

ENVIRONMENTAL IMPACT MITIGATION AGREEMENT
(Abutting Property Life and Safety Hazards)

THIS AGREEMENT, dated the 22nd day of December, 2020, is entered into by and between the **VILLAGE OF VICTORY**, a New York municipal corporation having offices and principal place of business at 23 Pine Street, Victory Mills, New York 12884 (the "Village"), the **PLANNING BOARD OF THE VILLAGE OF VICTORY**, a municipal board organized and existing under the laws of the State of New York, having offices and principal place of business at 23 Pine Street, Victory Mills, New York 12884 (the "Planning Board"), **REGAN DEVELOPMENT CORP.**, a New York Corporation having offices at 1055 Saw Mill Parkway, Ardsley, New York 10502 ("RDC"), **RIVERVIEW REALTY LLC**, a New York Limited Liability Company having offices and place of business at 90 State Street, Suite 700, Albany, New York 12207 ("Riverview"), and **VICTORY MILLS LLC**, a New York limited liability company having offices and place of business at 1055 Saw Mill River Road, Suite 204, Ardsley, New York 10502 (the "Company").

RECITALS:

- A. Riverview (the "Owner") owns real property and improvements in the Village of Victory, Saratoga County, New York which is located at, and commonly known as, 42 Gates Avenue (the "Property").
- B. The Company desires to acquire the Property from Riverview and complete a renovation and adaptive reuse of the Property by converting an abandoned industrial building on the Property into 186 residential housing units plus commercial space (the "Project"); and has made an application, through its agent, RDC (the "Applicant" or "Developer"), to the Planning Board for site plan approval of the Project (the "Application").
- C. The Planning Board has been designated as Lead Agency for this Project, pursuant to the provisions of the New York State Environmental Quality Review Act ("SEQRA"), and has declared the Project to be a Type I action under SEQRA.
- D. The Developer has submitted a proposed site plan to the Planning Board for its review (the "Site Plan").
- E. The Site Plan depicts a four-story structure on the Property (the "Project Building") which the Developer proposes to renovate into residential housing units and commercial space.
- F. The Site Plan also depicts a three-story structure on the adjacent property to the southeast ("Mill Building #8"), now or formerly owned by Consolidated Hydro New York, LLC, as successor in interest to Victory Mills Hydro Co., Inc., bearing tax parcel # 170.30-2-29 and being more particularly described in a deed of conveyance to Victory Mills Hydro Company, Inc. dated December 18, 1986 and recorded in the Saratoga County Clerk's Office on December 18, 1986 in Liber 1170 of Deeds at Page 1 (the "Abutting Property").

- G. The Village's consulting engineers, Longtin Engineering, PLLC (the "Consulting Engineers"), have determined, in written reports dated August 12, 2016 and March 8, 2018, that Mill Building #8 is a dangerous and unsafe structure which presents a likelihood of localized and possibly complete collapse in the near future.
- H. The Applicant's Project, if approved, would require substantial construction activity to take place on the Property, including the use of heavy construction machinery to excavate large quantities of soil, cut trees and remove concrete sidewalks and various existing structures. This construction activity will generate ground vibrations of the substrate which may extend to the foundation of Mill Building #8, thereby further impairing the structural integrity of the building and potentially causing an uncontrolled collapse of the structure to occur.
- I. An uncontrolled collapse of Mill Building #8 is expected to result in bricks, slate, steel, wood and other building materials falling onto the Property from a height of over forty (40) feet, thereby creating a significant risk of damage to property and injury or death to persons located thereon. Depending on the composition of the construction elements and materials now in Mill Building #8, such a collapse could also potentially result in the release of contaminants into the air, soil or water which are hazardous or harmful to the health of humans or animals.
- J. The Developer has acknowledged, in presentations made to the Planning Board in support of the Application, that the condition of Mill Building #8 presents a life and safety hazard to (i) the laborers, materialmen and others involved in the performance, supervision and inspection of construction work on the Property, and (ii) the tenants, guests, visitors, patrons, employees and other persons who may reside at, visit, work at, patronize businesses at, or otherwise be present in the Project Building and on the Property after the construction of the Project, together with their motor vehicles and other items of personal property (the "Abutting Property Life and Safety Hazards").
- K. The Planning Board, as Lead Agency for the Project, required the preparation of a full Environmental Assessment Form and has conducted a coordinated review of the environmental impacts of the Project.
- L. The Planning Board, as Lead Agency, has identified the Abutting Property Life and Safety Hazards as (i) adverse environmental impacts on human health, and (ii) potentially adverse environmental impacts on groundwater; and has determined that the preparation of an environmental impact statement is warranted unless the Hazards are abated.
- M. The Applicant has proposed to voluntarily abate the Abutting Property Life and Safety Hazards by causing Mill Building #8 to be demolished in accordance with this Agreement (the "Agreement") and an agreement between the Company and Consolidated Hydro New York LLC dated November 19, 2020 (the "Abatement Agreement") (the "Proposed Mitigation").

- N. The Planning Board, in consultation with its Engineering Consultants and Village Attorney, has determined that the Proposed Mitigation is a suitable and appropriate method of mitigating and addressing the environmental impacts of the Project related to the Abutting Property Life and Safety Hazards and that the preparation of an environmental impact statement would not be necessary if such Proposed Mitigation is performed.
- O. The Parties enter into this Agreement to memorialize the agreement between them concerning the mitigation of the Abutting Property Life and Safety Hazards.
- P. For clarity, this Agreement provides no guaranty, right or entitlement of any kind that the Planning Board or the Village (including any of its administrative agencies or other instrumentalities) will grant any or all required permits, certifications, consents, authorizations or other approvals of any kind that may be required for the Project (the "Village Approvals"). Any required Village Approvals shall be an entirely separate matter to be considered by the relevant authorities in full compliance with applicable laws and regulations. However, if the Project proceeds, it is the purpose of this Agreement to commit the Parties to and thereby assure implementation of the Abutting Property Life and Safety Hazards mitigation framework memorialized in this Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants, undertakings and agreements set forth herein, and other good and lawful consideration, the parties mutually agree as follows:

- 1. The Recitals set forth at the beginning of this Agreement are incorporated herein, and the parties hereto represent that they are true, accurate and correct.
- 2. Company and Developer jointly and severally covenant to the Planning Board and the Village that:
 - (a) The Developer shall submit to the Village, on or before the date an application for a building permit for the Project is submitted to the Village, an application for a Demolition Permit (the "Demolition Permit") authorizing the Developer, or its designee, to demolish Mill Building #8 in accordance with the terms and provisions of the Abatement Agreement annexed hereto as Exhibit "A" (the "Abatement Plan"). Said application shall be accompanied by the written authorization or agreement of the owners of the Abutting Property and Mill Building #8 to the demolition of Mill Building #8, in form and substance satisfactory to the Village's Attorney;
 - (b) Upon the Village's issuance of the Demolition Permit, the Developer and Company shall take or cause to be taken all such actions, and shall do or cause to be done all such things, as may be necessary and proper to effectuate the demolition of Mill

Building #8 in accordance with the provisions of the Abatement Agreement which is annexed hereto as Exhibit "A";

- (c) Owner, Developer and Company shall not initiate or undertake, or cause to be initiated or undertaken, any construction work or activity on the Property unless and until the Village's Consulting Engineers have certified in writing that the demolition of Mill Building #8 has been completed in accordance with the provisions of the Abatement Agreement; and

3. Owner, Developer and Company acknowledge and agree that their compliance with this Environmental Impact Mitigation Agreement is a condition of the Planning Board's approval of the Site Plan and a condition precedent to the Village's issuance of a building permit for the Project.

4. Owner, Developer and Company jointly and severally represent and warrant that:

- (a) They each have the requisite power and authority to enter into this Agreement and to perform the Agreement according to its terms, and that the person signing this Agreement on its behalf has authority to do so;
- (b) The Developer is the duly authorized agent of the Owner and the Company with respect to the Project and is fully authorized to speak and act on their behalf with respect to any application for a Demolition Permit for Mill Building #8 and the subsequent demolition of Mill Building #8 in accordance with the provisions of the Abatement Agreement; and
- (c) The statements herein are true, complete and accurate to the best of the Developer's knowledge, and to the best of the Owner's knowledge and the Company's knowledge.

5. The Village and Planning Board jointly and severally represent and warrant that:

- (a) They each have the requisite power and authority to enter into this Agreement and to perform the Agreement according to its terms, and that the person signing this Agreement on its behalf has authority to do so; and
- (b) The statements herein are true, complete and accurate to the best of the Village's knowledge, and to the best of the Planning Board's knowledge.

6. This Agreement (together with the documents referred to in it) constitutes the entire agreement between the parties related to the subject matter hereof. Neither party shall be entitled to any benefits other than those specified herein. No oral statements or prior written material not

specifically incorporated herein shall be of any force or effect, and no changes in or additions to this Agreement shall be recognized unless incorporated herein by amendment as provided herein, such amendment to become effective on the date stipulated in such amendment. Each party specifically acknowledges that in entering into and executing this Agreement, it has relied solely upon the representations and agreements herein contained, and upon no others.

7. If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby unless the invalid provision substantially impairs the benefits of the remaining portions of this Agreement.

8. This Agreement may be amended or modified only by written agreement of the parties hereto, executed with the same formality as this Agreement.

9. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

10. This Agreement shall be governed by and construed in accordance with the internal substantive laws, and not the choice of law rules, of the state of New York. Any actions or judicial proceedings involving this Agreement may be brought only in the New York State Supreme Court, County of Saratoga.

11. No assignment of this Agreement or the rights and obligations hereunder shall be valid without the specific written consent of each of the parties hereto.

12. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

13. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given upon delivery, if delivered in person, or on the third business day after mailing, if mailed by certified mail, return receipt requested: (a) to the Village at: Mayor, Village of Victory, P.O. Box 305, Victory Mills, New York 12884 (with a copy to the Village Attorney, Michael J. Catalfimo, Esq., at 480 Broadway, Suite 250, Saratoga Springs, New York 12866); (b) to the Planning Board at: Chairman, Village of Victory Planning Board, P.O. Box 305, Victory Mills, New York 12884 (with a copy to the Village Attorney, Michael J. Catalfimo, Esq., at 480 Broadway, Suite 250, Saratoga Springs, New York 12866); (c) to Developer at: Larry Regan, President, Regan Development Corp., 1055 Saw Mill Parkway, Ardsley, New York 10502; (d) to Owner at: Uri Kaufman, Manager, Riverview Realty LLC, 90 State Street, Suite 700, Albany, New York 12207; and (e) to Company at: Victory Mills LLC

(Attn. Larry Regan), 1055 Saw Mill Parkway, Suite 204, Ardsley, New York 10502 (with a copy to Christopher J. Babcock, Esq., 54 State Street, 5th Floor, Albany, New York 12207).

14. No delay or omission on the part of any party in exercising any right hereunder shall operate as a waiver of such right or any other right, and a waiver on any occasion shall not be construed as a bar to or waiver of any right on any future occasion.

15. Each of the parties to this Agreement acknowledges that it has had the opportunity to participate in the drafting of this Agreement and to receive the benefit and input of counsel in connection therewith. Accordingly, any rule or construction, interpretation or otherwise to the effect that ambiguities contained in the Agreement shall be resolved against the drafting party shall not be invoked or relied upon in connection with the interpretation of this Agreement.

16. Each of the parties hereto shall use its best efforts to take or cause to be taken, and to cooperate with the other party hereto, to the extent necessary, with respect to all actions, and to do, or cause to be done, consistent with applicable law, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.

17. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' and accountants' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled at law or in equity.

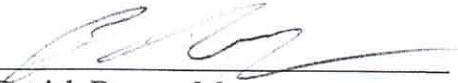
18. This Agreement shall take effect after signature by the parties and upon the adoption of the Planning Board's SEQRA and Conditional Site Plan Approval Resolutions for the Project.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS


**SIGNATURE PAGE TO ENVIRONMENTAL IMPACT MITIGATION AGREEMENT
(Abutting Property Life and Safety Hazards)**

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have executed this agreement on the dates appearing below their signatures.

VILLAGE OF VICTORY

By: 
Patrick Dewey, Mayor
Dated: 12/23/, 2020

VILLAGE OF VICTORY
PLANNING BOARD

By: 
Corey Helwig, Chairman
Dated: 12/22, 2020

REGAN DEVELOPMENT CORP.

By: _____
Larry Regan, President
Dated: _____, 20__

RIVERVIEW REALTY LLC

By: _____
Uri Kaufman, Manager
Dated: _____, 20__

VICTORY MILLS LLC

By: Victory Mills Manager LLC, its
Managing Member

By: Victory Mills Associates LLC,
its Manager

By: _____
Larry Regan, Authorized Signatory
Dated: _____, 20__

Exhibit A

SITE ACCESS AND DEMOLITION AGREEMENT

THIS SITE ACCESS AND DEMOLITION AGREEMENT (this "**Agreement**"), made as of the 19 day of November, 2020, by and among **VICTORY MILLS LLC**, a New York limited liability company, having a mailing address of 1055 Saw Mill River Road, Suite 204, Ardsley, New York 10502 (the "**Victory**") and **CONSOLIDATED HYDRO OF NEW YORK, LLC**, a New York limited liability company with an address at 670 N. Commercial St., Suite 204, Manchester, NH 03101 (the "**Consolidated Hydro**").

RECITALS

WHEREAS, Victory is a contract vendee to acquire certain real property and the improvements thereon located at 42 Gates Avenue in the Village of Victory, Town of Saratoga, County of Saratoga, State of New York, commonly known as Section 170.3, Block 2, Lot 27.1 on the tax map of the Village of Victory and being more particularly described on Exhibit "A" attached hereto and made a part hereof (collectively, the "**Development Property**"); and

WHEREAS, Victory intends to develop the Property into a mixed-use rental building with approximately one hundred eighty-six (186) residential rental units for persons and families of low and moderate income and approximately 5,000 square feet of commercial space (the "**Project**"); and

WHEREAS, the Project will be financed, in part, with the proceeds of tax-exempt bonds to be issued by the New York State Housing Finance Agency ("**HFA**") and the syndication of low-income housing tax credits to be allocated by HFA (the "**HFA Financing**"); and

WHEREAS, Consolidated Hydro owns certain real property located in the Village of Victory more commonly known as Section 170.30, Block 2, Lot 29.2 on the tax map of the Village of Victory ("**Consolidated Hydro's Property**"); and

WHEREAS, a structure commonly known as Mill Building #8 ("**Building 8**") is located on Consolidated Hydro's Property, abutting the Development Property;

WHEREAS, Consolidated Hydro does not own, maintain, possess or control Mill Building 8; rather, Consolidated Hydro maintains that non-parties to the Agreement Hashkediya LLC and/or Riverview Realty LLC own, maintain, possess or control Building 8;

WHEREAS, by Deed recorded in the Office of the Saratoga County Clerk on or about September 19, 1931 (Book 367, Page 579) ("**Historic Deed**"), Consolidated Hydro's predecessor in title retained certain rights, but not the legal obligation, to wreck and remove Building 8 should Building 8 fall into a state of disrepair;

WHEREAS, Victory, as part of its contemplated Project, is willing to demolish Building 8 in accordance with the Historic Deed and pursuant to the terms and conditions hereof; and

WHEREAS, Victory desires to access Consolidated Hydro's Property for the purposes of conducting certain demolition work and/or support activities, and to perform such work as is necessary in connection with the demolition of Building 8;

WHEREAS, Consolidated Hydro is willing to provide Victory access to Consolidated Hydro's Property for performance of the Work, as hereinafter defined, pursuant to the terms and conditions hereof; and

WHEREAS, Consolidated Hydro is willing to grant to Victory its rights under the Historic Deed for performance of the Work, as hereinafter defined, pursuant to the terms and conditions hereof; and

WITNESSETH:

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

1. License. Subject to the terms and conditions of this Agreement, Consolidated Hydro hereby grants to Victory, its agents, consultants, general contractor and subcontractors (collectively, the "**Construction Team**") a non-exclusive license to enter upon and have access and use that certain portion of Consolidated Hydro Premises as more particularly set forth on Exhibit "B" attached hereto as a part hereof (the "**License Area**") for the period set forth herein, in order to demolish that portion of Building 8 located above the foundation, removing certain debris associate therewith, and other support activities, and to perform all or any portion of such work as is necessary in connection with the demolition of Building 8 (the "**Work**").

Furthermore, Consolidated Hydro conveys to Victory its rights under the Historic Deed to remove Building 8 in accordance with the Work description annexed hereto.

Notwithstanding the foregoing, and for the avoidance of doubt, the Work shall not include the demolition of any part of the foundation or concrete floor structure of Building 8 and the penstock located therein or thereunder (collectively, the "**Penstock**"). Moreover, Consolidated Hydro shall be solely responsible for installing adequate protection measures for the Penstock and all work associated therewith, all of which shall be at Consolidated Hydro's sole cost and expense (the "**Penstock Protection Work**"). The Penstock Protection Work shall be completed prior to commencement of the Work.

2. Permits. Victory shall be solely responsible for obtaining from the Village of Victory and/or the appropriate governmental or municipal entity any and all permits necessary for the performance of the Work.

3. License Period. Upon the HFA Financing for this Project being approved, Victory shall promptly notify Consolidated Hydro in writing of such approval and the date upon which such notice is delivered is referred to as the "**Effective Date**." Subject to the terms and conditions of

this Agreement, the license granted hereunder shall be effective for the following period: (a) beginning on the Effective Date, provided that all of the insurance information called for under this Agreement has been provided to Consolidated Hydro, and expiring upon the earlier to occur of (i) completion of the Work and (ii) thirty (30) days from the Effective Date (the "**Work Termination Date**"), at which time the Construction Team shall remove any and all equipment and materials from the License Area and the Construction Team shall vacate the License Area.

4. Respective Party Responsibilities.

(a) Victory and its Construction Team shall timely obtain and maintain all necessary permits and other approvals required by any state, local, municipal or federal authority having jurisdiction with respect to the Work (including, without limitation, the permits referenced in paragraph "2" hereof) (collectively, the "**Permits and Approvals**"), and shall be responsible for all the fees, copy expenses, expediting fees and all other costs and expenses associated with such Permits or Approvals. Consolidated Hydro shall cooperate in a commercially reasonable manner to provide any information requested by Victory or its Construction Team upon written notice for the purposes of obtaining and maintaining all Permits and Approvals, at no cost to Consolidated Hydro. Furthermore, if requested by Consolidated Hydro, Victory and its Construction Team shall provide to Consolidated Hydro the aforementioned Permits and Approvals they have obtained.

(b) The parties hereby tentatively acknowledge and agree that the recycled concrete aggregate ("RCA") from the demolished structure of Building 8 shall be stored in the area depicted on Exhibit "C" and that all other materials from the demolished structure of Building 8 shall be stored in the "Material storage area" depicted on Exhibit "C". However, should following the demolition of Building 8, Consolidated Hydro request that the RCA and/or other materials from the demolished structure be stored elsewhere on Consolidated Hydro's Property, the Construction Team will abide by such request

(c) Upon completion of the Work, Victory shall cause the Construction Team to remove all temporary fencing, scaffolding and equipment from the Premises.

(d) Victory and the Construction Team shall comply with the provisions and conditions of the Permits and Approvals, and with all applicable state, local, municipal or federal laws, ordinances, regulations and orders governing the performance of the Work.

(e) Should the Construction Team fail to perform its obligations set forth in this Agreement, Victory agrees that it will ensure that such work is promptly performed after the Work is completed.

(f) Prior to Victory's performance of its Work, Consolidated Hydro shall complete its Penstock Protection Work.

(g) Consolidated Hydro and Victory acknowledge and agree that Victory's obligations to perform the Work under this Agreement is contingent upon Victory's obtaining of HFA Financing and construction of the Project. Should Victory elect not to proceed forward with the Project,

Victory is under no obligation to remove Building 8 and nothing in this Agreement shall be interpreted as conferring any rights, obligations or duties upon Victory to remove Building 8 should the Project not proceed forward.

5. Compliance with Laws. Victory shall perform the Work in compliance with all applicable laws, rules, regulations, ordinances and codes and is responsible in ensuring that the Construction Team similarly performs the Work in compliance with all applicable laws, rules, regulations, ordinances and codes. Should any claims be asserted against Consolidated Hydro regarding Victory and/or the Construction Team's failure to perform its Work in compliance with all applicable laws, rules, regulations, ordinances and codes, Victory agrees to defend and hold harmless Consolidated Hydro against such claims.

6. End of Term. Victory agrees that, no later than the Work Termination Date, Victory, at its sole cost and expense, shall remove any equipment or property belonging to Victory or Construction Team from Consolidated Hydro's Premises and/or the License Area.

7. Indemnity.

(a) Consolidated Hydro agrees to hold harmless Victory and the Construction Team from and against any and all causes of action, claims, demands, liabilities, suits, judgments, settlements, losses, damages, liens, costs or expenses (including reasonable attorneys' fees) relating to any damages caused to Consolidated Hydro's Property, including the Penstock and Penstock Protection Work, as a result of Victory and the Construction Team's performance of their Work.

8. Insurance. Continuously during the term of this Agreement, Victory shall cause its contractor, Libolt & Sons, Inc. d/b/a Affordable Housing Concepts to maintain a policy of commercial general liability and property damage insurance including a broad form contractual liability coverage under which Consolidated Hydro and Victory are named as additional insureds. Such policy shall be non-cancellable with respect to Consolidated Hydro without thirty (30) days prior written notice to Consolidated Hydro by regular, first class mail, which notice shall contain the policy number and the names of the insured and certificate holder. A certificate thereof shall be delivered to Consolidated Hydro together with a copy of the general liability section of the policy prior to the commencement of any Work. The minimum limits of liability shall be a combined single limit with respect to each occurrence in an amount of not less than \$2,000,000.00 (including excess/umbrella liability) for injury (or death) and damage to property.

9. Notices. Any statement, notice, consent, approval, submission, demand, request or other communication given under this Agreement shall be in writing. Each such notice shall be effective for any purpose only if sent by certified or registered mail, postage prepaid, return receipt requested, or by a nationally recognized overnight delivery service, as follows:

To Consolidated Hydro:

Consolidated Hydro of New York, LLC
670 N. Commercial St., Suite 204
Manchester, NH 03101
Attention: Matthew Stanley

With a copy to:

Bond Schoeneck & King PLLC
22 Corporate Woods, Suite 501
Albany, NY 12211
Attention: Stuart Klein, Esq.

To Victory:

Victory Mills LLC
1055 Saw Mill River Road, Suite 204
Ardsley, NY 10502
Attention: Larry Regan

With copies to:

Cannon Heyman & Weiss, LLP
54 State Street, 5th Floor
Albany, NY 12207
Attention: Christopher J. Babcock, Esq.

Any party may, by notice as aforesaid, designate a different address for the giving of any notice. Every notice delivered by certified or registered mail shall be deemed to have been given three (3) days following the mailing thereof in the manner aforesaid and every notice delivered by nationally recognized overnight delivery service shall be deemed given when received or refused, except that a notice of change of address shall be deemed to have been given only when received or refused by the addressee.

10. Miscellaneous.

(a) This Agreement and the license granted hereby does not create or grant any interest in real property, and Victory agrees that it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in Consolidated Hydro's Premises by virtue of this Agreement or Victory's entry upon Consolidated Hydro's Premises hereunder.

(b) This Agreement shall be binding upon and shall inure to the benefit of each of the parties and its respective successors and assigns; provided, however, that no assignment of this Agreement by Victory, or the rights and obligations of Victory hereunder, shall be valid without the specific written consent of Consolidated Hydro.

(c) Each of the parties hereto, and the signatory for such party, represents and warrants that the undersigned signatory for such party has full power, authority and legal right to execute this Agreement on behalf of such party.

(d) This Agreement may be executed in any number of counterparts, including counterparts transmitted by facsimile or .pdf, any one of which shall constitute an original of this Agreement. When counterparts or facsimile or .pdf copies have been executed by all parties, they shall have the same effect as if the signatures to each counterpart or copy were upon the same documents and copies of such documents shall constitute a single, valid binding agreement.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The parties hereby absolutely and irrevocably consent and submit to the exclusive jurisdiction and venue of the state courts of Saratoga County, New York, in connection with any actions or proceedings arising out of or relating to this Agreement. In such action or proceeding, each of the parties hereby absolutely and irrevocably waives any objection to venue.

(f) In the event an action is commenced to enforce any of the terms of the within Agreement, the party against which any order or judgment is entered shall be responsible for all expenses associated with the commencement and prosecution of the action, including any and all attorney's fees incurred as a result of the successful enforcement of any of the terms herein.

(g) Intentionally deleted.

(h) If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby unless the invalid provision substantially impairs the benefits of the remaining portions of this Agreement.

(i) The paragraph headings in this Agreement are for convenience and ease of reference only and shall not be deemed to alter or effect any provision hereof. Reference herein to numbered "paragraphs" or "sub-paragraphs", refers to paragraphs and sub-paragraphs of this Agreement.

(j) No delay or omission on the part of any party in exercising any right hereunder shall operate as a waiver of such right or any other right, and a waiver on any occasion shall not be construed as a bar to or waiver of any right on any future occasion.

(k) Each of the parties to this Agreement acknowledges that it has had the opportunity to participate in the drafting of this Agreement and to receive the benefit and input of counsel in connection therewith. Accordingly, any rule or construction, interpretation or otherwise to the effect that ambiguities contained in the Agreement shall be resolved against the drafting party shall not be invoked or relied upon in connection with the interpretation of this Agreement.

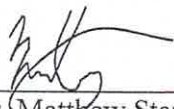
(l) Each of the parties hereto shall use its best efforts to take or cause to be taken, and to cooperate with the other party hereto, to the extent necessary, with respect to all actions, and to do, or cause to be done, consistent with applicable law, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.

11. Recitals. The Recitals set forth above are hereby incorporated in and made a part of this Agreement by this reference.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**CONSOLIDATED HYDRO OF NEW YORK,
LLC**

By: 
Name: Matthew Stanley
Title: Vice President and General Manager

VICTORY MILLS LLC

By: Victory Mills Manager LLC, its Managing
Member

By: Victory Mills Associates LLC, its Manager

By: _____
Name: Lawrence Regan
Title: Authorized Signatory

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**CONSOLIDATED HYDRO OF NEW YORK,
LLC**

By: _____
Name: Matthew Stanley
Title: Vice President and General Manager

VICTORY MILLS LLC

By: Victory Mills Manager LLC, its Managing
Member

By: Victory Mills Associates LLC, its Manager

By: _____
Name: Lawrence Regan
Title: Authorized Signatory

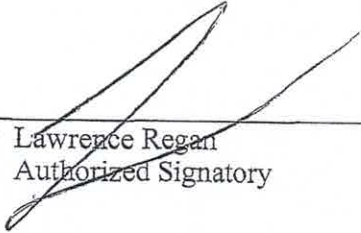


EXHIBIT A

Property

All New York Title Agency, Inc.

Title Number: ANY2019-4126C

Page 1

SCHEDULE A DESCRIPTION

ALL that certain plot, piece or parcel of land, situate, lying and being in the Village of Victory, Town and County of Saratoga and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point on the southeasterly side of Gates Avenue, said point being distant 106.51 feet northeasterly from the corner formed by the intersection of said southeasterly side of Gates Avenue and the northeasterly side of Pine Street;

RUNNING THENCE South 42 degrees 32' 00" East 63.83 feet to an iron rod;
THENCE South 49 degrees 51' 00" West 106.70 feet to a point on the northeasterly side of Pine Street;

THENCE along said northeasterly side of Pine Street, South 42 degrees 27' 00" East 26.02 feet;

THENCE along the division line between the premises described herein and land now or formerly of Victory Mills Hydro Company, Inc. the following ten (10) courses and distances:

North 49 degrees 51' 00" East 128.95 feet,
North 89 degrees 52' 00" East 11.62 feet to an iron rod found,
North 47 degrees 41' 00" 195.19 feet to an iron rod found,
North 89 degrees 17' 15" East 104.61 feet to an iron rod found,
South 42 degrees 05' 00" East 75.18 feet,
North 47 degrees 26' 00" East 69.01 feet,
South 43 degrees 02' 00" East 64.48 feet,
North 58 degrees 07' 00" East 82.30 feet to an iron rod found,
North 42 degrees 02' 00" East 106.10 feet to an iron rod found,
South 61 degrees 28' 00" East 40.77 feet to an iron rod found;

THENCE along a line running parallel to and northwest of the northwesterly edge of the tailrace the following seven (7) courses and distances:

North 24 degrees 35' 47" East 95.63 feet,
North 29 degrees 06' 10" 89.33 feet,
North 37 degrees 48' 53" East 236.87 feet,
North 12 degrees 09' 03" East 37.11 feet,
North 02 degrees 27' 50" West 57.08 feet,
North 38 degrees 32' 48" West 40.66 feet, and
~~North 18 degrees 35' 30" East 32.17 feet to the westerly edge of the high water mark of Fish~~
Creek;

THENCE along said high water mark of Fish Creek to the division line between the premises described herein and the lands now or formerly of Jo Anne Harrington;

All New York Title Agency, Inc.

Title Number: **ANY2019-4126C**

Page 2

THENCE along said division line North 42 degrees 28' 00" West 108.00 feet to the division line between the premises described herein and land now or formerly of Steven Conklin;

THENCE along said division line and continuing along the division lines between the premises described herein and lands now or formerly of Wilame V. Piteri, lands now or formerly of Travis Haskell, and lands now or formerly of Arthur F. Thivierge the following six (6) courses and distances:

South 47 degrees 32' 00" West 292.50 feet to an iron rod found,
North 42 degrees 28' 00" West 18.60 feet,
South 47 degrees 32' 00" West 47.50 feet to an iron rod found,
North 42 degrees 28' 00" West 26.23 feet,
South 47 degrees 11' 00" West 105.00 feet, and
North 51 degrees 06' 00" west 66.58 feet to a point along the southeasterly side of Gates Avenue, an iron rod being found at said point;

THENCE along said southeasterly side of Gates Avenue South 47 degrees 32' 00" West 737.50 feet to a point being distant 106.51 feet northeasterly from the corner formed by the intersection of said southeasterly side of Gates Avenue and the northeasterly side of Pine Street, said point also being the point or place of BEGINNING.

NOTE: Legal description to be reviewed upon receipt of an updated ALTA survey.

EXHIBIT B

License Area

