Distributions.

Building shall be condos and sold as 4 condos, Sales proceeds will be distributed as follows:

- First, Michael Uhr \$1,868,000 - for initial contribution and Loan Payoff
- Second, Isaac Azaria \$1,037,000 - for initial contribution
- Third, any additional contribution
- Fourth, split pro rata 58% to Isaac Azaria 42% to Michael Uhr.

In the event that we determine that sale is not feasible option and turn it to rental building, after building is stabilized we shall refinance, proceeds of refinance will be same as above, ownership of building shall be 58% Isaac Azaria and 42% to Michael Uhr

ARTICLE 9
TRANSFER OF INTEREST

1. **Prohibition Against Transfer.** Except as hereinafter set forth, no Member may sell, assign, transfer, encumber or otherwise dispose of all or any part of the property of the Company or its interest in the Company.

ARTICLE 10
DISSOLUTION

1. **Termination or Dissolution.** Upon termination of the Company, the Company shall be dissolved and its affairs and business shall be liquidated forthwith. All property of the Company shall be sold or otherwise disposed of and the new proceeds therefor, if any, and the remaining assets of the Company shall be applied first to satisfy the costs, expenses, charges and liabilities of the Company, either by payment or the establishment of an adequate reserve to cover the same and the balance shall be distributed to the Members.

2. **Tax Effect of Termination or Dissolution.** It is the intention of the Members that allocations made to the Members have economic effect equivalence in accordance with the regulations under Internal Revenue Code Section 7004(b). If such allocations shall be deemed not to have economic effect equivalence as aforesaid, then, notwithstanding anything herein to the contrary, (1) distribution of property upon liquidation of the Company shall be made in accordance with the Member's Capital Accounts, and (2) any Member with a negative balance in its Capital Account after distribution of all property upon liquidation of the Company shall be obligated to contribute to the Company an amount of cash equal to such negative balance to be distributed to Members with positive balances in their Capital Accounts.

3. **Dissolution Procedure.** Within thirty (30) days of an event of Dissolution as set forth in this Operating Agreement, or of notice of intent to withdraw, the Manager shall retain the services of a qualified appraiser to value all of the property of the Company. The assets of the Company shall be distributed to the Members if practical and if acceptable to all Members, or sold at prices in accordance with said appraisal.

4. **Continuation.** Nothing contained herein shall be construed as limiting the ability of the remaining Members from execution of a new Agreement and continuing the business of the Company, all in accordance with the New York Limited Liability Company Act and the applicable provision of the Code.

5. **Events of Dissolution.** The following events shall, upon the unanimous decision of all Managers, be deemed to be events of dissolution by a Member in addition to those set forth elsewhere herein:

(a) Failure to make when due any contribution, advance or other payment required to be made under the terms of this Agreement upon demand by the Manager and the continuance of such failure for a period of ten (10) days after written notice from the Manager of such violation to the defaulting Member.

(b) Violation of any of the other provisions of this Agreement and failure to remedy or commence with due diligence (and thereafter diligently to complete) to remedy such

violation within (10) days after written notice from the Manager of such violation to the defaulting Member.

ARTICLE 11

MISCELLANEOUS

1. **Property Manager.** Upon agreement of the Managers, a property management company shall be hired for the management of any real property owned by the Company. Any property management agreement shall be in writing and shall include a provision that the agreement may be terminated upon one full calendar month's written notice. Any Member may have an ownership or controlling interest in the chosen property management company. The property management company shall be entitled to a fee of five (5%) of the first year's rent for all new tenants, and two percent (2%) of the first year's rent for each renewal of the tenancy. Additionally, the property manager shall be entitled to a fee of six percent (6%) of all rents collected and construction management/oversight for the job cost of any general contracting services and capital improvement projects.

2. **Notices.** Except as may be otherwise specifically provided for in this Agreement, no notices, requests, consent, approval, waiver or other communication under this Agreement shall be effective unless in writing and either (a) personally served thereon or (b) sent by regular mail and by certified mail, return receipt requested, with postage prepaid, or (c) commercial express delivery service providing delivery against receipt, addressed to the parties at the addresses on file with the Manager. If personally served or sent via commercial delivery service, any such matter shall be deemed given for all purposes hereunder at the time of such service or, if by mail as herein provided, at the time of depositing same in a post office box regularly maintained by the United States Postal Service in the State of New York.

3. **Indemnities.** Each Member hereby indemnifies and holds harmless the Manager, the other Members, and the Company from and against any losses, costs, damages or liabilities which said other Members or the Company, or both, may suffer or incur as a result of the activities of the indemnifying Member, whether or not wrongful, outside the scope of this Agreement.

4. **Headings.** The headings used in this Agreement are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Agreement.

5. **Entire Agreement.** This Agreement, together with the Certificate of Formation of the Company, contains the entire understanding between the parties and supersedes any prior understandings or written or oral agreements between them respecting the within subject matter.

6. **Parties Bound.** This Agreement shall be binding upon and inure the benefit of the parties hereto and their respective successors and assigns.

7. **Gender.** Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

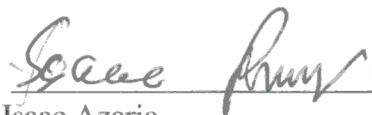
8. **New york Law.** This Agreement was made in and shall be construed in accordance with the laws of the State of New York.

9. **Construction**. It is the expressed purpose of the parties hereto to have the Company, in all cases, for federal and New York income taxes, treated as a partnership. Therefore, in the event any Section of this Agreement shall be subject to interpretation, in all events the interpretation placed upon this Agreement shall be the interpretation which provided the most favorable tax treatment to the Company and the interpretation which will advance the purpose of having the Company treated as a partnership.

10. **Ratification**. The Members, by their execution hereof, hereby adopt and ratify all actions taken, liabilities incurred, contracts executed, and agreements entered into prior to the date hereof by the Company via the actions of the Manager and/or his designees.

WITNESS WHEREOF the parties hereto have duly executed this Agreement on the day and the year first above written.



Michael Uhr

Isaac Azaria